

1 MULTNOMAH COUNTY GRAND JURY

2 DEATH INVESTIGATION

3
4 Deceased: Steven Wayne Liffel)
5 Date of Incident: December 5, 2016) DA No.
6 Location: 12 SE 148th Avenue) 2353790-1
7 Portland, Oregon) Volume 1
8
9
10

11 TRANSCRIPT OF PROCEEDINGS

12 BE IT REMEMBERED that the above-entitled
13 transcript of GRAND JURY proceedings was heard,
14 commencing at the hour of 8:30 a.m., on Tuesday,
15 January 10, 2017, at the Multnomah County Courthouse,
16 Portland, Oregon.
17

18 APPEARANCES

19 Mr. Donald Rees
20 Deputy District Attorney
On Behalf of the State of Oregon.
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24 KAREN M. EICHHORN, CSR, CRR
25 Certified Shorthand Reporter
Portland, Oregon

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P R O C E E D I N G S

Tuesday, January 10, 2017

ERIK KAMMERER,

a witness called on behalf of the State, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. REES:

Q For the record, if you could state and spell your first and last name.

A Erik, E-R-I-K, Kammerer, K-A-M-M-E-R-E-R.

Q What's your occupation?

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

Q How long have you been a detective?

A Since 2003, so 13 years.

Q And how long have you been a police officer?

A Since 1994, about 22 years.

Q What experience have you had in the investigation of officer-involved shootings?

A I've been to the detective academy back in 2003, where it is a two-week academy, where they go over various investigations. And then I've been

1 involved in almost every officer-involved shooting
2 that's occurred in the City of Portland since then as a
3 lead investigator in about half of them.

4 Q And are you the lead investigator assigned
5 to investigate the shooting death of Steven Wayne
6 Liffel?

7 A I am, yes.

8 Q All right. And did that occur on
9 December 5, 2016?

10 A It actually -- he was actually shot just
11 after midnight on December 6th of 2016, but the
12 incident began on December 5th.

13 Q All right.

14 A GRAND JUROR: Excuse me, so does that mean
15 it happened on the 5th or 6th, or does it -- do we just
16 put both?

17 THE WITNESS: My reports all reflect the
18 fact that he was shot on the 6th of December. The
19 incident initially started about 10:48 p.m. on the 5th
20 of December and then it just carried over until just
21 after midnight on the 6th.

22 A GRAND JUROR: What was his name?

23 MR. REES: It's on your sheet. Steven Wayne
24 Liffel.

25 A GRAND JUROR: Sorry.

1 THE WITNESS: Steven, S-T-E-V-E-N, Wayne,
2 W-A-Y-N-E, Liffel, L-I-F-F-E-L.

3 A GRAND JUROR: Is the victim?

4 THE WITNESS: That's correct.

5 BY MR. REES:

6 Q All right. And so about what time and what
7 date were you assigned to investigate this matter?

8 A I was assigned December 6th, about
9 12:20 a.m., so just after midnight.

10 Q All right. And then once you were so
11 assigned, you later learned that the incident leading
12 up to the shooting, as you were saying, had occurred
13 earlier on the night of the 5th.

14 A Yes, that's correct.

15 Q Okay. And in addition to yourself, what
16 other resources were dedicated to the investigation of
17 the shooting of Mr. Liffel?

18 A So as far as the investigation, there's me,
19 my partner, Detective Slater. We are the primary
20 investigators. We're the lead investigators. Then we
21 have two additional detectives that are assigned to do
22 crime scene and two other detectives that are assigned
23 as support, so they help out with whatever we need.

24 There's two investigators from the East
25 County Major Crimes Team in this case, a detective from

1 Gresham and a detective from Multnomah County. We have
2 criminalists assigned to our forensic evidence division.

3 In total, there was five of them out there.
4 A representative from the district attorney's office
5 comes out. We have a representative from Internal
6 Affairs. We have a representative from the Department
7 of Justice, U.S. Federal Department of Justice.

8 We also have my sergeant in the homicide
9 detail, the lieutenant of the homicide detail, commander
10 of the homicide detail, as well as multiple other
11 uniformed officers that assist to help out with crime
12 scene management.

13 Q In terms of that response, is that actually
14 greater in terms of, I guess, a number and variety than
15 would respond to a typical homicide in the City of
16 Portland?

17 A Yeah. A typical homicide, you would get the
18 six detectives that I first discussed, the two lead
19 investigators, the two crime scene detectives and the
20 two support detectives, as well as the homicide
21 sergeant and a couple of criminalists from the forensic
22 evidence division.

23 And that's just for your typical homicide.
24 But obviously, these are under a great deal more
25 scrutiny so we get a lot more people involved.

1 Q In terms of the investigation itself,
2 securing the scene, the collection of evidence, the
3 interviewing of witnesses, is that similar to the other
4 homicide investigations that you conduct?

5 A Yeah. It's very similar in the management
6 of the crime scene, you know, like we said. Securing
7 the scene. Making sure the scene is contained.
8 Evidence can't be disturbed. Identifying witnesses.
9 Interviewing those witnesses, both law enforcement and
10 civilian.

11 Q All right. We'll be hearing from the
12 various witnesses directly, but just in terms of giving
13 us an overview of the case and what you did during the
14 investigation, what first brought the police to the
15 location where the shooting happened?

16 A So an anonymous 911 call came in on
17 December 5th at 10:48 p.m., regarding a male associated
18 to what the caller believed was Apartment No. 6 and a
19 silver truck at 148 and Burnside.

20 The male was allegedly shooting a gun.
21 Uniformed officers responded. Didn't locate anything
22 and cleared the scene.

23 A short time later, I believe it was like
24 11:09 p.m., they received a second call in the area. At
25 this time it was regarding a female that was running

1 around in the parking lot of an apartment complex at 88
2 Southeast 148, and claiming that someone was shooting a
3 gun. And the people calling in were suspicious of her
4 but wanted the police to come out.

5 At this time when the police responded, they
6 located the silver truck that appeared to have been
7 struck by bullets. As they were coming up with a plan
8 on what to do about that, a person inside, what we later
9 learned was 12 Southeast 148th, fired one round at the
10 police officers.

11 Over the next half an hour, police officers
12 that were out at the scene, went through various
13 techniques of trying to engage this person, later
14 identified as Mr. Liffel, in some sort of dialogue.
15 They had patrol cars out there. There were loudhailing,
16 attempting to phone call in to get him on the phone.

17 During this time, he was continuing to fire
18 his gun. Had shot out his truck windows prior to the
19 police arriving. They heard gunshots -- there's only
20 one, but they really attributed that as being shot at
21 them, but they heard multiple gunshots while they are on
22 scene.

23 He would come out the front door and then go
24 back inside a couple of times. He had some sort of
25 lighter that appeared to be lighting stuff on fire or

1 trying to at the front door.

2 He was yelling, was very loud and verbal, but
3 not engaging in any meaningful way with the police
4 officers as to how they could assist him with whatever
5 he was going through.

6 At one point he was standing in the doorway
7 with his fists kind of clenched, like this, screaming,
8 "Come get me." Obviously, the officers did not
9 approach.

10 Then for whatever reason, he came to the door
11 again, at this time clearly holding a rifle in his hand.
12 And within one minute, proceeded down the sidewalk to
13 the street with the rifle, moving towards officer
14 positions. And that was when Officer Keller fired his
15 rifle once, striking Mr. Liffel, and Mr. Liffel
16 collapsed to the ground.

17 He was still within arm's reach of his rifle.
18 It was located right down by his feet. Was still
19 moving. Would not respond to any commands.

20 The Special Emergency Reaction Team had been
21 activated prior to him exiting the house. They were
22 already activated right after the round was fired at the
23 police officers.

24 Yes, ma'am.

25 A GRAND JUROR: So my question was, you said

1 he came out with the rifle. What position was he
2 holding the rifle? Was it pointed at the officers?
3 Was it up? I wasn't sure.

4 THE WITNESS: You didn't miss it.

5 When he came out, various witnesses have him
6 with the rifle down or the rifle up. But at the time he
7 was shot, the rifle was pointed at the officers that
8 were across the street.

9 So the Special Emergency Reaction Team or
10 SERT is our SWAT team, for lack of a better term, they
11 were enroute, along with our crisis negotiation team as
12 well.

13 Unfortunately, before all those personnel
14 could arrive on scene, that was when he came out with
15 the rifle and the uniformed officers that were out
16 there.

17 Once he was down, SERT personnel began
18 arriving. Along with SERT come two highly trained
19 medics from the Portland Fire Bureau. And they were
20 able to get up to Mr. Liffel fairly quickly, in armor,
21 assess him, began to treat him medically, and he was
22 deceased.

23 A GRAND JUROR: So when you had stated that
24 he was, he was on the ground, he was still moving, I
25 think I missed that part, did they shoot him again?

1 THE WITNESS: No. They did not shoot him
2 again.

3 A GRAND JUROR: Okay.

4 BY MR. REES:

5 Q Let's take a look at an overview of the
6 scene. Behind you you've prepared a photo with some
7 labels. What are we looking at?

8 A So this is Burnside. This is 148th. The
9 top would be north.

10 This address here, we had initially labeled
11 it with a different address. And then after about two
12 days, we were finally able to determine what the actual
13 address of this building is, which is 12 Southeast
14 148th.

15 Q So you have it marked at 98 Southeast 148th,
16 No. 12.

17 A Correct.

18 Q But later determined the address is actually
19 12 Southeast 148th; is that right?

20 A Yes, that's correct.

21 Q And 12 is both a unit number of the
22 apartment and the street address; is that right?

23 A Yes, that is correct.

24 Q Okay. Do you want to mark this label just
25 so we're all clear on the address?

1 A Yes.

2 Q Did you determine that that residence, 12
3 Southeast 148th, was the apartment of Steven Liffel?

4 A We did, yes. And this building is actually
5 a duplex, so that the northern half of it, the address
6 is 6 Southeast 148th.

7 So when we got that anonymous call about a
8 male associated with Apartment No. 6, this was the same
9 person they were talking about. They were just as
10 confused about which was his correct address.

11 A GRAND JUROR: Do I understand then it's on
12 the corner of 148th and Burnside?

13 THE WITNESS: Yes, ma'am.

14 A GRAND JUROR: But the actual address is
15 148th?

16 THE WITNESS: Yeah, because the building
17 runs north-south. The numbering system would start
18 from Burnside, which is the zero hundred block. So the
19 first address is 6 and the next one is 12.

20 Then these apartments back here, which you
21 can't see are a little more to the east, are 88
22 Southeast 148th, which is where the second 911 call came
23 in from about the female running around in the parking
24 lot.

25 BY MR. REES:

1 Q All right. Then what else do we see in this
2 diagram?

3 A So we have these two uniformed vehicles
4 here, marked police cars. And this is Officer Keller's
5 vehicle here. This is Officer Keller's location right
6 here on the west side of his vehicle. Then you have
7 basically the loudhail team, the contact team,
8 everybody that was right here associated with this
9 incident.

10 And then in this location over here were two
11 police officers, Jungling and Steiner, who were -- who
12 had a very good view of the front door of Mr. Liffel's
13 actions and were relaying information to the rest of the
14 officers out here regarding his actions.

15 Q I'm going to leave that up for reference.
16 Are there any questions about that diagram?

17 A GRAND JUROR: The white car is --

18 THE WITNESS: This is just a citizen's car
19 that was parked out there on the street lawfully, and
20 they just pulled in behind it.

21 A GRAND JUROR: Were there other cars also
22 on the street?

23 THE WITNESS: Yes, ma'am. There were
24 multiple vehicles out here.

25 A GRAND JUROR: I think I was writing, could

1 you just said it one more time when the first shot was
2 taken and then the suspect took the ground and then he
3 was moving a little bit and not responding to your
4 guys' orders and then --

5 THE WITNESS: Yes.

6 A GRAND JUROR: You approached him and he
7 was pronounced dead.

8 THE WITNESS: Yes.

9 When the officers arrived -- this is
10 Mr. Liffel's truck here. As they are moving around out
11 here, they noticed that there's bullet holes in the
12 truck.

13 So then they are kind of staging up kind of
14 over here and here on the west side of the street.
15 That's when a round appears to be shot over their head.
16 They hear the bullet fly over. So then they relocated
17 here to determine this is the threat over here in
18 Mr. Liffel's apartment, and we locate down here to this
19 location.

20 Then they spend about a half-hour attempting
21 to communicate with him. Right after that round was
22 fired is when the SERT team was activated, the crisis
23 negotiation team.

24 So over the next half-hour, they are
25 attempting to communicate with him while those teams are

1 responding to a staging location, which was down at
2 148th and Stark. And prior to the team arriving is when
3 he comes out with his rifle, advances down the sidewalk
4 here -- I'm sorry, the walkway to the sidewalk, and he's
5 right about there when he shot.

6 A GRAND JUROR: Do we know how many shots he
7 shot prior to being shot?

8 THE WITNESS: We went into the house. We
9 found shell casings. We know the condition of his
10 rifle at the time that we recovered it, so we have an
11 approximate number of the rounds that he fired, which
12 is --

13 MR. REES: Yes. We'll get to that in a
14 minute. We have pictures to show you, too, that I
15 think will help illustrate that.

16 A GRAND JUROR: And the description you've
17 given us is from your interviews after the fact. You
18 weren't present?

19 THE WITNESS: I was not present. I was on
20 scene when this happened, no.

21 BY MR. REES:

22 Q Okay. Why don't we go ahead and take a look
23 at some of the photos of the scene. That will help
24 illustrate, I think, some of the things that you've
25 mentioned.

1 If you want to -- do you want to start with
2 the Leica scan?

3 A So this is -- that's Mr. Liffel's truck
4 there behind the garbage cans, his apartment. So you
5 would be looking from this angle here, this direction.

6 Q I'll move, too, if you want to go up to the
7 screen.

8 A Yes. This is Officer Keller's vehicle here.
9 That's that white SUV that we talked about before,
10 Mr. Liffel's truck, the apartment. You can see Mr.
11 Liffel laying on the ground right there. This is that
12 neighboring Apartment 6 is right there. You can see
13 the duplex.

14 A GRAND JUROR: Was it that well-lit on the
15 street? I mean --

16 THE WITNESS: Yeah, it's pretty well-lit.
17 Obviously, the flash is fired in this photo. But it
18 was not that dark out there. It's a major
19 intersection, lots of lights.

20 Yes, ma'am.

21 A GRAND JUROR: The white truck, was it a
22 resident's that is just somebody else's?

23 THE WITNESS: Yes, ma'am.

24 A GRAND JUROR: Could you show me
25 Mr. Liffel's truck again, please?

1 THE WITNESS: Yes. This is his silver truck
2 right there.

3 A GRAND JUROR: It looks black in the
4 picture.

5 THE WITNESS: Yeah.

6 A GRAND JUROR: Thank you.

7 THE WITNESS: So this is just a closer-up,
8 slight angle change, so now you can see here's the
9 front door of Mr. Liffel's apartment, his vehicle.
10 This is the walkway that he was advancing down.

11 A GRAND JUROR: From this angle, can we see
12 that there are bullet holes in the truck?

13 THE WITNESS: Not really. I mean, I know
14 this window here has actually been blown out by the
15 rounds coming through the truck. But from here, you
16 really can't see it. It's all on the driver's side.

17 A GRAND JUROR: And the rounds coming
18 through the truck were Mr. Liffel's shots?

19 THE WITNESS: Correct. He was right here
20 when he was shot by Officer Keller. And that bullet
21 didn't go through anything. It just went into Mr.
22 Liffel.

23 So now you're looking to the south. Up here
24 would be Officer Keller's position. That is
25 Mr. Liffel's truck, and that's his rifle right there.

1 When he was -- he's handcuffed there when he
2 was approached by members of the SERT with the medics.
3 They handcuffed him. It's just standard procedure to
4 place him in handcuffs and then was turned over, and
5 they started treating him right away.

6 A GRAND JUROR: Where was the -- where did
7 he get shot at, the single shot?

8 THE WITNESS: He was shot right there down
9 low in the hip.

10 A GRAND JUROR: He was handcuffed after he
11 was determined dead?

12 THE WITNESS: No. He was handcuffed, then
13 they rolled him over to begin treating him, and
14 assessed that he was deceased.

15 A GRAND JUROR: And then he died?

16 THE WITNESS: So there's a close-up of his
17 rifle. It's a semiautomatic .22. There's a tubular
18 magazine underneath.

19 BY MR. REES:

20 Q What does that mean, "a tubular magazine"?

21 A So a rifle, especially .22 rifles often have
22 what's called a tubular magazine.

23 So, you know, in the movies, you see like the
24 magazines that goes into the bottom of a gun, or like a
25 rifle -- maybe like an assault rifle or something with a

1 magazine that goes up into a magazine well.

2 In this case it's just a tubular magazine
3 that runs along the barrel, right underneath the barrel.
4 There's just a little port that you push the bullet up.
5 It's spring-fed. You keep feeding them up. As you fire
6 it, it pulls another round off and loads another one.

7 Q So some .22 rifles can only hold one round,
8 and every time they are fired, they have to be
9 reloaded; correct?

10 A Yes, that's correct.

11 Q This type, with this tubular magazine that
12 you've described, can actually hold a number of rounds,
13 and the gun could be fired and then fired again each
14 time the trigger is pulled without reloading; is that
15 right?

16 A Yes. So a semiautomatic, you pull the
17 trigger, the round fires. The bullet goes back.
18 Strips another round off. Loads another round in the
19 chamber. Cocks the action. You pull the trigger. It
20 fires again. It just keeps repeating that until the
21 magazine runs empty.

22 Q And so have you read the report of
23 Criminalist Wade Greaves who initially unloaded that
24 rifle?

25 A I did.

1 Q And how many rounds did Criminalist Greaves
2 count when he unloaded the rifle?

3 A There were 11 rounds in the magazine and one
4 in the chamber. So there's a total of 12 rounds in the
5 rifle at the time of the recovery.

6 Q And by "in the chamber," does that mean the
7 bullet is in the position ready to fire when the
8 trigger was pulled?

9 A Yes, that's correct.

10 Q So a total of 12 rounds?

11 A Yes.

12 A GRAND JUROR: Was this the only weapon
13 that was being fired or did you find something else
14 that was being fired as well?

15 THE WITNESS: This is the only weapon that
16 we found that had been fired.

17 A GRAND JUROR: Did you guys ever -- you
18 said initially there was a shot that went over their
19 head and then they relocated.

20 Did you ever find that round that hit
21 anybody?

22 THE WITNESS: It didn't hit anybody. It
23 didn't appear to hit any houses. We couldn't find any
24 bullet strikes. It's a .22, so it's a very, very tiny
25 impact.

1 Nobody ever called in in the days afterwards
2 saying, oh, I found bullet holes in my house or my
3 window was broken or my car or anything. If it hit a
4 tree out there, I don't think anybody is ever going to
5 find it.

6 A GRAND JUROR: What was the capacity of the
7 magazine?

8 THE WITNESS: Depending upon the year that
9 this rifle was manufactured, I'm not a firearms expert,
10 but there will be one that will talk to you, between 12
11 and 15 rounds.

12 A GRAND JUROR: Okay.

13 THE WITNESS: So this is Mr. Liffel's truck.

14 Here you can see the bullet strikes into the
15 window, and you can hopefully make out that that tire is
16 flat, so he shot the tire as well.

17 A GRAND JUROR: Those were determined to
18 have come from his rifle?

19 THE WITNESS: Yes. He was the only one
20 shooting out there.

21 A GRAND JUROR: On that side?

22 THE WITNESS: Yeah. We found shell casings
23 that correspond with rounds being fired from near that
24 location.

25 BY MR. REES:

1 Q Just to follow up on the grand juror's
2 question.

3 Other than Officer Lawrence Keller who fired
4 the fatal shot in this case that killed Mr. Liffel, did
5 any other police officers fire their weapons?

6 A No. No other officers fired.

7 Q So it's your conclusion that given the
8 reports, all of the other evidence, that it was Mr.
9 Liffel who shot out the windows on his pickup truck?

10 A Yes.

11 A GRAND JUROR: And there was only one shot
12 by the police officer -- all of the police officers.

13 THE WITNESS: Yeah. Only one police officer
14 fired, Officer Keller, and he only fired one time.

15 A GRAND JUROR: So I have a question.

16 The magazine is what holds all of the
17 bullets; right?

18 THE WITNESS: Correct.

19 A GRAND JUROR: Did you guys find any other
20 magazines in the house?

21 THE WITNESS: It's not a detachable
22 magazine. It's fixed to the gun. It does not come
23 off. So if you want to load it, you have to take the
24 gun, load the rounds in, fire it empty, and then load
25 more rounds in.

1 This is closer view of his front door. Up
2 here in the corner you can see there's a couple of
3 bullet strikes in the window and one down here.

4 There's -- the glass is broken out of the
5 front door, screen door here, which is what you see here
6 is the particles of glass.

7 BY MR. REES:

8 Q You have a closer view of that?

9 A Yes, sir.

10 A GRAND JUROR: Were those determined to be
11 fired from inside the apartment out?

12 THE WITNESS: Yeah. In the closer-up view
13 we have, you can see -- I'll walk you through how we're
14 able to determine which way they are going.

15 This is a view from Officer Keller's
16 position. This is what he could see. It's my
17 understanding that this door was actually closed at the
18 time that the shot was taken and then was opened later.

19 I know that these doors have ballistic panels
20 in them that will stop bullets from penetrating. A
21 regular car door has just two pieces of sheet metal, and
22 the bullets go right through. But these actually have
23 ballistic panels inside that will stop rounds from
24 coming through.

25 BY MR. REES:

1 Q Will those stop a rifle round?

2 A No.

3 Q So it will stop a handgun round?

4 A Yes. Just like our bulletproof vest, they
5 are rated to stop handgun rounds.

6 Yes, ma'am.

7 A GRAND JUROR: If the door was closed, does
8 that mean the officer was in the car or outside the car
9 with the door closed?

10 THE WITNESS: I know that he was out of the
11 car. Just the door was closed at the time. I would
12 theorize that afterwards, with him in this position
13 now, this door was opened to afford more protection in
14 that pocket of the doorway there where they could still
15 see him versus having to move behind the entire
16 vehicle, which is an SUV, so it is taller, so you
17 wouldn't be able to see him anymore.

18 BY MR. REES:

19 Q The photo was taken like this because the
20 scene was frozen?

21 A Yes. This is how it was when we found it.

22 This is the back end of Officer Keller's
23 vehicle. This placard here shows the .223 shell casing
24 from Officer Keller's rifle.

25 Q Is that the only -- right there, placard No.

1 1, which you said was a caliber .223 bullet casing, is
2 that the only casing like that that you found at the
3 scene?

4 A Yes.

5 Q And the location where you found it on the
6 street, was that consistent with the area that Officer
7 Keller was standing at the time of the shooting?

8 A Yes.

9 A GRAND JUROR: Can you go back to the
10 previous photo?

11 THE WITNESS: Yes, ma'am.

12 So this little circle here, that's just like
13 one of those sensors for the lights. So he was up in
14 this area here. This is the back of his vehicle.

15 This is just a ballistic shield, as well as
16 here that had been brought up afterwards for potential
17 use in approaching him. Again, not rated to stop rifle
18 rounds.

19 Then this is his shell casing right here next
20 to Placard 1.

21 A GRAND JUROR: So if he was standing by the
22 door and shot, the shell casing would go way back
23 there?

24 THE WITNESS: There's no -- like you can't
25 forensically place where someone is shooting based on

1 the location of the shell casing. But it's consistent
2 with what I know about our rifle, which is when it's
3 got a right-side ejection port, so the casing is kicked
4 out the right side.

5 And then I would expect it to probably strike
6 somewhere along the driver's side of that vehicle and
7 get deflected straight back to its location there.

8 BY MR. REES:

9 Q I assume Leland Samuelson, our firearms
10 examiner, will have fired the weapon and probably
11 comment on the ejection. They do the testing
12 afterwards.

13 A Yes.

14 So this is a closeup view of the front door
15 of Mr. Liffel's apartment. You can actually zoom in a
16 little bit here. So this is Placard 4. Right here is a
17 .22 shell casing.

18 Placard 5 is an unfired .22 round here. You
19 can see the whole thing there. The bullet part is still
20 in the front.

21 Placard 6 is a .22 shell casing.

22 Placard 8 is also, as well as Placard 7.

23 Q So the casings are ejected when the .22
24 rifle is fired. But you mentioned one of those
25 placards is an unfired bullet --

1 A Yes.

2 Q -- a live round of ammunition.

3 Was that possibly ejected from the rifle
4 during a misfire, or do you know how it got there?

5 A I don't know how it got there. .22's are a
6 rimfired round, for those of you that aren't familiar.

7 So all of your other rifle rounds and handgun
8 rounds are -- they have a casing. In the middle of that
9 is what's called a primer. It's a little dimpled button
10 you see in the middle there.

11 When that primer is struck, it ignites the
12 gun powder inside the casing. A .22, it's got a little
13 lip on the back end of it. This little lip here is the
14 rim.

15 When a .22 -- it doesn't center-punch it,
16 like any other rifle round or handgun round would. It
17 impacts the side of the rim. It's that impact that
18 ignites the gun powder inside.

19 It is a very long way of saying there's no
20 strike marks on this casing indicating that it was some
21 sort of misfire. I wasn't there. I wasn't standing
22 next to him, so I don't know -- we know he reloaded his
23 rifle.

24 I don't know if he had ammunition in this
25 hand that he dropped or when he came up to shoot, he

1 wasn't aware that there was a round in there, so he
2 pulled the bolt back, released it to load the gun and
3 ejected a live round. But either way, there's a live
4 round out there on the ground.

5 Yes, ma'am.

6 A GRAND JUROR: Could you explain again? I
7 thought I understood the tubular aspect of the gun
8 meant that he had up to 12 shots available without
9 reloading; is that correct?

10 Do I understand that correctly?

11 THE WITNESS: Yes.

12 A GRAND JUROR: So it is thought that he
13 reloaded inside the house before he came out?

14 THE WITNESS: Correct.

15 A GRAND JUROR: Just out of curiosity,
16 what's the wire?

17 THE WITNESS: He has a dog. That's the
18 chain for the dog, if you will. A nice dog, a pitbull,
19 but she's a sweetheart, very nice.

20 This is a hole in the screen. It's on the
21 other side of the glass, so -- and the glass is broken.
22 So it's our thought that one round was fired through the
23 screen -- through the glass.

24 As these bullets go through any object, they
25 are designed to what's called mushroom or flatten out.

1 As it hits the glass, it's going to flatten out, and
2 it's going, it's going to be bigger when it then hits
3 the screen, which is why you have a much bigger hole in
4 the screen.

5 It also could have forced glass in front of
6 it, which would also tear through the screen and make
7 that bigger hole.

8 BY MR. REES:

9 Q Do you believe this was a shot from the
10 interior of the apartment to the outside?

11 A Yes.

12 Yes, ma'am.

13 A GRAND JUROR: So the -- in that
14 photograph, the right side of the photograph is where
15 we're facing, it is the interior of the apartment?

16 THE WITNESS: Correct. This is the door
17 that swings out. This is the doorway going in. Here
18 is the front door. Out here is the street. Their
19 yard, you can see the attachment point for that dog
20 chain.

21 A GRAND JUROR: So if you zoom in, we should
22 be able to see, I would assume that it's -- if you
23 shoot out -- well, maybe not so much.

24 THE WITNESS: You would see how these --
25 like this wire here should be up here somewhere

1 attached probably to this one. You can see that
2 outward bend there and how that's on the outside of the
3 screen.

4 There's also -- we noticed some blood on the
5 door here. We know that he wasn't shot until he came
6 outside and he was on the sidewalk. So this blood
7 wasn't caused by us.

8 At the autopsy, we located like a cut on his
9 knuckle. So I don't know how he did it, whether he
10 punched the glass or he caught his hand in the glass.
11 But at some point he cut his hand and is bleeding a
12 little bit, and that's the blood you see on the screen
13 in the door there. And it's consistent with being right
14 there where you would turn that knob down.

15 Here are some closeups of the holes in the
16 window next to the door. It's kind of hard to make out
17 here. But you can see this is the initial hole. It is
18 a double pane glass. So this is the initial hole in the
19 window. By the time it gets to the second pane, it's
20 making a much bigger hole.

21 You can see right here, too. When you have a
22 thick substance like glass, right, when it impacts on
23 the outside of that glass, the hole is much smaller than
24 when it penetrates the -- even though it's one
25 thickness, it comes out the other side. You get what's

1 called shelving, so it almost looks like a cratered
2 look.

3 If you are looking at it, if the crater is
4 facing you, then the round emanated from the other side
5 and came through, so you get -- basically this is double
6 cratering here.

7 You get the shelving on the first pane and
8 the second pane, and you could see that in both of them.
9 So that's how we know which direction that round is
10 going through, glass or other substances.

11 BY MR. REES:

12 Q So having said all that, do you believe that
13 the damage to the glass was caused from shooting inside
14 of the apartment to the outside?

15 A Yes. These rounds definitely came from
16 inside the apartment out.

17 A GRAND JUROR: And what is behind the
18 glass?

19 THE WITNESS: These are plastic shades.

20 A GRAND JUROR: They don't seem to have a
21 hole in them.

22 THE WITNESS: They do. They are just super,
23 super tiny because it's the first thing that the bullet
24 strikes. A .22 is literally less than a quarter of an
25 inch wide at the base. The tip is narrower.

1 A GRAND JUROR: Did you take photos from the
2 inside looking out?

3 THE WITNESS: I did not. I don't know if we
4 do have photos from the inside or out.

5 MR. REES: When she said "you," she means
6 the criminalist.

7 THE WITNESS: Yes. Photos were taken from
8 the inside, but I don't think we have those on here.
9 We don't touch anything until it's been photographed,
10 so everything you see is exactly how we found it when
11 we got there. So blinds is closed. Holes in the
12 windows.

13 This is a much better view of that crater and
14 the shelving. So they are able to identify one, two,
15 three, four, and this is probably a continuation. Even
16 though it shows there's a strike there, the bullet just
17 kind of nicks the mirror right there and then continues
18 on into the windows.

19 You can see how some of these rounds, even
20 though all this glass is starred, all you have to do is
21 basically touch it and it's going to basically collapse.
22 It stays in place as the rounds pass through. For
23 whatever reason, this chunk did not.

24 There's also a bullet strike into the tire
25 here, which is what flattened the tire.

1 This is just a different angle showing the
2 strike to the mirror, the bullet continuing on, and then
3 the strikes in the window.

4 As we discussed earlier, these are the ones
5 that traveled through the truck and go out the other
6 side breaking the glass on the passenger side.

7 A GRAND JUROR: So they went through the
8 driver's side and out the passenger side?

9 THE WITNESS: Correct.

10 A GRAND JUROR: But didn't hit anybody?

11 THE WITNESS: Correct. Thankfully.

12 A GRAND JUROR: And these were fired before
13 the officers arrived?

14 THE WITNESS: Yes. So this is the initial
15 call at 1048 hours.

16 A GRAND JUROR: All right. Did you guys
17 find the bullets in the truck or on the outside of the
18 truck on the other side?

19 THE WITNESS: No. These things can travel
20 over a mile.

21 A GRAND JUROR: So I assume somebody will
22 testify about which shots were fired in the presence of
23 the police and which ones were probably shot before
24 they got there, or were they all shot --

25 MR. REES: Yes. The other witnesses will

1 give you that chronology to the extent they are able
2 to.

3 A GRAND JUROR: All right.

4 THE WITNESS: Here is the rounds coming out
5 the passenger side here.

6 BY MR. REES:

7 Q This is inside the residence?

8 A Yes.

9 Just for placement, I would be at my location
10 here which would be approximately the front door. So
11 I'm now looking in the apartment. There's a couch off
12 to the side here. You can see a large stick on the
13 couch, a little coffee table with his collection.

14 Q Let me interrupt you.

15 You mentioned a stick, because a witness in
16 the case says at one point Mr. Liffel was armed with a
17 stick; is that right?

18 A Yes.

19 Q And I don't know if there's a better picture
20 of that. Is that about a, what, three or four-foot
21 long staff?

22 A It's about four feet long, maybe three or
23 four inches around. It's probably hefty.

24 A GRAND JUROR: Are there other occupants in
25 the home at the time?

1 THE WITNESS: There was one other, yes. Her
2 name is Pamela Hadley.

3 MR. REES: She'll be testifying tomorrow.

4 A GRAND JUROR: Would that stick be a
5 walking stick or other type of -- I mean --

6 THE WITNESS: You can use it for whatever
7 you want.

8 A GRAND JUROR: It looked like it was
9 designed for that purpose.

10 THE WITNESS: It's not designed for that.

11 BY MR. REES:

12 Q What do we have on the coffee table?

13 A We have cigarettes, mason jars with alcohol
14 in them, a partially consumed bottle of Potter's
15 Whiskey, a water bottle.

16 Then -- so now, we're -- as previously, I
17 would have been standing at the door. Now you are at
18 the back corner looking towards the front door.

19 A GRAND JUROR: Can you zoom in on those
20 pictures? Can you zoom in on the shade?

21 THE WITNESS: Like I said, the holes are
22 really tiny.

23 Down here you've got basically fortified
24 ginger wine.

25 BY MR. REES:

1 Q Ginger -- I think you thought it was ginger
2 liqueur.

3 A Ginger liqueur.

4 He's got a few chemicals down here. At some
5 point he had poured these all over the wooden floors.

6 We think maybe he was trying to light those
7 on fire when he was out there on the front porch trying
8 to light this tissue, toilet paper on fire. Perhaps to
9 ignite those chemicals. Fortunately, they are not the
10 kind that would combust.

11 You can see some .22 rounds here. These are
12 unfired.

13 Q Can you zoom in on that because we can't see
14 it?

15 A Yes. There's a better picture. This is a
16 box of .22 ammo, and there's some rounds here. There's
17 a whole bunch more in here that you can't see. There's
18 a better picture where we can see it.

19 A GRAND JUROR: So those are all live
20 rounds?

21 THE WITNESS: Yes.

22 A GRAND JUROR: And then were there any
23 casings inside?

24 THE WITNESS: Yes.

25 BY MR. REES:

1 Q The clear bottle, Detective, is mouthwash?

2 A It's labeled Natural Mouthwash.

3 Q The largest red plastic container, was that
4 a chemical or motor oil?

5 A I think it looked like Liquid Plumber, some
6 sort of chemical. There's some toilet bowl cleaner
7 here, Showtime, for shining up your car.

8 Q What's in the glass bottle next to the
9 toilet cleaner?

10 A This thing here, it appears to be like when
11 you are done smoking your marijuana cigarette, you save
12 the butt, I guess. I don't know. But they appear to
13 be marijuana cigarette butts in the jar.

14 So here is a better view of that ammo. You
15 can see the box is opened. The rounds have been spilled
16 on the floor. You see that often when someone is
17 quickly trying to do something. So you quickly want
18 access to those rounds, you dump them out on the floor,
19 and you pick them up on the floor and you load them.

20 Some Windex there. There's some broken glass
21 by the front door. This liquid was all over inside
22 here. And there's a better view of that stick. It's
23 just like a branch that's been kind of smoothed out.

24 It is just a different angle of those .22
25 rounds.

1 So in this picture here, this is a live .22
2 round on the floor by the front door. For reference
3 here, here is the fireplace. Here is the front door
4 right here.

5 The front door is just off the screen here on
6 the left.

7 This is an unfired .40 caliber round.

8 Q This is a .40 caliber round?

9 A Forty, yes. This is a semiautomatic only
10 round. So if it were to be fired, we would expect to
11 find shell casings that have been ejected out of the
12 gun. This is not the kind of round that can be loaded
13 into a revolver where the casings would remain in the
14 cylinder.

15 Q As you know, some of the police officer
16 witnesses in this case stated that they believed they
17 saw Mr. Liffel holding a small silver handgun.

18 A Yes, at the front door during one of his
19 times coming out.

20 Q Okay. And you searched for the handgun in
21 the apartment?

22 A We searched for a handgun in the apartment.
23 We searched for a handgun out of the apartment. We
24 searched for a handgun on the roofs of all of the
25 surrounding apartments, but we did not find a handgun.

1 Q You did find the .40 caliber bullet. That
2 can't be what was fired out of the .22; correct?

3 A Absolutely. It won't even fit. It's just
4 as fat as a .22.

5 Q This bullet belongs to a handgun?

6 A Yes, absolutely.

7 Q Is that the only ammunition like that that
8 you found in the apartment?

9 A Yes, only .40. There was .22 and .40. That
10 was it. Nothing else.

11 Q Okay.

12 A GRAND JUROR: And no casings?

13 THE WITNESS: No casings. Yeah.

14 You can't quite see it in this picture,
15 there's another picture, but there's a .22 casing back
16 here in the fireplace as well.

17 So if you were at the front door -- let me go
18 back here a bit.

19 So this is the front door here. My back
20 would be to that picture I just showed you, which is the
21 dining room at the back end of the apartment.

22 So if I were to turn around from this
23 location, this is what I would see. There's a bullet
24 strike on the wall here, right there. And we have a
25 better picture of it. And then right down here in the

1 window is another bullet strike.

2 Here is a very good illustration of it
3 penetrating through the first pane of glass there. You
4 get this shelving or cratering on the back end of it
5 which then hits here, makes a bigger hole. Then you get
6 the shelving or cratering on the back end of that.

7 Right outside this window is a barbecue.
8 It's like one of those smokers with a little metal pipe
9 sticking up. And it hits that, deflects and lands in
10 the backyard there where we collected it.

11 A GRAND JUROR: So why didn't this one have
12 the evidence --

13 THE WITNESS: It just hadn't been placed yet
14 at the time this picture was taken.

15 A GRAND JUROR: So as you come in the front
16 door, the dining room is behind what we previously saw
17 with this small --

18 THE WITNESS: You walk in the front door,
19 you can see the dining room.

20 A GRAND JUROR: The living room and dining
21 room?

22 THE WITNESS: Yes.

23 MR. REES: This again appears to be from a
24 round fired.

25 THE WITNESS: Definitely fired from inside

1 to the outside, and we even found the bullet outside.

2 Just to clarify any confusion. Our process,
3 as we go in, we photograph everything. We don't touch
4 anything. We just photograph everything. And then
5 we'll start putting our stickers on and the placards
6 down.

7 So some of these the pictures are just better
8 without the stickers on them, which is why you are
9 seeing some with and some without.

10 A GRAND JUROR: I didn't know if maybe you
11 thought this wasn't relevant or something.

12 THE WITNESS: Oh, no, no.

13 So see, this is definitely -- the stickers
14 are in place here. The round has penetrated through.
15 It hits this stove pipe and deflects down.

16 A GRAND JUROR: Were you the one to take all
17 these pictures? Who takes the pictures?

18 THE WITNESS: The criminalist from the
19 forensics evidence division takes the pictures.

20 MR. REES: These are like the CSI people
21 that come in.

22 THE WITNESS: Yes.

23 A GRAND JUROR: So nobody goes in until the
24 criminalist comes in first to take pictures?

25 THE WITNESS: Correct. Yes. We don't go

1 in. We don't poke around. We send them in first.
2 They do pictures and they do a video. And then they
3 are, like, we're done, now you guys can come in and
4 look around and find items of evidence.

5 So here is that Placard 12, is that .40
6 caliber bullet, and then here's that .22 casing in the
7 fireplace.

8 A GRAND JUROR: Is that a live round, that
9 one back there?

10 THE WITNESS: No. This is fired. This is
11 just a casing.

12 So when I say "casing," all that's left is
13 the part that held the bullet in the gun powder. The
14 cartridge is the entire thing. Then the bullet is just
15 the part that gets fired.

16 Placard 16, so now we're back in front. This
17 is the walkway. We already talked about these casings
18 here.

19 Placard 16 is that .22 casing laying in the
20 grass. There's just a closeup of it.

21 BY MR. REES:

22 Q All together then, how many .22 caliber
23 bullet casings did you find inside of the apartment and
24 outside?

25 A Inside and outside, we found 12.

1 Q Twelve total?

2 A Yes. And if there's 11 in the magazine at
3 the time, that he's no longer able to fire it. And
4 he's fired 12 already, we know that he reloaded because
5 the magazine doesn't hold 23 rounds.

6 This is just another shell casing back behind
7 the couch. So you are looking out the front door
8 here -- the windows. The front door is over here on the
9 side. You can see now the blinds have been raised to
10 let light in, so we can process the scene and search.

11 A GRAND JUROR: Do we know if the person who
12 was inside the house, did they call 911 at any point?

13 THE WITNESS: She did not because she didn't
14 have her phone. But she's the one that the neighbors
15 in 88 Southeast 148th called on who is in the parking
16 lot.

17 This is another shell casing here. So the
18 fireplace is over here. Front door is down there.
19 Dining room would be down over here. This is a hallway
20 that goes back to bedrooms and like a dining area.

21 A GRAND JUROR: Is that marijuana?

22 THE WITNESS: It is, yes. We have a better
23 picture of that.

24 This is just another fired shell casing in
25 this hallway.

1 As you move down this hallway -- so that
2 previous picture was from here. So we move down the
3 hallway. This is like a dining area, a nook, if you
4 will.

5 And there's 17 and 21 are two more .22 shell
6 casings.

7 A GRAND JUROR: This is the dining area that
8 we saw earlier?

9 THE WITNESS: This is not. So it would
10 be -- you go in the apartment, dining area, kitchen,
11 nook area, if you will. There's actually, down here a
12 slider that goes out into the backyard.

13 This is the dining area that you saw earlier.
14 There's two .22 shell casings in this room as well,
15 which correspond to the hole in the window and the
16 strike on the wall.

17 So here is that strike. You can see now the
18 stickers are in place. You can see, based on how this
19 looks, the bullet enters here where it's round and then
20 it starts to fragment. And so all this here has just
21 been popped off the wall as the sheetrock expands from
22 the bullet traveling through it.

23 There's the marijuana that's in that
24 bookcase, if you will, by the fireplace there.

25 BY MR. REES:

1 Q Just in terms of, I guess, for perspective,
2 under Oregon law, you can possess an ounce of marijuana
3 lawfully for personal use.

4 Does this exceed that?

5 A I didn't weigh it but, yeah. Each of these
6 should be about an ounce. So, yes, somewhere in the
7 area of four ounces right there.

8 Now we're back to that first picture again.

9 Q One of the witnesses that you and the other
10 investigators contacted is a middle school student by
11 the name of Elizabeth Romero-Herrera.

12 A Correct, yes.

13 Q And in talking to her, you determined that
14 she had taken some video clips with her iPhone during
15 the incident; is that right?

16 A That is correct, yes.

17 Q And can you show us on the diagram what her
18 perspective would have been?

19 A She would have been over here in the
20 vicinity of Officers Jungling and Steiner, kind of
21 looking in this direction, pretty much straight across
22 the street.

23 Q All right. And did you bring today the
24 video clips that she made?

25 A Yes, I have them.

1 Q All right. Let's take a look at those.

2 A Okay.

3 A GRAND JUROR: What is her name or does it
4 matter?

5 MR. REES: She'll be testifying, but her
6 name is Elizabeth Romero-Herrera.

7 Before you play the first clip, as you watch
8 these, were you able to determine the time frame that
9 she made these, because as you described, this entire
10 incident from the time the first 911 call to the
11 shooting spans what?

12 THE WITNESS: From the very first 911 call
13 to the shooting is about an hour and a half.

14 BY MR. REES:

15 Q These video clips are very brief. So where
16 within the hour and a half do you think they were made
17 about?

18 A They seem, and I did not interview her,
19 other detectives did, but it seems to have been made
20 about the time that they realized the police are on
21 scene, and there's some loudhailing going on, and
22 something, something big is occurring.

23 Q Okay.

24 A GRAND JUROR: Made midway?

25 THE WITNESS: Yeah. I would say somewhere

1 after the shot was fired at the police when it starts
2 to ramp up and become a big deal.

3 A GRAND JUROR: Is she inside or outside?

4 THE WITNESS: She's inside and you'll see
5 that.

6 (Video played.)

7 THE WITNESS: She knows who this person is
8 because she calls him Steven. He's kind of a problem
9 for the neighborhood. Everybody knows Steven.

10 You can see the garbage can is right there.
11 There's that white car.

12 Just to be clear, these are not police
13 officers talking.

14 I don't know if you can hear the Charlie
15 Brown's teacher in the background, that's the
16 loudhailing going on. It's just not picking it up very
17 well in the camera because they are inside.

18 BY MR. REES:

19 Q Loudhailing?

20 A "Portland Police Bureau. Please come to the
21 door. Please pick up the phone. Come to the door.
22 Let us know if you are okay."

23 A GRAND JUROR: This is after they relocated
24 back behind that SUV?

25 THE WITNESS: Yes, ma'am.

1 (Video played.)

2 If you notice there's a different voice. So
3 they tried a male voice and a female voice, just trying
4 to get some kind of response out of him.

5 A GRAND JUROR: The loud speaker voice is
6 the police speaking to him?

7 THE WITNESS: Yes. It's all police. They
8 are trying multiple different tactics to try to get
9 some sort of response from him, positive response, not
10 the one that happened.

11 Because she's inside, the camera has a bad
12 habit of focusing on the glass pane of the window, and
13 that's why you see it moving back and forth.

14 A GRAND JUROR: He's inside at this time?

15 THE WITNESS: He's inside the apartment the
16 whole time, yes.

17 BY MR. REES:

18 Q On the PA, there was a call to Steven to
19 call 911 to get in contact with the police.

20 Did he ever do that?

21 A He did not. The reason we have him do that
22 is rather than, "Hey, Steven, what's your phone number
23 so we can call you, or here, Steven, you call my
24 number," if they call 911, the dispatcher can then link
25 them directly to the officer's phone, and they are in

1 communication that quick.

2 A GRAND JUROR: So each one of these videos
3 is she's turning it off and then turning it back on?

4 THE WITNESS: That's correct. Some are
5 really short. Some are longer.

6 Watch this area right in here. I don't know
7 if you can see that or not, but you can watch through,
8 right through there. Then he just shot.

9 A GRAND JUROR: We just heard three shots,
10 two were his and one was --

11 THE WITNESS: No. There was one shot and
12 then the rest is her is banging around, getting down to
13 the ground.

14 MR. REES: He just repeated that a few
15 times.

16 THE WITNESS: Yes. So I jumped back, so you
17 could see it come across right there. I might jump
18 back again. Sorry.

19 (Video replayed.)

20 A GRAND JUROR: Okay. So in the video, it
21 looks like he's going north, but the officers are
22 south.

23 THE WITNESS: It might just be the
24 perspective is a little off for you.

25 A GRAND JUROR: This is going north;

1 correct?

2 THE WITNESS: North is -- this is 148 here.
3 So this street runs north and south. So north is that
4 way. South is this way. And he's coming straight out
5 on that walkway. So he's pretty much going directly
6 west.

7 A GRAND JUROR: Okay.

8 MR. REES: Are people able to see that? The
9 detective was trying to point it out. It's difficult
10 to see, but the only way -- maybe you need to come up
11 to the screen if you want to see it.

12 A GRAND JUROR: I just wanted to get an idea
13 of the level of lighting.

14 Is this the level of lighting that you would
15 experience as the officers were outside in this type of
16 lighting?

17 THE WITNESS: Yes and no. She's in her room
18 with the light off, so it's completely dark. So she's
19 just using the ambient lighting that you can see out
20 here.

21 Phone cameras are very, very poor. I'm sure
22 you've all tried to take a picture at night, right,
23 where you can see great at night and it's a black
24 picture.

25 That's pretty much what you're seeing here.

1 Out there on the street, it's very lit up, so you can
2 see quite a bit.

3 A GRAND JUROR: Thank you.

4 A GRAND JUROR: Could you reshew that,
5 please?

6 THE WITNESS: Yes.

7 A GRAND JUROR: Thank you.

8 (Video replayed.)

9 THE WITNESS: It's really quick. All you
10 are going to see, because of the distance and it's
11 grainy and it's out of focus, is movement coming across
12 here. So that's him in the doorway there.

13 Anybody want to see that again?

14 A GRAND JUROR: Yes. One more time.

15 (Video replayed.)

16 THE WITNESS: You can kind of get a sense of
17 his speed as he's moving out there. I mean, he's
18 moving with purpose. He has a determined stride is how
19 I would describe it.

20 It appears to be more than I'm coming out
21 now, don't shoot me. He's definitely moving as if he
22 has a destination in mind.

23 MR. REES: Is that the last video clip?

24 A GRAND JUROR: Did I hear the officer say,
25 "Put the rifle down"?

1 THE WITNESS: That's correct. They said,
2 "Put the rifle down." Then you hear the girl say,
3 "He's got a rifle." But you'll learn more from her.

4 BY MR. REES:

5 Q Was that the last video clip?

6 A There are more, but it's all afterwards.

7 Q Then in terms of Officer Lawrence Keller,
8 you identified that he was the officer that fired the
9 one shot that we heard?

10 A Yes.

11 Q And what type of weapon did he use in this
12 instance?

13 A He has an AR-15. It is a semiautomatic .223
14 rifle. It has a magazine, not a tubular magazine, but
15 one that you load the bullets in and put it into the
16 gun. We did a count down on him.

17 Q Did you personally do that?

18 A I did it, yes, all his magazines. And after
19 doing all that, unloading his gun, unloading his
20 magazines, unloading his handgun, unloading his handgun
21 magazines, and accounting for all of the rounds, we
22 determined he fired one round, which was consistent
23 with the casing we found in the street and what he
24 said.

25 A GRAND JUROR: Just so I have this

1 accurately, it is a semiautomatic, but you used another
2 word for that.

3 THE WITNESS: AR-15. So it's a Colt AR-15.
4 That's the model, manufacturer and the model. And then
5 semiautomatic just describes the action of the gun.

6 So a semiautomatic fires one round every time
7 you pull the trigger. A full automatic, if you hold the
8 trigger down, it just keeps firing. Our rifles are not
9 fully automatic. They are semiautomatic.

10 A GRAND JUROR: So I guess what I'm trying
11 to get at is, was that like a group decision, that if
12 the guy in the building came out with his rifle, that
13 somebody would shoot him, or is that like a decision
14 that the --

15 MR. REES: That will be answered by the
16 other witnesses.

17 A GRAND JUROR: Okay.

18 BY MR. REES:

19 Q Were weapons checks conducted on any of the
20 other officer weapons?

21 A No.

22 Q And why not?

23 A Because we have one round fired. One
24 round -- one injury to the guy. There's no reason to
25 conduct weapons checks on all of the other officers.

1 We're not concerned that somebody snuck around and
2 didn't tell us. I mean, if somebody fires a round,
3 they tell us.

4 Q Did you attend the autopsy conducted later
5 that same day?

6 A I did, yes.

7 Q And was that conducted by Dr. Karen Gunson?

8 A It was, yes.

9 Q And she'll be testifying actually later
10 today. But when you attend the autopsy, how many
11 gunshot wounds did you observe?

12 A He had one, one gunshot wound.

13 Q And so based on that finding at the autopsy
14 and the other evidence that you've described, are you
15 satisfied in this case that the one gunshot was fired
16 by the police, by Officer Keller?

17 A Absolutely. Yes.

18 A GRAND JUROR: I have a question.

19 So do they use -- did the police officer use
20 a rifle because the other guy had a rifle instead of
21 using a handgun? Is it because, like, they have bigger
22 weapons, they use their bigger weapons? Is that how it
23 works? I'm just curious.

24 THE WITNESS: No. That's not how it works.
25 I'll be more than happy to explain it to you.

1 So the reason we have rifles is greater
2 accuracy over greater distance. Handgun rounds are not
3 going to be as accurate over a distance.

4 So if you do have someone, you know, either
5 with a handgun or a rifle -- me personally, I don't want
6 to be close to anybody that has a gun pointed at my
7 direction. So the further I can get away, but still
8 have the ability to stop them, I mean, that's why we
9 have those rifles.

10 BY MR. REES:

11 Q So is it correct that some officers who have
12 gone through special training and certification are
13 assigned to carry that Colt AR-15 rifle?

14 A Yes, and it is very rigorous training.

15 Q So not all of the police officers in
16 Portland would have those weapons?

17 A That's correct. Only certain officers do.

18 Q But Officer Keller is so certified to carry;
19 is that right?

20 A That's correct.

21 MR. REES: And there will be more
22 information about that for this grand juror as we go.

23 A GRAND JUROR: Okay.

24 MR. REES: I'm going to propose we take a
25 five-minute break. We'll get the CD to get a view of

1 the scene, and then we'll have any concluding questions
2 for the detective.

3 (Brief recess.)

4 MR. REES: Just for some additional
5 perspective, I thought we would have the detective show
6 you the 3D digital imaging scan.

7 This is the Leica scan that we mentioned
8 earlier that shows the scene.

9 (Leica scan played.)

10 THE WITNESS: So the way this thing works is
11 it's a laser scanning system made by Leica. It sits on
12 a tripod and then it does a 360 scan around. So what
13 you're seeing here are all the different scanning
14 locations.

15 So here is 148. Here is Burnside. North is
16 that way. This is the duplex here, 6 and 12, the
17 vehicle out in the street. And then what we'll do is
18 we'll look at a couple of these locations here so you
19 can see.

20 Unfortunately, it is nighttime. The camera
21 doesn't work well at night because there isn't a huge
22 lighting system for it that we have. So it's mostly
23 gray scale.

24 So this would be Officer Keller's vehicle
25 here. This would be kind of where Officers Jungling and

1 Steiner were back here. Now, we're looking north down
2 148th. There's is Mr. Liffel's truck. His apartment is
3 back here.

4 A GRAND JUROR: Burnside is going east and
5 west at that light?

6 THE WITNESS: Yes. East on this side. West
7 on this side. It is a color camera that's on there
8 along with the laser, so that's why you can see the red
9 lights down there.

10 But just because there's not sufficient light
11 here -- it picks up the green of the light being shown
12 back. But there's not sufficient lighting out here.

13 A GRAND JUROR: This was after?

14 THE WITNESS: This was well after.

15 We jump to this one. So now, you're looking
16 back down towards Officer Keller's vehicle south. This
17 is the garbage cans. There's his truck. The front
18 door. There's that walkway.

19 A GRAND JUROR: When we were watching the
20 video, you could see those garbage cans.

21 THE WITNESS: That's correct. You can make
22 out the rifle right there. There's a placard. So it's
23 good enough that you can read -- that's the No. 2 for
24 the placard. Just for the camera, there wasn't
25 sufficient light to see everything in color, so it

1 works in gray scale.

2 These are just patches, medical patches that
3 the medical crew put on to determine there's no
4 heartbeat, no cardiac activity, if you will.

5 Any other angles you want to look at?

6 BY MR. REES:

7 Q Can we see the perspective from Officer
8 Keller?

9 A Yes. So this would be about as close as you
10 are going to get. He would be a little more over here,
11 just looking down this way. Again, this door was
12 closed. Officer Keller was somewhere in this vicinity.
13 Obviously, he will be able to tell you exactly where he
14 was.

15 Q When you say the "door was closed," that's
16 because other witnesses have told you it was closed?

17 A Yes, that's correct.

18 Q But having said that, you weren't there at
19 the time?

20 A That's correct. I was not.

21 Q You know the door was opened when you
22 arrived?

23 A I know it was opened when we got there
24 because that's how we found it. But at the time the
25 actual shot was fired, it was closed and then it was

1 opened subsequent to that.

2 A GRAND JUROR: What is the approximate
3 distance from the body --

4 THE WITNESS: About 30 yards.

5 BY MR. REES:

6 Q In terms of that distance, and the grand
7 juror earlier had a question about handgun versus
8 rifle, would 30 yards be considered a long distance for
9 using a handgun?

10 A Yes. I mean, that's pretty much at the far,
11 far, far end of where we want to be using our handguns.
12 If we had no choice, we would do it. But certainly --
13 we don't train out that far with our handguns, so...

14 A GRAND JUROR: Could you point to somewhere
15 out there which would be about 30 yards, just so I can
16 get a perspective? It may not be reasonable.

17 THE WITNESS: Sure.

18 MR. REES: You know, I don't know if he can
19 do that.

20 THE WITNESS: Thirty yards is about 90 feet.

21 A GRAND JUROR: So how many of this room?

22 THE WITNESS: Oh, this is about 15 feet
23 across, so you are looking at three times this.

24 A GRAND JUROR: Okay.

25 THE WITNESS: Four.

1 A GRAND JUROR: That's helpful.

2 MR. REES: When you say "not about this."

3 A GRAND JUROR: Not about the video, the
4 Leica.

5 MR. REES: But a question related to the
6 case.

7 A GRAND JUROR: I guess I want you to talk
8 about the -- I notice the Max lines. And what does
9 that mean for, like, pedestrian traffic in the area?

10 THE WITNESS: Well, obviously, if we hadn't
11 shut this area down, pedestrians would be free to walk
12 through here.

13 But there was a marked vehicle on the other
14 side that shut this down. And I believe there's one
15 down here as well that had shut down. So they had shut
16 down traffic.

17 Obviously, Max is apprised that there's a
18 police incident going on. Don't stop your trains here.
19 Just keep driving through. It is not really enough to
20 divert -- you can't divert the Max. It runs on a track.
21 It's not enough to stop it. Don't let anybody through.

22 I mean, as things progressed, that may have
23 occurred. Maybe once SERT gets there and starts taking
24 over, they decide maybe we don't want the train coming
25 through. But at this point this was all being run by

1 uniform. They shut down what they could.

2 A GRAND JUROR: And there's no Max
3 station -- there's a Max stop right there.

4 THE WITNESS: Right there is the Max stop
5 for the westbound. It was right about -- as you recall
6 it, it was right about 11:00 when this thing started.

7 A GRAND JUROR: It runs until, like,
8 midnight, 1:00.

9 A GRAND JUROR: Thank you. That was my
10 question.

11 MR. REES: All right. Thanks, Detective.

12 If some question comes up over the course of
13 the next two days, we can always call the detective
14 back. He's available.

15 But seeing no questions right now, we'll
16 excuse this witness. Thank you.

17 THE WITNESS: Thank you.

18

19

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25

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

5

6 EXAMINATION

7 BY MR. REES:

8 Q Officer, for the record, if you would please
9 state your first and last name, and spell your first
10 and last name.

11 A Okay. Scott Jungling, J-U-N-G-L-I-N-G,
12 S-C-O-T-T.

13 Q Officer Jungling, are you a member of the
14 Portland Police Bureau?

15 A Yes.

16 Q And how long have you been a police officer?

17 A With the City of Portland, going on 11
18 years.

19 Q And do you have prior law enforcement
20 experience?

21 A Yes, 14 years in the Air Force.

22 Q What's your current assignment?

23 A I am a patrol officer assigned to East
24 Precinct.

25 Q And do you work a particular shift?

1 A Yes. I work the night shift, which is 10:00
2 at night until 8:00 in the morning.

3 Q All right. And when the events occurred
4 that we're going to talk about today occurred,
5 December 5th and 6th, were you working your regular
6 shift?

7 A Yes.

8 Q All right. Anything unusual going on during
9 your shift prior to the call that took you to 148 and
10 Burnside?

11 A Not that I recall.

12 Q All right. And what do you recall about the
13 call itself that brought you to the area at 148th and
14 East Burnside?

15 A Okay. I work a partner car. We work north
16 of Burnside and east of 205.

17 There had been a call that had come out for
18 an officer to go to the area of 148 and Stark concerning
19 either a shots fired or somebody with a gun or something
20 like that.

21 My partner and I were on another call. That
22 district officer and other units went to that particular
23 call, but I remember the call had come out.

24 Any call that comes out involving shots or a
25 gun, you just kind of pay attention to it in case you

1 have to go to it later. So my partner and I went and
2 took care of our call.

3 And then you want me to talk about how I got
4 brought there?

5 Q Yes.

6 Before you do that, who was your partner?

7 A Officer Steiner.

8 Q And go ahead and pick up where you were that
9 brought you to the area.

10 A Okay. We had gone to a call at the Safeway
11 at 122 and Glisan. I had gone in and took care of the
12 call and I came out, and my partner and I were leaving
13 and he was clearing it. He always rides shotgun, takes
14 care of the computer and I drive.

15 And then from what I remember, the call at
16 148 and Stark had been cleared by the primary officer,
17 but then he'd been called back in regards to again, gun
18 or shots fired, something in that respect.

19 My partner is a long gun. He's an AR-15, a
20 rifle guy, if you will. I'm the less lethal guy in the
21 car. We've ridden together for many years. He said we
22 needed to go to this call at 148 and Stark. So he
23 attached us to it.

24 A GRAND JUROR: When you say "rifle guy,"
25 that means he was trained to carry a rifle?

1 THE WITNESS: Yes. He's the rifle guy in
2 the car, and I'm the less lethal bean gun, you know,
3 the shotgun that shoots wads.

4 BY MR. REES:

5 Q Like a bean bag?

6 A A bean bag, less lethal bean bag.

7 Q We had heard earlier from the detective that
8 certain police officers in Portland have training and
9 certification to carry the Colt AR-15 and some do not.

10 A Correct.

11 Q So you're saying that your partner, Officer
12 Steiner, is one of the officers who carries the rifle?

13 A Yes.

14 Q You're assigned this less lethal weapon that
15 shoots out, kind of like a bean bag that could hit
16 somebody and --

17 A Yes. It is less lethal. It is not a
18 regular shotgun. If anybody has shot a shotgun before,
19 you know, you shoot pellets or a slug out of it. This
20 shoots a wad.

21 So that way -- its primary purpose -- the
22 rifle is for, like, it's a countermeasure to, like,
23 guns; whereas, the less lethal beanbag is kind of like
24 somebody has a knife, and you want them to get rid of
25 the knife. So it's two different platforms, if you

1 will, that we carry, so...

2 Q Okay. And if you want to stand up and look,
3 there's a photograph diagram behind you. And one of
4 the labels say "Officer Jungling and Steiner."

5 Does that accurately show about where you
6 ended up?

7 A Yes. It took us a while to get into this
8 position. When we first went to this call, we were
9 sent more as traffic control, if you will. We set up
10 over here west of 148th on Burnside in the area of
11 146th and 147th.

12 As they were kind of setting up containment,
13 one of the things that we need to do is keep traffic and
14 pedestrians, people out of there for their own safety,
15 as well as ours, of course.

16 So originally we had set up over here.
17 Steiner, being the long gun, went ahead and grabbed his
18 rifle and what he needed, his helmet, and he moved up
19 here first. I stayed back there, okay.

20 It hadn't really gone full tactical yet, but
21 it was kind of going that way, if you will. Usually
22 Steiner and I will deploy together. I'm his eyes and
23 ears. And I carry all of his stuff for him so he can
24 just worry about the rifle. But I stayed back. He
25 moved up here.

1 Eventually one of the sergeants puts out on
2 the radio that there were shots fired in their
3 direction. So everything started rapidly changing to a
4 tactical.

5 And Sergeant Hughes ordered me to move up to
6 Steiner so we would have two people there, so that's
7 when I moved up there. Another officer took care of the
8 traffic control point.

9 I grabbed Steiner. We carry what we call a
10 go bag. It's kind of made up of different things, blood
11 clot, I think a tripod. There's some other stuff he
12 puts in there. It is for his benefit mainly. So I
13 grabbed that and then I moved up to where he was at.

14 Q Okay. And just, for the record, you're
15 indicating that location in the parking lot, that's
16 across the street from the address where this subject
17 was?

18 A Yes.

19 Q You can resume your seat.

20 What's going through your mind at this point,
21 given the call that you had heard and now there's a
22 report of a shot fired at the officers, and you said it
23 was turning into a tactical situation? Maybe you can
24 explain what that means.

25 What are your thoughts in terms of what was

1 happening and safety concerns for both the police and
2 for the residents in the area?

3 A Well, a lot of calls that we get involving
4 shots fired usually are true. Now, going into this, I
5 didn't have a lot of background information on who this
6 person was, what they were doing or anything like that.

7 Like I said previously, Steiner and I were on
8 a different call. We never were involved in the front
9 end of this.

10 My main concerns going into this, not only
11 for my safety, but, you know, the safety of other
12 officers, safety of people in the area, just general
13 containment of it.

14 The one thing that we're taught is, you know,
15 get eyes on, contain it, isolate it, identify the
16 resources you need to deal with it and then move forward
17 with that.

18 Steiner and I are one of those resources. He
19 being the long gun, I being his assistant, if you will.
20 So a lot of calls are resolved non-violently. You know,
21 you contain it. You loudhail it. You call in. You
22 talk to the person.

23 You get mental health resources there. Other
24 commodities, and then nine times out of 9.1, calls
25 just -- they solve themselves. A person comes out.

1 Yes.

2 A GRAND JUROR: So when you said that you
3 get mental health resources, was there a mental health
4 resource contacted on this?

5 THE WITNESS: I don't know.

6 To put this in context for you, my part in
7 this out of the big picture is I'm, I'm a little cog in
8 a very big wheel right here.

9 There are multiple sergeants that are there.
10 There are tons of resources coming. Once a sergeant
11 puts out over the air there were shots fired, and if I
12 remember right, they were fired in the direction of
13 officers, then everybody is coming, coming to the scene.
14 Whether it's Gresham, Portland, different precincts,
15 whatever cops are needed are on their way there.

16 So other resources concerning mental health
17 and those type of things were beyond my control.

18 BY MR. REES:

19 Q You were just saying those are the types of
20 resources that could come to bear in a situation like
21 this?

22 A Yes. Right.

23 Q From your perspective then, once you got in
24 place where it's indicated on the chart, what could you
25 see or hear?

1 A Okay. Once we got up here -- just so you
2 kind of understand what we're looking at here. You
3 know, this is directly across the street from No. 12,
4 which was the target house where we were told. And
5 Steiner just confirmed for me when I got to where he
6 was at that the person that they were trying to help
7 was at.

8 Directly across the street, this is kind of
9 duplex condo, if you will, east and west. Right here is
10 the standard wooden fence, six foot tall wooden plank
11 fence, then a whole bunch of parked cars.

12 Steiner was here with his binoculars looking
13 at the house. I went up here. He focused on his long
14 gun. He got the tripod set up. He got into more of a
15 kneeling prone position for stability issues with
16 handling the gun. And I took over the binoculars and
17 the radio traffic.

18 A GRAND JUROR: Which side of the fence were
19 you guys on?

20 THE WITNESS: Well, it's a perpendicular
21 fence. If you look at it, you can see the shadow of
22 it. It runs this way and then jets back down into the
23 actual condo. So we were all of the way here on the
24 west side. Then he was between the fence and the
25 parked car. Steiner is not a tall guy like I am, so...

1 BY MR. REES:

2 Q Okay. And so the question was, what could
3 you then, having said all that, see and/or hear from
4 that location?

5 A Well, when I first got there, I took over
6 the binoculars. I could see the front of the house.
7 There was a white storm door, metal grated door. I
8 could hear a male yelling inside and the person was
9 ranting and raving.

10 I don't remember a lot of what was said. But
11 at one point when I had first gotten there, he said --
12 and I don't remember if the door was opened or not, but
13 I distinctly heard him say something about, you know,
14 you are going to kill me, I'm going to kill -- you are
15 going to shoot me, or something of that context.

16 I put that out over the radio that he was
17 ranting and raving, and this is part of what he was
18 saying.

19 And as I continued to watch the front of the
20 house, because it faces directly west and we're looking
21 directly east, so it's just a straight line on-site, he
22 came to the door.

23 You want me to talk about that, the first
24 time he came to the door?

25 Q Yes.

1 A Okay. The first time he came to the door,
2 he was ranting and raving. I remember he was holding a
3 water bottle.

4 One of the things that I'm looking for,
5 because we have a great visual on the front of this
6 house, I have binoculars, I can see the front of it, so
7 I can see things. I'm looking for hands.

8 What is he holding in his hands when he comes
9 to the door? He opens the screen door. And the inside
10 door is opened, of course. The inside of the house is
11 dark.

12 So if, you know, when you are looking from a
13 lighted area into a dark house, you can't see anything
14 past where the light stops. And the porch light was on,
15 so kind of everything that's happening in the door
16 frame, I can watch.

17 He's holding a water bottle. He puts the
18 water bottle down. I'm telling them on the radio what
19 he's holding in his hands. I give a brief description
20 of what he looks like, white male, multi-colored shirt,
21 tie-dye, and then blue jeans.

22 And he keeps ranting and raving. I can't
23 understand him what he's saying, but he just seems to be
24 angry and just kind of pissed off.

25 Q And just go -- so you see that.

1 Does he go back inside of the house?

2 A Yes. Yes.

3 Q And do you continue to hear him ranting and
4 raving?

5 A Yes. So there are pauses where he's not
6 saying anything. It's quiet and then he'll start to
7 rant and rave. He comes back to the door again.

8 And I'm a little confused on the sequence
9 with these two events because they happened so close to
10 each other, so I'm going to tell you what happened.

11 The second time he comes back to the door
12 frame, and I see him in my binoculars, one of two things
13 happened. These are the two events that happened pretty
14 close to each other.

15 One event, he tries to light something. He
16 puts some stuff down in the door frame. And you can see
17 the flicking of the lighter, the Bic or whatever it is,
18 and he's trying to light something.

19 He goes back in the house. He comes back,
20 and I think he has tissue paper or toilet paper. And he
21 puts it down and tries to light it, but he can't -- it
22 won't light.

23 The second event where these two kind of blur
24 together for me is when he comes to the door and he's
25 standing in the door frame again. And the screen door

1 is opened, and I'm looking at his hands.

2 And he turns in such a manner that I see he
3 has a pistol in his left hand. I put out over the radio
4 he has a gun. There's a gun. I described it as a small
5 revolver-style with a short barrel.

6 I could not beyond a doubt confuse that with
7 anything else because of the way he was holding it, the
8 way it was down to his side and what I could see with
9 the black on the inside of the house as a backdrop. I
10 mean, it was clearly the outline of a gun. He was
11 ranting and raving. And he went back into the home.

12 Now, every time he came to the door, every
13 time that there was a lull, if you will, in the momentum
14 of things, the police were constantly loudhailing and
15 trying to tell him, "We're here to help you. We want to
16 make sure you're okay. We want to make sure that
17 whoever is in the house is okay. Come outside, you
18 know. We just want to give you what you need."

19 When I told them about him having the gun,
20 then, of course, that's another dynamic that has to be
21 part of it when they are loudhailing him to come out and
22 don't bring the gun. You know, leave the gun in the
23 house. Do not come outside with the gun.

24 Q So you relayed that information over the
25 radio?

1 A Yes.

2 Q The term "loudhailing."

3 A The public address system that are on the
4 police cars, the big speaker that just blares out. If
5 you've ever heard it, you could hear it blocks down the
6 street. And he was aware of it.

7 He was standing in the door frame, and he
8 would look as they are constantly loudhailing. They
9 would look, he would rant and rave again. I'm not
10 hearing what he's saying to them loudhailing him, but he
11 would look.

12 A lot of times he seemed to be focused on
13 looking north towards Burnside. For what reason, I
14 don't know. If he knew somebody in that direction, if
15 he had seen -- I don't know. He was just looking that
16 way a lot. They were loudhailing from the south down
17 here.

18 Q Did you ever see him respond to these verbal
19 commands in a compliant way?

20 A No. There was no compliance. I'm sure that
21 he heard because anybody would have heard them.
22 Whether or not -- no, he never displayed any
23 compliance, you know. If he ever said anything back in
24 his ranting and raving that was understandable, I
25 didn't hear it. I was too far away.

1 He had every opportunity in the times that I
2 was watching him when I got there to simply walk out
3 that front door and turn to his left, and the police
4 were there to tell him what to do.

5 We have kind of a standard cookie-cutter type
6 of thing, you know, where you bring people out. Nothing
7 in your hands, et cetera. He had ample opportunity to
8 do that. He did not.

9 Q And do you have an estimate of how long this
10 took, what you just described of him going in and out
11 and of the loudhail commands going on?

12 A You know, yes. For me, you know, time, I
13 have no idea. I could say minutes. I could say five,
14 10, 15. I don't know. I never looked at my clock.
15 When I got there, everything was on the radio, and so
16 that would be time ingrained, but it was a matter of
17 minutes.

18 Q Okay.

19 A Five, ten minutes.

20 Q Right. We can go -- we know exactly the
21 length. We're trying to get your impression, what you
22 would say. You were so focused on what was happening.

23 A Well, your adrenaline is rushing. You're
24 focused on, you know, this -- the dynamic of this
25 person has changed to where I went into it being told

1 there was a gun, being told there were shots fired, now
2 I'm seeing that gun or seen a gun.

3 So the dynamic is changing, and the situation
4 is, of course, getting more and more dangerous and more
5 and more focused, I guess.

6 A GRAND JUROR: I guess I wanted to hear
7 your -- how you knew he could hear the loudhailing.
8 You said he responded or he --

9 THE WITNESS: When they were loudhailing and
10 they were calling for him, they -- whoever is down here
11 has a lot more information than I do, whether or not
12 he's deaf or there's some sort of medical issue or
13 something like that.

14 I do know there was either a girlfriend or a
15 woman friend or something that had been in the house
16 with him earlier that night. What they've gotten from
17 her, I don't know.

18 BY MR. REES:

19 Q I don't know if she's asking that at all. I
20 think really what she's asking, because you stated you
21 believed he could hear.

22 I think you said it was so loud, that anybody
23 in the neighborhood could hear.

24 A Well, yeah. I mean --

25 Q Did he do anything specific that made you

1 think, yeah, he's hearing us?

2 A GRAND JUROR: Did he respond negatively to
3 the loudhailing?

4 THE WITNESS: Again, in his ranting and
5 raving, I could hear the male voice. Whatever he was
6 saying, I didn't understand. So if he was responding
7 to them, I didn't understand what he was saying.

8 A GRAND JUROR: That's fine.

9 BY MR. REES:

10 Q And then as this reaches its culmination, so
11 to speak, what did you observe happen?

12 A Okay. After he had gone back into the
13 house, coming up to the fourth time, the significant
14 fourth event for me, he came -- he had -- I think he
15 had left the screen door open -- he had gone back into
16 the house.

17 A GRAND JUROR: Excuse me, then he went in
18 and out of the house three times before what you're
19 about to describe?

20 THE WITNESS: There were four events for me
21 when I got there that are kind of the way that I'm kind
22 of categorizing it, for me to process it: The water
23 bottle, lighting something on fire, and the handgun in
24 his left hand.

25 All three of those events occurred in the

1 door frame of this home. Never into the front yard.
2 Never back inside of the house, but in the door frame
3 with a porch light on that I was seeing through
4 binoculars.

5 The fourth event for me to process this is
6 when he came back to the door frame -- and he was
7 standing in the door frame in such a manner that I was
8 seeing him at an angle of his right side, okay.

9 When he turned in the door frame I could see
10 him clearly with a frontal shot, if you will. He was
11 holding a rifle in his left hand. I immediately put out
12 over the air, "He has a gun. There's a rifle. It's a
13 rifle."

14 So he's standing in the door frame. They are
15 loudhailing him. They are telling him, you know, "Drop
16 the gun. Drop the rifle," something in that context.
17 And I'm just -- my binoculars are just fixated on him,
18 and what is he doing with this gun now, this rifle?

19 If you understand weapons, there's a
20 difference between a pistol and a rifle. I mean, one is
21 a reach-out-and-touch-somebody and there's one that is
22 more of a close-quarter thing.

23 BY MR. REES:

24 Q Just to explain, which is which?

25 A The rifle is a reach-out-and-touch-somebody,

1 and then the handgun is more of a close-quarter type of
2 a weapon.

3 Q So by that do you mean that a rifle --

4 A Is inherently a lot more dangerous. It
5 could go through -- depending on the caliber -- I'm not
6 a gun guy. My partner is a gun guy. Depending on the
7 caliber of the rifle, it can go through a bulletproof
8 vest. It can go through car doors. It can go through
9 walls.

10 Q So knowing that and seeing now that he has a
11 rifle in his hands, did you perceive that the level of
12 danger was greater?

13 A Oh, yes. The level of somebody getting hurt
14 is much greater. If he points the rifle and gets out
15 that one-in-a-million-shot, it can go through a wall.
16 It can continue to go and hit somebody in bed and kill
17 them. So a rifle is much more dangerous.

18 Q Could you see how he was holding the rifle?

19 A Yeah. He was holding it in his left hand,
20 kind of mid-section, near where the trigger -- housing
21 would be where the trigger is at.

22 Whether or not he had his finger in the
23 trigger, I could not see. The binoculars are not that
24 good. But he wasn't holding it by the butt of the rifle
25 where it's just kind of hanging, and he wasn't holding

1 it by the barrel.

2 It was -- you know, if you have ever carried
3 a rifle, and you kind of put your hand in the midsection
4 where the trigger is at, where it's kind of balanced,
5 that's how he was holding it.

6 Q And was he standing still?

7 A When he first stood in the door frame, there
8 was, like, a momentary time stop where he just stood
9 there and then he broke the door frame.

10 And this is why for me the fourth significant
11 event, this is the time when he broke the door frame and
12 he actually came out into the front of the house. He
13 entered the front yard.

14 Went down off -- there is -- I think there's
15 a little cement one-step porch in front of the front
16 door. He came out on that and then stepped out into
17 the -- I'm assuming it's grass in the front of the
18 house.

19 Q And what happened?

20 A Okay. They are still to my right, to his
21 left on the south of the house. They are loudhailing.
22 People are screaming and yelling as far as I can make
23 out. "Drop the rifle. Drop it." It's now gone bad.

24 Q You're hearing those commands, "Drop the
25 rifle."

1 Does he drop the rifle?

2 A No. No. When he stepped out -- when he
3 stepped out of the house on to the porch, the rifle had
4 been down like this (indicating), and I couldn't see
5 anything in his right hand. I'm really, really fixated
6 on his left and where the rifle is at.

7 When he stepped out, he brought both arms
8 with the rifle up to kind of like a 45-degree angle,
9 like this (indicating). It wasn't like your arms are
10 straight up. He didn't drop the rifle and bring his
11 hands up. He brought everything up like this, and he
12 stepped out.

13 And I remember he looked to his right, which
14 would have been north towards Burnside, and he wasn't
15 walking fast. He wasn't in a rush. Just walking out
16 towards the street. People are yelling and screaming,
17 loudhailing.

18 And then there was a single shot. I heard
19 it. And his body went to the right, like somebody had
20 sucker-punched him in the stomach. And then he got rid
21 of the rifle. Then he tossed it. He didn't drop it.
22 He tossed it away from him, which would have been to his
23 left, to the south of where he was at.

24 Started screaming and yelling. I'm not
25 understanding what he's saying, but I knew exactly what

1 had happened. He started screaming and yelling. They
2 were commanding him to give up.

3 He never dropped initially when he got shot.
4 He never ever dropped. He got, like, sucker-punched,
5 and he stood there for a while screaming and yelling.

6 A GRAND JUROR: Could you tell me again
7 where he threw the gun?

8 THE WITNESS: It would have been to his
9 left, which would have been south towards where all of
10 the police cars were. So, so this is where he's at.
11 He came out. He got shot, and he tossed it down here
12 somewhere.

13 Eventually his knees gave out. I could see
14 they were buckling. He dropped to the ground. He
15 landed on his back. I still could not make out what was
16 in his right hand, if anything.

17 I had seen a handgun before. Did he bring it
18 when he came out? I didn't know. And that's something
19 that I was very concerned about. Did he have another
20 gun on his person because people can play possum? They
21 can be shot, and that doesn't necessarily incapacitate
22 them.

23 So we have to make the situation safe, and
24 there are experts there at the scene to do that. It's
25 not going to be me.

1 He's on his back, kind of moving around,
2 still vocalizing. He tries to get up on his right
3 elbow. You know, when you lie on your back and roll
4 over on your side to get up, he tries to get up like
5 he's going to try to sit up, that didn't work.

6 He got up as far as he could and then he
7 rolled over on his stomach. His left hand, I think went
8 underneath his -- underneath him. So I couldn't see
9 that anymore.

10 And whether or not he had anything concealed
11 under there, I did not know. His right hand at first
12 was out. He brought it in. Rested his forehead on it
13 and then brought it into him as well.

14 So he's kind of like, I don't want to say
15 turtled up, but he's in a position where I can't see his
16 hands anymore. That's what I'm telling everybody on the
17 radio.

18 BY MR. REES:

19 Q So following this incident, were you
20 interviewed by detectives later that night?

21 A Yes.

22 Q There was a recorded interview?

23 A Yes.

24 Q Okay. And then were you placed under a gag
25 order or a communications restriction order?

1 A Yes.

2 Q To not discuss this with other officers?

3 A Right.

4 Q Okay. And so, for example, you don't know
5 whether a silver handgun was found or not during the
6 investigation?

7 A I have no idea what weapons were recovered.

8 Q So you were just telling us what you
9 perceived?

10 A What I saw through the binoculars.

11 MR. REES: Okay.

12 Any additional questions for this officer?

13 A GRAND JUROR: So when he came out with his
14 arms up, eventually one rifle in his left hand, did it
15 seem like he had intentions of going to the police or
16 going north, or what did his intentions seem?

17 THE WITNESS: He just kind of came straight
18 out into the grass. So I mean, if he came out this
19 way, this is kind of where I guess he paused or
20 stopped. He never made a left turn. He never made a
21 right turn. Just kind of came out.

22 So what his mindset was and his intent, I
23 have no idea, you know. He gave no indication going one
24 direction or any direction. He just came out, and
25 that's kind of where it ended.

1 A GRAND JUROR: And that whole time he had
2 his -- he had both hands --

3 THE WITNESS: Well, it's kind of like a
4 45-degree angle, all right. The rifle is here with him
5 holding it kind of in the center area, the balance
6 area, and then this hand up. I don't remember seeing
7 anything in his right hand. I don't know if he had
8 anything or not. And that's kind of where it was and
9 that's where it ended.

10 A GRAND JUROR: His walking pace or his
11 gait, was that methodical?

12 THE WITNESS: To me, it was just casual. It
13 didn't seem like it was -- it isn't like he was trying
14 to run out here and then try to run away or, you know,
15 any sense of urgency. It was just casual is the only
16 way I can think of.

17 BY MR. REES:

18 Q Just a follow-up question now.

19 The way you had your arms raised then just
20 now when you were demonstrating, I think some people
21 might think that looked like a position of surrender,
22 like hands up.

23 I mean, is that, is that what you're
24 describing at the time he was shot?

25 A Well, I don't know if it's a matter of

1 surrender or not. All I know is when he came out and
2 he broke the door frame, he brought his hands up like
3 this (indicating).

4 They are yelling for him -- they already -- I
5 had already put out on the air that he had a rifle,
6 because he's paused in the door frame. I was able to
7 get out in the air immediately that he had a rifle.

8 I remember the people south, the cops south
9 of him yelling, "Drop the gun. Drop the rifle. Drop
10 the rifle." I mean, it's just you can talk a lot faster
11 than you can walk. You can process it a lot faster.

12 So whatever that distance, from the moment I
13 saw him and I put out over the air to the moment that he
14 walked here and here in his casual gait, however many
15 seconds that is, and then when -- however long he paused
16 here, time to me is a blur at that moment. I couldn't
17 even begin to guess, you know.

18 So do I think he was giving up? I don't
19 know. I don't know. I mean, you're holding a gun.
20 You've been told, for me, numerous times since I've been
21 there, minutes, minutes and minutes, "Come out, we want
22 to help you. Don't bring a gun. Drop the gun. Drop
23 the gun." You walk out of the house, you're told, "Drop
24 the gun. Drop the gun. Drop the gun." You're still
25 holding the gun, there's a safety problem with that for

1 officers and for anybody in the area.

2 Because it doesn't take much to pull a
3 trigger on a rifle or a trigger on a gun, and, you know,
4 they have a reaction. They have an action-reaction
5 thing that they teach us to where if somebody can do
6 something, and by the time your mind processes it and
7 you react to it, you can be on the losing end of that.

8 So you have to be very careful with a
9 reaction-action type of thing. So do I think that he
10 was giving up? I don't know. I just don't know.

11 Q You had noted to the detectives in your
12 interview that you believed that he could have -- you
13 said you can lower a rifle in a heartbeat and get a
14 round off before you even know what happened.

15 A Yeah. That's that action-reaction thing. I
16 mean, whether you're holding a pistol here and you
17 bring it up real fast, you know.

18 Some of the scenarios they run us through, if
19 I remember right, you know, you go into a room, somebody
20 is holding a gun, you have your gun out. And by the
21 time he pulls it up and shoots you, you haven't even
22 raised your gun yet because that's that action-reaction
23 type thing. Even though both of you have your gun out,
24 but your mind has to get the muscles going for you to
25 catch up.

1 So, yeah, I told the detectives that because,
2 you know, I spent 24 years in the military. If
3 somebody -- I don't know if his finger was on the
4 trigger guard. I do not know. All I know is how he was
5 holding the rifle.

6 He was ordered to drop the rifle and he did
7 not. He could have lowered that in anybody's direction,
8 whether it's the cops south of him, anybody north of him
9 or just randomly. He could have either lowered it and
10 fired off a quick round before anybody could have
11 reacted to that. I honestly believe that. That's what
12 I mean by the heartbeat.

13 MR. REES: All right.

14 Any other questions? All right. Seeing
15 none. Thank you very much for coming in.

16 THE WITNESS: Thank you.

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18
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1 IMAJEAN MURRAIN,
2 a witness called on behalf of the State, having been
3 first duly sworn, was examined and testified as
4 follows:

5

6

EXAMINATION

7

BY MR. REES:

8

Q When you're ready, please tell us your first
9 and last name and spell your first and last name.

10

A My ears are plugged up.

11

Q Can you hear me okay?

12

A Yeah.

13

Q All right. Go ahead and tell us your first
14 and last name and spell your name.

15

A Imajean Murrain, I-M-A, Murrain,

16

M-U-R-R-A-I-N.

17

Q All right. Imajean, but you go by Ima?

18

A No. I go by Jean.

19

Q All right. In the report it says Ima.

20

So do you want me to call you Jean?

21

A Yeah.

22

Q Okay. What's your address? Where do you

23

live?

24

A 88 Southeast 148th Avenue.

25

Q And do you live with somebody else?

1 A Yes, I do.

2 Q Who is that?

3 A Jeffrey Campau.

4 Q All right. I wanted to ask you about what
5 happened on Monday night, December 5th, when you called
6 911; right?

7 A Yes.

8 Q And why did you call 911?

9 A Um, I was in our bedroom, faces the parking
10 lot. And all of a sudden, I see somebody going in and
11 out of the cars. And so I went and grabbed a
12 flashlight and went out. And I said, "This is private
13 property, what are you doing?"

14 And it was a gal. She just kept saying,
15 "They are shooting at me," you know. And she was acting
16 really strange, so I thought she was on drugs. And so I
17 called 911, and said, you know, I don't know what's
18 going on, and so...

19 Q Did you know who that person was?

20 A No.

21 Q Did you ever see them before?

22 A No.

23 Q They said that "they" are shooting; is that
24 right?

25 A Yeah.

1 Q Had you heard any gunshots yourself?

2 A No.

3 Q All right. Did she offer an explanation to
4 you about what was going on?

5 A She was just -- and then she was going in,
6 again in between the cars and then she was ducking down
7 underneath the cars.

8 And so when I was on the phone with 911, all
9 of a sudden, she disappeared. And I said, "I don't know
10 where she went."

11 And so at that point in time, Jeff came home,
12 because he was out paying our rent, and he thought I was
13 going crazy. I said, "She was just here, but she took
14 off that way."

15 And so he was in the bedroom, and then he had
16 seen her come back.

17 Q Through the window?

18 A Yeah. And so then I was still on the phone
19 with 911. And then I called them back again, and I
20 said, "I don't know if she's on drugs or what, but I
21 need somebody out here."

22 Q Did Jeff go outside into the parking lot?

23 A Yes, he did.

24 Q Did you go outside, too?

25 A Yes.

1 Q All right. What happened when you got out
2 there?

3 A Well, she kept grabbing a hold of Jeff and
4 wouldn't let loose. And then basically what ended up
5 happening, she was saying they were shooting.

6 And then so -- unfortunately, our address is
7 very hard to find. The police and the ambulance and the
8 stuff never can find it. It's, it's -- so I went out.
9 He kept saying, "Get them here. Get them here."

10 And so --

11 Q "He" being Jeff?

12 A Yeah, Jeff. And so he walked up towards the
13 road, and I took the flashlight, and the police
14 officers were down one apartment complex down, so I
15 took my flashlight and had them come down.

16 Q All right. And if you could look behind
17 you, there's a photograph that shows your neighborhood.

18 And my impression is your place maybe is off
19 over here somewhere; as a result?

20 A Yeah. This is where he was at. And my
21 apartment is back -- it kind of goes in a U-shape, and
22 we're in the very, very back. And so here is the
23 beginning of the other ones, and then mine goes like
24 this, the apartment.

25 Q Okay. So we see this parking area here.

1 That's the parking area where you found this lady;
2 right?

3 A Yes.

4 Q Down more in this direction.

5 A Actually, okay. Here is the garbage
6 dumpster, okay. She came from -- started here, and
7 then she started going in between. And then back here
8 is where she finally ended up in front of my apartment.

9 That's when she grabbed a hold of Jeff and
10 wouldn't let loose of him. So we were actually back
11 here and then went up here. And this is 148th. And so
12 I was standing here trying to get the officers, and they
13 were down at the apartment complex down here.

14 Q Okay. And eventually, did the police come
15 and have contact with this lady?

16 A Yes.

17 Q All right. And did you and Jeff go back
18 into your apartment?

19 A I was with the lady officer. And we
20 started -- one officer had her and kept her in the
21 church parking lot.

22 And then -- so then I walked up with the lady
23 officer towards the front, and I said, "There's
24 something strange." His dome light, his dome light is
25 on in that truck, and it's never on.

1 And I said, "Something is strange," and so
2 she was walking with me. And then two officers went
3 toward the truck and flashed their flashlight. And then
4 I heard some gunshots at that point in time. And then
5 so they backed off and then started calling in.

6 Q Could you tell where the gunshots were
7 coming from?

8 A Yeah, from inside his apartment.

9 Q So what did you do?

10 A I proceeded into going back to my apartment.

11 Q All right. Were you back in your apartment
12 with Jeff?

13 A Yes.

14 Q Okay. Can you hear me okay?

15 A Yes.

16 Q It's hard still. I'm trying to speak up.

17 A Yeah.

18 Q Could you hear later on the police on their
19 bullhorn or public address system calling out to your
20 neighbor to come out and to surrender?

21 A Yes, they did.

22 Q Do you remember what kinds of things the
23 police were saying?

24 A They were asking him to come out. And they
25 said, you know, you know, "There's two sides to every

1 story. Just come on out," you know, and, you know,
2 without -- and then that's when we heard more gunshots,
3 and I heard more gunshots.

4 Q Could you tell where those were coming from?

5 A His apartment.

6 And so at that point in time, they were
7 trying everything, absolutely. The bullhorn was going.
8 They were talking to him, you know. "Just come out
9 peacefully," and, you know, "We'll hear your side of the
10 story."

11 And then they asked him at that point in time
12 to let the dog -- because he had a pitbull, a little
13 baby pitbull, just maybe about six, seven months old,
14 and so they were referring to let the dog come out. And
15 so, yeah, they, they talked and talked and talked to
16 him. And then --

17 Q You could hear that inside of your apartment
18 okay?

19 A Yeah. And then I came outside and was
20 watching them outside. And so then -- yeah, they tried
21 for a long time to get him to come out.

22 Q And then did you hear a different gunshot?

23 A Yeah.

24 Q Was that clear that it was different than
25 the earlier sounds that you've heard?

1 A Oh, yeah. It sounded like a canon.

2 Q Did you see that shooting?

3 A No. I was too far back. They asked us all
4 to step back, you know. And I can't believe it, but
5 everybody in my complex slept through it, believe it or
6 not. Even the people that were right in the front,
7 yeah.

8 Q Did you ever hear your neighbor saying
9 anything back to the police?

10 A Pardon?

11 Q Did you ever hear your neighbor saying
12 anything back to the police?

13 In other words, you heard the police saying
14 different things. Was there any response?

15 A I did not hear him.

16 Q You did not hear him?

17 A No.

18 Q Okay.

19 MR. REES: All right.

20 Any questions from the grand jury?

21 A GRAND JUROR: Where -- approximately where
22 were you standing when you heard --

23 MR. REES: She can't hear you.

24 A GRAND JUROR: Yeah. That's true.

25 Where were you standing when you were

1 discussing -- when you were listening to what was going
2 on where you were watching it?

3 THE WITNESS: Yeah. I was watching it.

4 A GRAND JUROR: Approximately where were you
5 standing on the map?

6 THE WITNESS: On the map, okay. My
7 apartment is back here, because they asked us all, Jeff
8 and I to back off. And so then after I heard the
9 canon, they asked, they asked -- they sealed off our
10 apartment complex.

11 A GRAND JUROR: So you were way over --

12 THE WITNESS: Yeah. I was back here, and
13 then I was about here after the shooting. And then
14 that's when the officer came out and said that they
15 would -- you know, nobody is to go in or out of the
16 complex.

17 A GRAND JUROR: Okay. Thank you.

18 MR. REES: All right. Thank you for coming
19 in.

20 THE WITNESS: Thank you.

21

22

23

24

25

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

5

6 EXAMINATION

7 BY MR. REES:

8 Q All right. Please state your first and last
9 name and spell your first and last name.

10 A Jeffrey, J-E-F-F-R-E-Y. And my last name is
11 Campau, C-A-M-P-A-U.

12 Q All right. And I understand that you live
13 with the witness who just testified; is that right?

14 A That is correct. She's my significant
15 other.

16 Q Yes. How long have the two of you been
17 living in that location?

18 A In that location, she moved in, I think a
19 year before I did, so about -- I moved in in 2011, in
20 January.

21 Q All right. And did you know your neighbor,
22 Steven Liffel?

23 A Not personally, just by seeing him.

24 Q You had seen him around?

25 A Seen him around his apartment.

1 Q Okay.

2 A Playing with his dog.

3 Q On the night when this happened, which was I
4 believe a Monday night, December 5th.

5 A It was Monday night, December 5th. I had
6 returned from taking a rent check out to my landlord,
7 and come to find my significant other down at the far
8 end of our parking lot driveway near my apartment No.
9 88.

10 So I drove my truck in and got out, and to my
11 significant other I said, "What's going on?"

12 And she said, "Well, somebody is wandering in
13 and out between the cars."

14 So at that time I said, "You need to call
15 911."

16 So she said, "I already did."

17 "Well, call them again."

18 Anyway, I went into the house, and she
19 started up -- walking up the driveway toward 148th.
20 And, all of a sudden, I decided to go into the bedroom
21 and I looked out the window, and I saw my significant
22 other, this gal coming up behind her from in between the
23 cars.

24 And I'm going, that's funny. So anyway, I
25 went out the door and I got out in the driveway and I

1 yelled at this individual and said "halt" very loud,
2 that my neighbors all heard it. And so she stopped dead
3 in her tracks. I got up to her.

4 Next thing I know this young lady is grabbing
5 me on -- by my right arm and will not let go.
6 Absolutely will not let go.

7 And I said, "What's going on?"

8 She says, "He's trying to kill me. He's
9 trying to kill me."

10 And I said, "Who?"

11 "My boyfriend or my friend."

12 At this time I did not know anything that
13 previously happened with her and him, but as we started
14 up toward the driveway, because by then Jean has got 911
15 on the phone, and the police are on their way, and this
16 is probably ten minutes after, after I acknowledged the
17 fact that she was there out in the driveway.

18 Q And you told the detectives that she was wet
19 and dirty.

20 A Very wet, very dirty. She also told me that
21 she had been hiding under my truck. I pulled my truck
22 in. She had wandered around. She said, "All I want to
23 do is hide, you know."

24 Q What did she say was going on?

25 A She told me sir, is -- at that time that

1 "he's just trying to get me." I didn't know she had
2 come from his apartment. I didn't find that out till
3 later. I didn't find out till later that he had a gun.

4 Q Right.

5 A And that he was firing.

6 Q I just want to find out what she's telling
7 you at that moment.

8 A She's telling me he's trying to get me. And
9 she told me also that she had gotten into the garbage
10 trash can on our property and stayed there for probably
11 four or five minutes and wouldn't get out of the trash
12 can. And that's possibly the reason why she was so
13 dirty.

14 Q How did she seem to you? Did she seem
15 scared or not?

16 A Very scared. Like I said, she grabbed me on
17 the arm and wouldn't let go. Absolutely would not let
18 go.

19 Q She would not let go?

20 A She would not let go. She was scared. And
21 so anyway, we got to the corner of the driveway and
22 she's still holding on to my arm and won't let go, and
23 then the police come up 148th.

24 At that point I passed her off to the police,
25 and she ran to this police officer and wouldn't let go

1 of his arm either. I noticed that during that exchange.

2 At that time -- so then I decided there's
3 nothing more I could do. So I -- and the police were
4 going to go start doing their investigation. So I
5 walked back up to the driveway with the police officers
6 and I headed down to my apartment. And the police
7 officers did their business.

8 Well, 15 or so minutes later, I decide I'm
9 going to go back out there. So I get all of the way up
10 there, and the police are now behind a car asking me to
11 turn around and go back into my apartment.

12 Well, I decided I didn't want to really go
13 back in my apartment. And so at that time I went over,
14 probably halfway down our driveway, and with Jean, and
15 we're standing there, and we're listening to what's
16 going on, noises coming out of this apartment.

17 And it's getting pretty loud. The person is
18 screaming at -- I don't know who he's screaming at what,
19 but he's screaming and he's upset. And this went on for
20 a while.

21 Q Did you think that was Steve Liffel?

22 A It was the person that was in that
23 apartment.

24 Q Okay.

25 A That I do know.

1 Q Okay.

2 A I was, I was, I was closer than the police
3 were, to be honest with you all. I was really close.
4 And --

5 A GRAND JUROR: I'm sorry, what kind of
6 things was he saying?

7 THE WITNESS: I couldn't tell you exactly.
8 Fuck this and shit this. I thought, at the time, I
9 thought, man, this guy is upset. This guy is upset.
10 So anyway I, I went down to the end --

11 A GRAND JUROR: I have a question.

12 Are you standing at this point near the
13 dumpster there?

14 THE WITNESS: Yes, ma'am. Yes, ma'am. I'm
15 on the dumpster, the dumpster that's on our side, our
16 property side.

17 A GRAND JUROR: Was Jean with you or were
18 you by yourself?

19 THE WITNESS: When I went back up by the
20 dumpster, I was by myself, yeah.

21 A GRAND JUROR: Thank you.

22 THE WITNESS: So anyway, I turned around and
23 went back down. And we started listening on the police
24 scanner. One of our neighbors has a police scanner, so
25 the three of us were down there listening to a lot of

1 things going on with the police and working -- trying
2 to work with this man. During, during all of this, I
3 did hear pop, pop, pop, small pops. Nothing.

4 BY MR. REES:

5 Q Could you tell where that came from?

6 A Somewhere in that vicinity of that
7 apartment. I don't know if it was inside shooting out
8 or shooting inside, but I did hear pop, pop, pop.

9 Q When you say "pop, pop, pop," did you think
10 that was gunfire?

11 A I knew it was gunfire. I knew it was
12 gunfire, small caliber gunfire.

13 What really made it crazy was then I heard
14 the big pop when the Portland police took him down.
15 They kept -- during, during the encounter of trying to
16 talk him out, talk him down, I got a very good
17 impression about the Portland police that they really
18 tried hard because they kept trading off on the blowhorn
19 for an hour.

20 So maybe one police officer, hey, Mr. Leipzig
21 (sic) or whatever, they were calling him by his first
22 name, and I kept hearing very calmness throughout this
23 whole thing, but not from him. I did not hear calmness
24 from that man.

25 Q Could you hear what the police were saying

1 over the loud speaker?

2 A Yeah, but I don't remember exactly what they
3 were saying, you know. I can't, I can't verify that
4 really. I just know that they were -- they were doing
5 a really good job. And then I heard the pop, pop, pop.

6 And then I heard -- that's when I heard the
7 police say, "Put the weapon down." And, and he kept --
8 I couldn't see him because I was at the end of the
9 driveway, but I could hear them asking him to put the
10 weapon down.

11 And then, for some reason, he didn't put the
12 weapon down, and I heard the big boom. And it was a
13 pretty high caliber blast.

14 Q Okay. Just to be clear, did you see that
15 happen or hear that happen?

16 A I heard it happen.

17 Q Okay.

18 A But I did later -- so anyway, by this time,
19 I had enough, so I went in.

20 And about three hours later, I wanted to go
21 get some cigarettes for my wife, so I went out to the
22 end of the driveway.

23 And by then the police had had -- the body
24 was still in place, and I saw where the body had fallen.
25 And so he had been -- he'd come quite aways out from his

1 apartment door.

2 So I was, I was kind of amazed that, you
3 know, he didn't drop his gun or his rifle, if it was a
4 long rifle or what.

5 Q Okay.

6 MR. REES: I think that answers my
7 questions.

8 Were there any other questions from the Grand
9 Jury?

10 THE WITNESS: No. Just one other thing.

11 A few hours later, after they had released
12 the property back to the landlord and I happened to look
13 inside there, I was amazed.

14 There was oil -- the apartment manager said
15 to me be careful. I didn't go in, but he was telling
16 his -- Mr. Leipzig's -- the deceased's brother,
17 stepbrother that there's oil all over the floor inside
18 the apartment. And then I also noticed a big half
19 gallon of booze sitting on the table.

20 Now, there's a couple other things here that
21 I wanted to share with you all.

22 There's another witness that has not come
23 forward yet. And she came -- was the person involved,
24 Pamela, with this man as I found out later.

25 MR. REES: We're aware of her. Okay.

1 THE WITNESS: She just -- I just wanted to
2 say, she came to my house after this thing and spent a
3 whole night at our house. And during that time, she
4 was very -- I called to get her some mental health
5 help.

6 MR. REES: This is the lady that you
7 encountered in the parking area?

8 THE WITNESS: Yeah. Yes.

9 MR. REES: Okay.

10 THE WITNESS: There you go.

11 MR. REES: Thank you.

12 THE WITNESS: You're welcome. You all have
13 a good year.

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

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6 EXAMINATION

7 BY MR. REES:

8 Q Officer, for the record, if you would please
9 state and spell your first and last name.

10 A Aaron Holwege. A-A-R-O-N. H-O-L-W-E-G-E.

11 Q What's your occupation?

12 A Police officer with the City of Portland.

13 Q How long have you been with the City of
14 Portland?

15 A Just a little under eight years.

16 Q And are you assigned to a particular
17 precinct?

18 A Yeah, East Precinct.

19 Q What's your shift?

20 A I work the night shift.

21 Q And so were you working your regular shift
22 on Monday night, December 5th, 2016, when you first
23 received a 911 call to the area of 148 and Burnside?

24 A I was.

25 Q Okay. And what was the nature of that call?

1 cleared it as -- the disposition on that would be a
2 George, as I didn't find the condition that was called
3 in.

4 Q And so really you just didn't see anything
5 going on in the area? You didn't see anything --

6 A Nothing immediate when I was there during an
7 area check.

8 Q Nobody was out, no sign of gunfire as far as
9 you could see?

10 A Correct.

11 Q I take it because it was an anonymous call,
12 that's deemed to be a little less credible, is that
13 right, or at least you don't have anyone you can go and
14 talk to?

15 A Yeah. I mean, there was nothing like it's a
16 person wearing red shorts and a green jacket and he's
17 on the northwest corner, nothing, nothing like that. I
18 went out and looked for any obvious indicators while I
19 was there for the few minutes.

20 Q Okay. And less than five minutes later --

21 A Yeah, I cleared. I had gone down the road.
22 Less than five minutes later, I was dispatched to a
23 shots call where we had two additional callers that had
24 given a better description, better location. They had
25 given their information, return phone call if we need

1 to. And so --

2 Q Those are the folks that we just saw who
3 just testified in the Grand Jury, right, as it turns
4 out?

5 A I believe that was one of our callers, yeah.
6 I think they are husband and wife.

7 Q Yeah, who live in the area.

8 A Yeah.

9 Q So you got a second call.

10 So did you go back to the location?

11 A We did. This time it was myself and Officer
12 Paisley, Sergeant Holbrook and Officer Keller. We kind
13 of staged up to the south. There's kind of a church
14 parking lot, church building there. We staged up to
15 the south.

16 At the point of staging up trying to start a
17 little plan of where exactly the shots were heard,
18 there's information given about a female in a parking
19 lot acting hysterical, hiding between cars.

20 I observed a male walking a female down the
21 sidewalk towards me to the south. And that was later
22 identified as the male who just was in here walking a
23 female, I believe last name is Hadley, was walked down,
24 and she was hysterical.

25 Q That's Pamela Hadley you're talking about

1 was hysterical?

2 A Pamela Hadley was hysterical. I told the
3 gentleman -- you know, had them motion down to me, I
4 didn't want to walk into an unknown, an unsafe area, so
5 they walked out to me.

6 I took her -- started to try to ask her some
7 questions, but she was -- I could see she was very
8 upset, very -- had fear, you know, in her face.

9 She kept grabbing on to me, you know,
10 grabbing my, my uniform. Pulling up on my shoulders.
11 Trying to almost hold me. I tried to pull her back and
12 talk to her and get some basic information.

13 Q And in your report, you said that she was
14 physically shaking.

15 A Yeah, she was.

16 Q And did you take -- with the shaking and the
17 grabbing, what did you think was going on with her
18 emotionally?

19 A She had just -- something traumatic had just
20 happened to her, very -- obviously caused her to, you
21 know, be very upset.

22 Q What did she tell you was going on?

23 A She, you know -- boyfriend, he's -- I don't
24 know what's going on. He's, he's, he's kicked me out
25 or -- you know, she's -- he was -- so what she told

1 me -- because she went to try to hide.

2 She said -- I said, "Tell me, walk me through
3 what happened, what's going on."

4 She said her and her boyfriend, Steven, were
5 out to dinner at about 5:00 p.m. Once dinner was over,
6 she went back to the apartment, the listed location --
7 the incident location by herself, and she went in and
8 she eventually went to bed.

9 She said she was woke up by Steven screaming
10 and yelling, "Get out. Get out. Get out." Then she
11 said he also is yelling things that she had no idea what
12 he was even talking about. Didn't understand the stuff
13 that he was yelling about, but she said she left the
14 apartment.

15 She said when she came out of the apartment,
16 she came around where his truck was and went down to the
17 south -- around the south part of the building and then
18 went to an area to try to get a place where she felt a
19 little safer. She said at that point she heard what
20 sounded like shots.

21 And I said, I asked her, "Did you ever
22 actually see a gun in his hands?"

23 And she said, "No, never saw, but I heard."

24 I said, "Did you feel like these shots were
25 aimed towards you?"

1 And she said, no, they were, they were aimed
2 towards"-- she said they were -- she believed they were
3 aimed towards his truck that was parked in the parking
4 lot.

5 At that time we learned that's his pickup
6 truck. While we were moving up, I was getting
7 information. Other officers and the sergeant was trying
8 to walk the area to get eyes on and get -- gather a
9 little bit more information.

10 And I believe a sergeant who is on scene
11 heard some yelling coming from the apartment that we
12 thought was our location. And there was also observed
13 by other officers and the sergeant on scene some damage
14 to this pickup truck.

15 So I was able to get Steven's first and last
16 name from her. Unknown on the last name of the
17 spelling. But we were able to run that license plate of
18 the truck in the driveway and we were able to get the
19 spelling.

20 And then from there I was directed from a
21 sergeant who was on scene to pull up some information,
22 if there's any phone numbers for, for Steven -- is the
23 pronunciation Liffel?

24 Q Liffel.

25 A Liffel. I was able to pull up a phone

1 number from a previous report. And I told the
2 sergeant, "Hey, I've got the cell phone number."

3 Let's develop -- so we developed a plan that
4 I was going to call this number, see if we could talk to
5 Steven and maybe have him come out or even get a
6 dialogue going. At the sergeant's request, I
7 telephoned -- I tried to dial the number six or eight
8 times.

9 Q So you got a name and number?

10 A I got a name and a number from doing a
11 little bit of computer work.

12 Q Did he ever answer?

13 A Never answered. I confirmed with the
14 girlfriend and pulled up a DMV picture that this was
15 indeed Steven. Got some physicals.

16 Q How many times did you call the number?

17 A I want to say -- I can look in the history
18 of my phone -- between six and eight times.

19 Q Did it go to a recording answer or --

20 A It went to a voicemail, but it wasn't like a
21 personal voicemail-type setup. I don't even know if
22 that was still his phone number.

23 Q Okay. But you did try that?

24 A I tried the number.

25 Q Six plus times, no answer.

1 A Yeah. By this time, more officers were
2 called to the scene. They already started showing up.
3 We started blocking off streets.

4 Q Maybe you said, but did you hear gunfire
5 yourself?

6 A So at the point where we had -- what we try
7 to do is have a plan. We had a group go forward, which
8 was a custody team along with a less lethal option. A
9 sergeant was up there and I could see that setup
10 further up. I was, I was tasked to stay with the
11 female, the girlfriend.

12 Q Can you show us, if you can, on that
13 diagram?

14 A Sure.

15 So I was, I was -- this is the pickup truck
16 in the driveway. If we had a loudhail team here with a
17 custody, my patrol car was back in here. And I
18 originally was talking to her right over in here, where
19 there was a patrol car sitting. Then I moved her back
20 over here where she was in the back of my patrol car
21 where I could talk to her. Then there was one more car
22 in front of me for cover.

23 Then while I was -- while she was in the back
24 of our car, I was standing in between the two patrol
25 cars, and I heard some shots, small caliber gunfire.

1 Q Could you tell where that was coming from?

2 A I was standing facing, and I knew they
3 weren't coming from behind me. I knew they were
4 somewhere in the north.

5 Q Okay.

6 A So at that point they called for a SERT
7 stage, a SERT call-out. And they were all going to be
8 staged down here in the south of the Chevron.

9 I continued to try to get some information
10 from her, but you could clearly hear this loudhail team
11 going. They were loud. They were clear.

12 And then from where I was standing, I could
13 see there's a screen door on this apartment here. I
14 could just see maybe the top six inches or so.

15 Sometimes it would swing open and close. I
16 could never see anything. I could just see the door
17 closed, and I could hear some muffled yelling from time
18 to time.

19 Then there was a second time that shots were
20 heard as well. There was like a time lapse, and then
21 there was some more shots.

22 Q That you heard?

23 A Yeah, two different times.

24 Q Okay.

25 A And then once SERT started to stage down

1 here, Sergeant Holbrook who was on scene, had me stay
2 with this female the whole time. And then I was tasked
3 to take her back to the staging location where SERT was
4 in case they wanted to get some information from her.

5 So while I was pulling in down here to the
6 Chevron, that's when it came over the air that somebody
7 was down.

8 Q Prior to that, could you hear other police
9 officers loudhailing or using their public announcement
10 system to call to the subject in the apartment?

11 A Yeah. I could hear there was somewhat of a
12 dialogue going on. I just couldn't tell what -- the
13 return. I could just hear yelling coming back, but I
14 could hear the loudhail over the PA or speaker directed
15 towards the apartment.

16 Q Okay. From your point of view, it sounds as
17 if you could not see the moment when the subject was
18 shot; is that correct?

19 A No. I was not there. I was driving the
20 female down to that staging location.

21 Q At that moment?

22 A At the time of the shooting, yeah.

23 MR. REES: Any questions for this officer?

24 A GRAND JUROR: So you were there before,
25 like, the loudhail team and all that stuff arrived;

1 right?

2 THE WITNESS: Yeah.

3 A GRAND JUROR: Did you hear gunshots that
4 made the situation escalate to calling more -- did you
5 go in to investigate the shots in the truck and hear
6 him yelling in his apartment and everything, or was
7 that somebody else?

8 THE WITNESS: So I was -- when the female
9 was brought to me, she was trying to hunker down here
10 in this tree line, and I was over here talking to her,
11 trying to find out what's going on.

12 Some other officers or sergeant were just
13 kind of on this side of the street walking. Made their
14 way all of the way up to Burnside just to kind of see
15 where is this area they are talking about -- that she's
16 talking about.

17 And I think it was right in here, that's when
18 they saw that there was some damage to this truck, then
19 heard some yelling coming from the inside of here.

20 Because the door -- I think no one was
21 outside at this apartment. The yelling was coming from
22 inside here.

23 Now, I didn't hear any gunshots while we were
24 doing all this walking around and chatting with her. I
25 didn't hear any shots. It was just yelling heard in

1 here. As far as what time those first shots were heard
2 on scene, I don't know who was where up here. I can
3 only say that I was with the female trying to get
4 information.

5 A GRAND JUROR: Okay. Thank you.

6 MR. REES: All right. If there's no other
7 questions, we'll excuse the witness. Thank you.

8 THE WITNESS: Thank you.

9 (Luncheon recess, 12:00 p.m. to 1:00 p.m.)

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1 KAREN GUNSON, M.D.,
2 a witness called on behalf of the State, having been
3 first duly sworn, was examined and testified as
4 follows:

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6 EXAMINATION

7 BY MR. REES:

8 Q For the record then, Doctor, if you could
9 please state your name and spell your name.

10 A My name is Dr. Karen Gunson. And my first
11 name is K-A-R-E-N. And my last name is Gunson,
12 G-U-N-S-O-N.

13 Q And what's your occupation?

14 A I am a forensic pathologist. I'm the state
15 medical examiner for Oregon.

16 Q All right. And what does that entail?

17 A Well, the state medical examiner oversees
18 the state medical examiner's office, which is located
19 out in Clackamas, Oregon. And I also oversee the
20 entire death investigations program for Oregon.

21 So our job at the state medical examiner's
22 office is to do autopsy on people who fall under the
23 medical examiner's law, and do training for people, and
24 obviously, testify in court, if necessary.

25 Q And do you also oversee the work of the

1 other deputy medical examiners?

2 A Yes. So part of my job is to oversee the
3 other forensic pathologists. We have -- there's just
4 six of us in the state. So I have five deputy state
5 medical examiners and then there's me, and we cover the
6 whole state.

7 My office actually here in Portland covers
8 the whole northwest corner of the state down to Douglas
9 County. Then we cover all of Central and Eastern
10 Oregon. And we have two other forensic pathologists
11 down in the Southern Oregon area that cover those six
12 counties or so down there.

13 Q So is what your -- currently what's your
14 occupational history?

15 A Well, I graduated from Whitman College in
16 Walla Walla, Washington in 1976. And I also have a
17 degree from Oregon State University, which I got in
18 1977.

19 And in 1977, I went on to Oregon Health
20 Sciences University to start medical school. Then it
21 was called the University of Oregon Medical School, then
22 it switched while I was there. And so I graduated in
23 1981.

24 And I was asked to stay on after I got my
25 M.D. as a resident or trainee in anatomic and clinical

1 pathology. That's a four-year training program at
2 Oregon Health Sciences University.

3 A clinical pathologist is somebody who
4 oversees the hospital laboratory and does things like
5 hematology and looks at chemistry and things like that.
6 And they run the blood bank and so forth.

7 And as an anatomic pathologist, our job was
8 to look at tissues, like biopsies and stuff that were
9 removed at surgery, usually to help diagnose disease
10 such as cancer or something like that. Then we also did
11 all of the autopsies of people who died in the hospital.

12 I finished that program and received my
13 anatomic and clinical pathology boards in 1985, and went
14 to work for the medical examiner's office in 1985.

15 So I've been at the state medical examiner's
16 office since 1985. And I also have my anatomic clinical
17 and forensic pathology boards by the American Board of
18 Pathology.

19 Q All right. And are you a member of any
20 professional organizations?

21 A Yes. I'm a member of the National
22 Association of Medical Examiners, which is obviously
23 the medical examiners' community around the country.

24 Q Have you taught any classes, specifically
25 regarding gunshot wounds?

1 A Well, yes, many, many times.

2 So I teach, not only at the medical school,
3 but also I give lectures for police officers, district
4 attorneys, emergency medical people, other physicians
5 like trauma surgeons. So we often discuss gunshot
6 wounds during those lectures.

7 Q And over the course of your career, do you
8 have any idea of how many autopsies you have performed?

9 A Well, I don't keep an actual count, but
10 generally, every year, even as the state medical
11 examiner, you view anywhere between 200 and 250
12 autopsies.

13 Actually to begin with, I did more because it
14 was only two of us, so there was probably, for a few
15 years, there was 300 or so. So times 31 years, I figure
16 I get every five years about 1,000 cases, so 5,000.

17 Q Did you perform the autopsy on Steven
18 Liffel?

19 A I did.

20 Q And what date did you do that?

21 A I did that autopsy on December 7, 2016, at
22 my medical examiner's office over in Clackamas.

23 Q All right. And was that observed by any
24 other persons?

25 A It was. Generally speaking, we have the

1 police officers who are investigating and somebody from
2 the medical -- from the district attorney's office. So
3 that day Detective Eric Kammerer, Gabe Hertzler and
4 Mark Slater were present, and also Multnomah County
5 Deputy District Attorney Jeff Auxier.

6 Q And how did you begin this examination of
7 the deceased?

8 A The first thing we do is take a look at the
9 outside of the body, including the clothing. So he was
10 fully clothed when I saw him. And so we removed the
11 clothing, and I described what's on him.

12 Would you like me to do that?

13 Q Yes, please.

14 A So he had on a tie-dye T-shirt with a banner
15 that said "Berkeley." He had on a pair of blue denim
16 jeans that were zipped and buttoned up. He had on a
17 pair of underwear, white athletic shoes, white athletic
18 socks. A beaded chain with a pendant was present
19 around his neck. And he had a white metal ring with a
20 black center stone on the right ring finger.

21 The police had bagged his hands at the time
22 with brown paper bags. His hands were held at the back
23 of his body with handcuffs.

24 Q Did you note any injury to the hands?

25 A Yes. He did have some injuries to the

1 hands. Let me just tell you a little bit about what
2 was there.

3 So around his hands, he has pink contusions
4 that were present around his wrist. But also up along
5 the side of his hand -- I'm sorry, his right hand, and
6 he had some scratch-type abrasions, which are just --
7 abrasions are just skin scrapes, along the knuckle of
8 his right hand in the middle finger. And right on his
9 right wrist he had some faint abrasions and contusions.
10 Those may have been secondary to the placement of the
11 handcuffs.

12 Even very close to death, you can still get
13 contusions. Even though the person may not actually be
14 circulating adequately to keep life, but there's still
15 enough blood to cause a contusion.

16 He had a small laceration on the back of his
17 left hand and some scattered abrasions on the dorsum of
18 his fingers. So just little abrasions and contusions
19 scattered over his, mostly his right hand.

20 Q There was some blood found, a small amount
21 of blood found at the scene on a door.

22 Did any of those injuries jump out at you as
23 being --

24 A They could have caused -- you know, like
25 when you cut yourself with a knife, you get some blood,

1 or when you scrape your fingers or something, sometimes
2 there's drops of blood. So that could have come from
3 that, yes.

4 Q I kind of jumped ahead a little bit.

5 You mentioned the hands were bagged. But
6 going back to your external examination of his clothing,
7 did you find anything of note on his person, his
8 clothing?

9 A Yes. Actually we found a large quantity of
10 cash present in his pockets, \$1,200 worth of cash,
11 including \$100 bills and \$20 bills. He also still had
12 a billfold, not in his pocket, but accompanying the
13 body in the bag.

14 And also in that bag was a sheath that had
15 three different knives, black handled knives in there
16 and a key chain or a key fob, two -- a couple of key
17 fobs and some keys on a key ring as well.

18 Q Would you say that based on the examinations
19 that you've done, is that amount of cash unusual on a
20 person?

21 A Oh, very unusual, yes. It was a little bit
22 shocking to find that much cash in his pocket.

23 Q Then in terms of the external examination of
24 the body, what did you find noteworthy?

25 A Well, he did have just a couple of

1 contusions on his face at the bridge of his nose, but
2 nothing of great significance. The most significant --
3 he had multiple tattoos present, which I've outlined,
4 that I don't think I need to go over.

5 So I just found a small amount of -- I just
6 found a small abrasion on his nose and a light pink
7 abrasion just above his left eyebrow. But that's
8 basically all of the blunt-force injuries that we had,
9 including the ones on his hands.

10 But the most important was a gunshot wound
11 that was present in his left hip and lower abdomen area,
12 approximately in this position. I'm pointing to the
13 left side of my hip here. And it was a round wound.

14 I can tell you it was -- we always center
15 them so we can tell exactly where they are in the body.
16 So it is 35-and-a-half inches above the left heel and
17 five-and-a-quarter inches left of the midline in the
18 center here.

19 Q I'm sorry.

20 A Oh, there you go. There's some of the
21 contusions on the hands. You can see some of them.
22 There's even a little bit of blood there on his hand,
23 which might account for the blood on the door.

24 Here is the gunshot wound. The center of the
25 body is at the top of the screen. You can see it is

1 pretty small. It's about a quarter inch. There's a
2 haze of contusion around it. But significantly there's
3 no evidence of gunpowder residue or stippling indicating
4 this is a distant gunshot wound. It is far away from
5 the body.

6 This bullet ended up perforating his left hip
7 area. We call it the iliac wing on that side. So it's
8 like that big wing that comes out to stabilize your
9 body. It is a pretty thick bone in that area.

10 So the bullet went through that bone and it
11 caused about a half-inch, a three-quarter-inch hole in
12 the hip bone.

13 Right there by that area is something called
14 the iliac artery. The iliac artery is where the -- your
15 big vein artery, the aorta, bifurcates or separates into
16 two vessels that go down to your legs.

17 So it is quite a large vessel. It's coming
18 right off the aorta, which is the biggest vessel in the
19 body. It completely severs the left iliac artery, about
20 three inches from its bifurcation or its split with the
21 aorta.

22 And then the bullet continues onward and it
23 goes behind the right iliac artery and vein and
24 perforates the right iliac wing. So it goes through two
25 bones in the body and severs that artery.

1 Usually we can recover these bullets. But
2 before we even do an autopsy on somebody like this, we
3 always do a series of x-rays to see where the bullets
4 are or what kind of injuries we can see there.

5 And we can see on the x-ray that it was --
6 the bullet had shattered into a myriad of small pieces,
7 which is quite common when we have a high velocity
8 weapon that is used, like a rifle, like a .223, and the
9 bullets are pretty small comparatively speaking to a 9
10 mm. They are more like a .22 size, but they carry a lot
11 of power because they go really fast.

12 So the faster the bullet goes, the more
13 wounding power it has. If you remember energy equals
14 mass times velocity squared. So if it's going, the
15 velocity is what counts here.

16 So when it hits that bone, though, it starts
17 to shatter, I mean, it begins to break up, so I don't
18 have any bullet to show you. I couldn't get -- they
19 were not amenable to me recovering them.

20 Q So, and the bullet did not exit the body?

21 A It did not, no. There are pieces that are
22 all along the wound -- mostly in the pelvic area, but
23 it did have enough velocity and power to go through
24 both of those big thick bones in the pelvis.

25 Q So based on your autopsy and examination,

1 did you determine a cause of death?

2 A Yes. The cause of death was this bullet --
3 this gunshot wound to the pelvis.

4 Now, after -- when it goes through that
5 vessel, it causes, of course, a loss of bleeding. And
6 he did have anywhere from, I couldn't measure it all
7 because some of it escaped me, anywhere from 700 to
8 1,000 cc's of blood in the pelvic area and up into the
9 lower abdomen. And so he essentially bled to death from
10 this bullet.

11 When I say that, it doesn't mean he dies
12 immediately because it takes a while for somebody to
13 bleed down enough to become unconscious and finally die.
14 And when somebody loses a quarter or so of their blood
15 volume at one time, that's lethal.

16 And so usually we think that a full grown
17 adult male would have anywhere from 4,500 to 5,000 cc's
18 of blood. So if he's lost 1,000 cc's, clearly, that's
19 enough to kill him.

20 Q So having said all that, would you expect a
21 person who has sustained that type of gunshot wound to
22 survive for how long?

23 A Oh, yeah. He could survive and be active or
24 do certain -- I mean, do stuff for anywhere from 30 to
25 40 seconds, possibly even a minute.

1 So I have had other cases where somebody has
2 been stabbed or shot and have been able to run down the
3 stairs and get into a car, things like that. So it just
4 depends on how fast they bleed.

5 And sometimes when they are bleeding into an
6 open space, they bleed faster than into, say, some soft
7 tissue or something. It is sort of a combination of
8 that is what he has.

9 Q So would a person so stricken be able to
10 pose a threat to others, for example, fire a handgun or
11 a weapon?

12 A Oh, absolutely yes, they could.

13 Q From your medical standpoint, I guess first
14 if you could define manner of death, what that term
15 means. And did you determine manner of death in this
16 case?

17 A Well, manner of death is how did it come
18 about.

19 We look at a series of -- we have a series of
20 different choices. So we can call something natural,
21 accident, suicide, homicide, undetermined if we can't
22 tell.

23 In this case we determined -- remember, this
24 is a medical determination. It has nothing to do with
25 legal applications in many ways. So our medical

1 determination in this case is that it is a homicide or
2 death at the hands of another.

3 Q Okay. And that's based on the reports given
4 to you by the investigators in the case, coupled with
5 your findings; is that correct?

6 A That's correct.

7 Q Were your findings consistent with what was
8 reported as being a single gunshot fired by a police
9 officer? There's nothing inconsistent, I take it, with
10 that?

11 A No. There's nothing inconsistent. It is
12 consistent with that.

13 Q Did you take samples during the autopsy of
14 any fluids from the deceased for the purpose of
15 toxicology -- toxicological examination?

16 A Yes, I did. I took blood and urine, and we
17 used the forensic laboratory to run our toxicology. So
18 I was -- I looked for drugs of abuse, obviously,
19 alcohol. There was no alcohol present in his blood,
20 but --

21 Q Let me -- before you go on, just regarding
22 the alcohol, there's a report in this case that Mr.
23 Liffel was drinking all day long, and we've seen
24 bottles of liquor scattered around his apartment.

25 So when you say there's no alcohol per the

1 toxicology report, what does that mean relating to the
2 real world and drinking would you say?

3 A Well, if he's been drinking all day long, I
4 would expect to have alcohol there. I trust -- I mean,
5 this is a scientific way that they do this. So since
6 there's no alcohol there, the story that he's drinking
7 all day long is not supported by this.

8 However, if he had been drinking earlier and,
9 say, several hours earlier and then ceased drinking,
10 well then he would metabolize this out. So you
11 metabolize out about .05 percent per hour about. It
12 depends upon who you are.

13 So if you're metabolizing that much, then,
14 you know, you could theoretically have been drinking
15 earlier and then metabolize it out. But he hasn't been
16 drinking within the last few hours. You know, maybe one
17 drink two hours ago or something like that, but not a
18 whole half a bottle of something.

19 Q Okay.

20 A GRAND JUROR: Wait. I have a question.

21 But you did the autopsy the day after; right?

22 THE WITNESS: Right.

23 A GRAND JUROR: That alcohol, could that
24 have absorbed at that point the next day?

25 THE WITNESS: No. After somebody dies, the

1 metabolism of the drugs ceases. And that's because
2 it's metabolized not in the bloodstream, but in the
3 liver. So if the blood isn't circulating through the
4 liver, it's not getting broken down. So you'll never
5 see an alcohol level go down.

6 This is a little bit of esoteric stuff.
7 You'll never see it go down. But if somebody is
8 decomposing, it will go up because the bacteria produces
9 alcohol that will cause it to go up, but it won't go
10 down.

11 And the same thing goes for the other drugs
12 that I'm about to talk about. They won't go down
13 because it's not circulating through the liver.

14 A GRAND JUROR: So the loss of blood, even
15 though he had a huge amount of loss of blood, that
16 still stops, so you could still draw the blood to get
17 the toxicology?

18 THE WITNESS: Correct.

19 MR. REES: I think what you're kind of
20 asking is, does that somehow maybe dilute things?

21 A GRAND JUROR: Yes.

22 BY MR. REES:

23 Q Does that affect your sample?

24 A No, it won't, because when you think about
25 it, it is equally distributed through all of the blood.

1 So the blood in the pelvis will be the same
2 as the blood in the vascular system. And we're careful
3 to take blood in the periphery down from one of the
4 extremities because it can also change it if it's in the
5 heart.

6 Sometimes the blood, the levels are higher in
7 the heart because of its location next to the liver and
8 stuff. So anyhow, we take them so that we're going to
9 get a true level and be able to compare it to what other
10 people are taking, their levels that other people get as
11 well.

12 Q Okay. So having said there's no alcohol,
13 you did find something else, though?

14 A I did. I did find -- or not me personally,
15 but I can report to you that methamphetamine was
16 present in the blood, and it's 1.08, or essentially one
17 milligram per liter.

18 Now, that is definitely an intoxicating
19 level. Many times we see smaller amounts than that in
20 people that we do autopsies on, but this is a pretty
21 good belt, if you will.

22 Normally when I see people who are dying from
23 methamphetamine, which is very unusual to see them
24 actually die from an overdose, their levels are higher,
25 like four or five milligrams per liter. But this, this

1 is definitely an intoxicating level.

2 Q Is this level higher than you would
3 sometimes see with a person who was under the influence
4 of methamphetamine?

5 A Yes, it is higher. When I look at people
6 generally when, say, they are in a traffic crash or
7 they've jumped off a bridge or something like that,
8 right around the level of about .5 is what we often
9 will see, .4, .5. So this is, this is definitely
10 higher obviously than that.

11 A GRAND JUROR: I'm behind on my notes.
12 What was the level of methamphetamine that
13 you found in his body again?

14 THE WITNESS: Essentially one milligram per
15 liter. It's reported as 1.08, but --

16 A GRAND JUROR: I just was behind. Thank
17 you.

18 BY MR. REES:

19 Q So 1.08 or one milligram per liter. You've
20 seen people engage in extreme behavior at half that
21 level?

22 A Yes.

23 Q And so what are sort of the symptoms or the
24 behaviors of a person who would be under the influence
25 of methamphetamine as they would be in this case?

1 A Well, methamphetamine, of course, is a
2 central nervous system stimulant, and so they are
3 highly active at this level. And they can be really
4 destructive.

5 And even at higher levels, people have a
6 tendency to want to break glass and things like that. I
7 mean, they can be very destructive of their surroundings
8 and act very erratically because of the extra
9 stimulation that they are getting.

10 Q And are these behaviors something that will
11 be sustained or something that would be, I think, very
12 short-lived?

13 A They could be sustained for quite a while,
14 because methamphetamine is not metabolized nearly --
15 cocaine is metabolized very rapidly. Methamphetamine
16 has a pretty long half-life. And so depending upon the
17 level that you have, it might go on for hours.

18 Q All right. And the level that you saw in
19 the blood sample taken from Steven Liffel in death,
20 would that be just as you described with alcohol or the
21 absence of alcohol, the level that he would have had at
22 the time that he was shot?

23 A Yes, it would be. Once again, it's not
24 circulating through the liver, so it's not being
25 metabolized.

1 A GRAND JUROR: Would the level of
2 methamphetamine increase the metabolism such that you
3 would metabolize alcohol quicker?

4 THE WITNESS: I haven't seen that reported
5 in the literature, so I can't say it would.

6 A GRAND JUROR: Okay.

7 THE WITNESS: It's more of --
8 methamphetamine, it acts on the central nervous system
9 and not so much the peripheral organs.

10 BY MR. REES:

11 Q All right. In this case, as I think you may
12 know from the investigators, some of the behaviors
13 described were destructively firing a gun, destroying
14 his own property, shooting his pickup truck, shooting
15 the inside of his apartment, pouring liquids on to the
16 floor, setting something on fire, not responding to
17 various police commands.

18 Are those the kinds of behaviors that will be
19 consistent with someone who was under the influence of
20 methamphetamine?

21 A Yeah, absolutely. They are not responding
22 because they are not cognizant of what's going on, I
23 don't think. I mean, they are not paying attention to
24 that. They are listening to something else.

25 Q Have you seen in your examinations persons

1 under the influence of methamphetamine who have engaged
2 in purposeful violent conduct, whether it's suicidal or
3 homicidal type behavior?

4 A Yes. Suicidal also, for instance, several
5 cases I've seen lately where they are confined to their
6 home. They are using methamphetamine, and they are
7 found dead at home because of the methamphetamine, but
8 their house is totally trashed.

9 Every bit of glass is broken. Everything is
10 knocked over, torn apart, very violent activity, which
11 isn't perpetrated on somebody else because they are
12 there by themselves. But it also causes them to behave in
13 this very destructive way.

14 Q Any other substances found during the
15 laboratory portion of this?

16 A Yes. We found a small amount of Oxycodone,
17 just a .045 level, so it's a small amount. Certainly
18 would not -- of course, Oxycodone is a central nervous
19 system depressant, but it's not high enough to
20 counteract the methamphetamine activity.

21 There was also cannabinoids. It looked like
22 he was taking some cold medicine because there's
23 diphenhydramine, which is something for a stuffy nose,
24 and some ibuprofen.

25 Q So you mentioned the marijuana essentially.

1 A Yes.

2 Q Are there levels associated with that?

3 A Well, I didn't -- we don't do levels of
4 cannabinoids actually because we don't have anything to
5 relate them to. I can give you a level of
6 cannabinoids, and I can't tell how that would affect a
7 person.

8 And the most active components of marijuana
9 dissipate relatively rapidly within a couple of hours.
10 I could probably have done it, but I don't know -- I
11 don't know what to tell you about those levels, whether
12 they are intoxicating or not. So we just note that it
13 was there.

14 Q Okay.

15 A GRAND JUROR: Excuse me, you did note that
16 it was there?

17 THE WITNESS: Yes. Cannabinoids are there.
18 We just don't have a level like we do for
19 methamphetamine.

20 BY MR. REES:

21 Q Okay. I take it from your standpoint, as a
22 forensic pathologist, it doesn't matter because you
23 have a level of methamphetamine and you know it's an
24 intoxicating level.

25 A Right. And with cannabinoids, nobody has

1 ever published a lethal level of cannabinoids, so I
2 have no idea, you know. I don't think they are
3 probably -- yes, I have no idea whether there is one or
4 not, so...

5 MR. REES: Okay. Any other questions for
6 Dr. Gunson?

7 All right. Thank you very much.

8 THE WITNESS: Thank you.

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

5

6 EXAMINATION

7 BY MR. REES:

8 Q All right. If you could please state your
9 first and last name for the record and spell your
10 names.

11 A Lawrence Keller. Lawrence is
12 L-A-W-R-E-N-C-E. Keller is K-E-L-L-E-R.

13 Q All right. And how are you currently
14 employed?

15 A As a police officer with the City of
16 Portland.

17 Q How long have you been a police officer?

18 A For Portland, almost 23 years. I have some
19 previous experience before that. Nine years with the
20 City of Troutdale, and then three years as a reserve
21 deputy with Multnomah County.

22 Q So over 30 years as a police officer between
23 your various assignments; is that right?

24 A Yes.

25 Q And what is your current assignment?

1 A I work patrol, night shift, out of East
2 Precinct.

3 Q All right. And how long have you been doing
4 that?

5 A At East Precinct, I've been there since
6 1997.

7 Q Okay. And during your time with the
8 Portland Police Bureau, prior to 1997, did you have any
9 other -- well, what were your other assignments?

10 A Well, when I was hired, I went to the
11 advanced academy for Portland. That was the day shift.
12 After the advanced academy, I went and worked
13 afternoons. Then we rotated between the three
14 precincts at that time.

15 I went to North for a short time, then the
16 traffic division. Then they had created the Northeast
17 Precinct. I was there for a short time, and then ended
18 at Central on nights.

19 So most of the time, my time in Portland has
20 either been on afternoons or nights, with the majority
21 being the night shift.

22 Q Okay. And on the night of this incident,
23 which really covered two days, night and then the early
24 morning hours of the next day, did you begin your shift
25 at the regular time?

1 A Yes, I did.

2 Q And how did that begin? What did you do
3 when you began your shift?

4 A I started -- shift started with roll call at
5 10:00 p.m. Roll call lasts anywhere from 15 to 25
6 minutes.

7 Q Anything unusual during roll call?

8 A Not that I recall.

9 Q Okay. Then what do you do after roll call?

10 A Of course, make sure all my cars are loaded
11 and ready to go with all of the gear that I need and
12 left the precinct, went to a place where I get coffee,
13 so I have a cup of coffee with me in my car, and that
14 was about it until this event started.

15 Q Okay. And do you work alone in your car or
16 do you have a partner?

17 A I work alone.

18 Q All right. So really it sounds like just
19 kind of a quiet start to your shift up to that point.

20 A Yes.

21 Q Fair to say?

22 And I understand that you are certified to
23 carry a special police weapon called AR-15 rifle; is
24 that correct?

25 A Yes, I am.

1 Q Did you go to special training in order to
2 be certified to carry that weapon?

3 A Yes, I did.

4 Q And when did you start carrying that weapon?

5 A In 2002, I believe.

6 Q And I understand that you just recently
7 recertified to carry the weapon.

8 A Yes.

9 Q Do you recall when that was?

10 A That was in October 2016.

11 Q So periodically, you have to recertify to
12 carry the weapon; is that right?

13 A To clarify that, we do a one -- maybe a
14 two-day in-service once a year. And then in addition
15 to that, three times a year we have to qualify with the
16 rifle through the qualification course.

17 Q When you carry that weapon, are you called
18 upon to perform special duties that may not be possible
19 to be performed by other officers who don't have the
20 rifle?

21 A Yes.

22 Q Or how would you describe it? Obviously,
23 you have special responsibility and duty with the
24 rifle.

25 How would you describe it?

1 A The design and purpose of being an operator
2 of the AR-15 rifle is to allow a lot of situations,
3 officers to be further away from a situation because of
4 the capabilities of a rifle and the accuracy of the
5 rifle versus a handgun.

6 So it could be deployed maybe in a situation
7 for, most recently, the subject is an active shooter
8 scenario where you don't know where the suspect may be
9 or the subject may be. You don't know how many there
10 are.

11 So it allows you to be -- when you go to a
12 situation, in some ways you are allowed to stay further
13 away to observe. And then if there's an engagement,
14 that may be a further distance. It can also be used to
15 try to contain the situation.

16 Most of the time it's, in my experience in
17 use of it, it's put in the position that it is a
18 position of observation. So to cover other movements
19 for other officers.

20 And do you --

21 Q I'm sorry, I think that answers the
22 question.

23 Let me direct your attention to the call
24 itself at 148 and East Burnside.

25 When did you first become aware that there

1 was a situation unfolding at that location?

2 A There were two calls that got combined into
3 one. The first call, which I was not a part of, but
4 heard over the radio was a report of shots being fired,
5 possibly three shots in the air by a subject at an
6 apartment complex at 148 and Burnside.

7 Dispatcher said it was an anonymous caller,
8 so I didn't have information of who to contact to try to
9 glean any more information. But again, that was not my
10 call.

11 Q You heard this call?

12 A I heard this call.

13 Q You did not respond to the call; is that
14 correct?

15 A Correct. A few minutes later, I heard the
16 primary officer who was on that call clear that call,
17 saying that he didn't find anything.

18 Within a minute or two, after he cleared the
19 call, the dispatcher then stated that they were getting
20 an additional caller -- additional calls there of
21 basically the same thing.

22 Then there was additional information that
23 there was a female that was hiding by some cars in a
24 parking lot in the apartments who was also stating that
25 shots had been fired.

1 The primary officer on the first call was
2 primary on the second. And with this additional
3 information to more verify that, yes, shots were being
4 fired, but we don't necessarily know why, I opted to
5 attach myself to the call.

6 Geographically, at the time I did that, I was
7 at 102nd and Halsey at the time. So it took me driving
8 about four minutes to meet at the staging point where
9 Sergeant Holbrook and the primary officer, Officer
10 Holwege, were meeting to stage prior to approaching the
11 location.

12 Q Okay. Behind you there's a photographic
13 diagram that shows at least part of the area. If you
14 want to stand up, go ahead.

15 Does that show the staging area, or could you
16 at least point out where that would be?

17 A Where we first staged would be further
18 south. This is about a block and a half distance here.
19 So we were probably three and a half blocks south.

20 Q South of Burnside?

21 A South of Burnside, but north of Stark.

22 Q Okay.

23 A The reference point that was made was
24 there's a church on 148th, and I had attended that
25 church when it was Lifegate Baptist when I was a

1 teenager, so we kind of were at the south end of the
2 property.

3 Q Oh. Closer --

4 A South of this.

5 Q Okay. So you went to that location.

6 What was the, what was the conversation
7 there?

8 A Well, met with Sergeant Holbrook, Officer
9 Holwege and Officer Paisley. I think we were going to
10 try to call one of the callers to try to get some more
11 information.

12 As we looked up -- looked north up the
13 sidewalk, we could see two or three people out on the
14 sidewalk. And it appeared that they were waving, like,
15 maybe a flashlight or cell phone or something.

16 One person appeared to be dressed in, like,
17 night clothes, a bath robe or something from that
18 distance. Didn't seem normal to be outside.

19 The decision was made, well, we'll pull up
20 further and meet with them and see what, what
21 information they have, if they know what's going on.

22 We did that. And there were two older
23 people, a little older than me, and then a younger
24 female. The younger female seemed to be somewhat
25 distraught, but I wasn't close enough to really know how

1 so.

2 Officer Holwege and Officer Paisley talked
3 with her and talked with the older woman that was out
4 there trying to glean some information.

5 Sergeant Holbrook made the suggestion to me,
6 said why don't we go look and see if we can find any
7 evidence of shots being fired. That is looking for
8 things that are damaged or shell casings or things of
9 that nature.

10 Just with the nature of the call and the
11 shots were being fired, I had removed my AR-15 from the
12 secured mounting rack in my car and took it with me.

13 We walked north up the sidewalk. We're on
14 the east side of the street. So this would be the east
15 side of the street. We slowly walked north, just
16 looking on the ground. Looking at the buildings to see
17 if we could find any damage or shell casings. We made
18 it all of the way up to 148th -- all of the way to
19 Burnside. Didn't notice anything obvious.

20 Then we walked a little ways east to this
21 parking lot. Walked through that parking lot. Didn't,
22 didn't find anything that was -- that we could associate
23 to being related to shots being fired.

24 A GRAND JUROR: It was quiet at that time?

25 THE WITNESS: Yes.

1 A GRAND JUROR: Thank you.

2 THE WITNESS: I believe I asked the
3 dispatcher on the radio to be more specific, if she
4 could, or what the location was where this apartment
5 was, because there was reference that it was
6 brick-style apartments. The dispatcher made the
7 comment that it was on the southwest corner, which puts
8 it over here.

9 So Sergeant Holbrook and I walked across
10 148th. And we're starting to look around this apartment
11 building when Officer Holwege broadcast that he had
12 information that the subject in question was shooting at
13 his silver pickup.

14 Well, I remember, as we walked by, I remember
15 the silver pickup on the east side of the street.
16 Sergeant Holbrook and I, we walked at an angle across
17 the street.

18 As we got closer to the pickup, we could see
19 the driver's window was shattered, and it had a hole in
20 the lower portion of the driver's door window. And then
21 I noticed that the right -- correction, left front tire
22 was about half flat.

23 I walked around the passenger side of the
24 pickup. By the time I got towards the front corner, I
25 could hear the sounds of a male yelling something, but I

1 couldn't understand what the words were, but he was
2 yelling, and it was coming from inside the corner
3 apartment.

4 To back up, Sergeant Holbrook and I were
5 walking across the street. We were getting the license
6 plate of the pickup and providing that information to
7 the dispatcher so they could run that information, find
8 out who it was registered to.

9 And if it's involved, you know, would that
10 help them find out some contact information, i.e., phone
11 number, I guess, of course, name of any people that it's
12 registered to.

13 The dispatcher broadcasted the information
14 was registered -- the truck was registered to a Steven
15 Liffel in Oregon City. So I thought, okay, did he move
16 and not change his address? Is he visiting? Is he even
17 the person using the truck now?

18 But with the agitation coming from that
19 apartment and the shots through -- the damage to the
20 truck on the driver's side and the way it's parked,
21 Sergeant Holbrook and I expressed to one another, this
22 is probably not the safest place to be.

23 So we retreated back to the first car parked
24 on the street, which was -- looked like this is the
25 silver midsize SUV. I take the position at the right

1 rear corner and Sergeant Holbrook is next to me.

2 Being that far back and where the pickup is
3 parked, I can't, I can't see the front window. And I
4 can't really see the front door other than over the cab
5 of the pickup. I can see about the top three or four
6 inches of what is the screen door.

7 So I'm thinking, okay, at least with the
8 screen door there, they got to open the screen door to
9 come out. So, you know, that would be an indicator for
10 me if somebody comes outside.

11 The next thing I know is Sergeant Hughes and
12 Officer Paisley are now with me. Sergeant Holbrook went
13 back, I think to talk to Officer Holwege.

14 Sergeant Hughes brought up what we call the
15 ballistic shield. Basically it's a panel made of a
16 material that's supposed to be bullet resistive. It's
17 handheld. It probably stands about 40 inches high and
18 maybe about 20 inches wide.

19 He brought that, and then he brought up what
20 we refer to as a key. It is basically a heavy steel
21 ram, handheld ram device that we use maybe if we need to
22 force entry into a residence.

23 Sergeant Hughes then suggested that Officer
24 Paisley bring up another patrol car, preferably one that
25 has a -- these bullet-resistive panels in the two front

1 doors. This is something that the Bureau has decided to
2 start installing in our patrol cars as standard
3 equipment as of 2016.

4 BY MR. REES:

5 Q To your understanding, do those ballistic
6 shields in the doors stop all rounds from all firearms
7 or only some rounds from some firearms?

8 A We were shown, the day before this call, we
9 were shown a brief video clip of this, and they are
10 designed to stop most rounds. But with any ballistic
11 material, once a round hits it, it starts to lose its
12 protective quality.

13 The vests, protective vests are the same way.
14 If rounds are hit in different spots, they may still be
15 effective. But if it starts being close to the same
16 area, the same proximity of multiple rounds, it's going
17 to lose its effectiveness, and bullets are going to
18 start to go through it.

19 So anything we use is more bullet resistive,
20 which is like your watch, you know, water resistive to a
21 certain level, but eventually, water is going to get
22 into it.

23 A GRAND JUROR: I have a question.

24 Are both of those police cars, the ballistic
25 doors that were right there?

1 THE WITNESS: Right. Of course, this SUV is
2 not a police car. It's a civilian car. The one
3 Officer Paisley pulled up did. And to my benefit, it
4 had to be my car, which it was kind of cold that night
5 and I wasn't wearing my coat, and it allowed me to get
6 my coat out of the car.

7 So initially, we didn't have the northbound
8 traffic stopped. Sergeant Holbrook was trying to
9 coordinate to get roads blocked off. So initially, we
10 didn't have it in the street. It was more behind this
11 SUV up here. Once 148th was all blocked off, it was
12 moved up almost parallel to this SUV.

13 Once that happened, we then used this SUV as
14 some type of cover for protection and then this one
15 also. And I had taken a position that the driver's
16 door, the driver's door was open.

17 Officer Kays was with us. Moved up with us
18 now. And she and Officer -- Sergeant Hughes, they had
19 taken a position at the passenger door. Sergeant Hughes
20 has his ballistic shield and Officer Kays is sitting in
21 the passenger seat.

22 And with that, they tried to get a -- as this
23 is evolving, they had tried to get a phone number for
24 the person in the location. Trying to find a phone
25 number for this Steven Liffel and the location of the

1 apartment. They weren't having any success.

2 Sergeant Hughes tried to make arrangements to
3 get a better view of the front door for eyes on, so they
4 had Officers Jungling and Steiner try to move to a
5 position where they could have a view of the front door.

6 Once that was established and they were
7 somewhere to the northwest, exactly where, I don't know
8 where they were, but they were -- in the updates that
9 they were giving, they were able to see the front door
10 of this apartment.

11 Sergeant Hughes started loudhailing, which is
12 using the PA system from the patrol car to try to make
13 verbal contact with the person we believed was Steven
14 and encouraging him to come outside. Identifying us
15 that we were the police, and that we wanted to talk to
16 him; that there were two sides to every story, and we
17 wanted to get his side, and we wanted just to get this
18 situation resolved. That started an ongoing process.

19 A GRAND JUROR: At this time had you heard
20 any gunshots personally?

21 THE WITNESS: Up to this time, no. During
22 this loudhailing, Officer Kays and Sergeant Hughes were
23 alternating back and forth doing loudhailing.

24 Officer Dorn, who is a canine handler and
25 he's also assigned to the SERT team, was working his

1 normal patrol shift, he had come and approached. I
2 could hear him behind me. I recognized him by his
3 voice.

4 When the loudhailing is going on, we hear a
5 gunshot. And my perception is the gunshot was coming
6 from the apartment building. And it sounded very sharp,
7 not overly loud, but there was -- I can only describe it
8 as a flock or twang sound to it. It either went by us
9 or it hit something close by. But I couldn't be any
10 more definitive about that.

11 Over my -- the radio it was broadcast, I
12 believe it was by Sergeant Holbrook, saying that the
13 subject is shooting at officers.

14 I remember Officer Dorn saying it sounded
15 like a small caliber gunfire. I believe it was Sergeant
16 Holbrook that then told dispatch to activate SERT.

17 BY MR. REES:

18 Q Let me ask you about your thought process at
19 this point, what you're thinking as your shift has
20 evolved from what you described as routine or quiet.

21 You get this call, you went to the scene, and
22 now you've heard a shot or shots fired. The sergeant is
23 calling for the SERT team, which is like the SWAT for
24 Portland.

25 A GRAND JUROR: SERT and SWAT is different?

1 MR. REES: As the detective mentioned,
2 Portland doesn't have a SWAT team; they have a SERT.

3 It is the equivalent; is that my
4 understanding?

5 THE WITNESS: Yes.

6 A GRAND JUROR: Can you tell me what it
7 stands for?

8 MR. REES: It stands for Special Emergency
9 Response Team.

10 BY MR. REES:

11 Q So they are called in in very high-risk
12 situations, active-type shooting situations.

13 A Yes.

14 Q Of course, they are not there yet.

15 A No.

16 Q So what are you thinking at this point?
17 What's the situation as far as you're judging it, based
18 on your training and experience over 30 years in law
19 enforcement?

20 A Well, before I heard the first gunshot, it
21 went through my mind, I just felt that this guy was
22 just being stupid, and he was just going to come
23 outside, and everything will resolve peacefully because
24 it didn't really seem to be an appealing thing to have
25 to shoot somebody at Christmastime.

1 Q Do you want to take just a break or not?

2 A I just kind of want to get this all out.

3 A GRAND JUROR: Would you like a break?

4 THE WITNESS: Maybe in a little bit.

5 A GRAND JUROR: If you feel you want a break

6 --

7 THE WITNESS: Reliving it is just the
8 emotions.

9 A GRAND JUROR: Feel free to ask for a break
10 or if you would like it now, that's fine, too. We're
11 good.

12 MR. REES: He said no. If he wants a break,
13 he would say yes.

14 THE WITNESS: Thank you. Thank you, though.

15 BY MR. REES:

16 Q Do you want me to repeat the question?

17 A I believe --

18 Q Let me repeat the question for you.

19 I just want to sort of take a break in your
20 answer of what was happening to your thought process of
21 your assessment of the situation up to this point, given
22 everything that you knew, the facts and circumstances of
23 what your assessment was or what you thought was
24 happening, what was presenting in terms of, for example,
25 officer safety, safety to residents in that area, if you

1 had those thoughts going through your mind.

2 A Well, part of it is my mind goes into high
3 gear of the different possibilities of what can be
4 going on.

5 And based on my experience, I mean, it can be
6 anywhere from somebody being stupid and just careless to
7 somebody who has homicidal tendency. But you don't
8 know. The information isn't, isn't coming out about
9 that.

10 So my safety and the safety of my fellow
11 officers is of great concern because I don't want them
12 or myself to be inadvertently injured or killed.

13 I don't work with this particular
14 neighborhood regularly, but I've been by. I know
15 there's lots of apartment complexes. So that means
16 there's lots of citizens and residents that live in that
17 area.

18 You know, if somebody is being reckless, I've
19 been to too many calls that a round has gone through --
20 out somebody's house into the next house and somebody
21 has been injured or killed.

22 You know, I don't know the person inside the
23 house, what they can see or what they can't see. All I
24 can say is, you know, what I saw.

25 I'm thinking -- you know, I thought about,

1 you know, this would be a terrible thing to have happen
2 at Christmas, but, you know, given the training -- my
3 training is for if I have to or are forced to do this,
4 how can I do it safely.

5 So I start thinking about, you know -- I'm
6 looking for other citizens, pedestrians, traffic. As
7 we're trying to get the road shut off, and this being a
8 very dense residential area, we've had pedestrians walk
9 by on Burnside, which would be north of me, which is
10 down range of me. There are houses across Burnside
11 Street to the north.

12 A GRAND JUROR: So are you saying that while
13 this was happening, people were still walking down
14 Burnside?

15 THE WITNESS: While we're trying -- in the
16 process of trying to get this shut down, you know, the
17 streets closed off, the Max train has gone by once or
18 twice. There's been at least three pedestrians. One
19 actually turned and come and walked south on the east
20 side of Burnside right by the front of this place.

21 At that time I'm -- I was -- we hadn't moved
22 the cars up and I'm right here, and I'm trying to yell
23 at them to go back. I'm seeing the cords from the
24 earbuds. They are like looking at me, like, what, why,
25 why do I have to do this? It's just please do what I'm

1 telling you to do.

2 And the unknown that this -- these are
3 apartments. There's an apartment building here. These
4 are all apartments on this side. So this is -- I know
5 that north of the picture, just off the frame would be a
6 day care, but it's closed, but behind that there's more
7 houses.

8 There's a big apartment complex on the
9 northwest corner just north of where the streetcar is.
10 That's a multilevel apartment complex.

11 This is 11:00 at night. The majority of
12 people are home. The majority of people work or go to
13 school in the daytime. This is time that, you know,
14 people are watching TV and getting ready for bed or have
15 gone to bed. Not everybody works the night shift, like
16 I do or afternoons, like some of you may. But you may
17 have families that are home.

18 BY MR. REES:

19 Q Okay. So in terms of the events as they are
20 unfolding, I think you said before I asked you that
21 question, that the sergeant called for the SERT team in
22 response to shots fired.

23 A The first shots being fired.

24 Q Right. So what happens after that?

25 A Immediately hearing that shot, I mean, I

1 duck down and then kind of looked back up, and I'm
2 looking towards the apartment. With the driver's door
3 opened of the car, you get this V of a pillar of the
4 windshield here and then you've got the door.

5 So my rifle is up in the V, and I'm looking
6 over the top of it, watching, trying to see indicators.
7 You know, I heard the sound. And the sound came from
8 that direction, but where, where is the target? Where
9 is the threat? Where is actually the threat at?

10 And radio traffic is going on, the police
11 radio. SERT is being called. They are calling to --
12 you have to be aware of when we try to cordon things
13 off, it doesn't happen instantaneously. You've got to
14 get additional resources, other officers in the area to
15 get that blocked off. Then they got to get parked.
16 They got to try to keep people out of the area. It
17 doesn't happen all at once.

18 This can take a few minutes. And then once
19 you have that blocked off, who are the people, the
20 citizens that are within that area blocked off, people
21 are curious. People want to know what's going on in the
22 neighborhood. People look out windows. People look
23 from outside. People get off the Max.

24 But so all of this is a concern going through
25 my head. Are we going to get more people, you know,

1 coming out, looking to see what's going on? In addition
2 to, hey, what are the police yelling at with the PA
3 system?

4 So this about three or four minutes after the
5 first -- that shot was fired, I hear what I'm going to
6 label a second shot. It still sounded similar, but more
7 muffled than the first one. But it was coming from --
8 the, the sound was coming from the apartment building,
9 but it sounded different. Maybe it was in a different
10 direction.

11 About a minute after the second one, there
12 was a third one. It sounded about the same as the
13 second one. I think it was broadcast from either
14 Officer Steiner or Officer Jungling that they are not --
15 they hear the shots, but they are not saying they came
16 from that apartment.

17 So I don't know what actually they are
18 seeing. They are just saying they didn't see them come
19 from that apartment. So it's, like, you know, what --
20 what am I not fitting in here? What am I not seeing?
21 What doesn't -- something is out of place.

22 Because we have the little -- I have a little
23 bit of information that the female that Officer Holwege
24 talked to, the younger female, she said the guy that was
25 in the apartment was shooting at his own truck.

1 So I know from that information that there's
2 a guy in the apartment, which I had saw the number just
3 below the porch light, it was the No. 12, that
4 apartment, which was at the corner by the pickup,
5 there's a guy in there with a gun, and he's fired that
6 gun at his own pickup.

7 And now, we're getting -- I've just had three
8 more shots. One sounded towards my direction. Two
9 others sounded different. And it's still computing to
10 me that they are coming from that apartment.

11 Still trying to do the loudhail. Still
12 identifying that we were police. They are still going
13 on that, "Steven, we want you to come out. We want you
14 to -- we want to resolve this peacefully."

15 It's broadcast from Officer Steiner and
16 Jungling that the front door is opened now to the
17 apartment. So I'm looking over the cab of the truck,
18 still at the top edge of the screen door, but I don't
19 see the screen door open.

20 The door closes, and then we're starting to
21 flow into -- this is starting to go faster, because it's
22 like a person comes to the door, opens the door, closes
23 the door, opens the door, has the door opened, then he
24 opens the screen door.

25 He said something through part of it. I

1 believed I heard what Sergeant Holbrook said, "Steven,
2 we don't want to hurt you," but there was a reply, and
3 there was more to it. The only part that registered in
4 my hearing was, "You will." I'm thinking, well, this
5 isn't good.

6 You know, this -- in the back of my mind I'm
7 praying, just come on. Just cooperate. Let's resolve
8 this peacefully.

9 I talked a little bit earlier about other
10 things in my mind was processing about the direction
11 that I'm looking. I was thinking about back-stops
12 regarding if I have to shoot my gun, what's down range
13 of me?

14 I know when Sergeant Holbrook and I did a
15 walk around to the north side of that building early on,
16 that that Apartment No. 6, which is on the north half of
17 this building, through the living room window, I saw
18 that there was a big screen TV on.

19 The floor plan in how the face of the
20 building looked like it would just be a reverse opposite
21 of No. 12. So the living rooms are on the far end. The
22 bedrooms are, I'm sure, shared by a common wall.

23 The narrow view I had from the back corner of
24 this pickup truck to this wall here, a view from where
25 the living room window would be on Apartment No. 6, so I

1 know that we were now -- our group who is tasked with
2 trying to address Steven to come out.

3 And we have -- our group is designated as a
4 custody team. And it is my responsibility, with the AR
5 rifle, that if lethal force has to be used, that's my
6 responsibility.

7 I would not be responsible for doing
8 handcuffing approach because I'm a little encumbered
9 with this rifle. I would not be the Taser person. I
10 would not be the beanbag person because this is my
11 responsibility. Those other responsibilities would be
12 designated to somebody else in this team.

13 Q In saying this is your responsibility, does
14 that include providing safe cover or protection for the
15 other officers on scene who do not have that rifle?

16 A Yes. In a scenario, that if we were a
17 custody team, we know, we know early on, okay, this guy
18 has a gun, has a gun in the apartment, if he comes
19 outside -- if he turns compliant and he comes outside,
20 we know he had a gun. We would not assume that just
21 because he came outside and was cooperating that he
22 would no longer have a gun.

23 Guns come in all shapes and sizes, rifles,
24 shotguns, these little tiny handguns. So if we were to
25 do a custody team, and he was cooperating, one person in

1 the custody team would be designated as a person that
2 would deploy lethal force, if necessary. Usually then
3 you have two officers handcuffing.

4 And depending upon the cooperation, we may be
5 using the ballistic shield, an officer carrying a shield
6 to give us some sort of protection as we approach the
7 person. We may even approach a certain distance using a
8 car to get within a certain distance and then moving
9 forward.

10 But part of this, we would also be trying to
11 get his compliance by giving him instructions to come
12 out to a certain location, maybe out to the street that
13 we now had all traffic stopped. Get him out in the open
14 where we can view him well and then we can implement
15 this.

16 Well, let's say that we are now in the
17 position that we're going to approach, approach him with
18 a shield, two officers that are going to take physical
19 control to handcuff. So they have to keep their hands
20 free. You got an officer that's carrying a shield that
21 is not light, so that's usually a two-hand carry.

22 Who is going to protect them if this person
23 suddenly produces a firearm and starts shooting? We
24 know he had a firearm. We don't know what kind of
25 firearm necessarily it was, you know, if he was in a

1 cooperative mode.

2 So it would then -- being the person with the
3 rifle in this approach, I would be the designated person
4 that if we were met with the threat of, you know, death
5 or serious physical injury by this person because of a
6 weapon, that would be my responsibility to stop that
7 threat.

8 Now, we get back to this particular call.
9 You know, we're not getting that compliance.

10 Q I think you just described a third shot and
11 your narrow view.

12 What do you see or hear next?

13 A I guess I think what I'm hearing next is
14 that being broadcast, somebody saying "Open the front
15 door." Still trying the loudhail. Have the comment
16 that I'm hearing coming from the apartment as a
17 response to Sergeant Hughes saying, "Steven, we don't
18 want to hurt you," and the response being that "you
19 will," it's -- you know, I'm thinking this is not --
20 this is not going to go well.

21 He may very well put us in a position to, you
22 know, have to do something to him. This response of
23 "you will" is not verbiage that, okay, I'm coming out,
24 I'm going to do what you ask.

25 The door opens and closes. The front door is

1 reported to open and close several times. It's reported
2 that he's seen, not by me, but this is what I'm hearing
3 over the radio, that he's trying to light something with
4 a cigarette lighter, then he goes back inside, comes
5 back to the door, trying to light maybe a piece of
6 tissue paper on fire.

7 He's seen holding a water bottle. He's seen
8 drinking from a water bottle. He opens -- he opened the
9 screen door. I saw the screen door open once, then the
10 screen door closed. It's reported he's going back
11 inside.

12 There was a broadcast that he's at the door.
13 He's got a small short-barreled silver revolver and then
14 it's reported that the door closes. He went back
15 inside. Continue loudhailing. It's now being
16 broadcast, "Steven, put down the gun. Come outside."

17 It's now broadcast that, "I hear a rifle.
18 He's holding a black rifle in his left hand. He's
19 coming out the door."

20 And while that's being said, I see the top
21 edge of the screen door open. The next thing I see was
22 the head of a white male. And I could see, because of
23 the position of the pickup in the driveway, he's on the
24 driver's side, and he's walking away from the apartment
25 towards the street, so in an east to west direction.

1 When his head came into view is when he got
2 past the cab of the pickup. So he's now at the bed,
3 front part of the bed of the pickup and he's walking --
4 moving at a steady pace.

5 I see what looks like the barrel of a rifle
6 at an upward angle from his left shoulder going upward.
7 It's black. There's a reflection of light from the
8 streetlight.

9 Q When you say "upward angle," can you more
10 carefully describe what you're seeing? What do you
11 mean? The barrel, how is it pointed?

12 A Well, it's, it's almost more easier to have
13 something to describe it, but all I can see --

14 A GRAND JUROR: That's all I've got.

15 THE WITNESS: What I'm seeing -- if you have
16 the bed of the pickup, the pickup is a four-wheel drive
17 pickup that appears to be lifted. So all I'm seeing --
18 when he first comes into my view, this person --

19 A GRAND JUROR: And where are you over here?
20 Who are you pointing to? Who is "you"?

21 THE WITNESS: Okay. Well, right now, I'm
22 going to pretend that I am Steven Liffel.

23 A GRAND JUROR: And we're standing where you
24 were?

25 THE WITNESS: You're back -- yeah, further

1 your way. You are like 30, 35 yards away to the south.
2 So the pickup is here.

3 All I'm seeing is, like, from this part of
4 his left shoulder up. And at an angle from that
5 shoulder, straight off his shoulder is where I see what
6 looks like to be the barrel of a rifle.

7 And the streetlight across the street, I get
8 a flash of reflection of light off that polished barrel,
9 and he's moving. This pickup bed is probably
10 six-and-a-half feet long. So he's two steps from
11 getting to the back corner.

12 A GRAND JUROR: Excuse me, did you see any
13 of his other hands? I mean, his left hand, probably
14 not, but his right hand? Did you see his right hand?

15 THE WITNESS: No. I could not see his hands
16 when his view of him is blocked by the bed of the
17 truck. All I see is what I perceived to be the barrel
18 of the rifle, the upper part of his shoulder from a
19 side view, and the side of his head.

20 When he comes -- gets -- proceeds past the
21 corner of the pickup, now he's in full view. He's
22 wearing this multi-colored shirt that was described
23 earlier in a description that was given by Officer
24 Steiner.

25 And I see, as he's walking at a steady pace,

1 directly towards the street, I can't tell you how far
2 away from the pickup he is, you know, off this side, but
3 he's walking this direction to the west.

4 And I see him -- now, when I now see him as
5 he cleared the back of the truck, he's holding the rifle
6 in two hands, the for-stock in his left hand and the
7 lower back part of the stock where the grip would be in
8 his right hand. The rifle is somewhat at a 45-degree
9 angle pointing upward.

10 He is -- my mind is going he is now hunting.
11 And I go back to a person, a hunter moving through a
12 field with their weapon hunting game.

13 One, it is an easy transition to go from this
14 position to a shoulder position. It takes less than a
15 second to shoulder and aim a weapon, i.e., a firearm
16 from that position. And that's something that I
17 remember from going through hunter safety as a teenager
18 some 40-some years ago.

19 I'm -- I know there's a patrol car, so
20 there's an officer to the north, north of Burnside. I
21 know that Officer Jungling and Steiner are somewhere to
22 the northwest, but I don't know exactly where. And this
23 guy is now in full view of myself and the other officers
24 who were at the patrol car with me.

25 BY MR. REES:

1 Q And so did you make a decision to fire your
2 rifle?

3 A I did.

4 Q And when did you make that decision?

5 A I made that decision when he was in view,
6 and I saw that he was in my mind actively hunting,
7 looking for us, and that he was with that rifle, and he
8 was readily and capable of using that rifle to shoot
9 me, to shoot any of us officers that were out there.

10 I had a brief moment of concern because of
11 that Apartment 6 that had that TV on, not knowing if an
12 evacuation attempt was made to that apartment to get
13 those residents out.

14 I'm thinking that I have to fire. I got to
15 stop him. This is the only way I can stop him. If I
16 miss, I don't even want somebody down range to be hurt.
17 So I'm -- my mind is thinking backstop, what's beyond
18 him, and this is, you know, racing through my mind.

19 And following the rifle, and he's disobeyed
20 the commands to put down the rifle. Sergeant Hughes
21 shouted that to him through the PA system when he came
22 out with the rifle. He's not obeying commands. And
23 there's no other way for that threat to be stopped. And
24 I, I got to stop him. This is the only way I can. I
25 fired my rifle once, and he went down.

1 Q It is a split second in time when this
2 happens. You, I'm sure, have thought over this since
3 it happened. One alternative is to wait.

4 What did your training and experience tell
5 you about that alternative of waiting instead of making
6 a decision to use deadly force when you did?

7 A Waiting is not an option because an innocent
8 person or a police officer is going to get killed.

9 Q And what does your training tell you about
10 waiting until, for example, someone is shot? Is that
11 what you're trained to do?

12 A No. I'm not trained to -- for one of us or
13 one of you people to get shot first, my training is to
14 prevent that from happening.

15 Q So you shot one time?

16 A I shot one time.

17 Q And did you see a response when you shot?
18 Did you believe that you had hit the suspect?

19 A His body contorted -- turned somewhat to the
20 left and then he fell forward, putting both hands out
21 in front of him to kind of break his fall falling
22 forward. And the rapidness, when he made that brief
23 turn, was my indicator that the round I fired hit him.

24 Q What's your training regarding how many
25 times you should fire once you've made the decision to

1 shoot?

2 A The basic training is that you fire your
3 weapon until the threat -- there's no more threat.

4 Q So that could vary a number?

5 A Yeah, so that becomes a fluid. When he went
6 down forward -- once he was down on the ground facing
7 forward, he then rolled up on his left side. When he
8 did that, I no longer saw him holding the rifle.

9 So in my mind he's not holding the rifle. We
10 had information that there was a small silver handgun,
11 but I'm not seeing that either. So when he fell, I
12 believe in the manner in which he fell, that he would
13 have fallen on the rifle because I didn't see where the
14 rifle went.

15 So knowing that the rifle is now in close
16 proximity, if he comes -- if I see that rifle again, I'm
17 going to again fire on him, you know, i.e., if he's
18 producing that rifle in a threatening manner. Commands
19 are being shouted to him to crawl to the street to
20 separate him from the rifle.

21 There's discussion going on behind me. You
22 know, are we going to move forward and render aid?
23 Still trying to gain his compliance for him crawling
24 into the street. He's screaming in pain. He's shouting
25 back that, "I can't."

1 Q Let me ask you to go back to your decision
2 to use deadly force.

3 Really, in the totality of the circumstances,
4 everything that you had seen and heard to that point and
5 your training and experience, what, what would you say
6 your perception of the threat level -- if we use a scale
7 of zero to ten, and zero being no threat and ten being
8 an extreme or extraordinary threat at the time -- what
9 would you say the threat level was that you perceived?

10 A Great. Beyond the scale.

11 Q Off the scale?

12 A Off the scale.

13 Q Why would you say that?

14 A The motion of his walking, the way he was
15 carrying the rifle. To our information, he's already
16 fired shots our direction. He's determined, he's
17 determined to do harm to one or all of us, and I cannot
18 let that happen.

19 MR. REES: I don't have any further
20 questions for Officer Keller.

21 Do members of the Grand Jury have any
22 follow-up questions? Is everyone clear on his
23 perspective and what he saw while he's still here?

24 Okay. I'm not seeing any hands. Do you have
25 any questions of the officer?

1 So thank you for coming in and talking to us.

2 BY MR. REES:

3 Q I guess I didn't ask you this, but just to
4 make it clear. Your coming here to the Grand Jury is
5 completely voluntary on your part; correct?

6 A Yes.

7 Q And you agreed to come here and answer these
8 questions despite the fact that you understand that
9 this actually is a criminal investigation?

10 A Yes, I do.

11 Q All right.

12 MR. REES: Thanks again for coming in.

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1 Q When this incident occurred, which began on
2 a Monday evening, I believe, is that right?

3 A I believe it was a Monday.

4 Q The calendar is behind you. It was a
5 Monday. That Monday night, 2016, what time did your
6 shift begin?

7 A My shift started at 10:00 p.m.

8 Q And was there anything unusual going on just
9 as you began your shift that night?

10 A Normal shift.

11 Q Okay. What did you do?

12 A I got a coffee at Starbucks.

13 Q And did you become aware, while you were at
14 coffee, of a report of a shooting in the area of 148
15 and Burnside?

16 A Yes, I did.

17 Q Just generally, what was your recollection
18 of that call, the initial call?

19 A The initial call was that there was some
20 shots that were fired in that area, and that the person
21 who fired those shots may have gone into an apartment
22 in that area, and that the caller was anonymous.

23 Q Okay. And did you --

24 A GRAND JUROR: Question.

25 Are you -- I don't know if it is called a

1 double car or a single car. Are you by yourself or with
2 a partner?

3 THE WITNESS: I'm by myself. And most of
4 our patrol officers are by themselves.

5 A GRAND JUROR: Okay. Thank you.

6 BY MR. REES:

7 Q And as a sergeant, you may or may not
8 respond to calls; correct? You attach yourself to a
9 call as needed; is that correct?

10 A That's correct.

11 Q And so in this instance, when you first
12 heard this call, did you respond or did you monitor the
13 situation?

14 A Just monitoring the situation.
15 Unfortunately, that's kind of a routine call.

16 Q And what happened subsequent to that? There
17 was another call at the same location; right?

18 A There was. There was another call at the
19 same location. The second call, the report was that a
20 woman was hiding in an apartment complex parking lot,
21 and that more shots had been fired. And we had more
22 than one caller on this next one, and that piqued my
23 interest a little more.

24 Q And what did you do?

25 A I was at coffee at the time with our

1 lieutenant and another sergeant. The other sergeant
2 told me that he would respond to the call.

3 Q Okay.

4 A And I continued to monitor the situation
5 from where I was.

6 Q And what happened?

7 A The sergeant put out some information on the
8 radio that made me concerned for the call.

9 A GRAND JUROR: Excuse me, this sergeant
10 that you dispatched to the location?

11 THE WITNESS: The sergeant that went to the
12 location, yes. There's typically two of us that
13 supervise the night shift on any given shift. So this
14 other sergeant happened to respond out to the call just
15 to --

16 A GRAND JUROR: Could we have his name or
17 not?

18 MR. REES: Yes.

19 THE WITNESS: Sergeant John Holbrook.

20 BY MR. REES:

21 Q What was the additional information that he
22 provided?

23 A That they had located a vehicle that
24 appeared to have the windows shot out, and that they
25 could hear what sounded like a disturbance coming from

1 inside the apartment where the initial call had
2 originated from.

3 Q Okay. And so how did that, how did that
4 change the read of the situation or the complexion of
5 the situation for you versus the initial call, which is
6 sort of a generic shots fired with no further
7 information?

8 A Definitely a higher lethality I would say to
9 a call like that where there's more pieces of the
10 puzzle that have now come together. More people
11 calling us for help. A police sergeant on scene that's
12 making independent observations and confirming what
13 these people are calling in to us. So it increased my
14 concern for the call. And at that point I decided that
15 I was going to go as well.

16 Q Because it's looking like there actually
17 apparently were shots fired and there's actually damage
18 to property?

19 A Yes.

20 Q And when you responded, did you go with
21 lights and sirens?

22 A I went with my lights on and siren as need
23 be to get through traffic lights. Sometimes having a
24 siren on on a critical incident like that can increase
25 anxiety for people that we are going to hopefully help.

1 So I did not have the siren on the entire time.

2 Q But to get through intersections you did
3 because you were trying to get there as quickly as
4 possible, it sounds like?

5 A Yes.

6 Q About how long did it take you to get to the
7 area of 148 and Burnside?

8 A Just a few minutes. I drove directly from
9 the area of Southeast 97th and Stark directly to 148
10 and Burnside.

11 Q Okay. What did you do when you arrived on
12 scene?

13 A I located Sergeant Holbrook, and I retrieved
14 some things from my car that I thought might be useful
15 on a call like this.

16 One of them was a ballistics shield, which
17 is, for the most part, rated to provide me additional
18 protection from a handgun round. And I also brought a
19 large metal, heavy ram on the chance that we needed to
20 force entry to help somebody inside the apartment in
21 case there was a disturbance going on inside the
22 apartment.

23 Q Okay. And does the photographic diagram
24 behind you show the location that you went to?

25 A Yes, it does.

1 Q Can you point that out?

2 A Right down here on Southeast 148th. This is
3 148, and this is south of East Burnside Street. I
4 parked on the east side of the road.

5 Q Okay. And when you arrived, what was
6 happening?

7 A Sergeant Holbrook was standing on the
8 sidewalk with a couple of other officers, and I talked
9 to him and was briefed on what he knew up to that
10 point, which was most of the stuff that I had already
11 heard on the radio.

12 He further added that Officer Keller was
13 forward of our position, closer to these marked police
14 cars here. Actually he was with his white SUV, and he
15 was forward of my position with his rifle. And Sergeant
16 Holbrook asked me to go up with Officer Keller and take
17 over the inside scene.

18 During my discussion with Sergeant Holbrook,
19 he pointed out to me where the apartment was that they
20 thought that the subject in this case was. And from my
21 understanding where I was, it was this, right here with
22 this sticky note that says 12 Southeast 148, right here.

23 He showed me this white pickup -- this -- I
24 don't know if it was white, but it was a light-colored
25 pickup in front, in the driveway, and so that was the

1 one with the windows shot out. And he asked me to take
2 over the inside area of this call.

3 Q Okay. And was some plan made to attempt
4 contact with the person inside the apartment?

5 A There was.

6 Q And what did that entail?

7 A I believe they had already made attempts to
8 phone inside and did not have any luck with reaching
9 the person inside.

10 So when I had, I had some other officers with
11 me where I was when I went up, and we made the plan to
12 use the speaker system on the car to try and have the
13 person inside the apartment come out.

14 Q Can you explain why, in this situation, you
15 wouldn't simply go up to the front door and knock?

16 A Because you don't want to get shot.

17 Q So that may be obvious to some, but for
18 those who wouldn't find that obvious --

19 A Sure.

20 Q -- is that the reason?

21 A That is the reason. And I am aware of
22 Portland police officers that have been shot and killed
23 on door steps, knocking on doors, and, in fact, her
24 name is Colleen Waibel.

25 Q So in this situation where there's a report

1 of shots fired, you see a vehicle with a window shot
2 out, you're keeping some distance away from whoever is
3 in that apartment; right?

4 A Yes.

5 Q And you tried the telephone, it didn't work.
6 So now you're talking about using the public
7 announcement system, or some people described it as
8 loudhailing, but calling out to this person.

9 A Correct.

10 Q Is that right?

11 A Yes.

12 Q Who performed that task?

13 A Initially, it was Officer Kays. She's
14 Officer Angela Kays. I believe you'll hear from her at
15 some point. She's one of my officers on the night
16 shift.

17 Q Did you observe her do that?

18 A I did.

19 Q And did she do that from one of the police
20 vehicles that we see depicted in this diagram?

21 A She did.

22 Q Which one would that be?

23 A The one with arrow that says "Officer
24 Keller," that was the vehicle we were standing at.

25 Q Same vehicle. And is she doing that just

1 using the microphone that's in the vehicle?

2 A Yes.

3 Q And what kinds of things was she saying?

4 A Oh, I was standing right next to her while
5 she was saying the things, and it was as simple as we
6 could. I forget the first name of the gentleman. We
7 were trying to use first names, keeping it --

8 Q Steven.

9 A -- keeping it informal as possible.

10 "Steven, this is the Portland Police. We need you to
11 come out with your hands up and come out to the
12 street," and something similar to that was repeated
13 numerous times over the PA.

14 Q All right. And maybe I moved ahead in time
15 a little bit too much because at some point in your
16 interview with detectives, you indicated that you heard
17 a round fired from the apartment.

18 Did that happen before the attempt was made
19 to communicate over the public announcement system?

20 A Yes, it did.

21 Q It did?

22 A Yes.

23 Q So just to back up to that. I apologize for
24 doing that.

25 Where were you when you heard that first

1 round fired?

2 A I believe at that time I was still standing
3 behind the white SUV. It was before we had moved
4 police cars closer to us.

5 Q Okay. And can you describe that for the
6 Grand Jury?

7 A No. Actually let me clarify that. I
8 believe we had brought a police car up parallel to this
9 white SUV. It was just a small detail, but that's what
10 I remember.

11 Q Okay. Can you describe hearing that shot,
12 what it sounded like, and where you perceived it was
13 coming from?

14 A I perceived that the shot had come from
15 exactly where the problem -- we believe the problem
16 was, right here.

17 I've heard gunshots many, many times in my
18 career, and it did not sound as though it was fired up
19 in the air. I couldn't tell exactly where it was fired.
20 I didn't hear the bullet strike anything. But it was --
21 I could actually hear the bullet, and they make a unique
22 sound as they are flying through the air.

23 Q And you described it as, in your interview,
24 as crisp, clear, I heard a whizzing of the bullet?

25 A Yes.

1 Q And so did it sound like that was coming,
2 you know, in your direction towards you?

3 A That's hard to say. Like I said, I didn't
4 hear it strike anything. But, you know, generally,
5 when you can hear that sound, it's close enough. I
6 didn't think it was fired in the air --

7 Q Okay.

8 A -- straight up.

9 Q So at that point when you hear this single
10 shot, is that when you started to back away from the
11 apartment?

12 A Yes.

13 Q Okay. And did you end up in a position
14 shown on the diagram?

15 A Yes.

16 Q Okay. And is that when you began the effort
17 to make commands to Steven?

18 A That's correct.

19 A GRAND JUROR: What did you say?

20 MR. REES: I said, is that when you started
21 to make commands to Steven Liffel?

22 You said, "Yes."

23 THE WITNESS: Over the PA.

24 A GRAND JUROR: You were now speaking over
25 the PA?

1 THE WITNESS: Officer Kays was.

2 A GRAND JUROR: Remember he had to go
3 backwards a little bit from what we already heard,
4 right, so you had to go back before this.

5 MR. REES: Yes. Heard the shot. Began the
6 loudhailing. First Officer Kays.

7 BY MR. REES:

8 Q Any response from inside of the apartment to
9 her commands?

10 A Initially, no. No. I had learned from
11 Sergeant Holbrook that there was -- potentially the
12 female involved in this had been at some point inside
13 the apartment with Steven. So I at times tried to
14 communicate just to see if having a different
15 communicator would help and encourage the situation
16 along.

17 A GRAND JUROR: So you and Kays took turns?

18 THE WITNESS: Okay. That's correct, we did.

19 BY MR. REES:

20 Q Your thought was maybe he would respond to a
21 male voice if he would not respond to a female voice;
22 is that right?

23 A That's right.

24 Q Did he have any response to either Officer
25 Kays or to you?

1 A Eventually, yes.

2 Q And what was the response?

3 A He came outside of his apartment and went
4 back in several times and came out and began yelling.
5 And I couldn't hear exactly what he was yelling, but it
6 seemed to be in response to what we were saying.

7 When he came out, we continued the commands
8 over the PA, and with obviously, the hope that Steven
9 would come out to the street with nothing in his hands.
10 We would go up, contact him and be done.

11 Q Do you remember any of the commands that you
12 gave?

13 A Initially, they were similar to Officer
14 Kays. "Steven, this is the Portland police. We need
15 you to come out to the street with nothing in your
16 hands. We need to talk to you."

17 At times I even -- I tried to lower and make
18 it just more plain communication. "Steven, there's two
19 sides to every story. We want to talk and hear what you
20 have to say," and with the hopes that maybe the change
21 in the tone of the communication would work.

22 Q Okay. Any response to that?

23 A More yelling. At one point Steven came to
24 the door armed with a handgun.

25 Q And did you see that or was that reported

1 out to you?

2 A That was reported to me. I could not see
3 the majority of the door from where I was.

4 A GRAND JUROR: Who reported seeing the
5 handgun?

6 THE WITNESS: That was Officer Chad Steiner.

7 A GRAND JUROR: Was Steiner under your part
8 of the control of the scene?

9 THE WITNESS: Yes.

10 A GRAND JUROR: So he was also involved from
11 a different angle than what you were?

12 THE WITNESS: Yes.

13 A GRAND JUROR: Okay.

14 A GRAND JUROR: One more question.

15 You and Holbrook are now the supervising
16 officers together on the entire activity of everything
17 that's going on?

18 THE WITNESS: Correct. That's a very good
19 question.

20 Sergeant Holbrook -- when we have a large
21 scene like that, one sergeant will stay as kind of the
22 bigger picture, and that sergeant will assign roles
23 within that that need to be broken down. So Sergeant
24 Holbrook remained the overall supervisor and I had
25 control of the inside.

1 A GRAND JUROR: What do you mean by "the
2 inside"?

3 THE WITNESS: Good question.

4 Basically the -- what we would call the inner
5 perimeter, basically the inner area where stuff is going
6 on.

7 A GRAND JUROR: People are directly
8 contacting the --

9 THE WITNESS: Yes. What it does is it
10 allows the people that are here to focus directly on
11 the issue at hand while Sergeant Holbrook is getting
12 additional resources and things like that from the
13 outside.

14 BY MR. REES:

15 Q All right. And within that inner perimeter,
16 at some point you made certain assignments among the
17 officers, as I understand it; is that correct?

18 A That's correct.

19 Q Do you recall what the assignments were?

20 A I do.

21 Q Can you tell us?

22 A Yes. Officer Steiner, I believe when I had
23 arrived or shortly thereafter, had obtained visual of
24 the front of the apartment we were talking about.

25 And it was my understanding at the time that

1 Officer Steiner was somewhere over here in this area and
2 had a view of the front. And I said over the air that I
3 wanted to know all of the information that he was seeing
4 with regards to that front apartment so that I could
5 continually assess and make decisions, things like that.

6 I had an officer join Officer Steiner as
7 cover, and that was Officer Jungling for the reason that
8 Officer Steiner was very focused on the front door, and
9 I believe Officer Steiner probably also had his rifle.
10 He's a rifle -- was one of the rifle officers on our
11 shift.

12 Then some additional officers were with me
13 back at the police car. One of them was Officer Keller.
14 Officer Keller had his rifle. I communicated with
15 Officer Keller while I was there and just ensured that
16 he is okay, that he was aware of, you know, what his
17 responsibility was.

18 I could physically see that he was focused
19 on, with his rifle, on the front of the apartment. And
20 I felt confident. I've worked with Officer Keller for a
21 very long time, and I know he knows what his role is.

22 There was some other officer --

23 A GRAND JUROR: Since Steiner and Keller are
24 trained similarly. Are they assigned the same
25 responsibilities?

1 THE WITNESS: Yes and no. Officer Keller
2 couldn't see the front door directly where he was, and
3 so I needed somebody to see the front door. So Officer
4 Steiner had a different perspective on this thing.

5 A GRAND JUROR: A better view?

6 THE WITNESS: A better view.

7 A GRAND JUROR: Okay.

8 THE WITNESS: Yeah. And generally, that
9 officer is going to be in a position of concealment
10 where they can't be seen and simply providing me with
11 information.

12 A GRAND JUROR: Okay. Sure.

13 THE WITNESS: Although, he also had his
14 rifle.

15 A GRAND JUROR: Was Officer Jungling also
16 looking, too?

17 THE WITNESS: Yes.

18 Back to the roles, I had some other officers
19 there with me. One of them was Officer Paisley. We've
20 already talked about Officer Kays and what her job was.
21 She was with me.

22 Officer Kays was there. And I gave some --
23 we had some discussion with Officer Paisley and Officer
24 Smith. Grant Smith was also there and talked about a
25 potential less lethal plan should Steven come out and

1 potentially run towards us. We are thinking of what
2 could potentially happen with this.

3 And so if Steven had come out and run towards
4 us with nothing in his hand and failed to comply with
5 commands to get down on the ground, then I had talked to
6 Officer Paisley about the potential of her using her
7 Taser on Mr. Liffel to take custody of him if he had
8 approached close to us and had nothing in his hands.

9 During that discussion, I also had a
10 conversation with Officer Keller about some aspects of
11 potentially him using his rifle, if Mr. Liffel came out
12 of the apartment and charged at us with a weapon,
13 potentially a gun.

14 I talked to Officer Keller about being
15 cautious about where he fired because some of the
16 apartments that we were standing next to still, I
17 believe had people in them. And so we wanted to be
18 cautious and aware of our surroundings while we were out
19 there.

20 BY MR. REES:

21 Q So you discussed that plan with Officer
22 Keller and the potential use of deadly force by him in
23 the event the subject came out with a weapon; is that
24 correct?

25 A I did. Yes.

1 A GRAND JUROR: You mentioned charging. Can
2 you clarify that as far as when he would probably or
3 should shoot?

4 THE WITNESS: No. You know, we didn't --
5 Officer Keller and I didn't get into specifics about
6 when to shoot or not to shoot, no. And again, I go
7 back to Officer Keller being a very experienced
8 officer.

9 A GRAND JUROR: Certainly. Certainly.

10 THE WITNESS: And my comfort level with him
11 was not --

12 A GRAND JUROR: No. That's fine. I totally
13 understand.

14 THE WITNESS: Yeah. Charging, you know, you
15 never know what somebody is going -- we deal with
16 potential unpredictable situations.

17 You can't unfortunately, plan for every
18 single thing, so we come up with what we think, you
19 know, would potentially be a good plan if he comes out
20 and is not, you know, responding to us. The last thing
21 we want to do is hurt him.

22 A GRAND JUROR: No, I understand.

23 BY MR. REES:

24 Q Just to clarify this, I think sometimes
25 there's a misperception regarding the command

1 structure. It is my understanding this is not the
2 Napoleonic Army where you would drop your hand at the
3 time of fire.

4 But the decision to shoot or not to shoot
5 would be left to an individual officer per the training
6 and based on their perception; is that correct?

7 A That's absolutely correct.

8 Q Okay. So you didn't instruct then Officer
9 Keller or any other officer in a particular time to
10 shoot?

11 You were discussing potential scenarios of
12 who would have roles of either using less lethal levels
13 of force or a lethal level of force; is that correct?

14 A That's correct.

15 Q Okay. And you're doing that, it sounds
16 like, simultaneous with the effort to make some contact
17 with the person in the apartment?

18 A That's correct.

19 Q Is that right?

20 A Yes.

21 Q And at some point was there an additional
22 gunfire heard coming from the apartment?

23 A Yes, there was.

24 Q Can you describe that situation?

25 A There was at least two or three more shots

1 that were heard, that I heard myself. They sounded
2 more muffled. And I felt that they were probably
3 coming from inside the apartment.

4 Q And were you continuing to get updates from
5 the officers who could see the front door of the
6 apartment?

7 A Yes, I was.

8 Q What do they update?

9 A Officer Steiner was telling me about
10 Mr. Liffel's demeanor. And every time he would come to
11 the door and come outside, Officer Steiner gave me an
12 update.

13 At one point Officer Steiner said that he was
14 looking through the window and appeared angry. And
15 also, at one point Officer Steiner told me that it
16 appeared as though Mr. Liffel was communicating back
17 inside the apartment, leading me to believe that there
18 was potentially someone else inside the apartment with
19 him.

20 A GRAND JUROR: You at that point did not
21 know whether there was someone else, but you thought
22 there might be?

23 THE WITNESS: Correct.

24 MR. REES: Did you understand why he thought
25 there might be someone inside?

1 A GRAND JUROR: Yes.

2 BY MR. REES:

3 Q Okay. Could you hear anything yourself from
4 the person at the apartment?

5 A Yes.

6 Q And what could you hear?

7 A Angry yelling.

8 Q Anything that you could tell that was in
9 direct response to any of your commands?

10 A Not that I recall.

11 Does the transcript say? It was a lot of
12 angry yelling in response to the PA.

13 Q Yes. You described angry tone,
14 confrontational. Couldn't really hear what he was
15 saying except it was a tone of anger.

16 Is that right?

17 A Yes. Yes.

18 Q Did you continue to make your various
19 commands to him?

20 A I did.

21 Q Okay. And at one point -- and we saw a
22 recording and we could hear a male police voice saying,
23 "Please call 911 to communicate."

24 Did you say that?

25 A I don't recall.

1 Q You don't recall that?

2 A No.

3 Q Is that something that you would do?

4 A Potentially, yes. Yeah, in order to
5 establish a line of communication. Was that in the
6 report -- no, never mind. I can't ask that question.
7 I haven't heard the recording.

8 Q And this went on for some time.

9 A It did.

10 Q Do you have a recollection of how long this
11 all took?

12 A Oh, boy. If I had to put a timeline, maybe
13 15 minutes, 20.

14 Q Hard to say?

15 A Yeah. It kind of slows down.

16 Q And when did you first become aware that
17 this subject was coming out of the house with a rifle?

18 A As soon as Officer Steiner put it over the
19 air.

20 Q So you became aware from his radio
21 broadcast?

22 A Yes.

23 Q Could you see anything yourself at that
24 point?

25 A Yes.

1 Q What could you see?

2 A I could see the barrel of what I believed to
3 be a rifle sticking up over the top of the cab of his
4 pickup truck where I could see about maybe a foot of
5 the top of the metal door.

6 Q Okay. You may have already done this, but
7 could you show us in the diagram at this point in time
8 where you were standing?

9 A Back here at this police car that's marked
10 with "Officer Keller."

11 Q And so are you on the opposite side of the
12 vehicle from Officer Keller?

13 A Yes.

14 Q Okay. And are you, are you standing on the
15 street?

16 A I'm standing in the passenger side, open
17 door.

18 Q Okay. So if you can recall, what are you
19 thinking? What's going on in your mind now at this
20 point?

21 Given everything that's happened, and now
22 you're hearing he's coming out with a rifle, and you can
23 see the subject apparently with and you believe it to be
24 the barrel of a rifle moving out of the house, what were
25 you thinking?

1 A That this is extremely bad. This is
2 probably one of the worst case scenarios in my career.

3 Q And what do you think is going to happen?

4 A Well, I know that a rifle will go through,
5 depending on the caliber, will go through the front
6 panel of my bulletproof vest. It's not bulletproof,
7 but it's bulletproof resistant. It will go through me
8 and it will go out the back.

9 So that's something that a lot of people
10 aren't aware of when it comes to rifles. Our vests are
11 only designed to protect us from handguns generally.
12 And a rifle will go right through it.

13 And so that -- I know that. I've seen it in
14 training with my eyes, so I don't want to get shot. And
15 I thought that this is just taking a turn for the very
16 worst.

17 At the time I was holding the bullet -- the
18 bullet-resistant handgun, bullet-resistant shield in our
19 position protecting Officer Kays with it because she was
20 sitting in the front of the police car. The cord is not
21 very long. So she was in the passenger seat of that
22 police car and I was protecting her with the shield.

23 Q Okay. And did you -- do you recall making
24 any additional commands over the public announcement
25 system?

1 A I did.

2 Q What did you do?

3 A "Steven, put the rifle down."

4 Q That was broadcast out over the air?

5 A Yes.

6 Q Did you see any response to that?

7 A No. I made that -- that was the last thing
8 I did before moving Officer Kays out of her position
9 and protecting her with the shield as she moved to the
10 back of the car.

11 Q And so you called that out over the loud
12 speaker?

13 A Yes.

14 Q And what happened then?

15 A As Officer Kays was moving, there's a window
16 in the shield that I can kind of see what's going on.
17 And as Officer Kays was moving and I was moving, I
18 looked and I saw a figure at the back of the pickup
19 truck.

20 A GRAND JUROR: So when you said you were
21 moving, I'm guessing you were walking backwards then?

22 THE WITNESS: Right. Frantically moving
23 backwards.

24 BY MR. REES:

25 Q Okay. And maybe this is self-evident, but

1 why were you getting the female officer back? Why were
2 you getting behind the shield?

3 You said you were frantically getting back.
4 What are you thinking at that point?

5 A That Mr. Liffel is going to start firing at
6 us with a rifle.

7 A GRAND JUROR: Can that rifle bullet
8 penetrate the shield?

9 THE WITNESS: Yes. Well, it depends on what
10 kind of rifle it is, but most rifle rounds will go
11 through that shield.

12 A GRAND JUROR: Also goes through the
13 shield?

14 THE WITNESS: Yes.

15 BY MR. REES:

16 Q You don't know, of course, what type of
17 rifle it is at that point. You can see that it is a
18 long gun and not a handgun; is that correct?

19 A That's correct.

20 Q You know that some rifles can penetrate?

21 A Yes.

22 Q What would you say your assessment of the
23 threat or the danger was at that point if it was on a
24 scale of zero to ten? Zero being no threat and ten
25 being an extreme or extraordinary threat.

1 A Ten.

2 Q And what happened? What did you perceive
3 happen?

4 A Like I said, I looked through the window of
5 the shield and could see movement at the back of that
6 pickup truck above me, and I believed it was Mr.
7 Liffel.

8 Although, I could not see his face. I just
9 saw the blur of movement at the back of the pickup truck
10 as we were frantically getting behind the police SUV.
11 And then I heard and felt a round go off. And I thought
12 that was Mr. Liffel shooting at us.

13 Q And when did you realize that that was
14 Officer Keller's shot?

15 A Once I got to the back of the SUV and saw
16 that Officer Keller was still in the same position he
17 was, that for whatever reason in my head, made me
18 register that that was Officer Keller that shot. I
19 could actually feel the rifle round on my chest.

20 Q And could you see the response on the part
21 of Mr. Liffel?

22 A I did.

23 Q How was he responding?

24 A He was walking around in the street and up
25 on the sidewalk and had his hands down towards his

1 waist.

2 Q So at that time you could see he had no
3 other weapon?

4 A Yes.

5 Q Or could you?

6 A No. I could not see any weapon in his hand
7 at that time.

8 Q Was he saying anything?

9 A Continuing to yell.

10 Q All right.

11 A GRAND JUROR: Excuse me, is that after he
12 was shot?

13 THE WITNESS: Yes.

14 BY MR. REES:

15 Q And so at that point did you believe he had
16 been shot?

17 A Yes.

18 Q And so what was the thought process now as
19 the situation has evolved? What are you thinking now?

20 A Well, I also heard some information on the
21 radio, I don't know if it was Officer Steiner or who
22 put it out, but that the rifle was now somewhere on the
23 ground between him and us. And that made me very
24 concerned that the rifle was there and could be
25 accessed -- that he would continue to have access to

1 that.

2 But at the same time, now I have to
3 transition and think, okay, the next priority is going
4 to be to render aid to this guy and try to save him.

5 So I went around to the passenger side of the
6 SUV very quickly and started giving him commands on the
7 PA so that he would continue to know what it is exactly
8 that we wanted him to do.

9 I gave him commands to crawl into the street
10 so that I could ensure that he was -- there was some
11 distance between him and that rifle. And then I began
12 formulating a plan in my head for how we were going to
13 approach him and render aid.

14 Q And ultimately, did SERT members arrive to
15 provide medical assistance?

16 A They did.

17 MR. REES: All right.

18 Any further questions from the Grand Jury?

19 A GRAND JUROR: He was walking around and
20 then he got -- fell to his knees. You were directing
21 him to his knees. I'm confused.

22 THE WITNESS: No. He walked around for a
23 bit, then he went down to his hands and knees. Then he
24 went down on to the ground, the whole time continuing
25 to have his hand down at his waistband, like exactly in

1 the place that you would think somebody would have a
2 gun.

3 And I knew at one point he had a handgun, and
4 I thought he still had that handgun and had his hand
5 down in his waist going for that handgun. So it took a
6 little bit of time. Not much. It was -- he walked
7 around for a little bit. Went down to his knees. Was
8 on his hands and knees and eventually laid on his side.

9 MR. REES: Any other questions?

10 All right. Seeing no further questions,
11 we'll excuse you. Thank you for coming in, sir.

12 THE WITNESS: Thanks for hearing me, folks.

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1 ELIZABETH ROMERO-HERRERA,
2 a witness called on behalf of the State, having been
3 first duly sworn, was examined and testified as
4 follows:

5

6 EXAMINATION

7 BY MR. REES:

8 Q If you would, state your first and last
9 names and then spell them for the court reporter.

10 A Elizabeth Romero-Herrera.
11 E-L-I-Z-A-B-E-T-H. R-O-M-E-R-O-H-E-R-R-E-R-A.

12 Q All right. And how old are you?

13 A Fourteen.

14 Q Fourteen years old.

15 And what grade in school are you?

16 A Eighth grade.

17 Q Okay. Where are you attending school?

18 A St. Andrew Nativity School.

19 Q And I understand you came here straight from
20 school?

21 A Yes.

22 Q So thank you for making the effort, and also
23 you are studying for finals, so thank you for coming
24 here with your testimony.

25 Earlier, a detective showed us some video

1 clips that you made from your iPhone --

2 A Yes.

3 Q -- when this incident happened.

4 A Uh-huh.

5 Q And are you able to show us on this picture
6 behind you where you live about? This is the -- so
7 this is Burnside.

8 A Oh.

9 Q This is 148. This is the apartment where
10 this happened.

11 A I live right here.

12 Q You live in this building across the street
13 and kind of down the street; is that right?

14 A Yeah. I was watching from about here.

15 Q Okay. Can everyone see that? You might
16 want to stand to the side maybe. Thank you very much.

17 And so when did you realize that something
18 unusual was happening across the street from where you
19 live?

20 A Well, I was in my room and I was on my
21 phone, and then I started hearing someone on, like, a
22 speakerphone saying, "Please come out of your house."

23 And so I got scared for a second thinking
24 they were talking to us. And so I went outside, and I
25 looked through the window and there was a police car

1 with like, like a big car stationed right outside my
2 window. But I noticed that they weren't talking to me.
3 They were talking to the house across the street.

4 And then I heard them just, like, saying,
5 "Please come out of your house. We don't want to hurt
6 you. We just want to see your side of the story," stuff
7 like that, like over and over again.

8 Q And could you see the apartment where this
9 person was that the police were calling to?

10 A Uh-huh.

11 Q Did you have a clear view or was it
12 obstructed by trees or cars or anything?

13 A It was mostly clear, but we have a big tree,
14 so I couldn't see. And since it was dark outside, it
15 was also hard to see.

16 Q Okay. And so you heard the voice of the
17 police officers calling out.

18 And do you remember what they were saying?

19 A Well, just like I said, mostly just, "Please
20 come out of your house with nothing in your hands. We
21 don't want to hurt you. We just want to talk this
22 out."

23 And then they mentioned his name, Steven
24 several times. And they were just like, "Please,
25 Steven, come out. We want to talk to you about what

1 happened."

2 Q And did you ever see a man come out of the
3 apartment?

4 A Yeah, I saw him come out twice, I believe.
5 And the first time he came out, he kind of just peeked
6 out, and they were like, "We don't want to hurt you.
7 Please just come over here so we can talk with nothing
8 in your hands."

9 And he told them, "That's not true. That's
10 BS, like, you guys are going to hurt me," and stuff like
11 that, and then he went back in his house.

12 And the second time when he came out, he had
13 a rifle in his hand, like pointing up at the sky, and
14 then that's when they shot him after that.

15 Q And was he -- can you tell, was he standing
16 still or was he walking?

17 A He was walking slowly towards the sidewalk.

18 Q Okay. Did it surprise you that the police
19 shot him?

20 A Um, it wasn't really that surprising because
21 they were talking to him so much, like to come out with
22 nothing in his hands. So I assumed that if he came out
23 with a gun, they would shoot him, but I didn't expect
24 it, like, to be like a fatal shot.

25 Q So they were telling him -- did you watch

1 this for, like, 30 minutes of them saying "Come out"?

2 A Yeah.

3 Q "Don't bring anything out"?

4 A Yeah.

5 Q Then he comes out with a rifle.

6 Could you see the barrel of the rifle?

7 A Yeah.

8 MR. REES: Okay.

9 Any questions from the Grand Jury?

10 Okay. Well, thanks again, Elizabeth, for
11 coming in. I'm sorry that you saw this happen. It is a
12 scary thing. Good luck with your final.

13 THE WITNESS: Thank you.

14 (Proceedings recessed for the day.)

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1 State of Oregon)
)
2 County of Multnomah)

3

4 I, KAREN M. EICHHORN, C.S.R., C.R.R., a
5 Certified Shorthand Reporter for the State of Oregon,
6 do hereby certify that I reported in stenotype the
7 proceedings had upon the hearing of this case,
8 previously captioned herein; that I thereafter had
9 reduced my stenotype notes by computer-aided
10 transcription; and that the foregoing transcript
11 constitutes a full, true, and accurate record of the
12 proceedings had upon the hearing of said cause to the
13 best of my knowledge and ability.

14 A transcript without an original signature, a
15 conformed signature, or digitally signed is not
16 certified.

17 Witness my hand and CSR seal, this 9th day of
18 January 2017, Portland, Oregon.

19

20

21 /s/

22

23 _____
24 Karen M. Eichhorn, C.S.R., C.R.R.
25 Certified Shorthand Reporter
Certificate No. 05-0395
My Certificate expires: 6-30-18

MULTNOMAH COUNTY GRAND JURY

DEATH INVESTIGATION

Deceased:)
STEVEN WAYNE LIFFEL) DA No. 2353790-1
Date of Incident:)
December 5, 2016) Vol. 2
Location: 12 SE 148th Ave.) Pages 219-359
Portland, Oregon)

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled transcript of GRAND JURY proceedings was heard, commencing at the hour of 10:30 a.m., on Wednesday, January 18, 2017, at the Multnomah County Courthouse, Portland, Oregon.

APPEARANCES

Mr. Donald Rees
Deputy District Attorney
On Behalf of the State of Oregon

DEBORAH L. COOK, RPR, CSR
Certified Shorthand Reporter
Portland, Oregon

* * *

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PROCEEDINGS

Wednesday, January 18, 2017, at 10:30 a.m. are

PAMELA HADLEY,

produced as a witness, having been first duly sworn,
was examined and testified as follows:

EXAMINATION

BY MR. REES:

Q And when you are ready, for the record, if
you could please tell us your first and last name, and
spell your first and last name.

A Pamela, P-A-M-E-L-A, Jean, J-E-A-N, Hadley,
H-A-D-L-E-Y.

Q All right. And Ms. Hadley, where are you
employed?

A Wells Fargo. The tower in the Enterprise
Procurement Department.

Q And how did you meet Steven Liffel?

A I met him on Plenty of Fish dating website.

Q And do you recall about when you met him?

A It was about a week prior to -- week and a
half prior to the incident. I don't know the exact
date, but I do know it was -- I had been talking to him
for a week prior to meeting him.

Q And did you go to his apartment in the area
of 148 and Burnside prior to this incident?

1 A He had picked me up on that Saturday, and
2 we went and had a couple drinks and went to the
3 apartment that night, yes.

4 Q And was it your intention that night to
5 stay at the apartment?

6 A No, it was not.

7 Q Oh.

8 A No, we just started drinking and I fell
9 asleep on the couch. It snowed, and I just ended up
10 staying. He had asked me -- he said he had some errands
11 to run that Sunday, and asked me if I would stay and
12 watch his dog while he ran errands. So that's what I
13 did.

14 We got along great. My mom was at the
15 beach for the weekend, so I didn't really want to be
16 home by myself. So I just ended up staying and that's
17 what happened -- that's what it was.

18 Q And then prior to the police being called
19 out to your neighborhood, you noticed something unusual
20 with Steve Liffel's behavior; is that right?

21 A Yes, sir.

22 Q Can you tell the Grand Jury what happened?

23 A That Monday he had been running errands,
24 leaving and coming back several times that day. And I
25 noticed -- I noticed at first, it was probably 1:00 or

1 2:00 in the afternoon. I had noticed his voice had
2 changed. He was kind of starting to talk with a
3 different kind of a voice, more of a baby-ish kind of
4 talk.

5 And we were just kind of joking back and
6 forth, and a couple hours later it got more prevalent
7 that he was talking more, you know, in this weird kind
8 of voice. And I asked him, Why are you talking so
9 funny? And he didn't make any comment.

10 And then towards the end of the evening, he
11 had been gone for probably two hours, and came back.
12 And it was probably, I don't know, 8:00, 8:30, and he
13 was really agitated when he got back. His face was
14 really red, not really talking to me or at me, just
15 talking, I assume to himself.

16 And I had taken the dog out and came back
17 in, and I went to get my phone. I was going to call my
18 mom to see if she could come and pick me up. I was
19 going to go home that night. And he -- when I came back
20 in he was in the shower, and he had fallen. And I heard
21 a -- that he had fallen in the shower. So I ran in
22 there, and he was kind of giggling, and I asked him if
23 he was okay. And he said he was fine.

24 And asked me to stay that night. And I
25 said, Okay. Well, I have to get up and go to work

1 tomorrow. He had come in at one point with a stack --
2 handful of clothes. I don't know where they came from.
3 He hung them in the closet and he's like, Hey, I just
4 picked up these clothes for you. If you want them, you
5 can have them. And he hung them in the closet. It was
6 weird.

7 And then I put on some sweats and I was
8 sitting in the front room, and then all of a sudden I
9 noticed another personality come out of him that was
10 more of an angry type personality. So now I am dealing
11 with him, and I guess Steven in this other -- all three
12 talking to each other.

13 And I remember thinking to myself, okay,
14 what the heck is going on, you know? I didn't -- I just
15 thought, you know, maybe he needs to go to sleep. Maybe
16 he needs to eat something. Maybe he needs to -- and he
17 kept saying he wanted milk. He wanted milk. He wanted
18 milk. And he kept running out, going outside and he
19 kept thinking somebody was -- now we're about 9-ish, and
20 he kept going outside because he thought somebody was
21 messing with his truck.

22 And he had this big stick with him. And he
23 kept calling me out there and saying, Is there anybody
24 in my truck doing anything? And I kept saying, No,
25 nothing is wrong. Everything is fine. Maybe you need

1 to go lay down.

2 So then he started walking around the house
3 with the stick, and I don't know why I didn't -- I
4 just -- he was angry, but not talking to me. He was
5 talking at me, calling me his wife, like, This is my
6 wife. But he was talking to somebody else, and he was
7 just all over the place.

8 And then he finally told me to leave. So I
9 grabbed my purse and I said, Okay. And I walked to the
10 door, and I set my purse down and he grabbed the stick
11 and he was like, you know -- he didn't hit me with it,
12 but he was like aiming it at me.

13 And I was like -- I fell to the ground and
14 I started crying, and I said, Okay. Do you want me to
15 leave? He picked up my bag, and he said, You are not
16 taking your phone or your bag. And he took it back in
17 the bedroom. And then he came back out, and he asked me
18 why I was crying. And I said, Because you are scaring
19 me.

20 And I don't remember at that point if I
21 opened the door and ran out, or if he opened the door
22 and let me out. It happened so fast. And I just
23 remember running out of the door, running around the
24 side of the house where the garbage cans were, ducking
25 behind the garbage cans.

1 Two or three minutes he came out yelling at
2 the top of his lungs for me out the front door. Told me
3 I could come back, he was sorry. Went back in the
4 house, came right back out, and that's when I heard the
5 gunshots. I didn't see him shooting, but I heard the
6 gun. He was shooting -- I assume it was him. I didn't
7 see him -- at the truck -- shooting, shooting, just
8 boom, boom, boom. At that point I realized I was in
9 trouble.

10 Q And looking at the interview that you did
11 with the detectives --

12 A Yes.

13 Q -- you told Detective Eric Kammerer, that
14 you were in bed when Steven Liffel walked in the room?

15 A Yes.

16 Q And had this big stick?

17 A Yes.

18 Q And told you to get out?

19 A Yes.

20 Q So did that happen?

21 A Yes, that is true. He had -- I had walked
22 back in the bedroom. He's like, Just go lay down. I am
23 fine. And I had walked back in there, sat on his bed,
24 and that's when he came in with the stick and he was
25 like, Get out. And I got up, and at that point I

1 grabbed my purse, and I walked to the front door. And
2 he followed me with the stick, and that's when he took
3 my purse back into the bedroom. So, yes, that had
4 happened. That is correct.

5 Q And you told Detective Kammerer that you
6 started sobbing, because you were scared; is that right?

7 A That is correct.

8 Q What was scary about it?

9 A Because I thought he was -- I thought he
10 was going to chase me with the gun, because I think --
11 what I thought happened when I was ducking behind the
12 garbage can was I thought that he thought that I was in
13 the truck, and that's why he was shooting. I thought he
14 thought I jumped in there, and that's why he came out
15 with the gun.

16 And so he -- boom, boom, boom, boom, boom.
17 And all he kept yelling out front was "c'mon mother
18 effers" at the top of his lungs. And then he went back
19 in the house, yelling the same thing.

20 And that's when I got up from behind the
21 garbage can and I ran around the side, down the driveway
22 of the apartment complex. And I was ducking in between
23 cars, trying to hide, because I didn't know if he had
24 seen me run off. And that's when I saw the neighbor.

25 I ran all the way down in between cars

1 trying to hide. And she had come out, then, the
2 neighbor, Sue had come out. And I told her, I remember
3 yelling at her. Get out of the way, he's coming after
4 me with the gun. He's going to kill me. He's going to
5 kill me.

6 Q Because you thought he was shooting the
7 truck, thinking you were inside of the truck --

8 A Yes. Yes.

9 Q -- then you thought he was coming after
10 you?

11 A Yes. I did, absolutely.

12 Q Was he screaming your name?

13 A Yes. He was both, two voices, Steven that
14 I met, that I knew, was yelling Pam, Pam. And the other
15 one, the other voice I heard was, "C'mon mother effers,
16 get out. C'mon mother effers. C'mon let's go."

17 And so he was back and forth. And then
18 when he went back in the house after shooting the truck,
19 he went -- I thought he went out back, but he could have
20 still been in the house. Because I was in between the
21 front of his house and the back of his house, and I was
22 here and the truck was here (indicating). And he was
23 yelling, Pam, Pam, Pam, Where are you Pam? And at that
24 point I ran again.

25 Q And was that -- would you say that was a

1 terrifying experience?

2 A Oh, my gosh, I wet myself when I was
3 hiding. I mean, I was so scared behind the garbage can.
4 Once the gunshots, that's -- that's when I realized, I
5 am going to die. He's going to come out here and kill
6 me, because I was hiding, but not that well. It was so
7 fast, that I ducked behind -- I jumped behind the
8 garbage cans so fast, and it seemed like seconds he came
9 right out after me. Not me, but it wasn't long after
10 that. Within -- seemed like seconds that he came out,
11 calling for me, went back in, came back out with the
12 gun.

13 Q And other witnesses describe you as
14 shaking, cold, wet, dirty --

15 A Oh, it was raining. I was. I ran down
16 there, and she was on the phone -- Sue was on the phone
17 calling the police. I heard her calling the police,
18 because she didn't know what the heck I was doing. I
19 just looked like a crazy person running down the
20 driveway, because I was definitely in between cars. And
21 she didn't realize what was going on at the top of the
22 hill.

23 And once she called the police and started
24 walking up, I bolted. And I went further down, back
25 behind her apartment. And there was an embankment

1 there, and I -- there was like a piece of wood, and I
2 tucked myself underneath that wood. Because I could
3 still hear him yelling up there.

4 And I stayed up there until I realized the
5 police were there. And I came out from behind there,
6 and went running up to the top of the hill. And her
7 husband came out of the apartment, like had a makeshift
8 gun, told me to stop, put my hands up. And I am
9 screaming at the top of my lungs, Help me. Help me.
10 Help me.

11 And he walked up, and he patted me down.
12 And I said, Get me out of here, because I didn't know if
13 he was in the apartment or running loose at this point.
14 I had no idea what was going on.

15 Q So you were still scared?

16 A Oh, I was petrified. And he held onto me,
17 and I was holding onto him for dear life. And he walked
18 me up to the top of the driveway. And I could still
19 hear Steven's voice, but I didn't know where he was.

20 And I literally ducked, and I held onto his
21 leg and fell to the ground and said, Get me out of here.
22 He is going to shoot me. He is after me.

23 And he -- he's like, It's okay. It's okay.
24 And I was shaking. And finally Jeff said -- got
25 frustrated and said, Can somebody please help this poor

1 girl here? I mean, I was terrified. And I literally
2 came out of nowhere, because I was running and hiding
3 anywhere I possibly could, because I didn't know what
4 was going on at the top of the hill until I realized
5 there was 752,852 cops and loaded guns up there. I was
6 like, Okay, I am good.

7 But at the time, I was running. I mean, I
8 didn't know what to do. I was soaking wet, and I had
9 sweats and my boots and a sweatshirt on. And I had
10 urinated on myself because I was scared, and I couldn't
11 get anybody to help me. And finally, they -- you know
12 they took me over to the side, and I kept ducking,
13 like -- even in the car when they put me in the police
14 car, I was ducking behind, on the floorboard of the car
15 I was so scared.

16 Q One of the police officer witnesses said
17 you were grabbing onto him, as well?

18 A I was. I was terrified, and they were
19 trying to get his identity. And this is when I
20 realized, How stupid can you be, Pam? They asked me
21 what his last name was. I didn't even know his last
22 name. I knew it started with an L, something.

23 And then they pulled him up -- finally
24 pulled him up in the police car, and they were like, Is
25 this him? Is this him? And I looked at him, like, Yes,

1 but he doesn't look like that. He's -- his hair is
2 shaved and this -- because they were just trying to get
3 his identity.

4 Q When you say pull him up, you mean on the
5 video display terminal in the police car --

6 A Yes.

7 Q So you saw a photograph of him --

8 A Yes. It was like Trying to Find Waldo. I
9 was no help. I didn't know his name, his last name.
10 And then they kept coming back to the car a couple of
11 times and they asked me, Is he the only one in there?

12 And I said, Yes. When I left, he was the
13 only one in there, and the dog. That's it. Because he
14 was evidently yelling at I don't know what.

15 Q Did you ever, during your brief stay in
16 Steven Liffel's apartment, did you see any firearms?

17 A I did not -- I stand corrected. There was
18 a knife. He had a knife, a big knife. I don't know
19 if that's --

20 Q But you didn't see any guns?

21 A I did not see any guns, no.

22 Q Earlier that day, did you see Steven Liffel
23 smoke any marijuana?

24 A Yes, I did. He smoked several times, of
25 marijuana, throughout the day, because he kept saying --

1 he had told me he was a concrete worker out of work
2 because of his back. So I did see him smoke a little
3 bit throughout the day of that. Yes.

4 Q Did you see him drink any alcohol?

5 A Yes. There was a bottle of whiskey that he
6 would just take a drink of, every now and again. Yes.

7 Q Did you see him use any methamphetamine?

8 A I did not see that. He went in the
9 bathroom several times and he was like gagging. Like
10 almost throwing up gagging. So I don't know. But I did
11 not see him do anything like that, no.

12 Q And you did say that he left periodically
13 throughout the afternoon --

14 A Yes. Yes.

15 Q -- on different errands, and you didn't go
16 with him on those, did you?

17 A One time I did. I went to -- we went to --
18 we just went down to the little store, and he got a
19 toothbrush and came back, and that was it.

20 Q Were there any other occasions that he left
21 that day or that afternoon without you?

22 A Yes. Several times. Probably four or five
23 times.

24 Q Four or five times?

25 A On Sunday and Monday, yes.

1 Q All right. So is there anything I didn't
2 ask you that you think is important for the Grand Jury
3 to know or understand about what happened that evening?

4 A I -- no, I mean, I -- I feel like I should
5 have called, or something was wrong. You know, like I
6 could see that he was obviously having issues that day,
7 and I didn't know -- he had told me that his mom had
8 mental problems, or was in a mental hospital or
9 something, and passed way.

10 So once I realized his behavior was
11 changing, I thought, gosh, I wonder if he's on some kind
12 of medication for mental illness, or something, but I
13 didn't see any of that.

14 So, no, I mean it literally -- he was
15 fairly normal until that all started, and it went
16 downhill fast. And I am just happy to be alive, and
17 there are a lot of victims, and I feel bad.

18 Police Department did an amazing job. I
19 mean, they saved my life. I stayed in that truck all
20 night long, and was afraid. They looked after me,
21 and -- so, just happy to be alive. I mean --

22 MR. REES: Let me check to see if there's
23 any questions from the grand jurors.

24 Seeing no questions, thanks, Ms. Hadley for
25 coming in. Thank you. Appreciate it.

1 A JUROR: Thank you very much.

2
3 DERRICK FOXWORTH,

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

6 EXAMINATION

7 BY MR. REES:

8 Q Sir, when you are ready, if you would
9 please state your first and last name, and spell your
10 first and last name.

11 A My first name is Derrick. It's spelled
12 D-E-R-R-I-C-K. And last name is Foxworth, that's
13 spelled F-O-X-W-O-R-T-H.

14 Q What is your occupation?

15 A I am employed as a police officer for the
16 City of Portland.

17 Q How long have you been a police officer?

18 A Little over 13 years now.

19 Q What is your educational background?

20 A I did my undergraduate work at the
21 University of Portland, majored in business, minored in
22 political science. And did my graduate work at Portland
23 State University, and have a master's degree in public
24 administration, specialization in human resource
25 management.

1 Q And what is your current assignment with
2 the Portland Police Bureau?

3 A I am currently assigned to the Training
4 Division full time. The program I am assigned to is
5 called patrol tactics. There's currently two leads to
6 that program. This program teaches about 16 different
7 topics, ranging from how to do a traffic stop to
8 responding to a critical incident, tactical medicine,
9 and up to and including active shooter response, as
10 well.

11 Q How long have you been doing that type of
12 work?

13 A It will be five years this coming May, so a
14 little over four-and-a-half years.

15 Q So and the training you do with officers in
16 patrol tactics, is that in addition to the training they
17 receive when they go through the academy in Salem and
18 get their basic police training?

19 A Yes. So the way training is designed is
20 when an officer is first hired, they attend the basic
21 Police Academy, which is currently in Salem, Oregon.
22 That program runs about 16 weeks, and comes with a
23 variety of topics related to police work, such as
24 communication, defensive tactics, firearms training,
25 basic investigation training, as well.

1 After that time a new officer will come to
2 the Portland Police Bureau, and they will attend a --
3 our program is currently about 14 weeks, and we call
4 that our Advanced Academy Program.

5 What we do, during those 14 weeks is we
6 build on some of the skills they have received at the
7 basic Police Academy covering, again, some of the same
8 topics, but also spending more time on policy.

9 They receive our crisis intervention
10 training. They receive additional firearms training,
11 additional defensive tactics training. Part of that
12 training also includes pursuit vehicle operations.

13 So an officer, by the time they have gone
14 through the basic academy that every officer in the
15 state of Oregon gets, plus ours is about six months
16 worth of training.

17 Currently the way we have our training
18 designed is we have that Advanced Academy, and then
19 separate from that is the ongoing training that we
20 provide our officers with, which we call our inservice
21 training. Every officer, all of our veteran officers go
22 through that, and that's on a yearly basis, and those
23 training hours vary from 20 hours a year up to 40 hours
24 a year.

25 A JUROR: What determines how many hours of

1 training they get?

2 THE WITNESS: So the State standard right
3 now, if I remember correctly, off the top of my head, is
4 every three years officers have to have a total of
5 84 hours. A lot of that determines, as far as how many
6 hours we provide, is staffing levels, whether we're able
7 to give 20 hours or 40 hours, depending on how many
8 officers we can pull from the street.

9 Our inservice training, generally we take
10 48 officers off the street, so that's your detective
11 assignments, that's patrol. So it's a pretty
12 significant amount of folks to take off the street and
13 still maintain the ability to respond to and investigate
14 crimes.

15 Q BY MR. REES: I want to ask you some
16 questions about training for officers as it relates to
17 the use of deadly force.

18 Generally, when are officers trained that
19 the use of deadly force is appropriate?

20 A Certainly. One of the things the program I
21 run covers is our scenario-based training, and that's
22 primarily where we do our deadly force training. So
23 what a scenario-based training looks like is we put
24 officers in a situation that they may face on the
25 street.

1 Our policy dictates our training, and our
2 policy states that an officer may use deadly force or
3 lethal force when they reasonably believe that their
4 life, or the life of another person, is in immediate
5 danger. So that's the standard of our policy. And
6 that's the standard that we train to in the patrol
7 tactics program, as well as the other programs.

8 Q And that's standard, and I believe you said
9 that their life or the life of another is in danger?

10 A Correct.

11 Q So that is based on Supreme Court rulings
12 and then the adopted policy of the Portland Police
13 Bureau?

14 A Correct. It's based on Constitutional
15 standard, which was identified in Graham versus Connor;
16 State statute, subsequent case law, and then also our
17 policies are actually a little more restrictive than
18 State law, as far as the use of deadly physical force.

19 Q And do you teach the concept of totality of
20 the circumstances when you talk about making a judgment
21 of whether, reasonably, an officer's life or the life of
22 others would be in danger?

23 A Certainly. When we talking about totality
24 of the circumstances, you may have heard that term, it's
25 kind of all encompassing. And the way that we boil it

1 down, so an officer can sort through that is any piece
2 of information that is going to help them formulate a
3 reasonable response to whatever they are dealing with.

4 So if it's a piece of information about
5 suspect is potentially armed with a handgun, or a rifle,
6 or mental illness is a factor, we want officers, when
7 they have time, to take in all of those circumstances,
8 all of those facts, and then that's going to help them
9 decide what an appropriate course of action is.

10 Q And police officers in the line of duty
11 have a duty to act, a duty to respond, and not to run
12 from danger, so they might encounter any number of
13 dangerous situations.

14 Do you have some general concepts that you
15 can share with us about how officers can judge the
16 threat level in different situations?

17 A Certainly. Fortunately, here at the
18 Portland Police Bureau we have a variety of different
19 tools and resources. So things that are going to factor
20 in to an officer's decision-making as far as what the
21 threat level is, is the suspect armed, what are they
22 armed with? We talk about distance quite a bit as being
23 something that an officer can use to our advantage.

24 Generally, in a lot of cases where we have
25 distance, it gives us additional time and additional

1 options either to develop rapport, or start some kind of
2 communication. And also it keeps potentially that
3 person at bay. So those are some of the things we talk
4 about.

5 In our critical incident management class,
6 which the case you have before you would be a critical
7 incident. Things we would want officers to consider is
8 do you have this location locked down, have we set up a
9 perimeter, and do we have what is called containment?
10 Do we have the ability to respond to a potential threat?

11 Other things that officers should be
12 thinking about in a case like you have before you is
13 what less lethal options do we have available to us all?
14 Officers carry a taser. We would want officers to be
15 thinking about a less lethal shotgun as a tool. We
16 would be thinking about having a canine officer, and we
17 would also be thinking about an officer who is armed
18 with an AR-15 rifle, as well. So that we have all these
19 tools and all these resources so we can develop a course
20 of action.

21 Other things officers would be -- would
22 probably be considering is the deployment of a shield to
23 bring to the scene as well. So all of these different
24 factors come into play.

25 One of the things that works against us at

1 times is how quickly this decision is going to be made,
2 or how quickly those resources can be brought to that
3 scene. Unfortunately, there's a lot of times there's a
4 built-in time delay as far as getting some of those
5 things on scene.

6 A JUROR: I was going to ask, you said that
7 the Portland Police policy is -- I think what you were
8 implying was more restrictive than the State law. Can
9 you tell us how it is?

10 THE WITNESS: Yes. So with regard to State
11 law as far as use of lethal force, it's for most person
12 felonies, where as our policy is a little bit more
13 restrictive where we're expecting officers -- so if you
14 take a serious assault with a weapon, we would want
15 officers potentially to be thinking about, hey, do we
16 have other options.

17 So our policy is a little more restrictive
18 in that regard where it's not just a person felony,
19 we're going to need a little bit more in order to meet
20 that threshold as our policy states, an immediacy where
21 it's happening right now of that potential threat,
22 either to the officer or others on the scene.

23 Q BY MR. REES: So what the practical effect
24 is that a police officer in the City of Portland could
25 be acting outside of policy, but still acting lawfully

1 per the United States Supreme Court?

2 A Correct.

3 A JUROR: Are these less lethal options
4 within this person, or does he get feedback from other
5 individuals during the process of his evaluation?

6 THE WITNESS: So if I understand your
7 question correctly --

8 Q BY MR. REES: Yeah, go ahead.

9 A Are you saying, would an individual officer
10 have all of those less lethal options with them? Is
11 that it?

12 A JUROR: Yes.

13 THE WITNESS: Yes. Some of them. So what
14 officers carry, typically, on duty is each officer is
15 assigned a taser, and that has an effective distance,
16 depending on what kind of clothing, of about 25 feet.

17 We have batons, we also have pepper spray.
18 There's a less lethal shotgun that officers can take an
19 additional course. So not every officer is assigned a
20 less lethal shotgun. There's an additional 20 hours of
21 training, but that would be something that, on an
22 incident like this, that folks would be thinking about
23 or should be thinking about, asking for that resource.

24 A JUROR: Is that the bean bag?

25 THE WITNESS: Yeah, bean bag.

1 A JUROR: I guess what I was getting at is
2 when you are making the evaluation of a less lethal
3 option, are you working that through your own mind, or
4 are you communicating with your commander or fellow
5 officers in determining whether less lethal option is
6 viable, necessary, or needed?

7 THE WITNESS: Yes. Again, on a critical
8 incident situation like this one the components that we
9 would expect officers to have is what we call a custody
10 team. So a custody team is going to be generally one to
11 two officers that have the ability to go hands-on,
12 actually take a person into custody and place them in
13 handcuffs.

14 One of the other components of that is
15 lethal cover, if there's a lethal threat; firearm,
16 rifle, knife. We would also want someone thinking about
17 the less lethal option of potentially a taser or bean
18 bag. The main difference between the less
19 lethal shotgun, bean bag shotgun, and a taser is the
20 effective range.

21 So the less lethal shotgun is effective out
22 to about 60 feet, so it gives us a little bit farther
23 standoff distance. So that custody team should be made
24 up of all of those different components. So there would
25 be communication about, Hey, if this person comes out

1 here are our potential force options, or if they come
2 out and go back inside, those would be conversations at
3 the supervisory level of, what are we comfortable with
4 as far as the suspect's actual actions.

5 Q BY MR. REES: So those are all the
6 different tools available in a situation where an
7 individual is armed with a rifle, has fired shots, is
8 not following the commands of officers, generally
9 speaking. Not to give your opinion about this case, but
10 generally speaking, in that situation are less lethal
11 options viable? Why or why not?

12 A Short answer is no. The reason being is
13 someone who is armed with a handgun or rifle, again,
14 standard protocol that we would train officers is if you
15 are able to give a warning, we want that to happen
16 first. Once the person has fired off rounds to show
17 they have the ability and intent to use that firearm, we
18 are now at a deadly force encounter, unfortunately. So
19 a less lethal option at that point is not the correct
20 option.

21 And again, when you think about what our
22 policy says and the expectation, this is a solemn
23 responsibility that officers take on, is the -- we will
24 respond to this and not allow someone to put other lives
25 in jeopardy.

1 Again, we have shots fired, in a city-urban
2 environment. Those rounds are going to go somewhere.
3 So if you have adjacent apartments that have not been
4 evacuated, that's going to factor into an individual's
5 decision-making. If you have houses across the street
6 that haven't been evacuated, those are things that are
7 going to factor.

8 So a less lethal tool, such as pepper
9 spray, baton, a taser or even a less lethal shotgun is
10 not going to be the appropriate or the correct response
11 for someone who is armed with a handgun and has fired
12 that weapon, or a rifle.

13 Q And why not? Can a person still fire a
14 weapon even when they are fazed with those less lethal
15 tools?

16 A Yes. And that is the, I guess, the reason
17 why they would not be effective is because on a deadly
18 force encounter, an officer's intent is not to kill.
19 Our intent is to incapacitate. And those tools are not
20 effective at guaranteeing that we would have
21 incapacitation on someone who has currently, or just
22 recently fired a weapon.

23 So the response that we are left with is,
24 unfortunately, a deadly force response or potentially
25 using deadly force to mitigate that threat.

1 Q How close do you have to be to someone for
2 a taser to be potentially effective?

3 A Within approximately 25 feet. Other things
4 that factor into that are clothing, so thick jackets,
5 sweatshirts can prevent the taser probes from actually
6 making contact with the skin, and it can be ineffective.

7 Q Do you know what the fail rate has been in
8 the field with the taser?

9 A I don't have the exact stats off the top of
10 my head. The two times I used it, it worked once and
11 the other time it did not work.

12 Q Bean bag rounds, so-called, out of a
13 shotgun, are those always effective?

14 A No. The bean bag round is similar to a --
15 it's a blunt force object, so it's like being punched.
16 So depending on that person's ability to withstand the
17 pain, you may get a pain response, you may not. So it's
18 not 100 percent effective.

19 A JUROR: Or does it ever provoke them? It
20 seems like if you punch somebody, it seems like they get
21 even more irritated.

22 THE WITNESS: It's hard to say. What we're
23 looking for in that instance is a pain compliance
24 response. Sir, ma'am, please put down, stop whatever
25 you are doing. The refusal of that command. Pain

1 response. Okay, that hurt. Now I am looking for
2 compliance. I am going to surrender and you can take me
3 into custody.

4 Q BY MR. REES: There's been some mention
5 earlier about some of the protective tools that officers
6 have. And just let me go through them one by one.

7 And one is the ballistic vests that police
8 officers wear. Per their training and your
9 understanding, do those vests provide protection against
10 rifle rounds?

11 A No. So the body armor that patrol officers
12 are issued is level 3-A. It's primarily designed to
13 stop handgun rounds only.

14 There are -- I'm also a member of our SWAT
15 team. We do have, on the SWAT side, we do have armor
16 that can stop rifle rounds. But your patrol officer
17 that works the street on the day-to-day basis currently
18 does not have that level of protection. It's something
19 we're starting to look at and consider as threat levels
20 change.

21 I mentioned shields earlier. We do have
22 ballistic shields; however, those are the same rating as
23 the body armor. So level 3-A, so those shields that
24 officers have available to them on the street would not
25 stop a rifle round.

1 Q We heard about some Portland Police
2 vehicles have a ballistic shield in the door?

3 A That's just something recent that we have
4 started implementing. I think we have 47 on the street,
5 and I believe the ones we currently have are designed to
6 stop certain rifle rounds, but they are not -- and I
7 have to go back and pull the exact stats on that.

8 And it's two ballistic panels on the front
9 door of our IFUs. So those are something that we are
10 starting to deploy on the street. I do know for certain
11 they will stop handgun rounds. I would have to check on
12 whether or not they are rifle rated.

13 Q And the difference is because a rifle round
14 has much greater force than a handgun round, and travels
15 greater distance with a greater amount of -- I am using
16 the term force, but power; is that right?

17 A Yes. The main difference between your
18 handgun round and your rifle round is the velocity in
19 which it's moving. So our handgun round that the
20 Portland Police Officers carry, velocity is about
21 1200 feet per second. Rifle round is about 2200 feet
22 per second.

23 And then depending on -- those are the ones
24 we carry. And then depending on the type of rifle, you
25 can get higher velocities up in the 3,000 feet per

1 second. So that's also a concern that an officer would
2 have, if someone is armed with a rifle, is the ballistic
3 protection that I am wearing, if I get hit in the chest
4 it's going to go right through my vest. So that would
5 be a factor as well.

6 Q So a rifle poses a greater threat than a
7 handgun?

8 A Yeah. Not only the lethality of it, the
9 speed at which it's moving, but also the distance and
10 accuracy. With a rifle or long gun type weapon, you are
11 going to have increased accuracy because of a couple of
12 things, the speed it's moving. And then handguns rounds
13 moving much, much, slower, and then the barrel length
14 also factors in, as well.

15 Q Something to follow up on, something you
16 said earlier about commands. Do you teach that in every
17 circumstance an officer would appropriately give a
18 command before using deadly force or not?

19 A No. And again, that comes straight out of
20 our policy. Our policy talked about if tactically
21 feasible, if it's feasible we would like officers to
22 issue a warning prior to using force. However, we
23 recognize that there are some cases where the deadly
24 force threat presents itself so quickly, that you don't
25 have time to give that warning, unfortunately, because

1 you are already either being assaulted or rounds have
2 already been fired. And if you were to give that
3 warning, it not only puts you at potential greater
4 jeopardy, but everyone else in the area.

5 A JUROR: When you say warning, you don't
6 just mean what we heard about loud hailing, Please come
7 out with your hands up, kind of the general, we want to
8 talk to you stuff. You mean they are trained to say,
9 Stop, I am going to shoot?

10 THE WITNESS: Not specifically that.

11 A JUROR: What are they trained to say if
12 they have enough time?

13 THE WITNESS: The first part on the, Please
14 come out with your handss up, that's just trying to get
15 them to surrender peacefully.

16 So as far as the use of force, what we
17 would expect is, Drop the knife or you may be shot or
18 tasered. Put down the hammer, drop the gun, things like
19 that. And that would be the expectation, Stop what you
20 are doing, or you may be --

21 A JUROR: So are they trained to say, Put
22 down the gun or I am going to shoot you or are they
23 just --

24 THE WITNESS: All we're looking for is
25 either, Stop what you are doing, or Put that object

1 down. We want it to be clear, we want it to be quick,
2 and we want it to be direct. The more talking we put in
3 there, there's the potential for that --

4 A JUROR: So you are telling them what they
5 are supposed to do, you are not telling them what you
6 are going to do?

7 THE WITNESS: It depends. So let's say --
8 I will give an example. If you were armed with, like if
9 there's a gun in your waistband, I would say, Sir, do
10 not reach for that gun in your waistband. It would be
11 that short and that clear.

12 If I had some time and some distance, Drop
13 that knife or you may be shot or you may be tasered. A
14 lot of it comes down to how much distance do I have away
15 from that threat, and how much time I have on scene.

16 It is -- what we try and teach and what we
17 try to avoid is because some of these situations are so
18 dynamic to script it out for each and every instance, it
19 would be extremely challenging. So we want them to
20 identify the weapon or the threat that is there. And
21 then what action you want to happen next.

22 A JUROR: When imparting deadly force, do
23 they -- I know sometimes accuracy and it might be
24 difficult to aim exactly at specific less lethal
25 portions of the body. Are they trained or focused in on

1 that particular aspect?

2 THE WITNESS: So as far as -- you are
3 referring to firearms training?

4 A JUROR: Some of that.

5 Q BY MR. REES: I think -- tell me if I am
6 wrong -- but I think you are asking what was really my
7 next question, which is, are officers trained to shoot
8 at a particular part of the body? Or put another way,
9 where are they taught to shoot?

10 A JUROR: Yeah.

11 THE WITNESS: Again, with regard to our
12 firearms training, both handgun and rifle, we train our
13 officers to shoot at three primary target areas on the
14 body. The first one we generally refer to as center of
15 mass, which is the chest area. The second one is the
16 pelvic girdle, kind of below the waist. And the last
17 one is the head.

18 The reason we train officers to target
19 those specific areas is for a couple of reasons. In a
20 deadly force encounter when potentially the individual
21 that we're about to use deadly force on is moving, or
22 the officer is moving, we want to increase the
23 likelihood that we're going to hit what we're aiming at.
24 We also teach officers that you are accountable for each
25 and every round that you fire.

1 So this target area, pelvic girdle, a
2 couple of things it does is it increases the likelihood
3 that we're actually going to hit what officers are
4 aiming at. And then it also yields for better
5 incapacitation, which is our ultimate goal.

6 Oftentimes we get questions of why don't we
7 target other areas. Again, one of the main reasons for
8 that is not going to get the same level of
9 incapacitation, and then the ability to actually,
10 accurately target those areas is extremely difficult.

11 Again, thinking -- firing a round in a
12 city-urban environment, if you miss, that round is going
13 to hit something. So those are the primary reasons why
14 we teach officers to aim at what we do.

15 Q BY MR. REES: Are you saying in terms of
16 incapacitation, are you saying even if an officer could
17 shoot someone in the hand, for example -- which I
18 believe you are telling us that would be extremely
19 difficult, if not impossible -- but that it might not
20 have any effect?

21 A Correct. In fact, we had an officer a
22 couple years back who was shot in the hand during a
23 deadly force encounter. It did not, fortunately,
24 incapacitate him, and he was able to return fire.

25 So just because you hit a different target

1 area, it's not a guarantee for incapacitation. So
2 again, our goal is to stop this threat as quickly as we
3 can.

4 Q So in the movies, of course, I think we
5 have all seen the hero shoot a gun out of the hand of
6 the bad guys. Is that a realistic depiction?

7 A No, not at all. And again, I think for
8 some of the reasons that we have talked about, is that
9 if you talk about hitting the average hand, mine is
10 probably four inches across, and if I move that, my hand
11 is going to move the quickest, and it does take time,
12 even when you fire a handgun or a rifle it takes time
13 for that bullet to travel. And if that target has
14 moved, that concern now is where is that round going and
15 what is it going to hit?

16 Q Let me ask you about a concept called
17 action/reaction, are you familiar with that concept?

18 A Yes.

19 Q Is that something you teach police
20 officers?

21 A Yeah. So the action/reaction concept or
22 principle, it was developed in the late '80s. And the
23 best way to explain it, day-to-day life, think of a
24 traffic signal. You are driving down the street. You
25 are approaching a green light. The light changes to

1 yellow.

2 So you have a stimulus. Now your brain has
3 to think about do I need to apply the brake, or do I
4 need to hit the gas a little more and get through this
5 because I am too close to stop safely. In that time it
6 takes your brain a little bit of time to recognize the
7 stimulus, orient, you make a decision, and then to carry
8 that out.

9 When you carry that over to a law
10 enforcement situation, for example, a deadly force
11 environment, if we're talking specifically about
12 firearms, what the principle teaches is pure action will
13 never beat reaction. Pure action will never beat
14 reaction.

15 There's been studies and tests done by
16 scientists where they have taken college students and
17 they have had an officer, gun pointed at that
18 individual, finger on the trigger, and tell the college
19 student, when you are ready, go ahead and shoot. And
20 every time the officer is always second to shoot.

21 The reason being is that the person making
22 that independent decision to fire the weapon is always
23 going to win. Again, the officer has to observe, either
24 see muzzle flash, hear the round go off, and then
25 decide, okay, am I justified to use deadly force in this

1 tactics to our advantage. We try to use distance, and
2 try to observe people's hands. So some of those
3 things, just to make officers aware of. And then, also,
4 it plays into that an officer does not have to wait, as
5 we train them, to actually be shot at in order to
6 respond to someone armed with a handgun or other type of
7 weapon.

8 A JUROR: I am sorry. Can you repeat that?
9 Basically, you said you train officers not to wait to
10 get shot --

11 THE WITNESS: Correct. Officers do not
12 have to wait because of this built-in gap to be shot in
13 order to respond to a deadly force threat of a firearm.

14 Q BY MR. REES: Because if officers were
15 trained to wait to be shot at --

16 A They might not --

17 Q -- what do you anticipate would happen in
18 the field?

19 A Well, if officers waited, the potential is
20 that they would be shot and killed and have no ability
21 to respond to that threat, and then nothing has changed.
22 That person is still armed, and a potential threat to
23 other folks that they are around. So it would
24 completely take away the officer's ability to
25 effectively respond at all.

1 Q You were not involved in this incident that
2 led to the shooting of Steven Liffel, correct?

3 A Correct. I was not.

4 Q If I could, just asking you generally about
5 this call of shots fired, person does fire some shots
6 from his apartment, nonresponsive to loud hailing
7 situation, and then unannounced emerges from this
8 residence armed with a rifle, what is the level of
9 threat, if you can comment on that? In the kind of the
10 mosaic situations that officers might be involved in,
11 what is the level of threat in this situation?

12 A This, unfortunately, is about as bad as it
13 gets. It is 100 percent lethal force incident. I
14 mentioned earlier I am also on our SWAT team, so this is
15 a scenario that we train for quite a bit.

16 Again, you have worked through this call at
17 this point. If we had -- if I was on this call and I
18 had an individual armed with a rifle that was
19 noncompliant up to this point, had fired off several
20 shots, and was exiting unannounced, noncompliant, armed
21 with a rifle, I, as a SWAT officer with additional
22 training would be at a lethal force decision, as well.

23 Q Is it safe to say that sometimes the use of
24 deadly force and the decision to use deadly force is
25 made on a split-second basis?

1 A Yes. Unfortunately, some of these things
2 happen very quickly. Sometimes officers have time, but
3 again, split-second decisions have to be made just based
4 on what an officer is presented with.

5 Q Do you train on that issue and the issue of
6 making that decision to use deadly force versus waiting,
7 and do you discuss in your training what can happen if
8 you wait or whether you should wait?

9 A Yeah, we do. That generally takes place in
10 our force on force training. A lot of times in that
11 type of training we will use paint rounds so there is
12 a -- there's a penalty. So an officer, if they are
13 presented with a deadly force threat and they
14 potentially wait too long, they are getting shot.

15 So there's a recognition there of these
16 very difficult situations that happen very quickly. We
17 run them from a variety of critical incident type
18 scenarios to your traffic stop where an officer would
19 potentially pull someone over, and they are immediately
20 met with gunfire and having to respond and make those
21 decisions under pressure very quickly.

22 And the reason we spend time training on
23 that is, unfortunately, that is a reality an officer may
24 have on the street, is they may have to make these very
25 split-second, quick decisions. So that's why it's

1 incumbent on the training site to make sure they have
2 the capability, not only through training but
3 understanding what our policy says when you can use that
4 deadly force.

5 So we would never want an officer's first
6 time that they were thinking about that deadly force
7 decision actually be on the street. That needs to
8 happen in a training environment.

9 Q What would be the risk of waiting in a
10 situation where a subject is armed with a rifle,
11 nonresponsive to commands, and on the move, walking?

12 A The risk is if you have an open air active
13 shooter event where you have potentially officers get
14 shot or citizens get shot.

15 Again, I can't remember the time of day off
16 the top of my head, but again, knowing the general area,
17 it's a densely populated area. So we've talked about
18 rounds are going to continue to go until they hit
19 something solid. So the risk is that you have citizens
20 get potentially shot and injured, or you have police
21 officers -- and/or police officers getting shot and
22 injured by not taking action.

23 MR. REES: Any other questions from the
24 Grand Jury?

25 A JUROR: Based on what we understand from

1 this incident, the officer who had the AR-15 was
2 actually -- could actually only see the side of the
3 victim, I guess, I will call him. And he shot him in
4 the pelvic area, essentially.

5 And I guess I wanted to ask, is that
6 consistent with his training? I mean, that seems like
7 that is the biggest part of the body when you are
8 looking at the side.

9 THE WITNESS: Correct. I mentioned center
10 mass earlier. And that is the biggest target area that
11 you may have available to you. So if I am facing, like
12 right now, you have potentially my entire body. But as
13 I change directions or as I move, that's going to change
14 as well. So you might not have an entire chest shot,
15 you might have just a hip shot, or an arm. So we want
16 officers to find that largest target area that is going
17 to lead to his incapacitation.

18 A JUROR: And somebody else is going to
19 testify about how far the rifle is --

20 MR. REES: I think this is more of a
21 question for me --

22 Are you asking me?

23 A JUROR: Yes. Somebody else is going to
24 testify about how far the rifles work, effective
25 distance, because there was another officer with a

1 different rifle.

2 MR. REES: I mean, I don't know if you can
3 answer that question or not. If you want to put it --

4 THE WITNESS: The AR-15 rifle that our
5 patrol officers have, our qualification, we shoot out to
6 100 yards. So its effective range is beyond that, but
7 for our officers, the qualification is from 100 yards
8 and in.

9 With the sight we have on it, I mean,
10 realistically it's accurate out to 300 yards with the
11 sighting system on it, if you had to take a full body
12 shot. And that's going to be -- that's additional
13 training, because the farther you get away, that takes
14 additional skill.

15 So right now our qualification is 100 yards
16 and in, which is roughly a city block. I think a city
17 block is 300 feet.

18 A JUROR: We were going to ask about
19 scopes, too. How good are the scopes on the AR-15?

20 THE WITNESS: The optic system that
21 officers have currently on our patrol rifles is called
22 an Eotech. It's a holographic sight. It does not have
23 any magnification. So when you think scope, you
24 generally think magnification. This doesn't have any
25 magnification on it.

1 And basically what it does is it takes a
2 red dot, and wherever you put that red dot, that's where
3 your bullet, generally within 100 yards, is going to
4 impact within plus or minus an inch.

5 A JUROR: What did you call it again?

6 THE WITNESS: It's called an EOTech.
7 EOTech is a company. There's a lot of different --

8 A JUROR: So when you say a red dot, you
9 mean if I was standing next to somebody and you sighted,
10 they would have a red dot on their chest --

11 THE WITNESS: But they would not see it.
12 So it's not like the movies. As you are looking through
13 the EOTech what you would see, you being the operator of
14 it, is there would be a little red dot. And wherever
15 you moved your EOTech, that red dot would move, but
16 there's no actual red dot on the individual that you are
17 pointing at.

18 A JUROR: Okay. Thanks.

19 A JUROR: That's me being curious.

20 Q BY MR. REES: Let me ask a question that
21 was generated by one of your questions. Which is, in a
22 situation where there's multiple officers at a critical
23 incident scene, and you have mentioned that some of them
24 have different roles. There may be a police officer who
25 is on an arrest team, a police officer with less lethal,

1 a deadly force officer with an AR rifle, so they have
2 different roles.

3 Would you anticipate that if the situation
4 arose where deadly force was warranted, that more than
5 one officer would shoot or not?

6 A So that depends. The role of the AR-15
7 operator, when they are called to a critical incident,
8 is because of the increased accuracy of the AR-15. If
9 deadly force presents itself, the expectation would be
10 that they would use deadly force.

11 So you could have just one AR-15 operator
12 using deadly force. One of the other things that
13 commonly occurs is our concern is always about the
14 backdrop. And so an officer might see the deadly force
15 threat, want to use deadly force, but they don't because
16 of, hey, if I miss, this round is going to go into a
17 window and we haven't cleared that apartment.

18 Q By backdrop, you mean what?

19 A What is beyond the target. For example, if
20 we were to -- let's say -- I don't know your name. I am
21 sorry, in the purple. Let's say you are my deadly force
22 threat. If I miss, and you look out through the window
23 and my round punches through this window and goes into
24 the next building, that's problematic.

25 And so as -- each officer kind of has a

1 piece where they may be able to use deadly force and
2 that may be a limited window.

3 A JUROR: If there's more than one
4 backdrop, which one is a higher probability of causing
5 more extreme damage than another, would one AR-15 or
6 multiple AR-15 operators at a site, would they
7 communicate, or is there some kind of mechanism, you
8 should have a lead, or whatever happens?

9 THE WITNESS: It depends on how much time.

10 A JUROR: I understand. I just want to get
11 a flavor for the training.

12 THE WITNESS: Generally what we would teach
13 is as we are surrounding this, we would want an AR-15 in
14 the front of the house, that would be kind of side one,
15 where we would want this person to come out.

16 Generally, want one on the back side of the
17 house in case we had something happen out there. Those
18 are the two primary spots.

19 And then the other part is that the more
20 that you can potentially, strategically position,
21 because the backdrop issues change, that's going to
22 increase -- I might want to, as I mentioned earlier, I
23 may want to use deadly force at this point because I
24 perceived that threat, but my backdrop is such that I
25 cannot. So we might want a second operator on scene as

1 well. If there's time to communicate, we might say,
2 Okay, just the custody team, you are going to be the
3 only one. That doesn't happen almost --

4 A JUROR: The custody team would be --

5 THE WITNESS: The custody team is going to
6 be like the folks out front that I mentioned earlier,
7 your hands-on folks. You would have an AR-15 operator
8 assigned to them. That's generally where we want
9 someone to come to, to collect them. But rarely is it
10 communicated that, Hey, only this person can shoot.

11 A JUROR: Just getting a flavor.

12 MR. REES: Anything else folks?

13 (No response.)

14 MR. REES: Officer Foxworth, thank you very
15 much.

16 LELAND SAMUELSON,
17 produced as a witness, having been first duly sworn,
18 was examined and testified as follows:

19 THE WITNESS: I do.

20 EXAMINATION

21 BY MR. REES:

22 Q Good morning, sir. Could you, for the
23 record, please state your full first and last name, and
24 spell your first and last name?

25 A Sure. It's Leland Philip Samuelson,

1 L-E-L-A-N-D, P-H-I-L-I-P, S-A-M-U-E-L-S-O-N.

2 Q What is your occupation?

3 A I am a forensic scientist with Oregon State
4 Police. I work in the Portland Metro Forensic
5 Laboratory, and then our laboratory, I primarily work as
6 a firearms and tool mark examiner.

7 Q How long have you been doing that type of
8 work?

9 A For -- it will be almost 19 years coming
10 up.

11 Q What is your educational background?

12 A I have a bachelor's of science degree in
13 chemistry with a minor in physics. That's kind of,
14 like, the, I guess the bottom line to be employed as a
15 forensic scientist. And then I have attended more
16 specialized training for the type of area of the crime
17 lab I worked in.

18 Q How did you learn to become a firearms
19 examiner?

20 A Yeah. It's primarily -- it's an -- all of
21 our different training programs are organized by the
22 Oregon State Police, the Forensics Services Division.
23 So to become a firearms examiner it's about a
24 year-and-a-half long training program where you are
25 assigned as an apprentice to a journeyman.

1 Some of the training is provided, like,
2 in-house. We follow a -- it's basically a training
3 manual, that like I said, it's about a year long
4 program. It's developed by the Association of Firearm
5 and Tool Mark Examiners. It's an international
6 association. It's like our professional organization
7 that we all belong to.

8 And then we also attend training by
9 different firearm manufacturers, ammunition
10 manufacturers, specialized courses by other agencies,
11 such as the FBI, or the Alcohol Tobacco and Firearms,
12 they will do specialized training in that field, too.

13 Q In this case, did Portland Police Detective
14 Eric Kammerer submit some exhibits for you to examine at
15 the lab?

16 A Yes, he did.

17 Q What did he submit?

18 A I am just going to go through my report
19 listing. Would it be easier to refer to them by their
20 case numbers?

21 Q If you want to, or simply describe the
22 item?

23 A Describe what they are? Okay. The first
24 item I got was a Colt semi-automatic rifle. It was my
25 understanding, it was an officer's duty weapon. So the

1 Colt rifle, it's a .223 Remington caliber rifle, so it's
2 a semi-automatic, center-fire rifle.

3 Q And was that a model AR-15?

4 A Yeah. AR-15 A-2.

5 Q So Colt is the manufacturer, and the model
6 is AR-15?

7 A That is correct.

8 Q And .223 is the caliber?

9 A Yes.

10 Q Is that right?

11 A Uh-huh. And then with that was three
12 magazines, and a total of 63 .223 Remington caliber
13 cartridges. I received a Remington .223-caliber -- I'm
14 sorry, a .223 Remington caliber fired cartridge case.

15 Q When you say a fired cartridge case, this
16 is the brass case that remains after the bullet is
17 fired; is that right?

18 A Right. So when we talk about ammunition,
19 we refer to the cartridges as like the individual units
20 that get loaded into the gun. So the bullet comes out
21 the barrel. The cartridge case is like the can that
22 originally held everything together, the bullet, the gun
23 powder, the cartridge case.

24 That, with a semi-automatic rifle, gets
25 ejected out of the rifle, and then the next cartridge

1 gets loaded in automatically.

2 Q And did you test-fire that AR-15 and
3 compare the fired cartridge case with that rifle?

4 A Yes, I did.

5 Q What were your results?

6 A I determined that fired cartridge case was
7 fired in the Colt AR-15 rifle.

8 Q And was that weapon normally functioning?

9 A Yes. I fired it multiple times using the
10 magazine and the ammo that was provided with it, and it
11 functioned just as designed by the manufacturer with no
12 issues.

13 Q How did you determine that the .223 caliber
14 fired cartridge case was fired from that rifle?

15 A Yeah. So what we will do is when we have
16 an unknown cartridge case, we take our -- we have a
17 range in our laboratory. So we go out to the range and
18 we shoot known cartridge case samples from that, and we
19 collect those. And then what we use is a -- it's called
20 a comparison microscope.

21 It's like, if you remember just like a high
22 school class, or something like that, where you are
23 looking through a microscope with two eye pieces. What
24 the comparison microscope let's us -- it has a dividing
25 line so we can put two separate objects on two different

1 stages, and look at them side by side microscopically.
2 And that comparison is done anywhere from ten up to 100
3 X magnification.

4 So what we're looking for is the guns
5 themselves, when they are manufactured, there's all
6 kinds of machine processes that go into making that.
7 The firing pin and the bolt face, all of these different
8 parts will leave microscopic marks on the cartridge
9 cases themselves.

10 And if you were to take ten AR-15 rifles
11 that were all consecutively made, each one of those are
12 going to have microscopic differences. So the
13 microscope lets us see those differences. So we will
14 look at our knowns together, and we can see how much
15 agreement we typically expect to find amongst known
16 cartridge cases from this rifle. And then we look at
17 the unknown, and we find that same matching, what are
18 called individual characteristics on the unknown as on
19 the known.

20 And then when I come up -- when I render an
21 opinion, I give the evidence to another firearms
22 examiner to look at under the microscope. And he will
23 do what is called a confirmation step, and he will
24 confirm those findings, or refute them.

25 Q And then what were the other exhibits that

1 Detective Kammerer submitted?

2 A I received a .22 long-rifle caliber, Marlin
3 rifle. It was also a semi-automatic rifle. It's a
4 model Glenfield 60. And then it was also submitted with
5 12 .22 long-rifle caliber cartridges.

6 So the .22 long-rifle, just as a
7 comparison, people want to know, is both of these rifles
8 are what would be considered a .22-caliber rifle. That
9 gives us an idea of the diameter of the barrel.

10 So it's approximately .22 inches in
11 diameter. The .22 long-rifle, though, is a very short
12 little cartridge case versus the center fire. So it's a
13 lot -- it's a slower moving bullet, with a lot less
14 pressure and a lot less power to it.

15 Q You received 12 cartridges -- and again a
16 layperson might call these bullets. It's live
17 ammunition, right?

18 A Right.

19 Q -- with the rifle. Did you inspect the
20 rifle to see the capacity of the tubular magazine?

21 A Yes, I did. I have it in my notes here. I
22 will look real quick here.

23 So the magazine of those rifles is a
24 tubular magazine. What that means is it's actually
25 fixed to the rifle. If you look at the barrel

1 underneath it is a tube, and you would load the
2 cartridges, or the rounds of ammo, down into that. This
3 particular rifle would hold 18 .22 long-rifle
4 cartridges.

5 Q And is this a semi-automatic rifle?

6 A Yes, it is.

7 Q So does that mean that every time the
8 trigger is pulled the rifle will fire?

9 A Yes, that's correct.

10 Q And so those cartridges in the magazine
11 automatically feed into the breach of the gun?

12 A Yes. So the first step you will have to --
13 there's a handle on the side of it, so you pull the
14 handle to the rear, it has a spring in it and it springs
15 forward. That's going to load the first cartridge out
16 of the tubular magazine.

17 So when I pull the trigger, the recoil from
18 that is going to extract that fired cartridge case, the
19 bullet goes out of the barrel, it's going to come to the
20 rear and eject that cartridge case. And then it's going
21 to pick the next one up from the magazine and
22 automatically come forward with that and be ready to be
23 loaded -- or actually, it actually is loaded at that
24 point.

25 And then just by releasing the trigger and

1 pulling it again, it will actually fire again. It's not
2 what you consider -- what we call a machine gun, which
3 is I just hold the trigger, and it keeps on going. You
4 have to physically pull the trigger each time.

5 Q And then additionally, did you also receive
6 from Detective Kammerer a number of fired cartridge
7 cases, meaning the empty brass cases that are ejected
8 when a semi-automatic weapon is fired?

9 A Yes. There was a total of 12 fired
10 cartridge cases that were brought to me.

11 Q And did you examine those and compare those
12 with the weapon?

13 A Yes, I did. Just based on the -- because
14 of the number of those, and the amount of time to
15 compare all of those, I looked at them all. And when --
16 one of the things we use when we're trying to identify
17 evidence is we look at the class characteristics. That
18 would be like, you know, if you were to consider -- like
19 with vehicles, they are -- they might be two-door versus
20 four-door. They could be sedans versus station wagons.

21 Different firearms are going to have
22 different class characteristics. Those are
23 manufactured, intended features that it's going to leave
24 on a particular firearm. So for example, the diameter
25 is a class characteristic. The firing pin shape is a

1 class characteristic. Sometimes there will be a round
2 firing pin that will strike the cartridge case and will
3 leave a round depression. Sometimes they are square, or
4 triangle shape.

5 So in this case I looked at all the class
6 characteristics of these cartridge cases and found they
7 are all similar to the rifle. I picked five of those
8 and -- excuse me, I selected six of those, and then I
9 compared those microscopically to the rifle.

10 Q And what was your conclusion?

11 A The six that I examined were all fired by
12 that Marlin rifle. The other six, I can't exclude those
13 from the rifle, but I didn't actually take the time to
14 identify them for the rifle.

15 Q Did you do a functionality test on the
16 Marlin .22 rifle to see whether it operated normally?

17 A Yes, I did.

18 Q What was the result?

19 A I found that it also operated as designed
20 by the manufacturer, with no issues.

21 Q Did Detective Kammerer also submit to you a
22 fired or damaged bullet?

23 A Yes, he did.

24 Q And did you examine that?

25 A I did. So I looked at the bullet itself,

1 and there's some kind of visual features of it that
2 indicates that it's fired in a .22 long-rifle style, or
3 what we call rim-fire cartridge, which is the .22
4 long-rifle.

5 There's basically two types of ammunition;
6 one where the firing pin strikes the center of the
7 cartridge, which is like the AR-15 rifle. Those are
8 typically higher powered rifles, or with smaller
9 cartridges, like the .22 long-rifle, the firing pins
10 will strike the rim. And it's just a different type of
11 design.

12 Typically, the smaller rim-fire cartridges
13 will have a bullet that has certain features of it that
14 we can tell was loaded in that type of ammo. And then I
15 also looked at the -- the bullet has the -- well, let me
16 back up.

17 The barrel of the different firearms have
18 what we call lands and grooves. So those are the
19 grooves that are carved in the barrel so when the bullet
20 comes out, it starts spinning to the right or left.
21 Different manufacturers of rifles will design the number
22 of lands and grooves that they want to spin that bullet.
23 They might have four lands and four grooves; it could be
24 eight, six, could be as many as 16.

25 So when I looked at the bullet, I could

1 tell from the number of lands and grooves that I could
2 eliminate the Colt rifle as being a possible to fire
3 that bullet. But it has the same rifling widths as the
4 Marlin rifle, the Glenfield rifle.

5 At that point, I did not actually identify
6 it. To be honest, I probably would not be able to
7 because of the damage to it. Often when bullets hit
8 walls, or concrete, or car parts, or whatever it might
9 have struck, that actually causes quite a bit of damage
10 and it makes it really hard to see those microscopic
11 marks.

12 Q But if I understand your conclusion, it's
13 your opinion that it's not fired from the Colt AR-15.
14 You eliminated that. But it would be consistent with a
15 rim-fired .22-caliber rifle, like the Marlin .22?

16 A Like this Marlin, yes.

17 MR. REES: Any other questions for
18 Mr. Samuelson?

19 A JUROR: Was this single bullet the one
20 found on the fireplace, or do you know where --

21 THE WITNESS: I could look and see if I had
22 a note. A lot of times we don't get the full
23 descriptions, but -- it said bullet frag from back patio
24 is what it said on the packaging.

25 Q BY MR. REES: And this is a bullet -- to be

1 clear, the bullet you are mentioning, I believe, this is
2 a deformed --

3 A Flattened --

4 Q -- flattened piece of lead --

5 A -- lead, yes.

6 A JUROR: Okay.

7 MR. REES: Any other questions?

8 A JUROR: Was the round that they found on
9 the ground by the -- in the fireplace looked at, tested?

10 MR. REES: He may not have received that.
11 I don't know.

12 THE WITNESS: Again, it's primarily -- lots
13 of times we will have -- officers will describe bullets
14 or rounds, when they are actually technically a
15 cartridge, so like an individual unit of ammunition. So
16 if that's the case, if it was picked up, we wouldn't
17 actually compare it because it hadn't been fired.

18 MR. REES: Anything else?

19 A JUROR: No, thank you.

20 MR. REES: Thank you for coming in.

21 A JUROR: Thank you a lot. Appreciate your
22 time.

23 (Lunch recess taken.)

24

25

1 JEFFREY DORN,

2 produced as a witness, having been first duly sworn,
3 was examined and testified as follows:

4 THE WITNESS: Yes, I do.

5 EXAMINATION

6 BY MR. REES:

7 Q Thank you, Officer. If you could please
8 state your name, and spell your first and last names for
9 us?

10 A Jeffrey Dorn J-E-F-F-R-E-Y, D-O-R-N.

11 Q And Officer Dorn, you are a member of the
12 Portland Police Bureau?

13 A Yes.

14 Q How long have you been employed?

15 A This is my 20th year.

16 Q Do you have a certain assignment with the
17 Bureau?

18 A Yes, I am assigned to patrol canine unit.

19 Q What does that entail?

20 A I have a dog that I work with. He's the
21 only dog I work with, and the dog doesn't work with
22 anyone else. And we're paired up. And we are looked on
23 as a resource and an extra tool to use for the dog's
24 sense of scent to find people.

25 So we apprehend, he's trained to apprehend

1 people, and sniff them out with his nose, to put it
2 simply.

3 Q And you were interviewed by detectives on
4 December 6th in the early morning hours following an
5 officer use of deadly force, correct?

6 A Correct.

7 Q And when did you first become attached to
8 that call that ultimately ended in the use of deadly
9 force?

10 A Well, I was out on routine patrol and I
11 heard the call come out. I started drifting that
12 direction, just in case they might have needed
13 something. It's hard to tell when these calls come out
14 where exactly they are going, because this one didn't
15 come out -- this came out, as I recall, as a shots fired
16 call, and it was difficult to contact the victim right
17 away. They couldn't locate the victim.

18 Eventually, a neighbor -- took awhile for
19 all of this to unfold -- a neighbor found a gal hiding
20 in her -- appeared to be hiding, reportedly, in a
21 parking lot.

22 Officers finally made contact with her, and
23 they were finally able to get the firsthand -- what was
24 going on in this.

25 I was actually -- this took a long enough

1 time to where I had driven by, and it sounds like this
2 isn't going anywhere. Because there was a previous
3 call, as I also understood, that didn't go anywhere.

4 And I didn't get very far, a few blocks
5 away, and they were able to confirm that the gal in the
6 parking lot said that Steven, the guy in the apartment,
7 had actually shot his pickup truck in the front yard,
8 and officers on scene were able to confirm that there
9 were windows that appeared to be freshly shot out.

10 Which immediately, like, okay, this is a
11 real call now. And I immediately returned, and I was on
12 scene within moments of hearing that broadcast.

13 Q All right. Behind you there's a
14 photographic diagram that shows at least part of the
15 scene.

16 Do you see where you eventually went prior
17 to the shooting?

18 A Yes. Yes.

19 Q Can you point that out to us?

20 A Sure. When I pulled up, I parked right
21 around here, and then I ended up joining Officer Keller.
22 He was up by the door jamb area. And I was just off to
23 his left shoulder, probably, I am guessing, five feet to
24 the left and five feet behind. Because I try to keep a
25 little bit of a wide berth with the dog, because

1 sometimes the dogs get, even other officers, a little
2 nervous and give the dogs a place to work. But I am out
3 here a little bit, so that's my view of the apartment.

4 Q Thank you. And were you then -- you can go
5 ahead and sit down.

6 Were you part of the custody team that we
7 have heard about when you were in that position?

8 A Yes.

9 Q And because you have your canine partner,
10 you have a specific role. Was your understanding that
11 Officer Keller was in the role of providing a potential
12 lethal force, if necessary, with his rifle?

13 A Yes. He was definitely assigned, because
14 he had a rifle, as a lethal force assignment on that
15 custody team.

16 Q If you would, once you were in that
17 position, what do you hear and see happening away from
18 you on 148, towards Burnside at the apartment, later
19 identified as the apartment of Steven Liffel?

20 A So our viewpoint from where we were, we
21 didn't have a great -- we could see exactly where it
22 was, but the pickup truck, the cab of it was tall enough
23 to where we couldn't really see the front door.

24 What was the --

25 Q Just asking what you saw and heard once you

1 got in position?

2 A Leading up to it, like I say, I couldn't
3 see much, as far as hearing anything. We weren't
4 getting any response back. I am guessing I was on scene
5 for about ten minutes as we formed the custody team, got
6 a car into position, and before the loud hailing began,
7 before we began making actual announcements.

8 And in that time I don't remember getting
9 any feedback that there was anything going on in that
10 apartment. We didn't even know for sure whether anyone
11 was actually still around.

12 Q And you mentioned the loud hailing.

13 Were you -- in that position were you
14 hearing a loud, clear command over the PA system on the
15 police car?

16 A Yes. So then, I believe it was Officer
17 Kays, began the initial loud hail. It was extremely
18 clear. I have been on so many of these now over the
19 years. Sometimes it becomes an issue that either the PA
20 is not turned up all the way and it's difficult to
21 hear -- it was plain as day. It was very clear. It
22 would be very difficult to imagine that someone in this
23 short distance couldn't hear what we were saying.

24 Q Do you remember what commands were being
25 broadcast?

1 A It started out as a very -- not exactly
2 quoting, but what I recall it was, This is the Portland
3 Police Bureau. Steven, calling him by name, Please come
4 out and talk to us. We might -- I can't remember at
5 that point if we even mentioned the gun. We believe you
6 are armed. That's the typical, but -- per se, but it
7 was the this is the Portland Police Bureau, We would
8 like to talk to you.

9 It was more like a conversation. It wasn't
10 shouting, Get out here right now. This is the Portland
11 Police Bureau, hurry up, we're going to come in.
12 There's none of that. It was very conversational on the
13 PA.

14 Q So from your perspective, could you see any
15 response to those commands?

16 A No. But at some point in there we got an
17 update to what I would refer to as our eye, because we
18 couldn't see the front door, is Officer Steiner. Yeah,
19 Steiner was across the street somewhere. I don't know
20 where he was, but he was across the street and he had an
21 eye on the front door.

22 He started putting out some information
23 that he heard some activity, sounded like someone
24 stirring, yelling and ranting. Maybe he could see
25 someone moving in the shadows at some point. Okay, so

1 now we have somebody in there for sure.

2 Q At some point, did you hear gunfire coming
3 from the area of the apartment?

4 A It was shortly after that. I think Officer
5 Steiner was able to give a few updates that now we
6 believe we had someone in there. And I think that what
7 I was gathering, this is a response to the -- he knows
8 we're out here. And one round clearly gets fired from
9 the apartment.

10 Officer Steiner, at one point shortly
11 after, put out information on the radio that he believed
12 that shot might have come from farther south and not
13 from the apartment. I then immediately told the people
14 I was around in our custody team, I said, I think that
15 was from the apartment. And we round tabled it real
16 quick, and got a consensus that, yes.

17 And I came over the air and very clearly
18 stated that we disagree. That round did, in fact, come
19 from the apartment. I think we had a better viewpoint.

20 Q What did it sound like to you?

21 A It sounded like a small caliber, and I
22 immediately associated it with a .22.

23 Q You told the detective you could hear a
24 whizzing noise, so you could hear the round flying past
25 or in the air?

1 A Well, I don't know. I felt like I heard
2 something. If it was -- I am not sure what he shot,
3 whether it went inside or outside. I still have no
4 idea. It's not like I heard it whizzing by my ear or my
5 head. But I felt like I heard something pursuant to the
6 actual shot being fired.

7 Q And so you said that, before I interrupted,
8 that you talked to the other officers, got on the air
9 and said that we believe that was a round being fired
10 from the apartment; is that correct?

11 A Correct.

12 Q So what happened after that?

13 A Between now and the time the actual
14 shooting happened, I am guessing within the next five
15 minutes, we are now continuing to loud hail.

16 At this moment our SWAT Team had been
17 activated on that shot. So we knew that we had
18 additional resources coming our way. And during the
19 course of this time, I am not sure if it was five
20 minutes, or five to 10 minutes, but this suspect,
21 Steven, he periodically would show himself at the door.

22 And we were -- I am only saying that. I am
23 not seeing that, but I am getting that from Officer
24 Steiner across the street. He's our eyes. He's
25 providing our word picture for what is going on at that

1 front door.

2 And he showed up with nothing in his hands.
3 He showed up with a cup in his hand. He showed up to
4 what Officer Steiner -- what I remember him saying was
5 he had a handgun in his hand, potentially. And there's
6 an interior door and a screen door. So sometimes he
7 would be behind the screen door.

8 At one point he actually opened the screen
9 door, but then closed it. He closed the interior door,
10 and then he would leave for a minute or two. And then
11 there was probably five to seven more shots that were
12 fired intermittently throughout that. And I don't
13 really know that anything directly precipitated that,
14 each of those shots. They seemed to be somewhat random.

15 Q These were shots -- did you actually hear
16 those shots yourself, or was that something you heard
17 other officers describe?

18 A No, I distinctly heard those. And they
19 were very similar to the first shot. So it appeared
20 that -- he was now inside, and he was continuing,
21 knowing that we're out there, he's continuing to fire
22 rounds.

23 Which, in my experience, as a canine unit
24 we are on almost every tactical scenario in the city
25 that goes on at any given time, as a resource. And this

1 one really started ramping up to have a person that
2 knows we're out there, and he's continuing to fire
3 rounds, he's not following commands. This has now
4 become a situation that is pretty high on our threat
5 level.

6 Q And so what is going on on the police side
7 as you are hearing these additional shots fired?

8 A Officer Hughes, at one point, began
9 stepping in and giving some commands, as well. And he
10 was giving very clear commands: Steven, we don't want
11 anyone to get hurt. Please come out now so we can
12 resolve this. Very conversational tone still, hoping
13 that Steven would come out and surrender and we could
14 end this situation peacefully.

15 But the threat to -- how I am perceiving
16 this threat is this threat has become not just a person
17 in a house that's armed, because we get a lot of these
18 calls. There's guns in more than half the houses in the
19 city.

20 So -- but what is unusual is now we have a
21 person actually firing guns, and we're actually present.
22 And the apartment is literally 15 feet from one of the
23 busiest intersections in East Portland at 148th and
24 Burnside. Granted, this time of day isn't the busiest
25 time, but there's a high density of people living in

1 apartments around the area.

2 Q And so what do you see happening then?

3 A Officer Steiner puts information that he's
4 back at the door, and he's got a rifle in his hand.
5 Sergeant Hughes is already saying, Put the gun down.
6 Leave the gun in the apartment.

7 Q And what -- I am sorry to interrupt, but
8 what are you seeing at that point?

9 A I am not seeing anything that's in the
10 doorway until the screen door -- I can see the very --
11 what I would describe is, I am probably seeing two
12 inches of the screen door. So I can see the actual door
13 when it opens. I can then see what looks like the
14 barrel of a rifle sticking up as he's in the door. And
15 I am getting the picture, the description from officer
16 Steiner across the street, as well. We all are.

17 And then you can see the -- I can't see his
18 head, but I am seeing the rifle past the cab of the
19 truck. And then where the cab is and the bed, now I can
20 get a picture of half his body, and I can see that the
21 rifle is now halfway up.

22 He's getting commands simultaneously, Put
23 the gun down. Put the gun down. Steven, put the gun
24 down. It couldn't have been more clear. And as he
25 continued to take steps approaching the rear bumper, I

1 think several more of us started to just shout out, Put
2 the gun down.

3 Because the threat was becoming -- instead
4 of a possible threat inside, it was becoming a lot more
5 immediate to us as he approached the sidewalk and was
6 not following any of our commands. In my mind, he
7 seemed pretty bent on not following our commands, is
8 what I was perceiving. He finally made it to the --
9 right about the sidewalk, where now I could see his
10 entire body. And he was facing us.

11 And when I am speaking about Officer
12 Steiner, Officer Steiner is completely hidden. He's got
13 no idea that Officer Steiner is where he is. So we're
14 at the police car, and his focus is completely on us,
15 because that's where the commands are coming from. And
16 he turns toward us, and very quickly -- well, I am going
17 to say quickly, but the rifle -- this all happened so
18 fast. The rifle began to dip.

19 And at that point I felt this was more of
20 an immediate threat right now, and we are -- with our
21 action/reaction abilities, we needed to take action.
22 And I actually, right as the shot is going off, or right
23 before it -- I am actually saying, Shoot him. Because I
24 have got a dog in my hands, and I have got a pistol
25 here. It's holstered, because I am here for a different

1 reason in case he flees or to try to encourage him to
2 give up with some encouragement with the dog.

3 But none of that happened. And Officer
4 Keller then fired one round, and the suspect went down
5 immediately, kind of right where the grass meets the
6 sidewalk, and continued to give some commands. He
7 rolled over back and forth. He was obviously reeling in
8 pain now. I didn't -- it's hard to tell exactly where
9 it hit. It looked like it would have hit him between
10 the belly button and the upper thigh somewhere.

11 He -- for a moment started complying with
12 some commands. He had his hands -- but then he rolled
13 over, and he put his hands underneath in his waistband.
14 And there was mention earlier of him potentially having
15 a handgun, as well. So I think there was a lot of
16 concern with us that maybe he's going to -- but then he
17 stopped. He wasn't moving anymore. You could still see
18 him breathing.

19 Q Going back to when you said that you
20 actually began to yell, Drop the gun, or Drop the rifle,
21 yourself, did you see any response on his part to those
22 commands?

23 A None at all.

24 Q This is, if I understand correctly, there's
25 now multiple people yelling at him to drop the weapon?

1 A Yes. And this is after -- obviously, we
2 have been asking him to come out without the weapon for
3 several minutes.

4 Q You said that you actually also said, Shoot
5 him, or Shoot; is that right?

6 A Yes. And when I said that it wasn't like
7 ordering someone else to shoot somebody. It was more of
8 a, oh, crap, this is really immediate. This is -- I was
9 totally in fear for my life.

10 And I have actually been shot with a rifle,
11 and I know it happens really fast. And I don't think we
12 had a moment -- a moment more we could have waited
13 before that decision was made. And if I had a handgun
14 in my hand, I would have been shooting, as well.

15 A JUROR: So the comment, Shoot, was --
16 this was verbally?

17 THE WITNESS: Verbal.

18 A JUROR: It wasn't in your mind.

19 THE WITNESS: I actually said it.

20 A JUROR: You said it verbally. Got it.
21 Got it.

22 A JUROR: So Keller is standing there at
23 the door with his rifle, the car door. And so you said
24 you are like five feet to the left, and five feet into
25 the back?

1 THE WITNESS: Correct.

2 A JUROR: So from that vantage point, then
3 you were -- I mean, you were able to see the bullet hit
4 him, and see him fall?

5 THE WITNESS: I clearly saw it, yeah. I
6 was right there.

7 A JUROR: So you had a clear view.

8 MR. REES: Do you want him to point out
9 where he was?

10 A JUROR: Do you mind doing that?

11 THE WITNESS: No. So if Keller is here,
12 here's where the sidewalk is. Right where the tip of
13 that is looks to be where he went down. I then was
14 right out here (indicating), right where the black line
15 is somewhere. Whereas Keller is hugged up to the car, I
16 was out a little wider. And I had an unobstructed view
17 of the actual shooting.

18 Q BY MR. REES: And as I understand it, once
19 Steven Liffel cleared the pickup truck that was in the
20 driveway?

21 A Yeah. So the pickup -- I could just see
22 the tip of the door -- the barrel of the rifle here.
23 And at that point, it could have been a pool cue for all
24 I know. But we're getting a report across the street it
25 looks like a rifle.

1 But from our standpoint I wouldn't be able
2 to independently say otherwise, until he got here, then
3 that's a rifle.

4 A JUROR: You could see the upper torso?

5 THE WITNESS: Yeah. The upper half of his
6 body. Probably can't see the waistband here. But once
7 he breaks the bumper in that next few feet, that's when
8 it just got really immediate, and he turned towards us
9 and --

10 A JUROR: Not to interrupt you, but was
11 there any certain way that he was holding the rifle?
12 Were you able to tell?

13 THE WITNESS: I don't recall him
14 shouldering it. I don't recall him --

15 A JUROR: One hand or two hands?

16 THE WITNESS: I kind of remember him
17 holding it in two hands. But specifically -- I don't
18 remember specifically, exactly how he was holding it, or
19 what hand he was holding it in. I remember it fell
20 toward his feet. I remember distinctly seeing the rifle
21 fall towards his feet when he went down.

22 A JUROR: So he turned towards you, and was
23 facing you?

24 THE WITNESS: Yes. Yeah.

25 A JUROR: But he was holding it in two

1 hands, as far as you could tell?

2 THE WITNESS: That's what I remember.

3 But -- it could have been -- he could have had it in one
4 hand for a moment. I just remember -- all I know is a
5 rifle -- as far as a threat level for a rifle, to point
6 a rifle, you could shoot it from the hip and hit if you
7 are just trying to hit a silhouette of a target. It
8 wouldn't be hard for anybody to do it.

9 A JUROR: So it doesn't have to be
10 shouldered to do it?

11 THE WITNESS: 15-year-old could do that,
12 likely, pretty well, because you don't have to aim and
13 get any sight picture on anything. Because it's got a
14 long barrel, it's very easy to accurately, generally
15 accurately, aim.

16 Q BY MR. REES: Meaning if the barrel is
17 pointed down range --

18 A As soon as it comes down. Nobody has to
19 spend very much time sighting in anything. You get the
20 barrel down range, and start pulling the trigger, and
21 it's going to happen in moments. And I have seen it
22 happen, unfortunately, and I am glad it didn't. And I
23 truly believe Officer Keller saved my life that night.

24 A JUROR: So in your experience the rifle
25 is an immediate threat, regardless of how they are

1 holding it?

2 THE WITNESS: Not anymore than any other.
3 However, as far as its capability, it's a lot quicker to
4 actually hit a target from that distance.

5 MR. REES: Are you asking, did you perceive
6 that to be a lethal threat despite the fact that it
7 wasn't up at his shoulder?

8 THE WITNESS: Oh, definitely. Because he
9 had been ignoring all of these commands. He had further
10 not only ignored commands to leave the rifle in there,
11 but even firing rounds indiscriminately. And he had
12 actually hit his truck out front. And I don't know if
13 he was inside when he shot that, or if he came outside
14 and shot his truck. I don't really, to this day, don't
15 really know.

16 MR. REES: Any other questions for Officer
17 Dorn?

18 (No response.)

19 MR. REES: No further questions, we will
20 excuse you. Thank you.

21 (Brief recess taken.)

22

23 ANGELA KAYS,
24 produced as a witness, having been first duly sworn,
25 was examined and testified as follows:

1 THE WITNESS: I do.

2
3 EXAMINATION

4 BY MR. REES:

5 Q Good afternoon, Officer. If you would,
6 please, for the record, state your first and last name,
7 and spell your first and last names?

8 A Angela Kays, A-N-G-E-L-A, K-A-Y-S.

9 Q And what is your occupation?

10 A I am a police officer in the Portland
11 Police Bureau.

12 Q How long have you been a police officer?

13 A It will be eight years in July.

14 Q And just going back to the night of
15 December 5th, early morning, Tuesday, December 6th, was
16 that a regular shift for you at East Precinct?

17 A Yes.

18 Q And anything unusual going on at the
19 beginning of your shift that night?

20 A No.

21 Q And were you working, it looks like, with
22 another officer?

23 A Yes, I was working a partner car.

24 Q And do you remember when you first became
25 aware of some kind of situation in the area of 148 and

1 Burnside?

2 A Yeah. Initially, my partner and I were
3 called for a domestic disturbance in another area. But
4 we kind of listened up, because we knew that the 148th
5 Burnside -- there was initially just a shots fired call,
6 I believe, that came out. Kind of just piqued our
7 attention, because it's our district. But we were still
8 dealing with the other call initially.

9 Q And did you keep, then, on some level kind
10 of listening for what was happening at 148 and Burnside?

11 A Yeah.

12 Q Do you remember, generally, what kind of
13 information you had?

14 A I think initially there was an initial
15 call, shots fired. Officers went -- couldn't really
16 find anything. Then additional callers started calling
17 in saying that there was a female hiding in the bushes
18 near the church that may be related to the shots fired
19 near 148th and Burnside.

20 Q And you said that's your district, so I
21 assume you are familiar with that area?

22 A Yeah. Somewhat.

23 Q And 148 and Burnside, is that a pretty
24 heavily populated residential neighborhood?

25 A Yeah. There's some apartment complexes

1 there, and the Max line is right there.

2 Q And at some point, did you head in that
3 direction?

4 A Yes.

5 Q And what -- what was it that led you to go
6 there?

7 A They were asking for some more additional
8 cars, and we were just finishing with our call. So we
9 decided to head that way and see what we could do. And
10 I think at the point that we got there they were going
11 to try to call in and see if they could get ahold of
12 Steven, whatever.

13 Q When you say call in, by telephone?

14 A Sorry, by telephone. Yeah.

15 Q Try to contact the person in the apartment?

16 A Right.

17 Q And did you have contact with the sergeant
18 on the scene, Sergeant Holbrook?

19 A I did. I contacted Sergeant Holbrook, and
20 he tasked me with going up with the vehicle that was in
21 the street on 148th to be part of the custody team.

22 Q And behind you is a photographic diagram,
23 if you would like to refer to that. Maybe you could
24 show us, please, where you went if you see that on the
25 diagram?

1 A Yeah. Initially we parked back here. I
2 met up with Sergeant Holbrook back here, and then I was
3 given the order to go up here and be part of the custody
4 team, near this vehicle.

5 Q And you are pointing to a police SUV
6 back -- you were actually pointing, I guess, by the rear
7 bumper. Is that where you were?

8 A Initially, made contact with everybody else
9 on the driver's side door of the patrol car.

10 Q And who was over there on the driver's
11 side?

12 A It was Officer Keller, canine Dorn, Officer
13 Paisley, and Sergeant Hughes, and myself.

14 Q What was your understanding of what the
15 other officers' roles would be on the custody team that
16 you just mentioned, if you recall?

17 A Yeah. I think there were a couple of us
18 that were going to go -- if they ended up calling him
19 out there were a couple of us, me, myself, to go
20 hands-on with him if we came to the point where we could
21 safely take him into custody.

22 Q And you mentioned Officer Dorn with the
23 canine?

24 A Yeah.

25 Q Did you have an understanding that Officer

1 Keller would be there with lethal cover with his rifle?

2 A Correct.

3 Q Were you part of the effort to communicate
4 with the subject or no?

5 A I was not until later, when I started loud
6 hailing.

7 Q And prior -- that's what I am asking about.
8 But prior to that, you heard gunfire coming from the
9 area of the apartment; is that correct?

10 A Yes.

11 Q And can you describe that to the Grand
12 Jury?

13 A Well, the first shot sounded like a whiz.
14 I don't even really remember hearing the bang. All I
15 remember hearing was the whiz. And then shortly after
16 that it was followed by two more rounds, but they
17 sounded more kind of like a bang, like it was -- I don't
18 know if it was being fired through something or
19 something, but it was just definitely a different sound.

20 The first one was definitely a whiz, like
21 it was definitely close by, and then followed up by two
22 other ones.

23 Q When you heard that, what is going through
24 your mind? What do you think is happening?

25 A Well, we all initially did the hunker for a

1 second, not knowing exactly where these shots were
2 coming from. And you, you know, we all perceived that
3 it was being directed towards us.

4 Q Okay. And did you have any information at
5 that point of whether there had been any success in
6 reaching the person or calling the person who was
7 shooting the gun?

8 A Not that I know of. I think they tried to
9 make a phone call, but it went straight to voicemail.

10 Q What happens then?

11 A We decided to move the patrol car back a
12 little bit, because I think it was a little bit closer
13 initially. So Officer Paisley drove the car back a
14 little bit, and then she got out. And I am not sure
15 where Officer Paisley ended up going.

16 But Sergeant Hughes tasked me with coming
17 over to the passenger's side with him and trying to loud
18 hail the subject to see if we could get him to put down
19 the gun, and come out with his hands up.

20 Q And how did that go with the loud hailing?
21 Do you remember what was being said?

22 A Initially I just started out identifying
23 ourselves, This is the Portland Police Bureau. We don't
24 want anybody to get hurt. We just want you to come out
25 with your hands up. Come out to the middle of the

1 street, or come out to the sidewalk -- come out to the
2 middle of the street. I think I repeated that many
3 times throughout the course of the attempt of
4 communication.

5 Q And as I understand it, you and Sergeant
6 Hughes kind of traded off back and forth using the male
7 voice and the female voice; is that right?

8 A Yeah. Right.

9 Q And did you ever get any indication of any
10 kind of response to those commands?

11 A It was hard -- I could hear some sort of
12 yelling, but it was really hard to understand what was
13 really being said. And then I also had a very limited
14 view of the front door of the apartment.

15 Q Did you recall kind of changing your
16 strategy with the commands, or varying what you were
17 saying?

18 A I think there were updates along the way
19 that he's coming out with a handgun, so the commands
20 were now, Put the gun down, you know. Come out with
21 your hands up. Come to the sidewalk. We don't want
22 anybody to get hurt. I kept reiterating, This is the
23 Portland Police.

24 Q Do you recall getting information about him
25 at some point coming out onto his front porch area, or

1 not?

2 A Yeah. I think there were a couple times he
3 comes out with a handgun. He also, at one point, came
4 out and had maybe like a lighter and a piece of paper,
5 or something. I mean, this was all being given over the
6 radio, so I wasn't actually seeing this.

7 Q So these are the reports you are getting
8 from another police officer?

9 A Right. I'm getting this from another
10 police officer, yeah.

11 A JUROR: Thank you. Thank you.

12 Q BY MR. REES: So you can't -- you are doing
13 the loud hailing, you are being told there's some
14 activity, and he's coming out, but --

15 A Right. Right. And --

16 Q And at some point do you recall Sergeant
17 Hughes trying to see whether he would -- that this
18 subject would call 911, so you could have a conversation
19 on the phone?

20 A Yeah. I asked Sergeant Hughes if maybe
21 that could be an option of seeing if maybe if we could
22 get him to call us on 911, so we can obtain some sort of
23 phone contact. Because it was extremely difficult to
24 even try to have any conversation with him.

25 Q Right. Well, because up to this point, it

1 sounds as if you really weren't getting a response,
2 right?

3 A Right. And --

4 Q And so to your knowledge, did he ever
5 answer the phone, or did he ever call on the phone?

6 A No.

7 Q No. Okay. And then do you remember
8 hearing on your radio that he was coming out of the
9 residence with a rifle?

10 A Yes.

11 Q What did you do when you heard that?

12 A For me, I was in a position where I really
13 could only take as much cover as possible. Because I
14 didn't -- I was in the passenger seat, halfway in the
15 passenger seat of the patrol car, and my only cover was
16 the pillar, and then Officer -- or Sergeant Hughes was
17 over here with a shield. So I had no way of drawing my
18 pistol and being any sort of successful -- so I just
19 kind of made sure I was behind cover when they said that
20 he was coming out with a rifle.

21 Q So to be, I guess, doubly clear on this
22 point, because you have been loud hailing, you are
23 talking into a microphone and you are not pointing a gun
24 at the residence or anything like that; is that right?

25 A Correct. Correct.

1 Q So you took a position of cover, and from
2 that position could you see unit No. 12 and what was
3 happening at that point?

4 A No.

5 Q So what do you then hear, or to the extent
6 you could see anything, what do you perceive happening?

7 A The next thing I hear is Officer Keller's
8 rifle being fired, one round. And then at that point I
9 look -- you know, I look over to the side to see kind of
10 where the subject was, and he was now laying on the
11 ground on the sidewalk outside of his driveway.

12 Q When you heard that he was coming out with
13 a rifle, were you scared?

14 A I was.

15 Q Why were you scared?

16 A I felt vulnerable in a sense to where I
17 wasn't in a position to where I could protect myself
18 just because of the position and where I was. So it was
19 scary, thinking I didn't have a whole lot to protect
20 myself at that point.

21 MR. REES: Any follow-up questions for
22 Officer Kays?

23 (No response.)

24 MR. REES: Thank you for coming up.
25

1 CHAD STEINER,

2 produced as a witness, having been first duly sworn,
3 was examined and testified as follows:

4
5 EXAMINATION

6 BY MR. REES:

7 Q Good afternoon, Officer. If you would,
8 please, for the record state your first and last name,
9 and spell your first and last name?

10 A Officer Chad Steiner. C-H-A-D, Steiner,
11 S-T-E-I-N-E-R.

12 Q And are you a member of the Portland Police
13 Bureau?

14 A I am.

15 Q And how long have you been with the Bureau?

16 A With the Portland Police Bureau for almost
17 ten years. Prior to that, an additional eight years
18 with the Multnomah County Sheriff's office where I was a
19 law enforcement deputy there, as well.

20 Q Do you have a particular assignment with
21 the Police Bureau?

22 A I'm a patrol officer with East Precinct,
23 and I work night shift.

24 Q So when these events that we're talking
25 about this afternoon with the Grand Jury occurred on the

1 night of December 5th and early morning hours of
2 December 6th, 2016, was that part of your regular shift?

3 A Yes. My shift starts at 10:00 p.m. and
4 ends at eight in the morning.

5 Q And are you one of the officers who is
6 certified to carry the Colt AR-15 rifle?

7 A I am.

8 Q So when your shift began on the night of
9 December 5th, 2016, was there anything unusual going on
10 that night?

11 A Not anything out of the ordinary for East
12 Precinct. It's a fairly busy precinct.

13 Q And when did you become attached to the
14 call of shots fired at 148 and Burnside?

15 A There was actually two calls for the same
16 address. The first one comes in, I don't know, sometime
17 between 10:30 and 11:00, I guess. I did not respond to
18 the initial call. But there was reported shots for that
19 area, anonymous caller, not a lot of specific
20 information in the initial call.

21 Shortly after -- so officers responded to
22 that, but based on the limited information they had
23 about where the initial call had come from, didn't find
24 anything. They cleared the call, but then they received
25 a second call. I am hearing this over the radio. And

1 this time a woman has far more specific information that
2 leads us ultimately to this particular apartment, No. 12
3 on the southeast corner of 148th and Burnside.

4 So I am listening to that call, and I hear
5 a supervisor, Officer Holwege, and some additional
6 officers. I go to the second call, and now you get more
7 officers, because now we have more specific information.

8 At that point the presence of a gun, the
9 fact that the gun has already been fired, based on that
10 information I attached, via the computer, myself and
11 Officer Jungling -- we're a partner car. I attached
12 ourselves to that call, and we began to respond to the
13 area before they even asked for us.

14 I am responding primarily because of I was
15 an AR-15 operator. That's kind of one of my roles and
16 responsibilities with that particular tool, is to kind
17 of head toward gun calls.

18 Q And we understand from other witnesses that
19 a custody team was developed and put on 148, away from
20 Burnside and away from this apartment, and that you and
21 Officer Jungling went to a different location, which I
22 guess that's to the east of 148th; is that right?

23 A No. We came south on 148th. But instead
24 of crossing over Burnside toward where the target
25 location was, we cut off, and because of the way

1 Burnside -- you have to cross Max tracks, we ultimately
2 ended up to the west. We were at Burnside, 146th,
3 blocking traffic, so we're not going to get eastbound
4 traffic into the middle of this developing scene.

5 Q And I am looking at this photographic
6 diagram behind you, and it's marked Officers Jungling
7 and Steiner. Does that correctly show where you were?

8 A Initially, no. If I may --

9 Q Go ahead and point out --

10 A 146th is the next street down here
11 (indicating). And initially -- this would be Burnside.
12 Here's the tracks continuing here.

13 We put our patrol car right here to block
14 eastbound traffic. As soon as we stopped the car, I got
15 out of the car, leaving Officer Jungling here in a
16 traffic control position.

17 I made my way on foot to the apartment
18 complex, which I believe is 14730 Burnside. It's this
19 complex right here that constitutes this building, this
20 building, and this building. From prior calls here I
21 know that there's a small walkway that you can cut
22 through between these buildings and behind these cars.
23 And I would make my way, by myself, with my rifle and a
24 pair of binoculars up to a position here.

25 Officer Jungling isn't initially with me.

1 I am by myself. And this is where I take up a position
2 so I am looking directly across 148th at the target
3 location.

4 Q And I am sorry. I mistakenly said that was
5 the east, but that's actually the west, that direction?

6 A Yeah.

7 Q And how do you end up in that position
8 separate from the custody team that we have heard about?
9 Is that in coordination with Sergeant Hughes, or is that
10 from a different mechanism?

11 A No, this is something that -- the rifle
12 operators are trained to do is try to develop an eye on
13 the target. While these guys are organizing and making
14 their plan of action, the rifle operators will try to
15 get the eye on the target to develop intelligence or
16 information based on what are we actually seeing into
17 this side.

18 I knew they were set up to the south. I
19 can understand this layout by familiarity, so I know
20 that if I am over here, I have a better look into that
21 than these people do from the south.

22 Q Okay.

23 A So I independently did this. And as soon
24 as I got in a position by myself, I started relaying
25 information to the supervisors at the custody team here,

1 so they can develop, call in what other resources they
2 need to call in based on the information I am feeding
3 them.

4 Q Great. And you can return to your seat.

5 And can you describe to the Grand Jury how
6 you are physically situated in that location, what your
7 set up is?

8 A Initially, its kind of hard to see, but
9 where you see this white pickup, there's actually a
10 small five-foot tall wooden fence that kind of comes out
11 a little bit. And so I am just tall enough to look over
12 the top of this fence and look directly at the targets.

13 Initially, I am standing up with a pair of
14 binoculars just looking over the top of the fence at
15 Unit No. 12.

16 Q And initially, can you see anything
17 happening?

18 A No. There's a screen door and a main door,
19 they are both shut. There is a living room window,
20 which faces me. It faces to the west. The micro blinds
21 were all closed. There's a light on inside. The porch
22 light, which is immediately to the right of the door,
23 which would be to the south of the door, is on. There's
24 street light illumination. But I don't see people, or I
25 don't initially hear anything when I first get into

1 position.

2 Q And so what happens after that?

3 A I am hearing over the radio the
4 developing -- they are trying to kind of cordon off this
5 area, which is hard because the light rail station's
6 right there, and the light rail is running through.
7 Initially, we had trains running through with people on
8 both Max platforms.

9 So there's an initial gathering of
10 resources, and they are trying to come up with some way
11 of contacting this person. Officers of the custody team
12 are interviewing the woman who called the second time
13 who had some specific information. So they are getting
14 information from her.

15 So it's kind of a slow process before we
16 actually make contact with the person at the house.
17 Eventually he would come to the open interior door, come
18 into -- with that storm door closed. And I would see
19 one male subject wearing a short-sleeved, tie-die shirt,
20 I believe blue jeans. This is the man ultimately that
21 would become deceased.

22 He came to the door by himself. He was
23 yelling something. It was clear that he was angry. I
24 could hear profanity, but from -- I am approximately
25 75 yards from that fence to his front door. I mean,

1 just ballpark guess, but about that far away.

2 So I can't hear exactly what he's saying,
3 but the tone of his voice was anger. And I couldn't
4 tell he was actually talking. He was just yelling. And
5 profanity. But other than that, I couldn't remember.
6 That was my -- first time I actually saw him, that's
7 what he was doing.

8 Q And you were relaying that information over
9 the radio to other officers?

10 A Yes.

11 Q At some point, your partner, Officer
12 Jungling, joins you, correct?

13 A That's a ways into this.

14 Q That's a ways into it. So before we get
15 there, what else happens as you are watching the
16 apartment?

17 A He would come out, he had a water bottle in
18 one of his hands. He dropped the water bottle on the
19 porch. So he starts this going in and out, and he's
20 confining his movement to like this little stoop, like
21 maybe three feet from the storm door. He's not really
22 coming out onto the walkway or out toward the sidewalk.
23 He's just in and out of the front door and slamming the
24 door.

25 And then he goes back inside and he shuts

1 both doors so I can't see him. And then we hear one,
2 possibly two very muffled shots. I could tell they were
3 shots, but they sounded very unusual. And everyone on
4 the scene heard them, but to me, I actually heard the
5 bullet strike and ricochet to my south.

6 So from what I could hear, it sounded like
7 the bullet strikes were down somewhere around in this
8 area, to my south. And there's a radio conversation
9 between officers of the custody team and myself, and
10 they were saying they were being fired on.

11 But I could distinctly -- I can't see them,
12 because this building is in the way of where these
13 police cars are. But these trees, there are overhead
14 lights, I can tell where they are roughly, because the
15 reflection off the tree leaves of their overhead lights.
16 So I know about where they are.

17 Anyway, so there's a discussion on the
18 radio, and in retrospect I am probably definitely
19 mistaken here, but I wasn't sure that those shots came
20 from the building, because I am looking at the building.
21 And there's no windows along this side. That's a
22 different unit so there's no windows here. All the
23 doors and windows are closed, but I am hearing bullets
24 ricocheting over here.

25 So on the radio transcript there's actually

1 a little bit of a debate between myself and the custody
2 team where the shots are originating from. In
3 retrospect, they were right and I was wrong.

4 Q The custody team said, hey, we think the
5 shots are coming from --

6 A The target location.

7 Q This apartment?

8 A And I said, I think they are coming from my
9 south. In retrospect, that's -- I am just hearing the
10 ricochets because I could definitely hear the bullet
11 whining off some hard surface. And it was definitely to
12 my south.

13 And there was maybe one or two shots. So
14 that -- at that point, I believe is when someone at the
15 custody team requested SERT to be activated based on
16 that we were receiving gunfire from this location, or at
17 least from that area.

18 But I saw no muzzle flashes, and I have the
19 best view of the house. So I am not sure -- I mean, I
20 guess it's possible he shot through the window and
21 through the micro blinds, and I just didn't see it
22 because the blinds were closed, but bullets can
23 definitely fly through windows.

24 And then a short time after that, we hear
25 one more muzzle shot, and it's muffled like it's almost

1 like, something is in the way, like a pillow or
2 something, I am not sure. But it sounded very muffled.
3 I didn't hear any ricochets off of that one, but I could
4 clearly identify it was a gunshot. It was just odd
5 sounding.

6 So at that point we have already received
7 between two to three rounds from the house, and then
8 we're hovering around to see fire that brought us there
9 in the first place. And I had asked for another officer
10 to come to my location, because now I am trying to
11 divide my responsibilities -- it's hard to look through
12 the binoculars, to radio everything, and aim a rifle all
13 at the same time.

14 And now it's getting to the point where
15 this is -- the situation is getting worse and worse and
16 worse, and now I want to focus on just the rifle at this
17 point. I asked for a second officer. I specifically
18 asked for another AR-15 operator, but there wasn't one
19 available. So ultimately, they sent Officer Jungling to
20 me, and that's how he would end up at my position.

21 Q With the call out for SERT that you
22 mentioned, did that indicate the perception that this
23 was an escalating type situation?

24 A Yeah. I would say any time you get shot
25 at, that's an escalation.

1 Q And safe to say SERT is not going to be
2 there instantaneously. They need time to arrive and set
3 up at the scene, right?

4 A As a former SWAT operator on the Multnomah
5 County SWAT team, I know from years of doing it that it
6 takes generally 40 minutes to an hour to assemble a full
7 team.

8 Q So was that your anticipation that night,
9 that it was going to take some time for them to arrive?

10 A Yes.

11 Q You said Officer Jungling then came to your
12 location?

13 A Yes.

14 Q And so what happens then?

15 A I had -- I split the duties, and I made
16 him -- I handed him my binoculars and I said, You are in
17 charge of all radio transmission from this point
18 forward. I switched positions slightly. And I
19 maneuvered to about where the back of this white pick up
20 was, and I laid down. There was actually a sedan there
21 at the time, and I got down in the prone position,
22 behind a vehicle with my rifle.

23 At this point I am just looking through the
24 rifle sights toward the target, and I am just telling
25 Officer Jungling -- I am basically -- he either sees it

1 in the binoculars or I am telling him specifically what
2 to say over the radio. Because I want certain things to
3 be -- based on my training, I want certain things for
4 the supervisor to be hearing, or specific observations.

5 So shortly after Officer Jungling joined me
6 and took over the binoculars, the gentleman would come
7 out and try to light something, maybe like toilet paper
8 or something, on fire on the front porch. It did not
9 appear to light, and then he would go back in.

10 And then he later would come out, and this
11 time he had a handgun. I could tell from my -- through
12 the optic of the rifle that -- it's not a magnifying
13 optic. I could see a small object in his hand, and
14 that's what I told Officer Jungling, all I want you to
15 do with those binoculars is watch his hands, his hands,
16 his hands. I don't care what else you watch in the
17 world, but watch his hands.

18 As soon as he came out I said, What's in
19 his hands? He said, It's a handgun. It's a gun. I
20 said, Describe it in detail on the radio right now. So
21 he would put this out, a detailed description of what he
22 would describe as a small revolver that was being held
23 in the gentleman's left hand.

24 When he came out to that front porch
25 area -- so he's actually outside of the dwelling now,

1 the entire time the custody -- the loud hailing, they
2 haven't been able to make contact effectively by phone,
3 so they are doing this over the PA system of a patrol
4 car, what we call loud hailing. And they have been
5 instructing him, Just come out. It's the police. We
6 want to talk.

7 And then he came out with a gun in response
8 to this loud hailing. At that point --

9 A JUROR: Other than the handgun he had
10 before, so he came out --

11 THE WITNESS: This is the first time -- we
12 had not seen a gun prior to this. We had heard gunfire
13 and ricochet --

14 A JUROR: So this is the handgun coming
15 out?

16 THE WITNESS: And this is the first time
17 that the police actually see him and the gun together.

18 A JUROR: That's the handgun?

19 THE WITNESS: The handgun, the small
20 revolver. He came out. He had the gun held vertically
21 down his left leg. And at that point, I was already --
22 had my rifle sights on his chest. I had already taken
23 the safety off my gun. I had my finger already on the
24 trigger. And my threshold to shoot him, my line in the
25 sand, mentally, was if that left arm moves, I would

1 shoot him.

2 Q BY MR. REES: What was that based on in
3 terms of your training and experience?

4 A He had -- you know, I could see the object.
5 We had binoculars on the object. We knew it was a gun.
6 We had already seen gunfire from this person. Not only
7 on one occasion, but on two. He had already shot at us
8 three different times, so he has the means.

9 He's -- I don't know what his motive was,
10 but he definitely had the opportunity. There was
11 several officers there. They had unevacuated apartment
12 complexes in all four directions from him. He was
13 outside, not inside.

14 As soon as -- you know, if a bullet can
15 move at over 1,000 feet per second, I literally have --
16 and it takes me one second to react, I can't wait until
17 he gets that gun all the way up to shoot.

18 Q So to put it in legal terms, did you
19 perceive a threat to yourself, or third persons at that
20 point?

21 A Third person. He wasn't facing me
22 directly. But I also know there was at least 20
23 officers on the scene, unknown amount of people in those
24 apartments, unknown amount of people on the Max trains
25 that we hadn't got stopped yet. Just very awkward place

1 to have an intersection and have this kind of incident.

2 A JUROR: Did you see the handgun along
3 with Jungling?

4 THE WITNESS: I could see a small object.
5 I mean, it's 75 yards. My eyesight is pretty good, but
6 that's pretty far. That's why I have a ten power set of
7 binoculars, just to make sure.

8 Q BY MR. REES: But you didn't fire?

9 A I did not.

10 Q What happened?

11 A Again, I had certain advantages that the
12 custody team did not have. He did not know where I was.
13 I was in the shadows. I was laying down. I was behind
14 the cover of a car. I had certain advantages, the
15 nature of the weapons involved. He has a handgun, not
16 a -- it's not a particularly accurate weapon. I have a
17 rifle. I have a very accurate weapon. I have a very
18 stable shooting platform. He doesn't know I am there.
19 I had not engaged him at all. I haven't challenged him,
20 or yelled at him. He doesn't know I'm there.

21 It would be purely in defense of others,
22 not myself at that point. And I had a position where I
23 could see if his arm started to move. I could take the
24 shot. I was confident I could make it if I had to. The
25 arm didn't move; I did not have to shoot -- at that

1 point.

2 Q Just to make sure we have a clear picture,
3 when you say you were prone and down, are you lying flat
4 on your stomach?

5 A I am lying flat on the pavement.

6 Q And when you say he doesn't know you are
7 there, you are assuming -- you don't have any flashing
8 police lights, you haven't announced yourself, you are
9 in the shadows 75 yards away?

10 A Yes.

11 Q Did you figure that he probably was very
12 much aware of police officers out on the street, because
13 he --

14 A He was yelling at them.

15 Q They are yelling; the lights are flashing?

16 A They have spot lights. He's yelling at the
17 police cars that he can see. I am just a shadow that he
18 has no idea is there.

19 Q So what happens at that point?

20 A He yelled a bit, and then he walked back
21 inside and he closed the door. He'd peak out a couple
22 times, like peak the blind down in the living room
23 window. And then he came out one last time, and this
24 time I could see he had a long object in his left hand,
25 as he's kind of coming through the door.

1 I could see his right hand is empty,
2 because he uses his empty right hand to push open that
3 storm door with his right hand, but I can see he has a
4 long object held -- I will just stand up, because he's
5 kind of got his hands, kind of like this. This is a
6 long object, left hand -- and this is the empty right
7 hand he used to push the door open.

8 This time he comes out a lot farther. He
9 comes out past that little stoop area, and he walks down
10 the walkway that is right in front of his house. That
11 walkway kind of extends out here to the sidewalk. And
12 he starts walking, directly out to the side. He's never
13 done this before. He's never come this far.

14 He's actually walking right toward me. He
15 doesn't know I am there. At that point Jungling tells
16 me -- it's not on the radio -- he says, He's got a gun,
17 and he said, It's a rifle. That's a big escalation.
18 Now he has something that is capable of longer range
19 fire, more accurate fire, it's a more powerful weapon.
20 It's a worse threat than the handgun.

21 I mean, they are all bad, but that's a big
22 thing. And he's also come way out towards the street,
23 which he hadn't done either. At that point -- I said,
24 Get it out on the radio now. So Jungling, he relayed
25 the information to the officers there.

1 The gentleman, he turned to face
2 southbound -- he makes it almost all the way to the
3 street, to the sidewalk, and he would make a left turn
4 so he's facing the custody team. Now my view of him has
5 changed, because now I am looking across his right side
6 on -- I have a side profile of him instead of before I
7 had a facing view of him, and I could see both arms.
8 Now I am kind of looking at him from the side. And he's
9 pointing to the south -- or he's facing to the south,
10 standing.

11 Q And south would be the bottom of our
12 diagram; is that right?

13 A Yeah. He came out the front door, and then
14 did a left turn, so he's facing the custody team down
15 here. And I am still over here looking across his side.

16 At that point, I took the safety off my
17 rifle again, and I put my finger on the trigger and
18 again, my mental, kind of line in the sand for when I
19 would shoot was based on the orientation of the rifle.
20 And if I saw his left arm move, I would shoot him,
21 because at that point, he sees the custody team. He's
22 coming out with multiple weapons now. He has fired.

23 And in my mind there's no other reason that
24 he would come out with a rifle when he knows the police
25 are out there after already firing, you know, I don't

1 know why else he would bring a rifle out to talk to the
2 police.

3 Q And did you believe that he had ample
4 opportunity to comply with commands from the police?

5 A He had half an hour, at least, to comply
6 with instructions from the police.

7 Q That was all the loud hailing. But then
8 when he comes out with the rifle, there were additional
9 commands to drop the gun?

10 A Yes. He could have dropped that gun 100
11 times, because it's easy to drop it.

12 Q And again, was the situation, as you
13 described earlier, when you were right at the threshold
14 of using deadly force yourself, did you feel again that
15 you had some tactical advantage because of your position
16 of cover and the other elements?

17 A The same things apply here. I think I felt
18 a little more vulnerable at the point -- now he had a
19 rifle, as did I. That gives him some certain fire power
20 advantages he didn't have before. So I feel a little
21 more at risk, but I still feel my position is such
22 that -- the biggest advantage that I have is he doesn't
23 know where I am at.

24 And that's not an advantage that the
25 custody team enjoys sitting under a street light with a

1 bunch of marked police cars with their overhead lights
2 going. He knows exactly where they are at. Because
3 they are talking to him on a public address system
4 saying, We are here. We're here. We're here. And he
5 came out with another weapon, and he turned to face them
6 directly. But again, I had the same criteria for me
7 using deadly force was the movement of that left arm.

8 Q Did you hear a gunshot at that point?

9 A I heard one single, very loud distinct
10 gunshot.

11 Q And did you see any response on the part of
12 Steven Liffel then?

13 A He immediately dropped the long object,
14 which Officer Jungling told me was the rifle. He
15 dropped it to the ground in the front of him, and to the
16 left, and he let out a loud yell of pain and almost
17 surprise.

18 And he kind of stood there for a second.
19 It looked like he was just stunned, and then he slowly
20 kind of collapsed forward on his knees, and then
21 ultimately to the sidewalk with his head oriented to the
22 west and his feet oriented back toward his front door.

23 So he would ultimately end up face down on
24 that sidewalk, and he was kind of turning around. And
25 he brought both of his hands up underneath his waistband

1 area, so he's laying on both hands, face down with his
2 forehead pressed onto the sidewalk. And the rifle -- I
3 don't know where the handgun is. But the rifle, we have
4 accounted for as being just a couple feet away from
5 where he would go face down on the sidewalk.

6 Q Were you surprised that another officer
7 used deadly force in this case?

8 A I was, because honestly I thought it was
9 going to be me. I mean, I thought I had the best view
10 of him, definitely I had the best view into the house.
11 But, I mean, part of me was actually surprised.

12 So -- yes, ma'am.

13 A JUROR: Did you know that the other
14 officer who was authorized to use the same gun as you
15 was there?

16 THE WITNESS: Yes.

17 A JUROR: You did? Okay.

18 THE WITNESS: Yes. I worked with Officer
19 Keller for years, and I know that he carries. There
20 were more officers that had rifles assigned to them, but
21 it was a matter of where did they end up on this big
22 perimeter, what view did they have. And some officers
23 might have been on the back of the house that never saw
24 a thing.

25 Q BY MR. REES: So you said you were

1 surprised, because you thought you were going to pull
2 the trigger and use deadly force?

3 A Yes.

4 Q So does that mean that you were not
5 surprised, having said that, that another officer made
6 that decision to use deadly force under the
7 circumstances?

8 A I mean, the shot startled me a little bit,
9 honestly, because it was significantly louder than the
10 ones before. But, yeah, there was surprise. I mean --
11 surprise at the shot because it's loud, but the fact
12 that it happened at all, and the police were -- had to
13 shoot this person, not terribly, no.

14 I mean, it had already gone, you know -- he
15 had so many opportunities to have this not happen. And
16 at every turn he escalated to something worse. You
17 know, let's shoot inside. Now let's bring the gun
18 outside. Let's go with the handgun. No let's up the
19 ante a little more with the rifle. It continued to get
20 worse and worse and worse.

21 Q It sounds like you were, I don't know, a
22 second or two away from using deadly force yourself?

23 A By two pounds.

24 Q Two pounds, mean pulling the trigger?

25 A Of trigger pressure.

1 MR. REES: Any follow-up questions for
2 Officer Steiner?

3 A JUROR: None for me. Anybody else?

4 A JUROR: Can you -- I mean, I think we
5 have been told, but from your perspective, the lighting
6 was clear, it was easy to see him?

7 THE WITNESS: Yeah. This is a major
8 intersection. You have Max platforms here and here,
9 which are well lit. You have overhead street lights
10 here, down 148th Avenue, that provide good overhead
11 lighting. The porch light that is right next to his
12 front door was on.

13 So, I mean, you are going to have some
14 shadows, but the lighting was good. I had no doubt
15 about what Officer Jungling was seeing at that distance
16 with binoculars. No doubt whatsoever. And I know what
17 gunshots sound like, and I had no doubt those were
18 gunshots.

19 A JUROR: But it sounds like when he
20 turned, he came down the front walkway and he turned
21 left, he still had the rifle predominantly in his left
22 hand?

23 THE WITNESS: Yes.

24 A JUROR: And that's the side of his body
25 that is away from you?

1 THE WITNESS: Correct. That to me would be
2 his off side.

3 A JUROR: So it's likely that Officer
4 Keller actually had a better view of what he might be
5 doing with the rifle than you did?

6 THE WITNESS: Yes, that's quite possible.

7 A JUROR: So the way -- the picture I get
8 is his right hand was empty, and the left hand had the
9 gun as he turned towards Officer Keller?

10 THE WITNESS: Yes.

11 A JUROR: Okay.

12 MR. REES: Anything else? All right.
13 Seeing no further questions, we will excuse Officer
14 Steiner. Thank you.

15

16 CHRISTOPHER CASS,
17 produced as a witness, having been first duly sworn,
18 was examined and testified as follows:

19 THE WITNESS: I do.

20 EXAMINATION

21 BY MR. REES:

22 Q Officer, for the record, if you would
23 please state your first and last names and spell your
24 first and last names?

25 A My name is Christopher Cass,

1 C-H-R-I-S-T-O-P-H-E-R, C-A-S-S.

2 Q And are you a Portland police officer?

3 A Yes, I am.

4 Q What is your assignment?

5 A I am with the Traffic Division, so usually
6 I am riding the motorcycle around and enforcing traffic
7 rules, and investigating crashes, and arresting DUII
8 drivers are my main goals in Traffic Division. I
9 haven't been on my bike in two weeks, though.

10 Q Due to the snowy weather?

11 A Yeah, due to the snowy weather.

12 Q You can work all over the city, but are you
13 kind of assigned to East Precinct?

14 A Yeah. Southeast Precinct, I try to head
15 out there when my shift starts, but I could respond
16 anywhere. But I try to respond there first if they need
17 something.

18 Q How did you get attached to this situation
19 at 148 and Burnside regarding the call of shots fired
20 back on the night of December 5th, 2016?

21 A I was at our old Southeast Precinct
22 location, which is now a County -- the County is using
23 the building. It's at 47th and Burnside. I was
24 finishing reports up, or doing something, e-mails. I
25 don't remember what I was actually doing there at the

1 time.

2 But I heard the call kind of come out. We
3 hear calls like this from time to time. I listened to
4 it, nothing too bad going on yet. And as it kind of
5 escalates, I'm like okay, well, it was a night where I
6 was in the car, for some reason, I think the weather was
7 bad, and it was really cold and I was worried about the
8 freezing roadways.

9 So I was in a car that night. So I started
10 meandering toward the car. And then hear it -- it
11 escalates some more, some more shots fired. Officers
12 saying they are there now and shots being fired, which
13 escalates in my mind, of things going on. Because we
14 have arrived now and things are continuing and it's our
15 firsthand experience of something going on, rather than
16 a caller saying shots fired, and we get there and
17 nothing's happened, and we can't find a gun.

18 That happens quite a bit where there's
19 shots fired, and we go around and we can't find
20 anything. So where we're there and things are
21 happening, this is stepping it up a level for me. I am
22 now -- I am, okay, now something is really going on.

23 So I get my car. I am heading towards the
24 location, towards the scene, and then things -- just
25 more reports, and people are taking perimeter positions.

1 So then I head there code to help out, see what I can
2 do.

3 Get certain calls when you are a police
4 officer where you just head that way, and once you get
5 there, you try to see what you can do if you are needed.

6 Q And you said code, meaning lights and
7 sirens?

8 A Lights and sirens, yes.

9 Q So you are going there as fast as --

10 A I am going there fast. It's not -- it's
11 not an officer down call where I would be taking much
12 more risk with my safety and the public safety. You
13 know, putting everybody at a little more risk when
14 there's a hot call, officer down, active gun fight, I
15 would probably risk safety a little more than, I am
16 going to get there, and get there safely, but I need to
17 go code where I'm going to the intersection, and make
18 sure it's clear, and then bust through lights and
19 sirens. And that's how I was going to this call.

20 Q Behind you is a photographic diagram of the
21 area near the intersection of 148 and Burnside. Does
22 that capture the area where you ended up?

23 A Yes.

24 Q Can you point that out to us?

25 A Yeah. So when I eventually end up at the

1 scene, I go up and make contact behind Officer Keller,
2 where the group of cover officers is, as I was requested
3 by the sergeant to help in case we had to do a custody.

4 Q So are you in this area that is marked as
5 "additional cover custody officers"?

6 A Yes, I am.

7 Q You are part of that team?

8 A Yes.

9 Q And do you have some communication with
10 Sergeant --

11 A -- Hughes.

12 Q -- Hughes, who is at the scene?

13 A Yeah. He tells us, hey, you guys are
14 getting custody. If he comes out and complies, we have
15 a plan. We call people out, what are we going to do
16 with them? We have a plan to go take them into custody,
17 and figure out from there what happens, but make sure
18 everybody is safe. So the plan is if he comes out and
19 complies, we're going to go up, take him into custody, I
20 was going to be part of the hands-on and actually put
21 the handcuffs on.

22 Q Could you then observe the effort to loud
23 hail to the person in the apartment, to call out to him?

24 A Yes, I do.

25 Q How does that go? What is being said to

1 him over the loud speaker?

2 A Sergeant Hughes is on the loud speaker
3 saying, Steven, Come on out. We want to talk to you.
4 We need to know what's going on. We don't want to hurt
5 you. Come on out to the sidewalk.

6 And there had been reports from officers
7 that had a view of the front of the apartment that he
8 had -- at some point he had a gun in his hands, the
9 handgun. And giving instructions of, Come out without
10 the weapon. Come out without the gun.

11 And then when Sergeant Hughes had to
12 communicate with other sergeants and other command
13 staff, Officer Kays was then taking over the loud
14 hailing, and same thing, Come on out. We need to talk
15 to you. This is a situation, we can't go away. We need
16 to make sure everything is okay. We need to have him
17 come out and have a conversation with us.

18 Q Do you hear anything in response or
19 anything, I guess, even not responsive, coming from the
20 subject's apartment?

21 A He yelled some things. I can't hear
22 everything that he said, some things about worried about
23 being hurt. And we keep trying to give him -- Sergeant
24 Hughes was trying to say, we don't want to hurt you,
25 because he was worried about us hurting him.

1 Also was worried about someone that was in
2 the residence, at some point I heard. And just kind of
3 some response to Sergeant Hughes, and some not. Again,
4 I couldn't hear everything because of where I was at.

5 Q Do you hear shots fired at all?

6 A I never heard shots fired while I was
7 there, from him.

8 Q Were you aware, had there been some
9 broadcast about shots fired?

10 A Yes.

11 Q Was that prior to your arrival?

12 A That was prior to my arrival, yes.

13 Q Let me ask you, then, about the final
14 aspect of this contact when -- it's been described
15 Steven Liffel comes out of the apartment.

16 What were your perceptions of that?

17 A Okay. So at one point Sergeant Hughes was
18 worried with Officer Keller, if Steven came out of the
19 apartment and then ran southbound, ran this way down the
20 sidewalk, about Officer Keller's angle with his weapon
21 and maybe a cross-fire situation and not be able to
22 track him.

23 So I moved from behind the SUV that they
24 were in to behind this SUV to guard that from happening,
25 from him getting down behind us. And we have a big

1 perimeter. We have officers, we have medical staff
2 staged. A lot of open area here where there's people,
3 and we don't want a gun to get down there. So I set
4 myself up in the location where I could keep that from
5 happening.

6 Then Steven finally comes out. And I am at
7 a point where there's a truck in the driveway, so I
8 could kind of see his head as he pops open the door, and
9 steps out, but I can't see anything else. And an
10 officer with a different vantage point gets on the radio
11 and says, he's got a rifle.

12 And this is the first time we have heard
13 rifle. It was always handgun before. Rifle kind of
14 steps up the situation for me, and probably almost every
15 officer. With a handgun, you are less accurate and it's
16 less powerful than a rifle. A rifle is much more
17 accurate, and it's much more powerful ballistically than
18 a handgun. These ballistic vests will stop handgun
19 rounds, but they will not stop rifle rounds. Rifle
20 rounds go too fast and you can't stop them.

21 We demonstrate that in our training. I am
22 a firearms instructor, and I am also certified to carry
23 our AR-15 rifle, as well. So something we train on. We
24 know that -- with a rifle, one, they can be more
25 accurate quicker because of the barrel length, and it's

1 a more devastating round that they are carrying in a
2 rifle.

3 So I hear that, and we're amped up again.
4 We're already amped up enough, as far as concern for my
5 safety, concern for other officers' safety, knowing that
6 a lot of protection we have probably won't stop a rifle
7 round.

8 So he comes out -- Steven comes out, and
9 goes to the end of the truck. And that's really, at the
10 end of the truck is where I can see the rifle now. And
11 he's got the stock of it in his hand, he's kind of
12 moving around.

13 Q By the stock, what part of the gun is that?

14 A So the front of the gun. If you have seen
15 a rifle, the front area on this one had like a brown or
16 wood stock, and that's where you hold and help to aim in
17 the front, and back here is where you are going to work
18 the trigger. And you are going to look down the sights.

19 He had that right here. So in a sense, if
20 he's ready to fire, you can either just drop it here, or
21 pull it up to the pocket or the armpit where we brace
22 for rifles and start shooting.

23 Q And just for the reporter, so you are
24 demonstrating first shooting, really, I guess, from the
25 hip, so to speak?

1 A Correct.

2 Q With the barrel parallel or up to the
3 shoulder?

4 A That is correct.

5 Q And would a person be able to go into
6 either position, from what you saw, in a split second?

7 A Yes. Yes, they would. We train on things
8 called action/reaction. When a gun is out, trying to --
9 even if I had my gun out and you have your gun out, if
10 you decide to fire, I can't beat you, even when I am
11 ready to fire, beat you with my perception of seeing
12 what I am seeing, deciding to react, and actually
13 reacting. I can't beat you.

14 We have shown that time and time in our
15 training. And also in our training, when we qualify
16 with our ARs, I have to take my gun from what they call
17 the press ready position up to fire, and shoot a round
18 within a second, and be accurate with it. That's how
19 accurate and fast rifles can be if you are going to use
20 them.

21 Q And you could do that in a second or less?

22 A Yes. Yeah, I have to do it three times a
23 year in training.

24 Q So you know that's the speed that a person
25 can do that?

1 A I know, yeah.

2 Q When you see that, when you see him with a
3 rifle and his hand on the stock walking out, are there
4 any -- if I could finish --

5 A JUROR: I just want a clarification. I
6 am sorry.

7 As far as when he came out, he had both
8 hands on the rifle?

9 THE WITNESS: He had one, and then the
10 other would touch, and then I believe he switched from
11 hand to hand once, just kind of -- he's all over. And
12 he's not following instructions.

13 A JUROR: I gathered that.

14 THE WITNESS: He's moving, he's moving
15 around, and not even -- he's not only not following
16 instructions, he's not responding appropriately for the
17 situation, in my opinion.

18 MR. REES: Sorry. I didn't want to step on
19 your question.

20 A JUROR: I am sorry. That's --

21 Q BY MR. REES: That's okay. The question
22 was whether he was responding at that point to any
23 commands, and whether there were any commands by you or
24 anyone else to drop the gun?

25 A I didn't give the commands, because there

1 were plenty of other people giving commands. We had PA
2 going with, Drop the rifle. We had other officers
3 yelling, Drop the rifle. And he's out, he's walked out
4 past the end of his truck now, towards the end of the
5 driveway towards the sidewalk.

6 And I can see his full body at this point,
7 but I have a bad backstop, which is -- I have to make
8 sure that if I fire a round, I have to make sure if I
9 miss or it goes through, or whatever happens, whatever
10 happens down range, farther past my target, I am
11 responsible for.

12 A JUROR: Do you have a gun or do you have
13 a rifle?

14 THE WITNESS: I have a gun, because I was
15 supposed to be a hands-on officer, so didn't have my
16 rifle with me. So I don't have a great shot, in my
17 opinion. Because I had seen earlier, before Steven came
18 out -- I will stand up real quick to point out on the
19 map. Up on the other side of the intersection, a
20 gentleman had walked out trying to see what is going on.

21 And we yelled at him to go back, and didn't
22 respond as great as I thought he should. He came back
23 out once, and went back in once. So I know up here
24 there's somebody that is potentially down range from
25 where I might be shooting at.

1 So I know I have to consider that if I have
2 to take a shot, that someone might be up that way. We
3 have to think about that, but I know for a fact somebody
4 has been up there, farther up. So he's getting multiple
5 commands from multiple officers to drop the weapon, get
6 his hands up, drop the weapon, get his hands up. And
7 he's not complying.

8 And I am sitting there thinking, wow, I
9 can't believe he still has his rifle in his arm. Why
10 won't he drop it? This is dangerous, I am in fear for
11 myself and other officers, and knowing he could shoot at
12 any time basically, and react before we can react. I
13 was very concerned about what was going on.

14 And at that point there's a shot fired from
15 one of ours, and Steven goes down on the ground, drops
16 the rifle out of my sight. I don't see where it's at
17 anymore, but I know it's not in his hands because I can
18 see his hands at first. And then his left hand goes
19 towards his waist.

20 And previously I know that he had a handgun
21 with him. And I know from being a police officer,
22 that's where most people keep their handguns when they
23 are not -- when it's not in their hand, it's somewhere
24 around the waist so they can index it quickly.

25 I don't know where he's been shot, and now

1 we're giving him more commands: Get your hands -- I am
2 not giving commands, other officers are. Get your hands
3 out. Crawl away from the weapon. Crawl away from the
4 gun. We want to get you help, but we need you to get
5 your hands out and move away from the weapon.

6 He's not doing that. He's not -- he's
7 yelling, and I don't know what he's yelling at this
8 point. But he's got his right hand out, his left hand
9 is in towards his waist, and he's laying face forward,
10 kind of propped on his side, and then he kind of goes
11 down, and then the other side. And then both hands go
12 underneath him. Now I can't see either hand.

13 Still giving -- commands are still being
14 given for him to crawl away from the weapon. Get your
15 hands up so we can see them. He's not complying. He
16 goes pretty still, and then about that point is when our
17 SERT Team was coming up.

18 Q BY MR. REES: So if you had been in a
19 position to use deadly force yourself in this case, do
20 you think you would have done it?

21 A I think I would have. Yes.

22 Q Why?

23 A Because we were all in danger, every
24 officer and the citizens out in the area were in danger.
25 Steven, at that point, when he has the rifle, he's

1 already shot rounds off in front of officers. We know
2 he's willing to use the rifle, or use a gun, at least,
3 and he's not complying. We have got a whole bunch of
4 officers there. And you come out with a rifle, what are
5 you thinking? What is going on? You just don't do
6 that. You can't do that.

7 We didn't come because we wanted to go mess
8 with Steven today. We came because we were called.
9 Someone called us to that location. He's shooting
10 rounds off. We had to do something for the public.

11 And fortunately, 99 percent of the time,
12 98 percent of the time we end up -- nobody gets hurt.
13 This is the one time where he just didn't listen to us.
14 That's all we wanted, listen, put the gun down, come out
15 to us.

16 And then if he -- if he needs medical help,
17 great, if he needed mental health help, great. We'll
18 get all of that stuff for you. But we need to get you
19 past the point where you are a threat to us, or the
20 public. You live in an apartment complex and you are
21 shooting rounds off. Those bullets can go through the
22 walls.

23 MR. REES: Any follow-up questions, folks?
24 Okay seeing no further questions, we will excuse Officer
25 Cass. Thank you for coming in.

1 THE WITNESS: Thank you.

2 (Brief recess taken.)

3
4 BRIANNE PAISLEY,
5 produced as a witness, having been first duly sworn,
6 was examined and testified as follows:

7 THE WITNESS: I do.

8
9 EXAMINATION

10 BY MR. REES:

11 Q Please be seated, Officer Paisley. If you
12 would state your first and last name for the record and
13 spell it.

14 A Brianne, B-R-I-A-N-N-E, Paisley,
15 P-A-I-S-L-E-Y.

16 Q And are you a member of the Portland Police
17 Bureau?

18 A Yes, I am.

19 Q How long have you been a police officer?

20 A Since February of 2014.

21 Q What is your current assignment?

22 A I work patrol at East Precinct.

23 Q East Precinct?

24 A Yes.

25 Q Were you on your regular shift on the night

1 of December 5th, 2016, when this shots fired call went
2 out?

3 A Yes, I was.

4 Q And how did you get attached to that call?

5 A I was dispatched as cover.

6 Q And we have heard from some other officers
7 about really kind of an initial call that was responded
8 to where nothing was really seen. And then there was
9 some additional calls for 911, and some folks were
10 contacted. And what point did you -- you said you were
11 dispatched, so what point did you get involved?

12 A I wasn't a part of the original call. I
13 was a part of the following call where a complainant
14 said there was a female in his yard, underneath --
15 hiding underneath his cars. So I responded with the
16 primary to go make contact with them.

17 Q And when you say the primary, which police
18 officer was that?

19 A That was Officer Holwedge.

20 Q And at some point, did you see some
21 evidence that shots had actually been fired at or near
22 that apartment?

23 A Yes.

24 Q What did you see?

25 A The female that we made contact with said

1 that her boyfriend had a firearm and he had shot -- she
2 wasn't sure if he was shooting at her, but she ran
3 around the car and he shot at his vehicle.

4 She described his vehicle to us. It was a
5 truck. And tried to explain which apartment he was in,
6 but it was still a little unclear. So a sergeant and
7 another officer and I walked north on 148th to go try to
8 find evidence of this shooting. And we saw the vehicle,
9 which she described, and it had a shattered back
10 passenger window. Which she also described where he had
11 shot.

12 Q So what did you do at that point?

13 A At that point we heard yelling from inside
14 the apartment, and we weren't sure if it was just him or
15 if there was anyone else in the apartment. So we
16 decided to back out of that spot and get to cover, and
17 so at that time more officers had arrived.

18 Q There's a photographic diagram on the wall
19 behind you, and feel free to stand up if you want.

20 But does that show where you eventually
21 took up a position?

22 A Yeah. So initially we were up closer to
23 this car, and then some things had happened. We heard a
24 shot fired, sounded like it was from this location, and
25 it sounded like it was coming towards us, whizzing past

1 us. So I jumped in the driver's side and backed us up
2 to this point, so we had a little bit more cover from
3 that spot.

4 Q You can resume your seat.

5 So you backed up to get a little more
6 distance away from that apartment?

7 A Uh-huh.

8 Q And what are you thinking now that you have
9 seen what looks like glass from the pickup truck being
10 shot, and you talked to a woman who said her boyfriend
11 has been shooting, and now you hear a shot fired. So
12 what is going through your mind?

13 A I was thinking that at any moment he was
14 going to come out and start taking fire on us. So our
15 plan was to be as tactical as we can to get cover, and
16 make sure if he does come out, we can address him before
17 he is able to take fire on us.

18 So at that point we heard another whizzing,
19 it sounded like from a small caliber gun, come whizzing
20 past us. So there was another officer who had eyes on
21 the front door. He said that he never saw the suspect
22 come out the front door, so we're thinking there's a
23 door on the back alleyway.

24 So another acting sergeant and I go across
25 this street to get eyes on the alleyway.

1 Q So you are indicating to the west of 148?

2 A We go to the west, yeah, to get eyes on the
3 alleyway, because at that point the truck was blocking
4 our view of the front door. So the officers who were
5 right here could not see the front door. We could only
6 tell if it was opening or shutting. We couldn't see if
7 the suspect was coming out.

8 So to get better eyes on, another acting
9 sergeant and I went across the street to go back behind
10 some houses to get eyes on the alleyway, because someone
11 already had eyes on the front door.

12 A JUROR: I am sorry. Where is the
13 alleyway?

14 THE WITNESS: It's right in here
15 (indicating).

16 Q BY MR. REES: Oh, in front of the vehicle?

17 A So here's -- here's his truck. There's the
18 front door right here, and then there's an alleyway
19 right in there in between a wall and his house.

20 A JUROR: Okay.

21 Q BY MR. REES: Were you able to see anything
22 from there?

23 A Yeah, I was able to get a good view of the
24 alleyway, but at that point he had come out the front
25 door. So I was still focused on the alleyway, just in

1 case there was someone else in there, but the victim,
2 his girlfriend, was pretty adamant that he was the only
3 one in there.

4 Q So did you stay in that position, or did
5 you go back?

6 A No, I stayed in that position with the
7 acting sergeant, and I had binoculars, as well, to get a
8 better view.

9 Q So you remained in that position to the
10 west of 148th?

11 A Uh-huh. Uh-huh.

12 A JUROR: Which sergeant were you with?

13 THE WITNESS: He was an acting sergeant,
14 Grant Smith.

15 Q BY MR. REES: And so then from where you
16 are to the west of 148th, are you hearing other police
17 officers loud hailing to the subject, inside of the
18 apartment?

19 A Yes, there was officers -- two assigned to
20 hail, Officer Kays originally, and then as this
21 situation escalated, Sergeant Hughes took over commands
22 and I could hear him loud hailing the suspect to Come
23 out with your hands up. Leave any weapons inside. We
24 want to talk to you. If you come out with any weapons
25 you are subject to get shot.

1 So he was well informed that we were there
2 and what our intentions were, and we just wanted him to
3 come out with his hands up so we could talk to him.

4 Q Were those commands over the speaker quite
5 clear to you, even though you were west of 148th?

6 A Uh-huh. Yes.

7 Q Could you hear any response to any of those
8 commands?

9 A Anything that I heard come from him just
10 sounded like jibberish, like he was ranting and talking
11 to somebody, but we couldn't quite make out what he was
12 saying.

13 Q Could you -- or did you ever see the
14 subject inside of that apartment come out?

15 A Yes. Several times.

16 Q Several times? What was he doing?

17 A So the first time that I saw him come out,
18 he had a bottle in his hand. Again, I could hear my
19 sergeant giving him commands, and him just not obeying
20 any of them. He set the bottle down, and then he goes
21 back inside the house. Several seconds later he comes
22 back out, he has tissue, looks like toilet paper in his
23 hand. He starts stuffing it in the bottle and tries to
24 light it on fire, but was unsuccessful. So he goes back
25 in the house. Every time he goes back in the house I

1 try to change my attention toward the alleyway in case
2 he pops out that way.

3 He came out again, but at that point my
4 focus was on the alleyway. We got word from Officer
5 Steiner that the subject had a handgun in his hand. As
6 soon as I turned my attention to the subject he goes
7 back in the house, so I never saw the handgun. But
8 yeah, he did come out several times, and again, just
9 wasn't listening to any of the commands given.

10 Q And then what happens?

11 A And then he goes back inside. I again look
12 towards the alleyway, make sure he's not coming out that
13 side, and then he opens the door, comes back outside. I
14 could see a rifle in his hand. I believe it was in his
15 right hand, and he's just holding it up in the air with
16 one hand, and he's like walking out like this.

17 Again, there's several commands given. I
18 drop my binoculars, because I had a good view of him
19 even without the binoculars. Again, the sergeant is
20 telling him to drop the gun, put the weapon away. He
21 keeps walking west towards the sidewalk. Again, not
22 listening to any of the commands.

23 And then as he continues, he's almost to
24 the sidewalk I hear another shot fired, and then at that
25 point I brought my binoculars back up to see if I could

1 see anything else. I heard the shots fired, and then I
2 saw the suspect go down. And then from there, he kind
3 of drops the shotgun to his side, but still, as he goes
4 down, it's in arm's reach. He starts grabbing his
5 stomach, grabbing towards his waistband, and grabbing
6 down at his legs and kind of flopping around.

7 Q And so if we could just go back a little
8 bit, I want to follow up with what you are seeing.

9 It sounds like when you see that he's out
10 with a rifle, you stop looking through your binoculars,
11 you said?

12 A Uh-huh.

13 Q Is that right?

14 A Yes.

15 Q Why did you stop looking through your
16 binoculars?

17 A Just because I felt like if I needed to
18 move towards a handgun or something, that it would be
19 easier if I didn't have anything in my hands at the
20 time. Just with the threat of him already taking fire
21 towards us, and him coming out with the gun, you are
22 just -- you automatically assume that he's just here to
23 kill one of us, that that is his intention. And that's
24 what I was thinking the entire time, because of
25 everything else that had already happened, with him

1 shooting when his girlfriend was outside, hitting his
2 car, and what we believed of him taking fire at us.

3 And now with all the commands given and him
4 knowing our presence is there, to walk out with a gun, I
5 don't believe that he had any other intention.

6 Q And I think you said when you first saw him
7 with a rifle, I believe you said it was up in the air?

8 A Yeah.

9 Q What does that mean?

10 A So he had it so the muzzle, I guess, is
11 pointing up towards the air.

12 Q Did that --

13 A -- elongated muzzle pointed towards the
14 sky -- sorry.

15 Q In that position, did you perceive that to
16 be an imminent threat, and if so why?

17 A Yes, because at any point he could easily
18 drop it down and start taking fire. Anyone with a
19 weapon, with a gun, knowing that we're there and knowing
20 the situation, in my mind, is a great threat to any of
21 us.

22 Q To ask that another way, when you saw that,
23 did it look to you like the situation was escalating, or
24 that he was giving up?

25 A At that point I believe that I heard him

1 say, like, within all of his ranting and raving, to the
2 effect, I am going to die. And he keeps just walking
3 out towards the street, so I felt like it was
4 escalating.

5 Q You felt like it was escalating?

6 A Uh-huh.

7 Q What did you think, in your mind, if you
8 recall what you were thinking when you dropped the
9 binoculars, what did you think was going to happen?

10 A With that kind of mindset that he has as
11 he's walking towards the street, I think he's going to
12 take fire on us so that way we take fire back on him
13 with his statement and the fact that he's not listening
14 to any of our commands, and that he keeps walking out
15 towards us to get a better view of us.

16 Because I am not sure if he could see the
17 police officers back here at that point. At that point,
18 I don't believe he exactly knew where any of us were,
19 because we were kind of in positions of tactical cover.
20 So I think he was looking, seeking us out.

21 Q Okay. You believe, I assume, that he would
22 have been aware there was a police presence after 30
23 minutes of yelling at him, right?

24 A Yes.

25 Q But you are saying it was not clear to you

1 that he knew exactly where the police were?

2 A Yes.

3 Q And did you see when he was walking with a
4 rifle, did he appear to be changing his pace, or his
5 position, or his body angle as he was walking, or could
6 you tell?

7 A I couldn't really tell. It just seemed
8 like he was just walking out towards us. And then
9 towards the end he kind of angled south a little bit.
10 And then that's when I heard the shots fired.

11 Q And in angling south that would be --

12 A His body, his front body, towards the
13 officers.

14 Q -- towards this group, the custody team and
15 the two police cars; is that correct?

16 A Yes.

17 Q Away from Burnside?

18 A Yes. Uh-huh.

19 MR. REES: Any follow-up questions from the
20 Grand Jury?

21 Seeing no questions. We will excuse
22 officer Paisley. Thank you for coming in.

23 THE WITNESS: Thank you.

24 (Proceedings concluded at 3:42 p.m.)

25

