

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

MULTNOMAH COUNTY GRAND JURY
OFFICER USE OF FORCE INVESTIGATION

Injured: Chase Arnae Peeples)
Date of Incident: October 25, 2017) DA No.
Location: North Oatman &) 2371255-1
North Saratoga) PPB No.
Portland, Oregon) 17-352556

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled transcript of GRAND JURY proceedings was heard, commencing at the hour of 10:15 a.m., on Tuesday, December 12, 2017, and Wednesday, December 13, 2017, at the Multnomah County Courthouse, Portland, Oregon.

APPEARANCES

Mr. Brian S. Davidson
Deputy District Attorney
On Behalf of the State of Oregon.

* * *

KAREN M. EICHHORN, CSR, CRR
Certified Shorthand Reporter
Portland, Oregon

1	INDEX TO WITNESSES	
2		PAGE
3	VINCENT CUI	3
4	ANDREW CANULETTE	30
5	AARON J. TREMBLAY	42
6	GARY REED	51
7	JIMMY PRYCE	72
8	ANTHONY CHRISTENSEN	97
9	MADISON CURTIS CEASER	116
10	JOANA ORTIZ	132
11		
12	DECEMBER 13, 2017	
13	DENAISHA MEADOWS	142
14	JAMES BRIAN HABKIRK	163
15	VINCENT CUI	198
16	RYAN REAGAN	220
17	JOSHUA HOWERY	259
18		
19		
20		
21		
22		
23		
24		
25		

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

P R O C E E D I N G S

Tuesday, December 12, 2017

VINCENT CUI,

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

THE WITNESS: My first name is Vincent Cui, C-U-I. I'm a detective with the Portland Police Bureau. I'm currently assigned to the homicide unit. I've been with the homicide unit for the past two years, and I've been in law enforcement for the past 20 years.

EXAMINATION

BY MR. DAVIDSON:

Q Thank you, Detective Cui, for being here.

I may have missed it, but how long have you been a detective?

A I've been a detective since 2006, so 11 years.

Q And what other assignments other than homicide?

A So your initial year when you first get

1 promoted, you do a rotation. So you go through various
2 units like homicide. I went through assault. I went
3 through afternoons in sex crimes.

4 Once I got off probation, I was assigned to
5 the sex crimes unit for about four or five years and
6 then I was in the human traffic unit. And then the past
7 two years, I've been with the homicide unit.

8 Q Okay. And did you attend college?

9 A Yes. I got a degree, a Bachelor's degree in
10 journalism from the University of Hawaii.

11 Q And it's my understanding you also have some
12 military background; is that right?

13 A Yes. Actually I am a retired U.S. Army
14 reserve officer.

15 Q And what rank did you achieve?

16 A Major.

17 Q And how many years of military service do
18 you have?

19 A Twenty-five years of service.

20 Prior to being an officer, I also enlisted in
21 the Air Force and got my commission in the Army.

22 Q Okay. So it's my understanding you are the
23 lead detective in relation to this officer-involved use
24 of force investigation that occurred on October 25th of
25 this year; is that right?

1 A Yes.

2 Q Why don't you tell us how you first became
3 aware that something had occurred on that date.

4 A So on October 25th, I was the assigned -- so
5 what we do in homicide is you're -- basically you are
6 the primary detective for a week time. You are on call
7 for a week.

8 So during that week, I was the primary
9 officer. I'm a detective. I got a phone call from
10 Sergeant Kenny Whattam, who is one of the supervisors
11 for the unit, that there was an officer-involved
12 shooting in the area of North Oatman and North Saratoga.

13 Q Is that Oatman?

14 A Oatman.

15 Q And Saratoga?

16 A Yes.

17 Q Do you know approximately what time of day
18 that was?

19 A I believe it was -- I know, going through
20 the radio calls, I know what time the shooting was.
21 But I think I believe I was probably paged out a little
22 after 2:00.

23 Q Okay. And what is the response? How does
24 the Bureau respond when something like this occurs?

25 A So basically for the homicide unit, the

1 entire unit will go out to an officer-involved
2 shooting. We bring out a command post. Usually
3 someone from the chief's office will show up.

4 Whatever precinct the shooting occurs, in
5 this instance it was North Precinct, their command staff
6 will show up. IA, Internal Affairs, will show up, which
7 is now Professional Standards. Even IPR, the
8 Independent Police Review, will actually send out
9 somebody, too. So it's, it's a very extensive response.

10 Q You mentioned the Command Center. What is
11 that?

12 A We have a mobile precinct actually. It's
13 like a baby RV that comes out, and that's where we're
14 able to do the briefings. We can look things up. We
15 can do interviews in there.

16 Q All right. And did you have a co-lead or
17 someone that usually works with you?

18 A My partner is Detective Anthony Merrell.

19 Q All right. And so how long do you think you
20 were on scene during the shooting?

21 A So I probably got out there maybe about
22 2:30, so we were probably out there for at least a good
23 four to five hours.

24 Q All right. All right. It's my
25 understanding that you put together a PowerPoint

1 presentation to kind of walk us through what your
2 understanding is and of your view of the investigation.

3 A Yes. That's the presentation right behind
4 you, Mr. Davidson.

5 Q Okay. I'm going to give you this to let you
6 drive here, so to speak.

7 A Okay.

8 Q If that's okay with you.

9 A Do you mind if I stand?

10 Q Yes, I think that's fine.

11 A So in this instance there's actually a
12 couple other case numbers involved with it because
13 preceding the actual shooting, there were two robberies
14 that occurred. So that's the case number for the
15 actual shooting portion of the case.

16 So this is the subject that was encountered
17 by the police officers and ultimately was shot three
18 times. His name is Mr. Chase Peeples. He's not from
19 the Portland area. He's originally from Florida.

20 And I believe prior to this, he was probably
21 up in the Tacoma area, and I think just prior to the
22 incident, he was living in the Battleground area.

23 This is the involved -- we call them the
24 involved member. This is the officer that actually
25 fired the shots. This is Officer Ryan Reagan. He was

1 assigned to North Precinct in a two-person car. His
2 partner at the time was Officer James Habkirk. Officer
3 Reagan was the driver of the car. Officer Habkirk was
4 the passenger.

5 This is his first officer-involved shooting.
6 He's been a member since 1998, so he's got 19 years on.
7 He actually got hired when I got hired. We're in the
8 same recruiting class.

9 He fired his Glock 17. And preceding -- once
10 the shoot is done and everything is secured and
11 everybody is taken care of, we do what we call an ammo
12 count.

13 Basically we go through all of his duty
14 weapons, his magazines, and we do an ammo count to see
15 how much rounds are actually still there. Showed that
16 he fired six rounds. And when we did process the scene,
17 we actually found six casings at the scene, so it
18 corresponded to his ammo count.

19 Q This photograph there, is that a photograph
20 that was taken that day?

21 A Yes. That's actually taken that day in the
22 command post.

23 Q So that's what Officer Reagan looked like or
24 how he was dressed and how he presented the day of the
25 shooting, at the time of the shooting?

1 A Yes.

2 Q Okay.

3 A This is Officer Habkirk, his partner at the
4 time. Again, a two-person car from North Precinct.
5 He's got well over -- close to 23 years of service.
6 When we did his ammo count, it showed that he didn't
7 fire his weapon at all.

8 Q Again, same story with this photograph.
9 This is a photograph that was taken of him on that day?

10 A On that day in the command post.

11 Q And both officers are dressed in typical
12 Portland patrol officer uniforms; correct?

13 A Correct.

14 That's their actual patrol car they were
15 driving that day.

16 We usually -- we have the SUV, which is a
17 Ford intercept vehicle and we have a Crown Vic. They
18 were driving the Crown Vic.

19 Q And again, for the record, marked in that
20 fashion a Portland police cruiser marked "Portland
21 Police" with overhead lights?

22 A Yes. That's actually taken at the scene.
23 The lights were still on and his driver's door was
24 still open.

25 So this is just kind of a layout of the area

1 of how things happened.

2 So the initial call, robbery call came out at
3 the Ace Cash Express up there at 2722 North Lombard.
4 There was what we call an alarm call. Somebody
5 activated the alarm. BOEC is calling the location in,
6 talking to one of the employees there.

7 Q You said "BOEC."

8 A So BOEC is the Bureau of Emergency
9 Communications. It's our 911 dispatch. So when you
10 hear me say "BOEC," basically it is the 911.

11 One of their operators actually called the
12 location and got information that somebody walked into
13 the place, handed a demand note and asked for money.
14 Basically a robbery with a demand note.

15 A few minutes later, there's a second alarm
16 call from the U.S. Bank located at 3233 North Lombard.
17 Same process, same description as the person from the
18 Ace Cash Express demand note.

19 And in the first instance, the -- Mr. Peeples
20 did not get any money. And the U.S. Bank, he actually
21 got money and a GPS tracker. So a tracker was
22 activated.

23 A GRAND JUROR: With the money?

24 THE WITNESS: With the money.

25 BY MR. DAVIDSON:

1 Q Can you talk a little bit about that,
2 Detective Cui? Did you work in robbery before?

3 A No.

4 Q Okay. But you understand how that works?

5 A Yes.

6 Q What is this tracker pack?

7 A So this is like a much updated tracker
8 versus the old tracker. In the olden days, because I'm
9 on the Bureau for a while, they actually had like radio
10 devices in the car that would kind of zoom into an
11 actual tracker that was based on radio-type
12 information.

13 The new GPS trackers are actually just
14 literally that. It's a GPS tracker. It sends out a
15 signal to the security company, which then relays that
16 information to BOEC, and BOEC relays that information to
17 the officers at the scene.

18 Q So if I understand how the practice
19 basically works, when this kind of a robbery occurs,
20 the teller will sometimes give the robber a pack of
21 money, kind of prepackaged pack of money with the
22 tracker already inside of it?

23 A Correct. And the way -- it's actually glued
24 in between like money currency. So unless they
25 actually stop and look, they can't tell they got a

1 tracker.

2 Q Okay. All right. So the second one, the
3 U.S. Bank, also a note robbery. Mr. Peeples was given
4 the tracker with cash?

5 A Correct.

6 Q All right. And then was that an alarm call,
7 or was that a 911 call?

8 A It was an alarm call. It was obviously, an
9 alarm call, I believe.

10 Q Which means the teller, I guess, pushes a
11 button?

12 A Yes. Activated an alarm and then BOEC gets
13 notified and they follow up.

14 So if you can see, Oatman is literally just a
15 block away. So this is Oatman right here. This is the
16 area. Saratoga is where the actual shooting occurred.

17 Q Did you say what times these two happened?

18 A So the initial call came in at Ace at -- so
19 the initial call at Ace was 1:16 p.m. And then 11
20 minutes later, at 1:27, is the call from U.S. Bank.
21 And then the officers called out with a suspect at
22 1:33 p.m.

23 Q When you say "the officers," you mean
24 Officer Habkirk and Officer Reagan?

25 A Yes.

1 Q Okay.

2 A So this is just quick picture of what the
3 Ace Cash Express looks like.

4 A GRAND JUROR: And they didn't give him any
5 money?

6 THE WITNESS: The Ace did not give him any
7 money.

8 A GRAND JUROR: And he accepted that?

9 THE WITNESS: Did he accept that?

10 A GRAND JUROR: Yes.

11 THE WITNESS: So I don't know if you want me
12 to get into too much of the robbery calls.

13 MR. DAVIDSON: We can get into that a little
14 bit.

15 THE WITNESS: So in the first call, the Ace
16 Cash Express teller initially thought that Mr. Peeples
17 had some kind of learning disability or had a language
18 issue.

19 And when he presented the note, she wasn't
20 like, is this -- you know, is he asking for a loan or is
21 he asking -- so she actually like locked the door on him
22 and was trying to figure out what was going on. And one
23 of the other employees walked in and opened the door,
24 and that's how he walked out.

25 And so he just walked -- you can see he

1 just -- this is kind of the path that he took from -- so
2 this is the Ace Cash Express here, and he walked, and
3 then U.S. Bank is the area there.

4 A GRAND JUROR: So they originally thought
5 he had a learning disability. And what prompted them
6 to realize that they were getting robbed and make the
7 call?

8 THE WITNESS: I think once he walked out and
9 then, you know, he kind of gathered what was going on.

10 A GRAND JUROR: Did he have a note?

11 THE WITNESS: Yes. He did give a demand
12 note to one of the banks.

13 A GRAND JUROR: Okay. But he like kept his
14 note from the first stop and took it down to the next
15 one?

16 THE WITNESS: I think we collected one from
17 the first location. And I don't recall if we recovered
18 one from the second location.

19 A GRAND JUROR: I see.

20 THE WITNESS: Yeah.

21 So this is how it works in an
22 officer-involved in this case. I strictly investigate
23 the actual shooting portion involving the officers.

24 We actually have a robbery detective that
25 handles the robberies. So Detective Hawkinson is the

1 lead in the robbery side. He's also -- he's
2 dual-hatted. He's a task force officer with the FBI and
3 a detective. So he's investigating the bank robbery
4 side as a federal case.

5 A GRAND JUROR: Okay.

6 A GRAND JUROR: And to be clear, he was
7 brandishing a gun?

8 THE WITNESS: No. No weapon was ever seen.
9 Just the note.

10 A GRAND JUROR: Okay.

11 THE WITNESS: So this is actually Mr.
12 Peeples. So Mr. Peeples takes this path here to the
13 U.S. Bank, and we are able to capture some surveillance
14 video along this way.

15 So this is Mr. Peeples after he left the Ace
16 Cash Express walking towards the U.S. Bank.

17 BY MR. DAVIDSON:

18 Q Detective, was there a description given by
19 the teller at the check cashing location, a physical
20 description of the person?

21 A Yes. It matches that to a tee basically:
22 Male, black, wearing dark colored clothing, and he's
23 got yellowish colored shoes, which turned out to be
24 like these Timberland style tannish boots, which are
25 very distinctive. He also had a backpack on his back.

1 This is just more video of him walking down
2 the street.

3 And that's the U.S. Bank.

4 This just shows you from the bank where
5 Oatman is.

6 A GRAND JUROR: The bank is the building
7 underneath your arrow?

8 THE WITNESS: The bank is the building right
9 here, U.S. Bank, yes.

10 Again, this is surveillance video captured
11 from inside the U.S. Bank. You can see there's the
12 boots. Same dark clothing. We highlighted the backpack
13 right there.

14 And this just kind of references again about
15 how long, according to Google, how long it will take to
16 walk these distances.

17 And this is the actual information from that
18 GPS tracking company. So as you can see it's -- where
19 the crime happens here is the U.S. Bank and then this is
20 his path that he took. And then this is where he was
21 actually apprehended at.

22 A GRAND JUROR: And he's walking?

23 THE WITNESS: He's walking.

24 And during the updates, that's basically what
25 the security company is telling BOEC that he's on foot.

1 It's 2.2 miles an hour.

2 There's a couple of neighbors that I believe
3 are going to come in later today. One of the witnesses
4 actually sees him walk past his house, and he lives on
5 Oatman.

6 This is just some information from 590. So
7 590 originally responded to that Ace Cash Express call,
8 so that's why they are in the area.

9 BY MR. DAVIDSON:

10 Q 590 is the unit name -- number for Officer
11 Reagan and Officer Habkirk; correct?

12 A Correct.

13 Shortly after they had cleared -- so they
14 cleared from that Ace Cash Express call at 1:28 and then
15 they immediately attached themselves to the U.S. Bank
16 call, so they were still in the area.

17 As I mentioned earlier, at 1:33, they
18 notified BOEC the suspect was down. And I reviewed the
19 call. There's recorded radio calls that BOEC captures
20 during these events -- or basically all calls. From the
21 initial time that they are out to the time the suspect
22 gets down, it sounds like it was 20 seconds lapsed.

23 Q Between when they report they were actually
24 at the location with the suspect and then the second
25 report, so there's a very quick interaction?

1 A Yes.

2 And so this is the closeup photograph of the
3 intersection where the encounter happened.

4 In an officer-involved incident, the involved
5 officer generally does not give us an on-scene
6 statement.

7 We ask like witness officers, like Officer
8 Habkirk to give us a walk-through, to show us generally
9 where they were positioned and where we could find
10 evidence.

11 So according to Officer Habkirk, where that
12 arrow pointing down is, that's kind of the general area
13 where their car was initially stopped when they
14 encountered Mr. Peeples. And that X part there is where
15 ultimately, where Mr. Peeples was taken into custody.

16 A GRAND JUROR: About how many feet do you
17 think that is from the car?

18 THE WITNESS: I'd say it's probably about
19 40, 50 feet roughly.

20 A GRAND JUROR: What street is their car on?

21 THE WITNESS: So their car is actually on
22 Oatman. You can see Oatman is right here.

23 A GRAND JUROR: It is Oatman.

24 THE WITNESS: And this is Saratoga.

25 So this would be -- north is going this way

1 towards Vancouver.

2 A GRAND JUROR: Okay.

3 THE WITNESS: So Saratoga runs east/west and
4 Oatman runs north/south.

5 A GRAND JUROR: And they are going north --

6 THE WITNESS: They are heading south.

7 A GRAND JUROR: Yeah, that makes sense.

8 THE WITNESS: The entire time the security
9 company is telling BOEC that the suspect is walking
10 southbound.

11 A GRAND JUROR: Got it.

12 A GRAND JUROR: So their patrol car is where
13 the arrow is.

14 Are they at the patrol car when the suspect
15 goes down or are they walking?

16 THE WITNESS: So they are basically by their
17 car, using their car as cover when they contacted the
18 suspect.

19 A GRAND JUROR: So they were sort of
20 following him down that road?

21 THE WITNESS: Yes. They happened just to be
22 in the area and they came down Oatman because they were
23 paralleling along the side. And they just -- they are
24 getting the updates.

25 A GRAND JUROR: They are out of their

1 vehicle, using their vehicle for cover?

2 THE WITNESS: Yes.

3 MR. DAVIDSON: But they weren't literally
4 following him down?

5 THE WITNESS: No. They just happened to
6 turn down.

7 A GRAND JUROR: Go the same direction.

8 THE WITNESS: Yeah.

9 Again, they are getting all of these updates
10 via radio about where exactly this guy is at.

11 So that initial area, their car is initially
12 in this area here. After, after the shots are fired and
13 the suspect is down, they move their car forward and
14 used it as a shield. So that's why if you see the
15 second position, this second photo here, the car is
16 actually further up.

17 A GRAND JUROR: On the other side of the
18 intersection.

19 THE WITNESS: Yes, on the southeast corner.

20 So here is where their car would -- initially
21 would have been. And these numbers here correspond to
22 all of the shell casings that were found and collected.

23 And this generally is the area where -- when
24 they first contacted him here, the suspect is in this
25 area right here. Mr. Peeples is standing right there.

1 Just another view as you come up.

2 So again, Mr. Peeples was struck three times:
3 Once in the upper bicep area close to his shoulder, once
4 in his lower left abdomen area, and once in his right
5 foot, right in his big toe.

6 There was corresponding strike marks. We
7 recovered a bullet from the fence here. And on this
8 cinderblock wall here, there's three bullets right on
9 the bottom. I believe I have a closeup photograph of
10 that. There's the bullet that was recovered and then
11 the three bullet strike marks.

12 So there's a good possibility there's
13 probably -- the one through his arm was a
14 through-and-through. And that could have been -- that
15 fence was the one, because at the hospital, they later
16 recovered the bullet from his abdomen area and the
17 bullet from his toe.

18 So this is Mr. Peeples. This is just prior
19 to medical coming. One of the sergeants made a great
20 decision of having an officer take photographs of
21 Mr. Peeples prior to medical.

22 Because once medical comes on scene, they
23 don't have any regard for any evidence or for anything.
24 So basically they ended up cutting off all his clothes
25 and such.

1 Of note is this black wallet in his hand.
2 And I guess will come into play later when Officer
3 Reagan and Officer Habkirk come in and talk.

4 A GRAND JUROR: Is he in cuffs right there?

5 THE WITNESS: Yes.

6 So what happens when that vehicle comes up,
7 by that time there's a rash of other officers that show
8 up, and they create a custody team and they use a
9 shield.

10 So Officer Habkirk and Officer Reagan and
11 Officer Pryce are by their vehicle and use that to come
12 up and do cover. And Officer Temple, Officer Ortiz,
13 Officer Ceaser and a couple other officers come up and
14 they do the contact team, and that's how they take him
15 into custody.

16 MR. DAVIDSON: And we're going to hear from
17 Officer Josh Howery tomorrow with the training
18 division.

19 And among other things he's going to talk
20 about is he's going to talk a little bit about that
21 process as far as staging medical and then approaching
22 the suspect cautiously and why it's done that way. I'll
23 have more information for you about that tomorrow.

24 THE WITNESS: Yes.

25 A GRAND JUROR: I'm so surprised you don't

1 see any blood there.

2 THE WITNESS: Yes. Sometimes you may --
3 it's -- what you see on TV and what you see in real
4 life are way two different things.

5 A GRAND JUROR: Sure. Sure.

6 THE WITNESS: You'll find sometimes that,
7 you know, that you may not see a lot of blood. There
8 could be a lot of blood with internal bleeding versus
9 external bleeding.

10 But in this case, too, the officers, 590
11 actually, as soon as they said "suspect down," they
12 asked for medical to stage. So medical is right there.
13 Once he's in custody, then they'll call medical in, so
14 there was not much of a gap.

15 BY MR. DAVIDSON:

16 Q Detective, I noticed that Mr. Peeples is on
17 his side. Is there any significance to that? My
18 understanding is that's referred to as the recovery or
19 rescue position.

20 A Yes. We always put them on their side for
21 breathing purposes. Plus, they wanted to be able to
22 check his pockets to make sure there are no other
23 weapons on him and such.

24 A GRAND JUROR: You said, "No other
25 weapons."

1 THE WITNESS: Just to make sure there are no
2 weapons. In this case, we did not find a weapon.

3 We did recover -- Officer Hawkinson did a
4 search warrant. And we ended up recovering the actual
5 money and the tracker from his pockets.

6 These are some of the items they took out of
7 his pockets there. He had on two pairs of pants, a
8 jacket, a sweatshirt and I think an undershirt
9 underneath that sweatshirt, and his baseball cap.

10 And this is just a closeup. When he was on
11 his side and they were rendering aid to him, Officer
12 Ceaser ends up cutting off his backpack. So that's why
13 that's left on the side there.

14 And that's just a closeup photograph of the
15 wallet.

16 Again, as I mentioned earlier, six shots were
17 fired. Again, three strikes to the wall, three strikes
18 to Mr. Peeples.

19 A GRAND JUROR: If I can make a comment.

20 You know, it's a nice pretty green, but us
21 older guys in the back of the room can't read that.

22 MR. DAVIDSON: Okay. Do you want to run
23 through?

24 A GRAND JUROR: I have a question.

25 So they recorded he went down at 1:33.

1 What time did the ambulance arrive for
2 medical?

3 MR. DAVIDSON: Did you want -- do you want
4 the detective to read what's on the slide?

5 A GRAND JUROR: That will be good.

6 THE WITNESS: So medical was staged at 1:33.
7 I believe about 1:36, medical is right there on scene.
8 He's transported from the scene at 1:39. He went to
9 Emanuel.

10 A GRAND JUROR: Emanuel. Thank you.

11 BY MR. DAVIDSON:

12 Q So six minutes from the time --

13 A The time that they reported shots were fired
14 until he was in the ambulance.

15 Q Six minutes?

16 A Yes.

17 Q If you could read to us what's on the --

18 A So it says, "Six shots were fired by Officer
19 Reagan. Based upon the ammo count and casings
20 collected at the scene, Officer Reagan fired six rounds
21 at Peeples.

22 "Peeples was struck three times: The upper
23 right bicep, the right foot, big toe, and left side of
24 his abdomen, perforating his small and large intestine.

25 "The two bullets were recovered from Peeples,

1 his abdomen and his foot. A third bullet was recovered
2 from a wooden fence located behind where Peeples was
3 engaged.

4 "There were three bullet strikes to the
5 cinderblock wall located behind Peeples' position."

6 BY MR. DAVIDSON:

7 Q So obviously, some bullets were not
8 recovered; correct?

9 A Yes.

10 Q And can you explain?

11 A Once they hit the wall, they could have just
12 disintegrated.

13 Q Okay. That's it for the PowerPoint.

14 A GRAND JUROR: So I have another question.

15 THE WITNESS: Sure.

16 A GRAND JUROR: So because we don't have a
17 report from the officer at this time, correct, we have
18 no idea why the officer shot?

19 THE WITNESS: That's why he will be coming
20 in and explaining himself, yeah.

21 A GRAND JUROR: Okay. Is there video, dash
22 cam video?

23 THE WITNESS: There's no dash -- there's no
24 -- we call it MAV. There's no MAV camera in that car.

25 A GRAND JUROR: And no body cameras involved

1 in this at all?

2 THE WITNESS: No.

3 BY MR. DAVIDSON:

4 Q Well, what is the -- maybe you can let the
5 Grand Jurors know, what is the current state of that
6 program as far as you know as it relates to Portland
7 Police Bureau?

8 A So the MAV is still, I believe limited to
9 certain areas. It's a test pilot project. I think
10 mainly Central Precinct cars have MAV.

11 And the body cam policy is still up in the
12 air. I think it's a funding issue about whether or
13 not -- because there's a whole issue about sure, we can
14 record the cameras and record video, but how do you
15 store it. The storage portion is the huge issue.

16 Q So it's a pilot program, but it's basically
17 downtown?

18 A For the MAV, yes. But even for body cam, we
19 don't have any body cams.

20 A GRAND JUROR: And that's what we would
21 call dash cam, the MAV?

22 THE WITNESS: Yeah. Yeah.

23 BY MR. DAVIDSON:

24 Q And Mr. Peeples, I think it may already be
25 clear that Mr. Peeples was injured but was not killed.

1 A Yes. He's actually in Federal custody right
2 now. He was indicted on --

3 Q But he's out of the hospital and he's
4 recovered?

5 A Yes.

6 A GRAND JUROR: How long was he in the
7 hospital?

8 THE WITNESS: Approximately three, almost
9 four weeks because of the intestine. There's the issue
10 of making sure that it healed properly, so they kept
11 him in for a while.

12 MR. DAVIDSON: Okay.

13 A GRAND JUROR: I was going to say, was the
14 toe a direct hit or was it a ricochet, or what?

15 THE WITNESS: The toe, it actually was a
16 direct hit. So they actually recovered the bullet from
17 behind his right toe, yeah. If you see the boot,
18 there's actually a hole right at the right toe. So I'm
19 not sure how that happened. It's interesting, but,
20 yes.

21 A GRAND JUROR: Interesting.

22 MR. DAVIDSON: Any other questions for
23 Detective Cui?

24 A GRAND JUROR: I was just thinking about
25 the policy in terms of shooting in a residential area

1 like that. I mean that hit a fence at a house, right?

2 I mean, in theory, any of those bullets could
3 have traveled into the house.

4 THE WITNESS: They could have.

5 But as an officer, you are responsible, and
6 Josh can talk about this, too, more so, but you have
7 to -- you do take into account your backdrop.

8 And you are responsible for where rounds go
9 down. So you'll have to justify why you shot and talk
10 about, you know, what you saw, what kind of backdrop you
11 saw.

12 A GRAND JUROR: Okay.

13 MR. DAVIDSON: Any other questions for
14 Detective Cui?

15 Okay. Thank you, Officer.

16 THE WITNESS: Thank you.

17

18

19

20

21

22

23

24

25

1 ANDREW DAVID CANULETTE,
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. DAVIDSON:

8 Q Go ahead and state and spell your full name
9 for us, please.

10 A Andrew David Canulette, III. Last name is
11 spelled C-A-N-U-L-E-T-T-E.

12 Q And, Mr. Canulette, do you go by Drew or
13 Andrew?

14 A Drew.

15 Q Drew, okay.

16 A Yeah.

17 Q And, Drew, where do you live?

18 A I live at 7216 North Oatman Avenue,
19 Portland, Oregon. The zip is 97217.

20 Q Okay. And how long have you lived there?

21 A Since 1996.

22 Q So quite a while?

23 A Yeah.

24 Q And do you own, rent?

25 A Own. Well, me and the bank.

1 Q Yes. As is the case for a lot of us.

2 A Yeah.

3 Q And what do you do for a living?

4 A Um, I'm a sound designer. I mix sound and
5 write music. Basically make things sound good. And I
6 do a lot of corporate work.

7 I work out of my house. Built a controller
8 in the back, and so it's primarily an Internet-based
9 business. And then I get a text message or an email
10 from a producer out at Nike and they direct me someplace
11 to download assets.

12 And I download a movie and sound files and
13 make their athletes sound good or say what they want
14 them to say, mix it, marry it to picture, post it, get
15 client feedback. And it's a creative process that
16 sometimes spans several miles.

17 Q Okay.

18 A Sometimes thousands of miles.

19 Q And do you live at that address by yourself?

20 A Um, I have a roommate that lives upstairs,
21 Matt Richardson.

22 Q Okay.

23 A And he just moved in in August.

24 Q All right. So shortly before this occurred?

25 A Yeah.

1 Q And how far is your house from the
2 intersection at North Oatman and North Saratoga?

3 A Oh, boy. That would be one, two, three,
4 three and a half blocks.

5 Q Three and a half blocks?

6 A Yeah. Four blocks.

7 Q It's my understanding that you were home in
8 and around the time that the shooting occurred back on
9 October 25th.

10 A That's correct.

11 Q Why don't you tell us what you remember
12 about the shooting itself.

13 A Um, well, events leading up to the shooting
14 or just the shooting itself?

15 Q You can walk us through, straight through if
16 you would like.

17 A A friend of mine, Scott Burl, and I were
18 building a sign for a coffee shop, the intersection of
19 Denver and Rosa Parks, GrindHouse Coffee.

20 And so I have a small one-car garage, but I
21 keep all of my tools in there. So we had rolled out the
22 table saw and we were getting the materials lined up to
23 build this sign.

24 And he had to -- he was going to borrow my
25 truck and run over and pick up the metal for the backing

1 of the sign. And we were standing basically where my
2 driveway crosses the sidewalk. He was on one side, I
3 was on the other side.

4 And this young black man came walking by and
5 was -- he was kind of disheveled. Really kind of -- he
6 was like nervous. Almost like he was a tweaker, like he
7 was high on drugs or something. He was just kind of
8 messing around with himself a little bit. He wouldn't
9 make eye contact.

10 Generally when people walk by my house, I
11 always try to engage them visually or something just to
12 see, you know, hi, how is it going? I'm one of those
13 guys that just always says hi, so, and he wouldn't make
14 eye contact. He walked by.

15 And both Scott and I kind of looked at each
16 other and said, boy, what was up with that? I think
17 Scott called him a hot mess. And I was like, yeah,
18 something is not right with that guy, you know. He just
19 kept on walking. And I mean, we see people in the
20 neighborhood like that every once in a while.

21 Q And he was walking down Oatman in the
22 direction of Saratoga?

23 A Yes, south. Yeah, he was walking south.

24 Q Okay. And so that just kind of caught your
25 attention for those reasons you just stated?

1 A Yeah. I mean, it was -- there was something
2 up. I'm not clairvoyant, but I noticed something was
3 going on with that guy.

4 Q Okay. And what's the next thing you noticed
5 that was out of the ordinary?

6 A Well, like a minute later, a minute and a
7 half later, we hear, you know, a series of shots. And
8 Scott and I just looked at each other and said that was
9 either gunfire or it was, you know, someone firing off
10 fireworks or something.

11 And Scott said, yeah, if we hear sirens,
12 we'll know it's gunshots. And then on cue, sirens. And
13 that was, you know, pretty amazing, the police response.
14 There was probably 13 cars at least coming down Oatman,
15 you know.

16 Q Okay.

17 A Over the series of the next five, ten
18 minutes.

19 Q And did you -- I guess, did you put two and
20 two together at that point as far as thinking that
21 person was connected to what occurred, or did they come
22 contact you, or how did you come to the attention of
23 the police?

24 A Well, it wasn't -- I mean, after that, it
25 was just kind of like, yeah, we kind of figured out

1 something had gone on.

2 I mean, it was just what people see at that
3 point. You know, you just -- you see this guy, you
4 know, that's, you know, tweaking and then you hear
5 gunshots. And so I surmised that that's probably what
6 had happened. And then police started walking down.

7 We continued to work out there on the sign.
8 So then the police showed up and asked me if we had seen
9 anyone. We said -- described this guy.

10 And, and then I think Scott -- one of us
11 asked, "Was that the guy that got shot down there?" And
12 they said, "Well, there's an investigation going on."

13 And so I don't think I really knew that that
14 was the guy that got shot until I read something in the
15 news. And then -- I mean, then I knew for sure that
16 that's what was going on.

17 Q Do you remember one of the detectives or
18 maybe an officer showing you a photograph on the phone,
19 on his phone?

20 A Yeah. He showed me a movie of that. And it
21 was really hard to, to see just because of the light,
22 yeah, just what that guy looked like. You know, so I
23 mean, yeah, I saw him there.

24 Q You saw the --

25 A Or, or I think it was a surveillance video

1 of the -- was it the bank or maybe it was -- must have
2 been the bank.

3 Q Okay. And did you recognize the person in
4 that video as the same person you saw, or you did say
5 it was dark, so maybe you couldn't tell?

6 A Well, it was strange just because, I mean,
7 you know, you see the guy walking down the street, and
8 you're like, okay, great, he's sketchy looking.

9 But then as you -- it wasn't one of those
10 empirical moments where you just had this flash and you
11 go, oh, I recognize that guy.

12 You know, it was one of those things where,
13 well, you know, it looked like he was wearing the right,
14 the right thing because I thought just from what he was
15 wearing, it kind of looked like him, but you couldn't
16 see his face per se.

17 Q Okay. Was there anything about the way he
18 was dressed when you saw him that stuck out in your
19 mind?

20 A Yeah. You know, it was just like this --
21 you know, he had, he had some earbuds. He was kind of
22 like -- it was strange just to see the way his earbuds
23 were dangling down, and he was just kind of like
24 messing with stuff.

25 And, you know, he just had, you know, it was

1 either a white T-shirt or a white wrap around him. And
2 I wasn't quite sure what that was, you know. There was
3 just -- you know, the way that he was put together
4 didn't look right, you know.

5 I mean, there was -- it's kind of -- it's not
6 like he walked out of his bedroom and he was
7 half-dressed or something. There was just -- you know,
8 something that just wasn't right about the guy.

9 Q Got you.

10 Okay. Not someone you had ever seen in the
11 neighborhood before?

12 A No.

13 MR. DAVIDSON: Well, I think those are all
14 of the questions I have for Drew.

15 Does anybody else have any questions for
16 Drew?

17 A GRAND JUROR: When he went past your
18 house, was he going pretty quickly or very slowly, or
19 what was his speed?

20 THE WITNESS: He was -- well, it wasn't that
21 he wasn't going fast. It's just that he was oblivious
22 to anything that was around him.

23 You know, I mean, it's -- I mean, honestly,
24 like Scott and I were closer than the two of us right
25 here. And I mean, he just, you know, he just walked

1 right by me.

2 I mean, I am making eye contact with the guy,
3 just watching him walk right by us, and he was just
4 oblivious to us. He just didn't even see us.

5 A GRAND JUROR: Did you see if he had
6 anything in his hands when he was messing with his
7 clothing?

8 THE WITNESS: He was messing with something.
9 And it's not that he had anything. I think his hands
10 were free at that point. And he was just, you know,
11 messing with -- you know, kind of like one of these
12 things where he's just kind of like this (indicating).

13 He's kind of, you know, doing something like
14 this with his, his hands. So it was just odd what he
15 was doing, you know.

16 BY MR. DAVIDSON:

17 Q And I'll just make this clear for the
18 record. When you were saying that, you kind of
19 unzipped your jacket and you were like reaching into
20 the interior parts of your jacket.

21 A Yeah. Yeah. It's like he had something
22 going on back here. And he was just kind of messing
23 around, like he had something maybe behind his back or
24 something.

25 And he was just, you know, not -- I mean,

1 when you walk down the street, you know, generally you
2 have a purpose, you know. And, you know, if you've got
3 something stuck or a bee, you are like, oh, you know,
4 you're making it -- you're doing something, but he
5 wasn't. He was just -- it was --

6 A GRAND JUROR: Fidgety.

7 THE WITNESS: Yeah. Thank you.

8 A GRAND JUROR: Did you take note of the
9 cadence of the gunfire? Was it boom, boom, boom real
10 quick?

11 THE WITNESS: Yeah. Yeah.

12 A GRAND JUROR: No pausing?

13 THE WITNESS: Yeah. You know, I think I
14 counted five or six shots when it was fired, you know.

15 A GRAND JUROR: Did you think it was the guy
16 that went past your house?

17 THE WITNESS: Yeah.

18 A GRAND JUROR: That was shooting?

19 THE WITNESS: I had no idea at that point.

20 And, you know, you heard the shots, and we
21 go, wow, gunshots went off, you know, and then you hear
22 the sirens. And so I think at that point you know that
23 someone was there on the scene or someone was watching
24 something.

25 And, you know, that was -- it was incredible,

1 the response time from the shots fired to when we heard
2 sirens. You know, I mean, it was just seconds.

3 MR. DAVIDSON: Anybody else with questions
4 for Drew?

5 A GRAND JUROR: So an officer showed you a
6 surveillance video on his phone? I'm not clear
7 about -- what was that?

8 THE WITNESS: Yeah. I think I talked to
9 two -- well, actually two or three groups of detectives
10 that day and was interviewed by one. And one of them
11 had a cell phone video that was kind of like you could
12 kind of see this dark image.

13 And, and what I recognized in there was just
14 like between here. You know, I mean, it was just --
15 (indicating) -- it's hard to describe because everything
16 was just kind of dark up here.

17 But from the knees to the pectoral muscles,
18 it really -- it totally resembled the guy, what he was
19 wearing, the clothing, and just like how -- the way the
20 coat was just sitting on him and everything.

21 A GRAND JUROR: Was he laying down when you
22 saw the video of him?

23 THE WITNESS: No. He was, he was -- it
24 looked -- he must have been in the bank at that point.
25 He must have just like -- it might have been right

1 before he walked by me and Scott.

2 A GRAND JUROR: Okay. And that was the same
3 day that all this took place?

4 THE WITNESS: Oh, yeah, yeah. Okay. I
5 think so, yes, the 25th, yeah.

6 A GRAND JUROR: Okay. Thank you.

7 MR. DAVIDSON: Anybody else with questions
8 for Drew? No.

9 Okay. That's it, Drew. You are all done.

10 THE GRAND JURY: Thank you very much.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 AARON J. TREMBLAY,
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. DAVIDSON:

8

Q If you could state and spell your full name
9 for us, please.

10

A Aaron Joseph Tremblay. A-A-R-O-N. You can
11 just use J. for my middle initial. Tremblay,
12 T-R-E-M-B-L-A-Y.

13

Q And do you go by Aaron?

14

A Yes.

15

Q Thanks for coming, Aaron.

16

Can you tell us where you live at?

17

A 6726 North Oatman, O-A-T-M-A-N, Avenue,
18 Portland.

19

Q And is that a house, apartment?

20

A It's technically a duplex.

21

Q Okay. And do you own both halves or do you
22 reside in one half?

23

A I do. I own both. I reside in the upstairs
24 unit and I have the downstairs rented out.

25

Q And how long have you lived there?

1 A Two and a half -- well, it was two years in
2 September, so two years and three months.

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

4 A I'm in sales.

5 Q Okay. Anything in particular?

6 A Vehicles particularly.

7 Q All right. Well, I think you know why we're
8 here. We're here to talk about this incident that
9 occurred back on October 25th in the afternoon. There
10 was an officer-involved shooting.

11 Why don't you just tell us where were you,
12 what were you doing at that time, and kind of what did
13 you observe?

14 A I had just gotten back from lunch. I was
15 helping a friend in my shop, and got back in the house,
16 heard what we thought was gunshots, and -- which never
17 happens in the area.

18 And also my -- right immediately my
19 downstairs renter called me and said, "Did you hear
20 that?" And we both walked outside of the door at the
21 same time.

22 And at three houses down on the block, we
23 witnessed police cars and a couple police officers
24 outside of the vehicle with the guns out, and there was
25 a gentleman on the ground.

1 And then there was more cops. They just kept
2 showing up. And then they kind of quarantined the
3 street. We were just kind of like watching and
4 observing what was going on. And that was pretty much
5 it.

6 Q Okay. And how many shots do you think you
7 heard?

8 A Three or four.

9 Q All right.

10 A I don't know exactly. Maybe -- I know from
11 looking at the wall, there was four, but it could have
12 been three or four or five.

13 Q Okay. Somewhere in that range?

14 A Correct.

15 Q And how many blocks from the intersection of
16 Saratoga and Oatman is your house?

17 A It's on that same block.

18 Q Oh, so it's just right there?

19 A Correct. It's probably from where the
20 gentleman on the ground was, it's three houses up.

21 Q Okay.

22 A So we could hear it.

23 Q Okay. And did you hear the officers say
24 anything during the course of any of this?

25 A Stay down. Stay down.

1 Q Okay.

2 A Don't move.

3 Q And that was directed, I assume at the
4 person who was on the ground?

5 A Correct.

6 A GRAND JUROR: That was after the shots
7 were fired?

8 THE WITNESS: Correct.

9 A GRAND JUROR: The "stay down"?

10 THE WITNESS: Correct. Correct.

11 We didn't hear anything until the shots and
12 then we were outside and they had him on the ground
13 already. So I didn't see him get shot or anything. He
14 was, he was already down.

15 BY MR. DAVIDSON:

16 Q All right. So you didn't really remember
17 hearing or seeing anything because you were inside --

18 A Correct.

19 Q -- until the shots were fired?

20 A Correct. The first thing we heard was the
21 shots. So we don't know what happened before that.

22 Q All right. Did you just, I guess, stay
23 outside and just observe?

24 A Correct. Yeah. It was -- you know, it
25 was -- it doesn't happen like that every day, so, of

1 course, you are curious on what happened. And then
2 you, you know, go on the Internet, and then reporters
3 start showing up, and they say, oh, it was a bank
4 robber.

5 Q And I'm assuming you were contacted by
6 detectives just kind of canvassing the neighborhood, or
7 did you go and try to contact them?

8 A They had our house in the zone, so we had to
9 check with them to go in and out. So, you know, they
10 asked if we had heard anything. And I said, yeah.
11 I'll take -- you can take my statement for sure.

12 Q All right. And the individual that was on
13 the ground that was taken into custody, were you able
14 to get a good look at him at all?

15 A No. I didn't really get to see him because
16 he was kind of on the ground. It was very strange. I
17 thought, I thought for sure that they had -- he was
18 dead.

19 But then they -- the ambulance came and --
20 'cause I, I had to contact -- I have a few cousins who
21 are cops, so I said, what's the red barrier, what's the
22 yellow barrier mean. Is it -- do you think the guy is
23 dead like? And then they said no, he would have been
24 there for a while at the scene, but they took him out --
25 took him to the hospital.

1 Q Did that happen pretty quickly?

2 A It seemed like it. I don't know exactly.
3 It seemed like it took 20, 30 minutes in my head. It
4 seemed like a long time. I know that you get
5 adrenaline and all that stuff when these things happen,
6 but it felt like 20 minutes. Maybe it was not that
7 long.

8 Q Okay. All right.

9 A Felt like the reporter was there. We were
10 talking to the reporter. The cops were there. We were
11 talking to them. And then by that point, the ambulance
12 had showed up and they took him away.

13 Q But you are not sure about the timing of
14 that; is that correct?

15 A Yes. Yes. I wouldn't want to put that in
16 writing. I don't know.

17 Q Okay. Fair enough.
18 You weren't like taking notes about the
19 times?

20 A I wasn't, no.

21 MR. DAVIDSON: Okay. Why would you.

22 All right. Well, I think those are pretty
23 much all of the questions that I have for Aaron.

24 Anybody else have questions for Aaron?

25 A GRAND JUROR: Yeah.

1 So you were standing basically right outside
2 your house, like maybe in your driveway with your friend
3 and neighbor.

4 THE WITNESS: On the sidewalk.

5 A GRAND JUROR: On the sidewalk.

6 And then did you go closer to see what was
7 happening?

8 THE WITNESS: No. No. They -- it was
9 pretty apparent that they had the guns out. We were
10 kind of like just, whoa --

11 A GRAND JUROR: Let's not get close to that.

12 THE WITNESS: -- and then -- exactly. And
13 then they quarantined the area, and the officers were
14 saying, hey, go back inside or stay out.

15 Don't go in -- you know, don't interfere with
16 the -- because we were -- at first, we were -- there's
17 still cars coming, and so we were kind of just trying to
18 stop the cars, and then the cops came, and so we didn't
19 really go any closer.

20 A GRAND JUROR: Okay. Yeah. So you, you
21 like live in the block and it happened on the corner?

22 THE WITNESS: Correct. Probably -- it was
23 on the corner and probably --

24 MR. DAVIDSON: We've actually got a map up
25 here. I don't know if -- does that capture?

1 Can you show us maybe up here? So that's the
2 red arrow.

3 THE WITNESS: Right here. Right in there.

4 A GRAND JUROR: Oh, I see.

5 MR. DAVIDSON: You live south of there then?

6 THE WITNESS: Correct.

7 A GRAND JUROR: I see. Thank you.

8 THE WITNESS: Yeah. It's south of where he
9 was shot then.

10 MR. DAVIDSON: Anybody else have questions
11 for Aaron?

12 A GRAND JUROR: So you stopped civilian
13 traffic?

14 THE WITNESS: Correct. There was one that
15 went -- that made it by and it was -- and then that was
16 it.

17 But by that point there was -- there was a
18 lot of officers that showed up. There was probably -- I
19 don't know. I don't want to quote how many, but there
20 was a lot. They were, they were -- it was a big deal, I
21 think, you know. Two, two robberies in a somewhat calm
22 area for the most part.

23 MR. DAVIDSON: Okay. All right. Any
24 additional questions for Aaron?

25 A GRAND JUROR: Thank you.

1

THE WITNESS: Thank you. No problem.

2

MR. DAVIDSON: Thank you.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 GARY DESLYN REED,
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. DAVIDSON:

8

Q If you could go ahead and state your full
9 name for us and spell it.

10

A Okay. Gary Deslyn Reed, Jr. The middle
11 name is D-E-S-L-Y-N. Reed is R-E-E-D.

12

Q Okay. And, Mr. Reed, what do you do for a
13 living?

14

A I'm a property maintenance contractor
15 licensed by the State of Oregon.

16

Q So --

17

A Small construction projects, as well as
18 maintenance.

19

Q Okay. Now, you understand why you're here
20 today. You're here today because you perceived or
21 witnessed some aspects of this shooting that occurred
22 off of North Saratoga and Oatman on October 25th of
23 this year; is that right?

24

A That's correct.

25

Q Now, you were in a residence there right

1 next to the intersection.

2 A Uh-huh.

3 Q Is that your residence? Do you live there?

4 A No. Actually it is Dennis and Gretchen
5 Metzler who hired me.

6 Q Okay. Are they friends of yours or just
7 know their business?

8 A Yes, they are friends. I've known them for
9 about 15 years.

10 Q Okay. And what were you doing for them?

11 A Actually on that particular day, Dennis
12 Metzler had hired me to install insulation on the
13 exterior wall facing Saratoga.

14 Q In the basement?

15 A In the basement, yes.

16 Q And that address, if I'm correct, is 3240
17 North Saratoga. Does that sound right?

18 A Yes.

19 Q Okay. And in relation to the intersection
20 of North Oatman and North Saratoga, which corner of
21 that intersection would the residence be on?

22 A It would be on the southeast corner.

23 Q Okay. And just walk us through kind of what
24 you remember. What were you doing at the time you
25 first noticed something unusual had occurred?

1 A Yeah. Well, it was after lunch, and I can't
2 remember exactly what time it was, in the neighborhood
3 of 1:00, 1:30. And there's a garage on the property
4 where the owner had several building supplies.

5 And he had purchased insulation, paper-faced
6 insulation for the job I was going to do on that
7 particular day. So I had to actually transport the
8 bundles of insulation from the garage into the home via
9 the front door, which faced Saratoga.

10 And I had to haul it through the front door,
11 down a flight of stairs, take an immediate left, and
12 it's a basement room that I was working in with a window
13 20 inches by 50 inches, I think it is.

14 Q Would this have been a well window?

15 A No. It was, it was -- it's not an egress
16 window, no.

17 Q Okay. So it's all above grade, this
18 basement window?

19 A The basement window is right at grade, yeah.
20 Slightly above.

21 Q Okay.

22 A So it was after lunch. I was listening -- I
23 listen to talk radio. I had a radio on. I had hauled
24 the bundles of insulation required for that particular
25 section of room and stacked it in the middle of the

1 room.

2 And it was at that point that I bent down --
3 I employed an electric stapler with which to attach the
4 batting. And I was bent down at the base of the window
5 actually and I began loading the stapler.

6 And I was having some difficulty loading it.
7 I was down. And it was at that point that I hear a tap,
8 tap, tap on glass. And I immediately looked up, because
9 I thought somebody was at the window.

10 And I looked up and nobody was at the window.
11 And I thought, well, that's kind of unusual. I have a
12 lot of friends in the area. And I was thinking, well,
13 maybe, you know, a friend just passing by. They knew I
14 was working here.

15 So I thought that was unusual. I went --
16 continued back down on the ground loading my stapler,
17 and another almost immediate tap, tap, tap, tap, tap,
18 tap, a little bit louder this time on glass.

19 And I -- actually I stood up and couldn't see
20 anybody. And I'm thinking, well, maybe, it's a UPS guy.
21 Maybe it's FedEx. So I tried to actually --

22 Q Can I ask you a question before you go on?

23 How loud was the radio playing, for one?

24 A Well, actually it's talk radio. It was --
25 the room was 10x12, so I didn't have to have it on

1 loud, but it was talk radio, and it was off to the
2 side, my right-hand side. It wasn't playing loudly,
3 but I was intent on listening to it, so. But I
4 definitely heard tapping on the glass.

5 Q Okay. How much time do you think lapsed
6 between the two sets of tapping?

7 A A very short time. Maybe two minutes.
8 Maybe less.

9 Q Okay.

10 A Yeah. It was -- almost immediately
11 followed.

12 Q Okay. So two minutes you think, maybe less?

13 A That's a good guess, maybe less, two or
14 less, because I had time to go back and begin fiddling
15 with my stapler, then loading it.

16 A GRAND JUROR: How many taps did you hear?

17 THE WITNESS: Well, the first one, to the
18 best of my recollection, seemed to be tap, tap, tap,
19 just like that. And then the subsequent one was tap,
20 tap, tap, tap, tap, tap, you know, five or six.

21 BY MR. DAVIDSON:

22 Q And every time you looked out the window,
23 you looked out the window immediately and saw nobody
24 there?

25 A Both times. The first time, I stayed down

1 on the ground and looked up immediately. The second
2 time, I looked up, and then I stood up and I went to
3 the far right-hand side of the window and tried to peek
4 at the front door.

5 The front door, in distance-wise, even though
6 I'm in the basement, the front door is around six foot
7 in length, you know, linear length from where I'm at, so
8 it's right there.

9 The front door, which faces Saratoga, once
10 again, has a -- has an opaque glass plating right next
11 to the front door. And I suspect that's where the tap,
12 tap, tap was coming from. I don't know. But it was
13 very clear and loud.

14 Q You weren't sure the tapping was coming from
15 that window you were next to; it may have been coming
16 from another window?

17 A It may have, but I could definitely hear the
18 tapping.

19 Q Okay. So you've got two sets of tapping
20 now.

21 A Yes.

22 Q And you haven't been able to ascertain where
23 it's coming from.

24 A Right.

25 Q So after the second set of tappings, what

1 did you do?

2 A Well, as I said, I tried to peer from, peer
3 from the right-hand side of the window toward the front
4 door. Didn't see anybody. Couldn't see anybody. I
5 couldn't see the front door at all.

6 I thought, well, I'm going to have to
7 investigate this. So I began to -- I turned around and
8 started out of the room but didn't quite make it, and
9 then I heard somebody say, "Let me in." I go, oh,
10 great, you know.

11 Now, the -- Saratoga is an unimproved street.
12 It's nothing but dirt and gravel, large potholes. More
13 foot traffic than auto traffic going.

14 So, so I'm thinking, well, okay, now, I've
15 got to engage somebody who probably is walking down the
16 street and I don't know what kind of situation it is,
17 so -- but they definitely want in. And so I started to
18 head up.

19 And then a subsequent more -- much more
20 urgent, "Let me in," and then I stopped. I didn't go
21 upstairs. I returned toward the window, to the window,
22 forgetting about my work.

23 Q And this is the same window you had
24 originally --

25 A This is the same window that I had glanced

1 at thinking that somebody was at this window tapping.
2 And it was very shortly after that I didn't see the
3 squad car or the police car arrive, but there was a
4 police car on Oatman, the north side of the
5 intersection, a squad car facing south.

6 On the passenger side was an officer standing
7 erect behind his door with what looked like a shotgun
8 trained on the corner of the property or what I assumed
9 was the corner, near the corner of the property.

10 And the driver's side, there was an officer,
11 a woman officer with a pistol in her hand, leaning down
12 for cover behind the squad car door, and she had her
13 pistol looked like trained in the same direction, the
14 corner of the property. So I saw that.

15 And to the best of my recollection, I got on
16 the cell phone and I call my wife who -- we live nearby.
17 I call my wife and I said, "Hey, I have a situation
18 here, you know, there's some -- there's something,
19 something is coming down here and I don't know what it
20 is."

21 Q Now, at that point you had not heard any
22 commands or shouting or any voice projection from the
23 police?

24 A No. No.

25 A GRAND JUROR: Had you heard any sirens?

1 THE WITNESS: No.

2 MR. DAVIDSON: Okay.

3 A GRAND JUROR: And so in one car, there was
4 a woman beside the car, a female police officer?

5 THE WITNESS: I believe it was a woman.

6 Now, whether they were traveling together or not, I
7 don't know. But there were two officers in that lead
8 squad car parked on the north side of Oatman.

9 BY MR. DAVIDSON:

10 Q Was there more than one patrol vehicle
11 there, more than one --

12 A If there was, it was obscured by trees down
13 the road. I couldn't see more than one. There could
14 have been, yeah, so.

15 Q Okay.

16 A GRAND JUROR: The north side of Oatman,
17 and you're on the southeast corner of Saratoga and
18 Oatman.

19 THE WITNESS: Yes. Yeah.

20 A GRAND JUROR: Okay.

21 BY MR. DAVIDSON:

22 Q So you called your wife. You said there's
23 trouble.

24 A I called my wife, "I think I've got trouble
25 here." I had -- Dennis, the owner, I had his cell

1 phone logged in my cell, but I didn't have Gretchen,
2 the wife's. I knew Dennis was substitute teaching that
3 day and I probably couldn't get a hold of him. So I
4 asked my wife, "Look, can you get a hold of Gretchen?
5 Try to get me her number or call her." I remember
6 having that conversation.

7 But at that time -- so I believe I hung up.
8 And at that time there were more officers arriving on
9 the scene. Although, I couldn't see all of the cars
10 from my limited view from the basement window.

11 What I did see directly across from where I
12 was working on the northeast corner of the intersection
13 of Saratoga and Oatman was a congregation of officers,
14 eight to ten, my guess. And they were -- looked like
15 they were getting ready to make an advance. They
16 brought out the black shield, police shield and they had
17 weapons drawn.

18 And so at that time I turned away from the
19 window. But then I thought, well, let me turn the light
20 out. That was my first thought, and I'll get to the
21 side of the window and watch this thing come down.

22 And I don't know how long it was after I
23 initially saw them congregating. It didn't seem too
24 long, but then they began their advance. They
25 coordinated an advance in a large group.

1 And as they got halfway across Saratoga, I
2 did go behind my insulation stack and just went down on
3 the ground and just -- and I intentionally listened for
4 the situation to, you know, escalate, come down.

5 Q What were you able to hear, if anything?

6 A Nothing. I didn't hear anything, and that
7 surprised me. So I, I hung there on the ground for,
8 I'm guessing, five minutes. And I go, okay, they've
9 had to have apprehended this person. No gunshots.
10 Quiet. Everything was quiet and peaceful.

11 Q And if I can interject for a second.

12 A Sure.

13 Q You didn't hear a single human voice?

14 A I did not.

15 Q Other than that of your wife over the phone.

16 A By that time I had hung up.

17 Q Okay. Except for that -- or you heard
18 somebody saying, "Let me in," and you didn't hear the
19 police say anything at all between when this first came
20 to your attention?

21 A No commands. No.

22 A GRAND JUROR: And still no sirens?

23 THE WITNESS: I couldn't hear sirens.

24 A GRAND JUROR: Okay.

25 THE WITNESS: And no gunshots.

1 So I thought that was really suspicious
2 because I lived in Los Angeles, a very violent part of
3 Los Angeles, and I had -- I don't know, I feel like I am
4 acquainted with situations like this. And it was
5 unusual that there wasn't any yelling or gunshots.

6 So at that point in time, I, I did stand up,
7 looked out the window. The -- there were more police
8 officers, but not the ones that I initially saw who
9 congregated and came across, so I ended up going
10 upstairs to the main floor.

11 And I went -- on the main floor in the
12 northwest corner of the main floor are large picture
13 windows on the west and on the north. And I had a
14 perfect view of that intersection at this point in time.

15 What I saw immediately was the suspect lying
16 on his left-hand side, head facing south, right outside
17 the home on that sidewalk. Head facing south. His
18 face, he was facing west.

19 He was handcuffed, his hands behind his back.
20 There were maybe a couple police standing around him.
21 But simultaneously, as I ventured toward the windows to
22 look out, the fire trucks showed up and began addressing
23 his wounds. And later on an ambulance showed up.

24 So he was facing west. They began cutting
25 his clothes off of him and took his clothes off down to

1 his underwear. And it was at that point that I noticed
2 it looked like a wound on his upper right, right-hand
3 arm, and there was blood on the bridge of his nose.

4 I couldn't tell how serious anything was
5 wound-wise, but that's what I saw. I saw a bloody spot
6 here and a bloody spot there (indicating).

7 It was soon after that that the -- after they
8 addressed his wounds, they -- I don't know what you
9 would call it, but the ambulance and the EMT's put him
10 in this hammock supported by polls and transported him
11 to the ambulance by hammock. And so that's what I saw.

12 BY MR. DAVIDSON:

13 Q Okay. So as you already kind of intimated,
14 you don't recall ever hearing gunshots?

15 A No. I was surprised.

16 Q We have some photographs here that might be
17 helpful. Here is an overhead shot of that
18 intersection, North Saratoga and Oatman.

19 Does that look familiar to you?

20 A Yes.

21 Q And can you identify for us, and you can
22 stand up if you'd like, which house was the house that
23 you were working on?

24 A This is the house.

25 Q And I think we have another view here. That

1 is the intersection I believe looking to the south?

2 A That's correct.

3 Q Let's see, that, that redwood fence line
4 there, that's the western perimeter of that property.

5 A Yes, that's correct.

6 Q And can you identify in this photograph,
7 this is the house?

8 A Yes.

9 Q The window that you were referencing that
10 you were looking out of.

11 A Right there (indicating).

12 A GRAND JUROR: That's the basement?

13 THE WITNESS: That's the basement.

14 A GRAND JUROR: Are there internal walls in
15 the basement?

16 THE WITNESS: Yes.

17 A GRAND JUROR: Is it divided into rooms?

18 THE WITNESS: Yes.

19 A GRAND JUROR: And so that window is at
20 grade and the ceiling comes to the top of the window
21 essentially, or is there more head space?

22 THE WITNESS: The ceiling of the room?

23 A GRAND JUROR: Yeah, downstairs.

24 THE WITNESS: The ceiling of the room is
25 just about right here (indicating).

1 A GRAND JUROR: Is there a window on the
2 other side of the door in the basement?

3 THE WITNESS: No. Just the one window in
4 the room and a doorway opposite the window that leads
5 up to the main floor.

6 A GRAND JUROR: Okay. And so that basement
7 room that would be in the corner, that front corner of
8 the house, it's walled off from where you were?

9 THE WITNESS: Yes.

10 A GRAND JUROR: Okay.

11 BY MR. DAVIDSON:

12 Q And do you see that red bag there?

13 A Yes.

14 Q Is that approximately where you saw him,
15 where he was eventually taken into custody?

16 A Actually he was right here (indicating).

17 Q On the sidewalk?

18 A On the sidewalk, laying down, facing this
19 direction.

20 Q More like that?

21 A Yes. Yes.

22 Q Okay.

23 MR. DAVIDSON: I think those are all of the
24 questions. You can go ahead and have a seat.

25 Does anybody else have any additional

1 questions for Mr. Reed?

2 A GRAND JUROR: Were you wearing headphones?

3 THE WITNESS: No.

4 A GRAND JUROR: Were you working with any
5 machines other than the, the stapler --

6 THE WITNESS: The electric stapler.

7 A GRAND JUROR: -- that, that would have
8 been making noise so that to obscure your hearing?

9 THE WITNESS: No.

10 A GRAND JUROR: Or was the furnace on?

11 THE WITNESS: No.

12 A GRAND JUROR: Mine is noisy.

13 A GRAND JUROR: What talk radio station were
14 you listening to?

15 THE WITNESS: I was listening to KPDQ. It's
16 a Christian talk radio.

17 A GRAND JUROR: Were they hollering?

18 THE WITNESS: No. No. They weren't
19 pentecostal, no, but I was listening intently.

20 MR. DAVIDSON: Anybody else have questions
21 for Mr. Reed? No.

22 All right. That's it, Mr. Reed. You are all
23 done. Thank you very much.

24 THE WITNESS: Yes. Thank you.

25 THE GRAND JURY: Thank you very much.

1 A GRAND JUROR: I have another question, I'm
2 sorry.

3 I wanted to clarify. When you are looking
4 out the -- I think you are looking out the basement
5 window and you saw an officer with -- you saw a man
6 officer and a woman officer, and did they have anything
7 in their hands?

8 THE WITNESS: The -- to the best of my
9 recollection, the man on the passenger side of the car,
10 the police car was standing -- when I first saw him, he
11 was standing erect with what looked like a shotgun.

12 And to the best of my recollection, on the
13 driver's side, there was a woman officer. She was more
14 in a crouched position with pistol in hand. And they
15 were both trained what looked like on the corner of the
16 property.

17 A GRAND JUROR: Could you see anything or
18 anyone on whom the weapons were trained?

19 THE WITNESS: No.

20 A GRAND JUROR: Brian, can you bring up the
21 overhead picture of the, the intersection again?

22 MR. DAVIDSON: Yes.

23 A GRAND JUROR: Can you point out here where
24 you saw those two officers, where their car was?

25 THE WITNESS: Yeah. Right there,

1 (indicating).

2 MR. DAVIDSON: So the north side of the --

3 THE WITNESS: On the north side of Oatman
4 and Saratoga, yeah.

5 A GRAND JUROR: From down in the basement
6 windows, could you see the area near the corner of the
7 house, or was that obscured by the walkway and the
8 other shrubbery?

9 THE WITNESS: Okay. Yeah. Actually the
10 steps jet out a little bit. And I was at the far right
11 hand looking this way. I couldn't even see who was at
12 the door, and let alone, you know, any further down.

13 A GRAND JUROR: So there may have been a
14 police car there that you could not see?

15 THE WITNESS: There may have been one, yeah.
16 There may have been police cars all through that area.
17 I just -- anything within that field of vision of the
18 window, within, you know, a certain radius, I could
19 see.

20 A GRAND JUROR: What do you think was the
21 lapse of time between the time that you heard someone
22 saying, "Let me in, let me in," and the time that you
23 saw officers with weapons?

24 THE WITNESS: Well, I think it was a
25 relatively short period of time. I'm guessing three to

1 four minutes.

2 A GRAND JUROR: Minutes, not seconds?

3 THE WITNESS: Yeah. Yes.

4 A GRAND JUROR: So can I just clarify the
5 timeline?

6 You are in the basement. You were present at
7 the window. You see two police officers in a car.

8 THE WITNESS: Yeah.

9 A GRAND JUROR: Then you come upstairs and
10 you look out a picture window.

11 THE WITNESS: No. I don't come upstairs --
12 I don't come upstairs until -- after I spy the initial
13 responding officers, as I've described them, and the
14 officers that congregated in force, it was after those
15 two events, because once they came across in force,
16 that's when I went down and hunkered down and waited,
17 because I knew it was going to come down, an event was
18 going to come down.

19 A GRAND JUROR: Okay. You were waiting and
20 you didn't hear anything?

21 THE WITNESS: And I'm waiting and I didn't
22 hear anything, and I was very suspicious. And I'm
23 thinking it should have already happened, whatever
24 would have happened.

25 A GRAND JUROR: And you come up and look out

1 the picture window and then you see the guy?

2 THE WITNESS: Yeah. He was already subdued
3 and apprehended, yeah.

4 A GRAND JUROR: So whatever you may have
5 thought would have happened may have already happened?

6 THE WITNESS: Yes.

7 MR. DAVIDSON: And I don't want to beat a
8 dead horse, but you have normal hearing; you don't have
9 any hearing problems?

10 THE WITNESS: Yes. Yes.

11 A GRAND JUROR: I mean, are we -- is it your
12 belief that the man who was on the floor may have been
13 trying to get into the house that you were in prior to
14 being stopped by the police?

15 Is that what you think happened?

16 MR. DAVIDSON: Well, we're kind of wandering
17 in the area of speculation.

18 THE WITNESS: Okay.

19 MR. DAVIDSON: If you have direct knowledge
20 of these things, then I think it's relevant.

21 THE WITNESS: I don't.

22 MR. DAVIDSON: We can chat a little bit more
23 about that.

24 THE WITNESS: Yeah, I don't.

25 MR. DAVIDSON: Good.

1 Anybody else with questions for Mr. Reed?

2 You can step down.

3 A GRAND JUROR: Was the voice that you
4 heard, was it male or female?

5 THE WITNESS: It was definitely a male.

6 But Officer Pryce who interviewed me, I gave
7 him an interview after things had settled down, the
8 incident settled down, and he had been -- the suspect
9 was transported. He interviewed me, and so I gave him a
10 full report.

11 MR. DAVIDSON: And as far as from the
12 limited exposure you had to the sound of that voice,
13 did you make any determinations about age or accent or
14 race or anything like that?

15 THE WITNESS: Well, he asked me that,
16 Officer Pryce. And honestly, I -- honestly, I thought
17 it was some person looking for cans and bottles and was
18 irritated he couldn't get in.

19 MR. DAVIDSON: Okay.

20 THE WITNESS: But race, I couldn't determine
21 actually, but it was definitely a male voice.

22 MR. DAVIDSON: Anybody else? No. All
23 right.

24 Once again, thank you for coming in.

25 THE GRAND JURY: Thank you.

1 JIMMY PRYCE,
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. DAVIDSON:

8

Q Can you state and spell your full name?

9

A My name is Jimmy Pryce. J-I-M-M-Y.

10

P-R-Y-C-E.

11

Q And how are you employed?

12

A As a police officer for the City of

13

Portland.

14

Q And how many years of law enforcement

15

experience do you have?

16

A About 19 and a half.

17

Q All of that with Portland?

18

A Yes.

19

Q What's your current duty assignment?

20

A I work day shift in North Precinct.

21

Q And did you attend college?

22

A I did.

23

Q Did you obtain a degree?

24

A I did.

25

Q Are you willing to say where and in what?

1 A Western Oregon, Wolves, psychology degree,
2 Bachelor of Science.

3 Do you want my GPA?

4 A No.

5 Q Do you have a Master's degree?

6 A No, just a Bachelor's degree.

7 Q Okay. And can you just tell us a little bit
8 about the training you went through to become a police
9 officer?

10 A Way back when I was hired, you see we had 17
11 weeks of like basic training that we did, and that was
12 through a program they don't have anymore. It's called
13 Police Corp. It was a federally funded program. I was
14 trained by all Portland training division. And so we
15 did that, then we got hired.

16 We worked for a few months and then went back
17 to advanced academy and did another couple more months
18 of training to polish up our skills. And since then
19 we've had -- every year, we have like a week's worth of
20 training we do.

21 Q Okay. All right. Were you on duty, in
22 uniform and displaying a badge back on October 25th of
23 this year?

24 A I was.

25 Q And you were operating, I guess, a marked

1 vehicle.

2 A Yes.

3 Q And were you -- where were you assigned?

4 What area were you patrolling?

5 A I was in -- patrolling the North Portland
6 area in District 580, which is close to MLK and I-5,
7 between MLK and I-5.

8 Q All right. And you obviously, know that
9 we're going to talk about this shooting incident that
10 occurred at the intersection of Oatman and Saratoga.

11 It was preceded, as you may know, by this
12 report of some robberies occurring off of Lombard, I
13 think.

14 A Yes.

15 Q Can you just walk us through when you first
16 became aware that things were happening in that part of
17 time?

18 A When I first heard -- usually robberies are
19 something that we kind of -- everybody tends to listen
20 to a little bit more, including myself. So I heard a
21 robbery went out.

22 There was a guy that went -- and I'm not sure
23 of the business that he went to, but he robbed a
24 business and was turned away. Like they told him, no,
25 we're not going to give you anything. So the guy left.

1 Then a little while later at a bank, that's
2 like at Lombard and Oatman, there's another robbery call
3 came out with a guy passing a note.

4 And so in a bank robbery, almost every
5 available car, a lot of cars that are close all go to
6 that, to that area.

7 Keep going?

8 Q No.

9 Were you -- what was your role in all this?
10 Were you assigned to --

11 A Well, I was actually dispatched as the
12 primary officer to the, to the bank robbery call.

13 Q That's the U.S. Bank there on Lombard?

14 A Yes.

15 Q So did you respond to that location?

16 A I did not respond to that location -- well,
17 to that area.

18 Q Okay.

19 A So I was on my way to the bank to respond to
20 it. As we're going to the bank, dispatch gets on the
21 air and says that a tracker was taken. And they gave
22 updates on where the tracker was going. So instead of
23 going to the bank, I talked to the bank guy, to follow
24 where the tracker was going.

25 Q Now, how are you receiving information about

1 these calls?

2 A Through dispatch, through our radio system.

3 Q All right. So my understanding is that
4 police officers kind of receive information kind of in
5 two primary ways: One over the radio and then one
6 through an MDT or a --

7 A Yes.

8 Q This call -- these calls, you were receiving
9 this information over the air on an earpiece, or how
10 does that work?

11 A Yes. The radio is connected to my earpiece,
12 and then there's also a radio in the car. And usually
13 I don't have a partner, so I'm by myself.

14 So if I'm going to a hot call like this, I
15 don't look at my MDT too much because I'm driving and
16 that would be dangerous. So I listen and get my
17 information over the radio and remember as much of it as
18 I can.

19 Q And do you have a general recollection of
20 what those calls -- the content of what those calls
21 were and what subsequently was broadcast about what had
22 occurred and what the suspect description was?

23 A Just the suspect description says it was a
24 bank robbery. The guy had a note and was successful at
25 the bank where he wasn't before at the other place. It

1 was a black male in his 20's. He had dark clothing on,
2 brown shoes, and that was it.

3 Q Okay. And then you got an update that a GPS
4 tracker was placing him in a certain location?

5 A Yes.

6 Q All right. So when you got that
7 information, what did you do?

8 A So the bank is kind of right at Oatman and
9 Lombard. We got -- dispatch came on the air and said
10 the tracker is going south on Oatman. It's like two
11 and a half miles an hour. That's how fast it's going.

12 So that kind of tells me it's not somebody
13 that's in a car, so we're not looking for a car. We're
14 looking for somebody that's on foot. Two and a half is
15 walking speed.

16 And right after they gave that information or
17 pretty soon after that, I was -- I turned on to Oatman
18 going south, the same way as the tracker. And I thought
19 I was one of the first cars there. As soon as I turned
20 on Oatman, there was like one car ahead of me a few
21 blocks ahead.

22 Q And did you know who was in that car?

23 A I didn't know who was in the car until they
24 broadcast they were going to be out with the guy. And
25 then I recognized -- I know their voices, and it was

1 Officer Reagan and Officer Habkirk.

2 Q Now, they apparently were partner cars; is
3 that right?

4 A Yes.

5 Q All right. And are those officers you
6 regularly work with in that area?

7 A Yes. I've worked with both of those
8 officers for about 18 years now.

9 Q Okay. And it's my understanding that their
10 unit was referred to as Unit 590.

11 A Yes.

12 Q What was your unit referred to?

13 A I believe it's 580.

14 Q 580, okay.

15 So you hear them come on the air and say they
16 are out with the suspect.

17 A Yes.

18 Q You can physically see them south of you on
19 Oatman.

20 A Yes.

21 Q All right. So just kind of explain to us
22 what it is you observed.

23 A So they are several blocks away, like two or
24 three blocks ahead of me. I heard them say they are
25 going to be out with the suspect. Then after that,

1 they got out of their cars, and I could see there's
2 cars parked on both sides of the street. And I was
3 driving up the middle of the street.

4 So I could see Officer Habkirk on the
5 passenger's side pretty clearly. Officer Reagan, I
6 could kind of see that he was there, but there was
7 parked cars where I couldn't see him completely.

8 And as soon as I got out and then a short,
9 like seconds later, they broadcast that shots were
10 fired. And I saw like Officer Habkirk run to the
11 driver's side of the car, and then right after that, I
12 pulled up.

13 Q Okay. So --

14 A GRAND JUROR: Did you hear the shots?

15 THE WITNESS: I did not. I didn't -- I
16 didn't, I didn't see it and I couldn't hear it either.
17 So I wasn't -- but I was maybe only a block away or so.

18 BY MR. DAVIDSON:

19 Q So you were still a block to the north?

20 A Yes.

21 Q And walk us through it again. You're
22 approaching from the north, heading south.

23 A Yes.

24 Q You observe Unit 590 ahead of you south, and
25 you hear them broadcast that they were out with the

1 suspect.

2 A Yes. Before they even got out, they
3 broadcast they were going to be out with the guy. So
4 they broadcast they were going to be out with a guy.

5 And so I see them both get out of the car,
6 and I say -- I think I said Habkirk really quickly runs
7 to the, to the driver's side, and then they said the
8 shots were fired.

9 Q Okay. But you didn't actually see any shots
10 fired. You said that Officer Reagan was somewhat
11 obscured.

12 A Yes. He was, he was on the driver's side,
13 and so he was obscured by some other parked vehicles
14 that were between me and him.

15 Q Okay. So as you're pulling up, that's when
16 you hear them call out, "Shots fired"?

17 A Yeah. Well, I saw Habkirk run around the
18 car really quick, and then I was kind of wondering what
19 he was doing. Then right after that, they said, "Shots
20 fired."

21 Q And then how much later did you stop your
22 vehicle?

23 A Within like seconds probably, like 'cause I
24 was like a block away. So within five seconds, I was
25 stopped in my vehicle.

1 Q Okay. And how close to their vehicle did
2 you stop?

3 A A car's length distance, a small car.

4 Q So what happens after you stop your vehicle?
5 What did you observe? What did you do?

6 A After I stopped my vehicle, I see the
7 suspect on the ground, on the ground. He's on the
8 southeast corner, like laying down, dressed in black.

9 And I grabbed my shotgun out and I went to
10 the passenger side of their vehicle, which is where
11 Habkirk was, and I just helped cover the suspect.

12 And Officer Reagan was giving him commands
13 like to lay down, to spread his hands out. And he
14 wasn't listening to any of those commands, but he was
15 not saying anything back to us either. And we stayed
16 there and we waited for more officers to start arriving.

17 Q Okay.

18 A GRAND JUROR: Where was Officer Habkirk
19 while you were at his passenger side door?

20 THE WITNESS: He had moved to the side with
21 Officer Reagan, so he's standing right next to him.
22 They're standing right next to each other.

23 A GRAND JUROR: On the side of their car?

24 THE WITNESS: On the driver's side, yes.
25 Everybody was right at their car behind the doors.

1 A GRAND JUROR: Okay.

2 BY MR. DAVIDSON:

3 Q So why didn't you all just run up to the
4 suspect at that point?

5 A Because if he has a weapon or something,
6 or -- I mean, even if he had gotten shot and if he's
7 still moving around, because we could see him moving
8 around, if he still has a weapon and we ran up there,
9 then we could -- I mean, we open up ourselves at
10 getting shot.

11 Q And is that something that was taught to you
12 by the Bureau as far as a way to approach this
13 scenario?

14 A Yes. Yes, it is. I mean, because you don't
15 want to approach somebody where you can possibly get
16 hurt.

17 Q All right. So you're waiting. What are you
18 waiting for at this point?

19 A So we're waiting. We're just waiting for
20 more officers to come to the area. Because bank
21 robbery there, like I said, there are more officers in
22 the area. "Shots fired" kind of even amps it up a
23 little bit more, so you have even more officers going
24 to that area. So we're just waiting for other officers
25 to assist us.

1 Q Okay. Did Sergeant Christensen arrive on
2 scene at some point?

3 A He did.

4 Q And was he, I guess in charge of the
5 location at that point?

6 A Yes, he was. He arrived pretty quickly
7 after, I would think like within a minute or so after I
8 arrived.

9 Q Okay. You said Officer Reagan is shouting
10 commands to the suspect.

11 A Yes.

12 Q And you're saying that the suspect is not
13 responding to the commands.

14 A Yeah. I don't remember the exact commands
15 that he was shouting either, but just the basic
16 commands of like lay down. Put your hands out. Stop
17 moving. And he didn't do any of those. But he didn't
18 yell anything back to us either.

19 A GRAND JUROR: Wasn't he already down?

20 THE WITNESS: He was down, yeah, but his
21 hands were like moving around, and we couldn't -- you
22 can't see his hands.

23 So like through all of our training, we
24 always say if you can't see their hands, you don't know
25 what he has in his hands. So that's an immediate threat

1 because the hands are what kill you.

2 BY MR. DAVIDSON:

3 Q And did the fact that he seemed to be
4 potentially the perpetrator of these two robberies,
5 does that heighten your concern?

6 A Yes. Yes, because he tried to do a robbery
7 in one place and then he successfully did a bank
8 robbery.

9 Q Okay. So tell us about the assembly of the
10 custody team and kind of what your role was and what
11 you observed at that point.

12 A All right. So my role at that point was
13 just -- I was a cover officer, and that's what I did.
14 I said Sergeant Christensen arrived, and he put
15 together a team, a custody team.

16 And we have ballistic vests, like shields in
17 the sergeants' cars. So some of the officers put a
18 shield together. There was a few other officers for a
19 custody team. So like one person for each hand,
20 somebody hold the shield, and Sergeant Christensen
21 organized all of that.

22 And then once that was organized, and it
23 actually happened within a couple of minutes, so it was
24 pretty fast, and then we all moved up together.

25 So at that point Reagan got into the vehicle

1 and was driving the vehicle a little bit closer so we
2 can move our cover up, our protection up with us to the
3 guy.

4 Habkirk was still by the door, the driver's
5 side door of their vehicle. And then the custody team
6 was behind the ballistics shield that we have. Then we
7 all moved up together.

8 Q Okay. What happened when you moved up?

9 A We all moved up. The guy didn't have any
10 weapons in his hand, and the two custody officers took
11 him into custody.

12 Q Okay. It sounds like you shifted maybe your
13 focus after that to, I guess, speaking with Mr. Reed,
14 and we just heard from him.

15 A Yes.

16 Q How did you come to speak with Mr. Reed?

17 A So the vehicle was in the street, like
18 Reagan and Habkirk's vehicle. And the direction that
19 Reagan shot was at a house. So I went to the house
20 just to make sure everybody was okay inside. And the
21 only person that came to the door was a guy that was
22 doing some work down in the basement was Mr. Reed.

23 Q And he informed you that he had not heard
24 gunshots at that time?

25 A Yes. Yes.

1 Q Did you observe any evidence of the gunfire
2 on the house?

3 A So we also checked the house. I didn't see
4 anything on the house. But in the yard, I saw some
5 marks like on their fence, through the fence. They got
6 hit. I think there was some stones in a retaining
7 wall-type thing, they got hit, but nothing on the house
8 itself.

9 MR. DAVIDSON: Okay. All right.

10 I think those are all of the questions I have
11 for Officer Pryce.

12 Does anybody else have any questions for
13 Officer Pryce?

14 A GRAND JUROR: So when you were hearing the
15 calls come out on the radio about a robbery at U.S.
16 Bank and they were giving a description, did they just
17 give you a description?

18 Did he say if he had any weapons or how he
19 did it?

20 THE WITNESS: Well, they said that he passed
21 a note, so they gave us a description of like just
22 dark -- like a dark black jacket and a black hat and
23 maybe brown shoes, I think, too, and then just that he
24 passed a note to demand the money.

25 Usually they try to do that on bank robbery

1 calls, like they say whether or not the person had a
2 weapon or passed a note or anything like that.

3 A GRAND JUROR: There was no mention of a
4 weapon?

5 THE WITNESS: No, there was not.

6 MR. DAVIDSON: Not in the information you
7 received?

8 THE WITNESS: Not in the dispatch
9 information, no.

10 MR. DAVIDSON: In fact, did dispatch go into
11 what the content of the note was at all?

12 THE WITNESS: No, they did not.

13 A GRAND JUROR: Were there sirens that were
14 going off the whole time that you were approaching?

15 THE WITNESS: Usually you don't want to --
16 everybody drives with their lights and sirens to the
17 area. And once you get closer to the area, unless you
18 want the guy to run, you turn your lights and sirens
19 off so that you can try to get closer to them before
20 they try to hide.

21 This case, it would be difficult for him to
22 hide if he's carrying what he had, the tracker. But
23 ordinarily, like if we're going into an area, we turn
24 our lights -- our sirens off anyways so it doesn't spook
25 the guys and then they know that we're coming and they

1 can get ready for us, which makes them more dangerous
2 for us.

3 A GRAND JUROR: So you didn't have your
4 lights or siren on?

5 THE WITNESS: I had my lights on.

6 So I came down Lombard. I was coming from
7 the east. And as soon as I got close to within a few
8 blocks of Oatman where I went south, I turned my siren
9 off so that once I'm going up Oatman, everybody there
10 doesn't know that I'm coming up.

11 A GRAND JUROR: So you were full on like
12 noise and lights, pull into a bank robbery, but then
13 switch to --

14 THE WITNESS: Just the lights, yeah.

15 A GRAND JUROR: Okay. And then the car that
16 was ahead of you, were their lights on?

17 THE WITNESS: I didn't even see them. So
18 they were already in the block somewhere. They didn't
19 come in from Lombard like I did.

20 MR. DAVIDSON: But when you approached and
21 parked behind them, did they have lights on?

22 THE WITNESS: No, they did not. Theirs was
23 shut off also.

24 A GRAND JUROR: Okay.

25 MR. DAVIDSON: The person who was taken into

1 custody, did he match the description that you heard
2 over the radio?

3 THE WITNESS: Yes, he did.

4 A GRAND JUROR: When you heard "shots
5 fired," how many times did you hear "shots fired,"
6 those words?

7 THE WITNESS: I only remember one time.

8 A GRAND JUROR: And was that coming over the
9 dispatch, over the radio?

10 THE WITNESS: Yes. They broadcast that
11 shots were fired. But I can -- I saw them, and I can
12 hear the voice come on the radio and I know whose voice
13 it was. So I knew exactly where it was coming from.

14 A GRAND JUROR: Where was it coming from?

15 THE WITNESS: It was officer Reagan.

16 A GRAND JUROR: Oh, it was coming over the
17 radio -- how does that work?

18 MR. DAVIDSON: Why don't you explain to us
19 how the radio works as far as listening to other
20 officers and dispatch.

21 THE WITNESS: So maybe you can compare it to
22 like talking on the phone. Somebody calls you, and you
23 know, you've talked to them a bunch of times. You know
24 their voice.

25 And I worked around Officer Reagan since

1 pretty much both of us got hired 18 years ago, so I know
2 his voice. And so, yeah, so my radio here, if I key the
3 mike, everybody on my radio net can hear me. And the
4 same with I can hear them if they are talking and keying
5 their mike.

6 BY MR. DAVIDSON:

7 Q And dispatch also talks on that same
8 channel?

9 A And dispatch tells us -- gives us
10 information for that, too. And dispatch even knows
11 which officer is talking from the radio numbers. Each
12 officer has radio numbers that are for them. So every
13 time we key up, they know who is keying up, whether we
14 say anything or not.

15 A GRAND JUROR: When it was said, "shots
16 fired," you recognized Officer Reagan's voice as saying
17 that, and did that message go then to, to everybody,
18 all of the officers in the field?

19 THE WITNESS: It went to every officer that
20 was on our North talk channel, like our talk group.
21 North Precinct listens to one group. So everybody in
22 North -- all of the officers in North Precinct heard
23 that.

24 A GRAND JUROR: I see. And it also went to
25 the dispatcher?

1 THE WITNESS: Yes, and dispatcher.

2 So every, so every precinct has their own
3 radio talk group. And then there's a dispatcher for
4 every radio talk group. So the dispatcher is kind of
5 like --

6 MR. DAVIDSON: An air traffic controller?

7 THE WITNESS: Yeah, or MC or something. So
8 she's controlling -- he or she is controlling like
9 where we go and the information that comes out. And
10 then they take in all of the information that we give
11 them as well and type it all out. To type and talk,
12 it's a special skill.

13 A GRAND JUROR: Had you, had you received
14 word, apart from the bank robbery thing where he passed
15 a note, had you received word on your radio of another
16 robbery attempt at --

17 THE WITNESS: Yes. Yes. And I didn't
18 actually go to that robbery. I just heard it being
19 broadcast. I know it was within the same area.

20 A GRAND JUROR: And what was the message
21 that was broadcast about that one?

22 THE WITNESS: Just that there's a robbery
23 that had taken place, and they gave the description of
24 a black male with a dark shirt and hat, and he tried to
25 pass a note, and I think they just pretty much ignored

1 his note and didn't give him anything, and he ended up
2 just leaving.

3 MR. DAVIDSON: So when you heard those two
4 calls, did it occur to you that it was potentially the
5 same person?

6 THE WITNESS: Yes. Yes. Same description.
7 Same method they were trying to use to get the money.
8 And it was within like walking distance of each other.

9 A GRAND JUROR: So when you are driving
10 south on Oatman and you see the other patrol car ahead
11 of you, they were still driving?

12 THE WITNESS: As I turned on to Oatman, they
13 were still rolling, but shortly after that, they
14 stopped and said they were "going to be out with
15 somebody."

16 A GRAND JUROR: Okay. So when they said
17 they were "going to be out with somebody," that's
18 presumably, we're going to go out and contact this
19 individual?

20 THE WITNESS: Yes. So if they say they are
21 "going to be out with somebody," the people listening
22 and coming into the -- all officers coming into that
23 area know -- everybody that is listening knows that the
24 tracker is on Oatman. Knows they are on Oatman. They
25 say they are going to be out with like a suspect, so

1 everybody knew who they were going to contact.

2 A GRAND JUROR: Right. So they are ahead of
3 you. They come to a stop. You can't see Officer
4 Reagan because of parked cars.

5 THE WITNESS: I can see his body, but I
6 can't see --

7 A GRAND JUROR: What he's doing?

8 THE WITNESS: Yeah.

9 A GRAND JUROR: But you saw like both of
10 their doors opened.

11 THE WITNESS: Yes.

12 A GRAND JUROR: They both got out.

13 THE WITNESS: Yes.

14 A GRAND JUROR: Did they both have their --
15 I mean, did you see maybe Officer Habkirk's weapon?

16 THE WITNESS: Yes. He -- and they both
17 had -- like I said, I couldn't see Reagan's, but
18 Officer Habkirk had his out. And when he moved around
19 the car, too, I also could see.

20 A GRAND JUROR: And moving around, that was
21 mostly to protect his partner?

22 THE WITNESS: One of his cover partners,
23 yes.

24 A GRAND JUROR: Okay. But they were still
25 both back at the car?

1 THE WITNESS: Yes.

2 A GRAND JUROR: They weren't like crossing
3 the intersection?

4 THE WITNESS: No. We always stay at our
5 car, because cars are like our cover. So it's kind of
6 like our shield we take with us, so we don't leave that
7 protection to go --

8 A GRAND JUROR: Until you have something.

9 THE WITNESS: Yes, until the other shield
10 came. The way Officer Habkirk moved, he moved quickly
11 around the car. So I -- before I even heard anything,
12 I knew something was going on and he was doing that.

13 A GRAND JUROR: Okay.

14 MR. DAVIDSON: All right. Anybody else with
15 questions for Officer Pryce?

16 A GRAND JUROR: So the two officers ahead of
17 you pulled up, stopped the car, opened their doors and
18 the officer comes around to the driver's side, at what
19 point in time during that whole process was the shots
20 fired?

21 THE WITNESS: I believe -- I don't know
22 exactly because I didn't hear it. So I would just make
23 an assumption that it was -- when they both got out, it
24 happened fairly quickly because right after that,
25 Officer Habkirk ran from the car. So it was before he

1 ran over to the other side that the shots were fired.

2 MR. DAVIDSON: But you don't know? You
3 didn't hear the shots?

4 THE WITNESS: I didn't know. I didn't hear
5 them.

6 MR. DAVIDSON: The only reference you have
7 is when Habkirk called -- or Reagan called out, "Shots
8 fired"?

9 THE WITNESS: Yes. Yes. I didn't see or
10 hear it.

11 A GRAND JUROR: So the phalanx of officers
12 with the blue shields, who moved the car forward?

13 THE WITNESS: Officer Reagan drove, drove
14 their car forward because their car is the closest.

15 A GRAND JUROR: To the place where it is
16 there on the picture?

17 THE WITNESS: Yeah. Yes.

18 A GRAND JUROR: So they all moved -- no one
19 had been up to the suspect --

20 THE WITNESS: No.

21 A GRAND JUROR: -- prior to that. It was
22 all stay with the car, move everything forward.

23 THE WITNESS: Yeah. So all of our training,
24 we want to keep -- stay as safe as possible. So that's
25 why as soon as that happened, there's no like immediate

1 threat that we had to move or anything. So we just
2 waited there behind what protection we had with the
3 car, so.

4 A GRAND JUROR: Was there a female officer
5 on the scene?

6 THE WITNESS: It was part of a custody team,
7 yes.

8 A GRAND JUROR: Later?

9 THE WITNESS: Huh?

10 A GRAND JUROR: Later, arriving later.

11 THE WITNESS: So they arrived within minutes
12 of this happening, and they were a part of the custody
13 team that stood behind the shield. I think there's two
14 female officers there.

15 MR. DAVIDSON: Anybody else? No.

16 All right. Officer Pryce, you are done.

17 THE WITNESS: Thank you.

18 THE GRAND JURY: Thank you very much.

19

20

21

22

23

24

25

1 ANTHONY LEE CHRISTENSEN,
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. DAVIDSON:

8

9

Q Can you go ahead and state and spell your
full name for us, please?

10

11

12

A Anthony Lee Christensen. Anthony is
A-N-T-H-O-N-Y. Lee is L E E. Christensen is
C-H-R-I-S-T-E-N-S-E-N.

13

14

15

Q Okay. And how are you employed?

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

16

17

Q And how many years of law enforcement
experience do you have?

18

19

20

A About 31 total law enforcement.

Q And all of that with Portland?

A No. Twenty-six and a half with Portland.

21

22

23

24

Q And prior to that?

A A year in Lincoln City, a year and a half as
a reserve in Newberg, three years in the Army in the
military force.

25

Q And did you attend college?

1 A Yes. I attended both Clackamas Community
2 College, got a degree in law enforcement and then a
3 four-year degree from Concordia University.

4 Q Is that Concordia here in town?

5 A Yes.

6 Q Okay. Great. What's your current duty
7 assignment? Where are you assigned to?

8 A North Precinct day shift.

9 Q Day shift. All right.

10 And kind of just briefly, can you tell us a
11 little bit about the training you received in order to
12 be a police officer, kind of the ongoing training you
13 receive?

14 A Um, well, I guess it started in the Army
15 with the military police training there. Then I went
16 through a reserve academy training with Newberg, which
17 was about 300 hours. And then when I got hired with
18 Lincoln City, then I went through the basic police
19 academy, which was at Monmouth back then.

20 I can't remember how many hours that is. And
21 then I got hired with Portland. I didn't have to go
22 through the basic academy again, but I went through
23 Portland's advanced academy.

24 After I got promoted, I went through a
25 two-week detective academy and a three-week sergeant

1 academy. And then I've had pretty much trainings in
2 between all of that and in-services.

3 Q Was the in-service requirement for the
4 Bureau like on an annual basis?

5 A It's 40 hours. It's about 40 hours.

6 Q Of training every year?

7 A Yes. That's the minimum. Most -- well,
8 most years, I've gotten well above that. I've taken
9 other, other classes in addition to the in-service.

10 Q Okay. Great. I don't know if you may have
11 said, but how long have you been a sergeant?

12 A Well, I was promoted in 2000 when we had a
13 dual list and we were all promoted to sergeants. I was
14 a detective for about 12 years and then transitioned
15 out of detectives about seven years ago, and I have
16 been in the precinct ever since.

17 Q Okay. Can you tell us a little bit about as
18 far as the responsibilities of you as a supervisor on a
19 shift as contrasted to a patrol officer who is not a
20 supervisor?

21 A Well, at the beginning of the day, make sure
22 that everybody shows up, that they know -- we give them
23 the district assignments.

24 We'll go -- we'll have a role call in the
25 morning. We'll go through what we call the all box

1 where we have wanted fliers or other fliers, other
2 information that we need to pass out. Make sure they
3 get all of the information, and they deploy, you know,
4 out to the patrol areas.

5 And then during the day, if there's, you
6 know, a major incident that needs a sergeant response,
7 then we would, we would go to that.

8 Q And how many sergeants are on at a time in
9 any given shift, for example, your day shift at North?

10 A We have a minimum of three sergeants on.

11 Q During any shift?

12 A During the day shift, afternoons is three,
13 and I believe night shift is two.

14 Q All right. So how many officers, patrol
15 officers are you supervising in any given moment during
16 the day shift?

17 A Between the three sergeants, we're
18 responsible for a minimum of 18 officers. These days,
19 most days, we're at minimums of that.

20 Q Okay. All right. Well, you're here, I
21 think you know in regards to this incident that
22 occurred on October 25th at the intersection of North
23 Saratoga and Oatman.

24 My understanding is that there had been --
25 preceding that, there had been a couple of calls

1 relating to robberies on Lombard.

2 Were you aware of those? Were you monitoring
3 the radio? Walk us through kind of your involvement in
4 this and what you knew.

5 A Well, I was at lunch when the Ace Check Cash
6 Exchange robbery came out. I believe that came out as
7 a 27 Adam, which is our code for a hold-up alarm.

8 And prior to the -- and I believe Officer
9 Blair was the first to respond to that, that robbery.
10 Prior to his arrival, dispatch had gotten a hold of the
11 check cash exchange and learned it was, in fact, a good
12 robbery.

13 Q When you say "good robbery," what do you
14 mean? Legitimate?

15 A Yeah. A lot of our hold-up alarms, a vast
16 majority of them are false.

17 Q Maybe someone bumps into the button?

18 A Yeah. They actually hit the button.
19 Sometimes they panic or there's just a malfunction in
20 the system. And we, we don't really -- no one owns up
21 to bumping the button.

22 We make phone contact with them, or BOEC
23 makes phone contact with them and we make sure
24 everything is A-okay. So when I say "a good robbery," I
25 mean, I guess a better term would be a good hold-up

1 alarm.

2 Q Okay. Got you. So what happens next?

3 A A short time later is when the robbery, the
4 robbery at U.S. Bank comes out. At this point then --

5 Q You said you were at lunch. So are you just
6 kind of listening to this over the radio?

7 A Well, by the time the U.S. Bank robbery had
8 come out, I had already finished lunch, paid, and was
9 either getting into my car or in my car at that point.

10 So I called Detective Hawkinson, who is the
11 bank robbery detective, to make sure he knew about it.
12 And he said he knew about it because he was getting an
13 alert from the tracker that the bank had given out
14 during the robbery.

15 Q Okay. And what happened next?

16 A I started heading that way. I heard other
17 units in the area. I believe Officer Ring went to the
18 bank and the 590 car, which would be Habkirk and
19 Reagan, were going to do an area check.

20 Q Okay. Just continue.

21 A BOEC continued to update locations. It was
22 clear. And I believe they also gave like -- this is a
23 GPS-based tracker, so you can -- it will tell you how
24 fast it's going. So it was walking speed. And they
25 kept giving directions and locations.

1 Q Now, you received all this information over
2 the radio --

3 A Yes.

4 Q -- from dispatch?

5 A Yes.

6 Q All right. And you are hearing other
7 officers chime in on that same channel?

8 A Yes.

9 Q All right. And do you recall what the
10 description was of the individual given as far as
11 relating to the two robberies? If you don't, that's
12 fine, but if you do.

13 A I recall they were both black males. As far
14 as clothing description or more detail than that, I
15 didn't, I didn't -- I don't recall that.

16 Q Okay. So are you responding to the general
17 area at this point?

18 A Yes.

19 Q So what happens next?

20 A 590 -- the 590 car is, is getting close to
21 the updated location that BOEC was giving and then a
22 short time later is when they broadcast "shots fired."

23 Q Okay.

24 A And at that point then I upped my response
25 to a Code 3 response.

1 Q What does Code 3 mean?

2 A Lights and siren. I believe it was Habkirk
3 got on the air and asked for a shield. I told him that
4 I had a shield and I was en route.

5 And then Officer Pryce had arrived shortly
6 thereafter, and he gave updated information about
7 direction for the responding units to come in and kind
8 of which way the guns were pointed.

9 Q This is all coming over the radio?

10 A Yes.

11 And then I arrived a short time later,
12 immediately grabbed my shield, which is in the back of
13 the SUV that I drive.

14 Q Can you tell us a little bit more about
15 these shields? What are they? Who has them?

16 A Sergeants have them. They are a ballistic
17 shield that gives us more protection for projectiles.

18 Q When you say "ballistic," do you mean bullet
19 resistant, bulletproof?

20 A Bullet resistant. So it's more than what --
21 it's more than what, what -- it's got more ballistic
22 protection than what I'm wearing, and it's also -- it's
23 bigger.

24 Q Like what's the approximate size of it?

25 A Um, well, it will go -- it will like cover

1 my knees, and there's a, there's a viewing port. You
2 hold it kind of like a shield and you can, you can see
3 through.

4 Q So are you on scene at this point?

5 A Yes.

6 Q And you've retrieved the shield from your
7 trunk?

8 A Yes.

9 Q What did you do next?

10 A That's when Officer Blair arrived, and I
11 handed it off to him.

12 Q The shield?

13 A Yes.

14 Q Okay.

15 A I could see Officer Reagan and Habkirk and
16 Pryce around, I think it was 590's patrol car, which
17 was a Crown Vic.

18 Q And where did you park your vehicle?

19 A Roughly behind and to the left of their
20 vehicle.

21 Q All right. So you're on Oatman facing
22 south?

23 A Yes, and I approached, and then Officer
24 Reagan makes a statement to me.

25 Q What does he say to you?

1 A Um, that he turned around with a black
2 object in his hand and he shot him.

3 Q You say "he turned around," is he referring
4 to the subject on the ground?

5 A Yes.

6 Q So Officer Reagan said to you -- can you
7 just slow it down a little bit and tell us what he said
8 again?

9 A That he turned around with a black object in
10 his hand, and he shot him. And he said that object
11 was, was down at his feet. I could see a, a black
12 object at Mr. Peeples' feet on the sidewalk as he was
13 laying prone on the sidewalk.

14 Q And where are you and where is the rest --
15 where are the rest of the police mustered in relation
16 to where the subject is and is down?

17 We have a map here that perhaps will be
18 helpful.

19 A So 590's car is roughly here where this
20 arrow is, kind of the point of the arrow. I'm kind of
21 parked right back here, kind of behind the arrow.

22 Q And the subject who is down, where is he,
23 approximately?

24 A Right about here (indicating).

25 Q Is on the sidewalk?

1 A On the sidewalk south of that "X."

2 Q Where do you see the black object you
3 referenced?

4 A At his feet on the sidewalk.

5 Q What do you think the approximate distance
6 is between where you were standing, making that
7 observation and where Mr. Peeples, the subject was?
8 What's the distance?

9 A Twenty, thirty feet.

10 Q Okay. And from where you were standing,
11 could you discern what the black object was?

12 A Not from where I was standing.

13 Q Okay. So after Officer Reagan makes that
14 statement to you, what happens next?

15 A Then Officers Temple, Ortiz and Ceaser had
16 arrived. By the time I turned around, they were, they
17 were behind the car. So then I assembled the custody
18 team with those officers.

19 Q Okay. And can you tell us a little bit
20 about -- well, let's stop -- let me ask you.

21 Why don't you, when you get there, just all
22 rush in and approach the suspect, cuff him and get that
23 whole process without this custody team you're talking
24 about?

25 A Well, it's part of our training. It's a

1 safer way to approach a potentially armed subject with
2 the shield.

3 You have in this case two officers designated
4 as, as kind of hands-on officers, so they are not going
5 to have their, their firearm out. They are going to
6 have their hands empty. And then we'll have what we
7 call a lethal cover, an officer with his handgun out as
8 we approach.

9 Q Okay. And so you mean assignments about who
10 was going to take which role in that regard?

11 A Yes.

12 Q And what happened once you got that kind of
13 organized?

14 A Made sure that all of the officers were,
15 were good with the plan and then we executed the plan.

16 Q And did you all approach behind the shield,
17 or how did that work?

18 A Essentially. I mean, it's not wide enough
19 for everybody. But Officer Blair was the shield
20 bearer, and they were all kind of behind him as we
21 approached.

22 Simultaneously as the custody team is
23 approaching, 590's car also went forward towards Mr.
24 Peebles with Officer Reagan, Habkirk and Pryce with the
25 car.

1 Q Okay. And just tell us how the approach
2 worked and putting Mr. Peeples in custody go.

3 A I believe Officer Temple was giving commands
4 to him, which he was not responding to. We approached.
5 They were able to get him handcuffed. Once we got him
6 handcuffed, we already had fire and medical staged. We
7 had them come in.

8 Q Now, you say you had fire and medical
9 staged. What does that mean?

10 A They were staged a short distance. I don't
11 know exactly where they were staged at. But fire and
12 medical aren't going to come in until the scene is
13 safe, until the subject is in custody, and they can
14 approach safely.

15 Q Okay. All right. Go ahead.

16 A I could see at least one wound to his
17 shoulder. One of the officers attempted to apply a
18 tourniquet to the shoulder, but the wound was too high.

19 Q Is that something the officers are trained
20 to use, this tourniquet?

21 A Yes. That's something that we get, get
22 in-service and we carry tourniquets, you know.

23 Q Does every officer carry one?

24 A Um, I think most officers carry one. I
25 can't say that every officer carries one. Most

1 officers carry one.

2 Q Okay. And Mr. Peeples was patted down, I'm
3 assuming.

4 A Yes, he was patted down. And then as fire
5 was treating him, they were cutting clothes off of him.

6 And so I assigned Officer Temple to kind of
7 collect the things that the fire guys were taking off of
8 Mr. Peeples. They supplied her with a hazmat bag and
9 she put the items in the bag.

10 Q So no weapon was recovered from his person
11 or around him; is that correct?

12 A Not to my knowledge.

13 Q Okay. And going back to this black object
14 that Officer Reagan had referenced, did you -- when you
15 approached, did you see the black object? Were you
16 able to ascertain what it was?

17 A I didn't examine it. It was the size of a
18 wallet. But after the scene, after Mr. Peeples was put
19 on the gurney and transported, then we vacated the
20 area, the crime scene.

21 Q And did Mr. Peeples make any statements or
22 say anything at all during any of your interactions
23 with him?

24 A He was kind of moaning, but I don't recall
25 any discernible statements.

1 MR. DAVIDSON: I think those are the
2 questions that I wanted to ask of Sergeant Christensen.

3 A GRAND JUROR: Could we review the minutia
4 of the sequence of events? And before that, I have
5 another question.

6 Was there any time when you saw Mr. Peeples
7 before he'd been shot?

8 THE WITNESS: No.

9 A GRAND JUROR: Okay. And if you wouldn't
10 mind then going over the sequence of events again with
11 us so we can be very clear on what happened when and
12 the length of time, approximate length of time -- we'll
13 be able to get the actual length of time when we hear
14 the recordings, but your perceived length of time
15 between each event.

16 MR. DAVIDSON: Where would you like him to
17 start?

18 A GRAND JUROR: Well, start with when you --
19 when you got the dispatch, the radio thing about the
20 first robbery.

21 THE WITNESS: Okay.

22 MR. DAVIDSON: So do you want him to go all
23 of the way through his testimony again?

24 A GRAND JUROR: Well, no. I'm a little
25 murky on what happened when.

1 MR. DAVIDSON: Okay.

2 A GRAND JUROR: All right. How far
3 behind -- how far behind Officer Reagan's patrol car
4 were you?

5 MR. DAVIDSON: As far as time lapse?

6 A GRAND JUROR: Yeah. Time and distance.

7 MR. DAVIDSON: Okay. Do you know how much
8 after -- how much time elapsed between when you
9 heard -- do you recall hearing that 590 was out with
10 the suspect over the radio?

11 THE WITNESS: Yes.

12 MR. DAVIDSON: Do you know how much time
13 elapsed between when you heard that and when you heard
14 the "shots fired" call?

15 THE WITNESS: It was, it was very quick. I
16 was driving, so I don't recall specifically how long
17 the time. It was a few seconds.

18 MR. DAVIDSON: Let's go off the record,
19 Karen.

20 (Off-the-record conversation.)

21 A GRAND JUROR: And when you arrived at the
22 scene -- well, on your arrival to the scene, were you
23 behind the car that Reagan and Habkirk were in?

24 THE WITNESS: I parked behind the car.

25 A GRAND JUROR: You parked behind their car.

1 And when you arrived, were they still in their car?

2 THE WITNESS: No.

3 A GRAND JUROR: They were both out of the
4 car?

5 THE WITNESS: Yes.

6 A GRAND JUROR: Okay. And had you seen
7 their car -- on your journey to the scene, had you, had
8 you seen their car in progress on their way to the
9 scene?

10 THE WITNESS: No. I was coming from a
11 couple miles away.

12 A GRAND JUROR: All right. Okay. That's
13 it. That's it for now. I won't bug you anymore.

14 Thank you.

15 A GRAND JUROR: Where was Officer Pryce's
16 car when you arrived?

17 THE WITNESS: I don't recall where his car
18 was. I don't -- I can't recall where he parked his
19 car. And once the scene kind of stabilized and he was
20 being packaged up, there was a lot of other police cars
21 there.

22 A GRAND JUROR: Did he arrive before you?

23 THE WITNESS: Yes, he did. I just don't
24 recall where his car was.

25 A GRAND JUROR: And you say you parked right

1 behind Officer Reagan's car.

2 THE WITNESS: Yes.

3 MR. DAVIDSON: Anybody else with questions
4 for Sergeant Christensen?

5 A GRAND JUROR: Would it, would it be normal
6 for a decision like this where -- obviously, a lot of
7 police officers are congregating. Is there any
8 training, protocol whereby you would hold and stay
9 together as a group rather than one patrol car going
10 in, you know, first?

11 Is there -- you know, since you know you are
12 all going to the same spot. Is there any sense that you
13 should stick together as a group?

14 MR. DAVIDSON: Is this before or after -- I
15 mean --

16 A GRAND JUROR: You know, when they hear
17 there's a bank robbery presumably -- potentially armed,
18 walking, and you know that there's 50 cops on the way,
19 is there any sense that you guys should just hold off
20 and wait for everybody else to get there before you
21 like, you know, confront a person?

22 THE WITNESS: Well, en route, I had asked
23 for a K-9. So when we're coming to the area, you know,
24 the person is continually moving. So it's not a
25 situation where we can congregate in one area and then

1 hope that he continues to move in the same direction
2 that he's been moving.

3 So it's, it's kind of a wider net that we're
4 casting. And then once we can get narrowed down, then
5 we'll team up together. In this case, Reagan and
6 Habkirk were a two-man car. They were already --

7 A GRAND JUROR: They were already backing
8 each other up?

9 THE WITNESS: Yeah. They were already a
10 two-man car doing an area check, which is probably why
11 they did the area check as opposed to Officer Reagan.

12 MR. DAVIDSON: If they were able --
13 obviously, they had been able to take Mr. Peeples into
14 custody without shots fired, I'm assuming that
15 additional units probably would have arrived there to
16 back them up, I would have imagined.

17 THE WITNESS: Yes.

18 MR. DAVIDSON: Any additional questions for
19 Sergeant Christensen?

20 No. All right. Thank you very much.

21 THE GRAND JURY: Thank you.
22
23
24
25

1 MADISON CURTIS CEASER,
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. DAVIDSON:

8

Q And if you can go ahead and state your full
9 name for us.

10

A Madison Curtis Ceaser, Jr. M-A-D-I-S-O-N.
11 C-E-A-S-E-R.

12

Q And how are you employed?

13

A I'm employed with the Portland Police
14 Bureau.

15

Q And how many years law enforcement
16 experience do you have?

17

A Eight years.

18

Q And what's your current duty assignment?

19

A I'm currently assigned to the school police,
20 so Youth Services Division.

21

Q And what is the, I guess the primary job of
22 the school police?

23

A To build bridges between like the students
24 and the police bureau. So I don't really take patrol
25 calls. I would if there's an emergency.

1 But my job is to, I guess you could say, make
2 friends with the elder students and leave a lasting
3 impression and not have them end up in the criminal
4 justice system, but to do criminal justice programs with
5 the state.

6 Q And how long have you been assigned to the
7 school resource unit?

8 A Three weeks now, but I did about five years
9 about a year or so.

10 Q All right. And did you attend college?

11 A Yes.

12 Q And where did you go to school?

13 A University of Oregon.

14 Q And did you obtain a degree?

15 A Yes.

16 Q And what field?

17 A Sociology.

18 Q That's a Bachelor of Arts?

19 A Science.

20 Q Bachelor of Science. Okay.

21 And you've had some additional schooling
22 since then as well; correct?

23 A Yes. I've attended Portland State for a
24 couple of semesters working on my Master's. I had
25 school counseling also at Lewis and Clark, about

1 one-third of the program, going to the school
2 counseling program.

3 Q And I think you mentioned to me in the lobby
4 that you also served in the military; is that right?

5 A Yes. I'm a national guardsman. I've been
6 in six years.

7 Q And that's with the Oregon National Guard?

8 A Oregon National Guard.

9 Q And do you have a specialty or role in the
10 military?

11 A I'm an engineer. I'm a first lieutenant.

12 Q Okay. Great.

13 And can you tell us a little bit about the
14 training you received in order to become a police
15 officer?

16 A You attend the police academy down in Salem
17 for about four months. You go through law. The first
18 I want to say two months is just all PowerPoint,
19 learning all of the Oregon law, so that's pretty long.

20 Then after that, you do scenarios in like
21 your decision-making, defensive tactics. You also go to
22 the range where you go out with the shotgun and whatever
23 service pistol your agency carries. Then it's like a
24 lot of classes on ethics.

25 Four months long, after you finish that up,

1 then Portland has their own advanced academy, which is
2 three months long since things are a little different in
3 Portland and in Multnomah County.

4 Some of our tactics that we train to is more
5 tailored towards Portland and then obviously, you get
6 all of the city codes because they don't teach you the
7 city codes then at the state academy because every
8 officer there is from the state. We do more defensive
9 tactics, more range, driving, so.

10 A GRAND JUROR: Can I ask a question about
11 the training?

12 THE COURT: Yes.

13 A GRAND JUROR: In your training, in either
14 the one down south or in the advanced training, how are
15 you trained specifically for handling a situation where
16 a suspect might have a weapon?

17 What are you told to do before you draw a gun
18 essentially is what I'm asking?

19 THE WITNESS: Well, before I draw my gun is
20 like my last resort.

21 So, um, let's say, a person has a knife, but
22 he's just as close to me as you, then I would draw my
23 weapon. But if a person has a knife and he's a block
24 away, then I'd stay behind my, my car or get some kind
25 of cover.

1 If he's just kind of standing there, pacing
2 back and forth, not advancing toward me, maybe, you
3 know, I could use -- have another officer come who has a
4 less lethal, which is like our beanbag. So it's just
5 kind of every situation is really different. It is kind
6 of hard to say.

7 Their actions kind of dictate, also things,
8 that whoever is around. So if they are standing right
9 there, but then there's, you know, a citizen right
10 there, then I'm not going to use the beanbag because I'm
11 fearing that I might hurt the other person that's not
12 too far from him.

13 So they try to plan for everything. But even
14 in my years and stuff, they could never teach it all.

15 MR. DAVIDSON: Just off the record.

16 (Off-the-record conversation.)

17 A GRAND JUROR: Um, you've been on the
18 school police for three weeks?

19 THE WITNESS: Yes, ma'am.

20 A GRAND JUROR: And prior to that, what were
21 you -- where were you?

22 THE WITNESS: I was assigned to the New
23 Columbia neighborhood, so I was a New Columbia officer.

24 So I guess a while ago New Columbia was
25 probably one of the bad neighborhoods in Portland. And

1 so when they tore it down and built it back up, they
2 assigned officers to be there. It was a detail of two
3 to four officers.

4 And so my job was to kind of be also like a
5 liaison between the New Columbia management in the
6 community, so I took regular 911 calls and outside of
7 there.

8 But I met with management every week. And I
9 talked about the houses that might have been an issue
10 for the week, all of the 911 calls that went on, whether
11 it was my car or some other officer on day shift or
12 night shift, took a call.

13 And I would follow up with that officer and,
14 say, hey, at this apartment No. 22, they had an
15 unauthorized guest, or we found marijuana or drugs in
16 their apartment, because some of those apartments are
17 low-income houses so they can't have unauthorized guests
18 or obviously drugs.

19 A GRAND JUROR: Thank you.

20 BY MR. DAVIDSON:

21 Q So we're obviously, here to talk about this
22 incident that occurred on October 25th at the
23 intersection of North Saratoga and North Oatman.

24 You were working day shift at the time?

25 A No. I was on my regular New Columbia shift.

1 So that shift, myself -- at the time it was myself,
2 Officer Ortiz, Officer Temple and Officer Silverman.
3 And we work on Wednesday. We all overlap because we
4 cover seven days a week, so we're all there on
5 Wednesday. That's the day we meet with the management
6 at New Columbia. So we were working, I think 1:00, we
7 started that day.

8 Q Okay.

9 A Around 12:00 or 1:00.

10 Q So you were over at New Columbia, I guess
11 meeting with the other officers when you first heard
12 about this incident.

13 A Yes. So we were sitting like in front of
14 the office. We were there a little bit early before
15 our meeting because we get all of our reports together
16 and we kind of go over stuff and just chitchat.

17 So we're sitting outside. We're not inside
18 the office yet. Just kind of standing outside our cars.
19 We hear kind of like an update saying there was like a
20 bank robbery.

21 And, you know, bank robberies happen a lot,
22 and sometimes we just don't catch the people because by
23 then, other times someone calls 911, dispatch gets it,
24 and that person is in the car and long gone, so you kind
25 of hear it.

1 So we're sitting in there talking about, you
2 know, our weekends, our plans, whatever the case may be.
3 And then we start hearing more updates, but it's kind
4 of -- we're not too tuned into it, because we're like,
5 all right, well, sometimes they always give updates.

6 You know, someone says they went north when
7 they really went south. He's a black guy. He's a white
8 guy. People give really bad descriptions sometimes.

9 Then we chimed in. And we heard an
10 officer -- I don't know the voice. I can't remember the
11 voice, but we just heard an officer said I think I got
12 someone -- along those lines say I got someone on Oatman
13 headed southbound.

14 I was like okay. Then we started to pipe up
15 a little bit, and I listened a little bit more. Then
16 about I want to say a few moments later, a couple
17 seconds later, I can't recall, then we hear the officers
18 say, "Shots fired."

19 So that's when we got in our patrol car. And
20 we were at the -- Officer Ortiz and Officer Temple were
21 riding together. I was by myself. So that's when we
22 drove to the location.

23 I want to say the New Columbia neighborhood,
24 it's roughly about maybe two, maybe three miles from the
25 incident. So we heard that, you know, another officer

1 was there. I can't remember who. You hear an officer's
2 voice.

3 And we heard Sergeant Christensen, you know,
4 kind of giving his deal as the sergeant. Hey, I want
5 somebody at this location. I want someone -- you know,
6 getting ready to do this. Get medical started. Get
7 medical staged.

8 So we came, we came from the west on Lombard,
9 and I saw Officer Christensen about two blocks way.
10 He's probably coming from somewhere around North
11 Precinct, so we kind of converge like this.

12 He turned first. He made it up. He headed
13 southbound on Oatman. And next we hear roughly behind
14 him about a block, and Officer Temple obviously was
15 right behind me driving the car.

16 You know, I don't remember anyone saying that
17 they were at the scene besides the officer who was
18 involved in the shooting, so we said, hey, we're going
19 to -- we just decided to go straight to -- I think the
20 officers followed me. And so I decided to go straight
21 to the scene.

22 Got to the scene, and I want to say Officer
23 Jimmy Pryce was standing out of the car. I can't
24 remember the other two officers because I just saw the
25 back of their head and they were facing towards the

1 suspect.

2 Sergeant Christensen started doing this deal.
3 Hey, you know, we need a shield, custody team, the kind
4 of stuff we all practice for like in -- I don't know.
5 You know, in the state academy, you don't practice.

6 In Portland, we've got these ballistics
7 shields that we got about four or five years ago, so
8 we'll do trainings with the ballistics shields to
9 approach someone who has a weapon. Maybe like I'll wait
10 for a SERT team to call out, which could take probably
11 an hour or something like that.

12 Q What is the SERT team?

13 A Like our SWAT team, we call it. It's like
14 Special Emergency Response Team, but people call it
15 SWAT. It's the SWAT team.

16 And so in this situation, like he wasn't a
17 barricaded subject with, you know, with a hostage, so we
18 wouldn't call like for a SERT call-out. So we got
19 the -- Officer Blair got the ballistics shield ready.

20 All the sergeants got the ballistic shields
21 in their car. It's probably about this high off the
22 ground. He got that ready.

23 And then I was on the, on the approach team,
24 so I was lethal cover. Officer Temple and Ortiz were
25 the custody team. And this was all going on -- you kind

1 of already know what to do. We kind of just fall into
2 place. And Sergeant Christensen kind of said, "Hey, you
3 need to be the custody team," so I was lethal cover.

4 But when we first got there, Officer Blair
5 had to put the shield together. I looked and saw the
6 subject laying on the ground. And then I could see like
7 there was a black thing by his hand.

8 I couldn't tell what it was at the time. I
9 just could tell like he had a black object. It would be
10 by his right hand.

11 So his head was facing away from us and was
12 facing southbound. His arms were almost like spread out
13 like an airplane would be. But about a foot or two
14 away, there was like a black object that I could see. I
15 couldn't tell what it was.

16 Q So from your original point of view, where
17 were you standing in relation to where he was lying?

18 A So he would have been on the -- he would
19 have been on the southeast corner. And I guess you
20 could say I was closer towards the northwest corner,
21 but we were kind of more in the middle of the street
22 because we were behind a patrol car taking cover.

23 Q So from that distance you could discern
24 there was a black object on the ground near him, but
25 you couldn't discern what it was?

1 A Yeah, I couldn't tell what it was. I want
2 to say maybe it was about a good 30 yards away that you
3 could just -- because he was on the concrete, so you
4 could see there was something black laying on the
5 concrete.

6 Q Okay. All right. So tell me about the
7 approach of the custody team.

8 A So we made the approach. Officer Blair held
9 his shield. Officer Temple and Officer Ortiz were the
10 custody team. I was lethal. I'm not sure at this time
11 if Sergeant Christensen was behind us there or not.

12 So we made the approach. I kept my weapon on
13 the subject. I gave him commands: Hey, don't move. We
14 have a weapon. You'll be shot.

15 So we walked up. And as we got, I want to
16 say maybe about 10 feet away from him, something like
17 that, that's when I could see that the black object on
18 the ground was like a wallet.

19 Q So when you were about 10 feet away, you
20 could discern what the black object was?

21 A Yeah. That's when I could tell, okay,
22 that's a wallet. But before -- a wallet or a cell
23 phone, 'cause, you know, they are roughly about the
24 same size, but you could tell it was not a gun, that it
25 was just like something smaller.

1 But from where our original position was, you
2 know, I see a black object laying right next to his
3 right hand. I couldn't tell what it was.

4 So we get closer. Still giving him commands.
5 Don't move. He's not responding to any of our commands.
6 But he's not doing anything at the time. He's just kind
7 of laying there.

8 Officer Ortiz and Officer Temple place
9 handcuffs on him. As they are placing handcuffs on him,
10 I could see that he's got a large wad of cash, like a
11 crisp hundred dollar bill like in his right pocket.

12 I also see that he has like a bullet wound in
13 his shoulder. I tried to place a tourniquet on him.
14 The wound is too high in his shoulder.

15 Q So you did that or another officer did?

16 A Another officer. We tried to. I held the
17 arm and the other officer tried, and then we realized
18 that the wound was just too high.

19 Officer Garrison, because by then, which we
20 had made the approach, more officers came in. Even
21 there was a motorcycle cop there. There were several
22 officers on the scene by the time we placed the subject
23 in custody.

24 So we attempted to do that, but then we
25 realized the wound was just too high to place the

1 tourniquet on. Patted him down just to make sure like
2 he didn't have any other weapons on him. Didn't find
3 any weapons. Then we tried to do like a search just to
4 make sure that there were no other weapons on him.

5 But by this time, while we're doing that,
6 someone I heard on the radio, because you hear a lot of
7 people talking, fire, medical -- it was AMR, sorry, had
8 came into the scene. And they were literally there
9 moments after.

10 Q And what is AMR?

11 A It is the fire -- the ambulance, sorry.
12 They came in.

13 So by the time we even finished doing our
14 check to make sure he had any other wounds, AMR, I think
15 they were staged like not too far down the street, and
16 that's when they came in and they took over.

17 And they did their job, and they cut all his
18 clothes off, started checking for his wounds, started
19 treating him. I stood there like over the wallet,
20 because I was told by a lot of sergeants that start to
21 come -- and everybody has their spiel -- I was told to
22 stand over the wallet.

23 I did that for I want to say ten minutes.
24 And then I was told to exit the scene, exit the
25 perimeter. And then from there I was told by Sergeant

1 Doty, or I can't remember now who, to go check all the
2 houses in the area and make sure if anyone was at home,
3 had they heard anything.

4 Me and Officer Temple did that together. We
5 checked about six or seven houses. Because of the time,
6 2:00, something like that, no one was home.

7 There was one lady that was home. I believe
8 it was on -- about a block away from where the shooting
9 had occurred. And all she said was she just heard like
10 a few pops, but she couldn't hear anything. She heard a
11 few pops. She didn't like anything of it, so she didn't
12 call 911.

13 But I said myself and Officer Ortiz did not
14 locate anyone out at the homes because of the time of
15 day.

16 MR. DAVIDSON: All right. I think those are
17 the questions that I have for Officer Ceaser.

18 A GRAND JUROR: Did you have your lights and
19 sirens on when you were on your way to the scene?

20 THE WITNESS: Yes.

21 A GRAND JUROR: And the other, Temple and
22 Ortiz did, too?

23 THE WITNESS: I would assume so. Every now
24 and then I look in the back. I know their lights were
25 on, but I couldn't tell because my siren was on, so.

1 A GRAND JUROR: Sure.

2 MR. DAVIDSON: Anybody else with questions

3 for the officer?

4 No. Okay. That's it. Thank you.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 JOANA ORTIZ,
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. DAVIDSON:

8 Q If you could state your full name for us,
9 please.

10 A Joana Ortiz.

11 Q And spell it.

12 A J-O-A-N-A. O-R-T-I-Z.

13 Q All right. And how are you employed?

14 A By the City of Portland as a Portland police
15 officer.

16 Q And how many years law enforcement
17 experience do you have?

18 A Six years.

19 Q And all of that with Portland?

20 A Yes.

21 Q Did you attend college?

22 A Yes.

23 Q And did you get a degree?

24 A Criminal justice administration, yes.

25 Q From where?

1 A From Cal State Dominguez Hills in
2 California.

3 Q And in criminal justice you said?

4 A Yes.

5 Q What's your current duty assignment?

6 A I am assigned to the New Columbia detail.

7 Q How long have you been there?

8 A I've been there a couple of months. I don't
9 know the exact amount, but eight months or so.

10 Q Okay. And we've heard a little bit about
11 what that entails from Officer Ceaser because he's also
12 assigned to the New Columbia.

13 A He was, yes. He recently moved, but he was
14 at the time of the call.

15 Q All right. And could you tell us just
16 briefly a little bit of the training you received in
17 order to become a police officer?

18 A We receive four months of basic academy down
19 in Salem, which entailed all sorts of calls, domestic
20 violence, robberies, traffic stops, defensive tactics,
21 anything that you can name to prepare yourself for law
22 enforcement.

23 And then we did field training officer, which
24 entailed more training within the car on the field. And
25 then we went to a three-month additional advanced

1 academy training just with Portland, which was also like
2 a reinforcement of the basic academy and more of what
3 Portland does.

4 Q Okay. So it's my understanding from Officer
5 Ceaser's testimony that you and he and another officer,
6 Officer Temple, were all out in New Columbia at a
7 meeting.

8 A Yes. We were about to go into the meeting.
9 We were just waiting for the meeting to start. We were
10 parked right in front of the location.

11 Q When did you start hearing about the
12 robberies, for example? Do you recall that?

13 A Yes, I do. We were, we were attached to the
14 call because it's a mandatory meeting that we attend
15 every week.

16 And all I was thinking, I remember, was a
17 robbery and that they were tracking the suspect. And I
18 just remember thinking, well, if he gets in a car, we're
19 near it, so if he heads westbound on Lombard, we're in a
20 good position to maybe put out spike strips or whatnot
21 to do preventive measures so the suspect doesn't get
22 away.

23 So that's kind of my thought process when it
24 was going on. So I wasn't -- although, I was paying
25 attention, I was more paying attention to the fact if he

1 was going to flee. So I wasn't paying attention to the
2 specific details of the call other than the location
3 more so. That was a little east of us.

4 Q Okay. So when did your ears kind of perk
5 up? When did that change when you started paying more
6 attention?

7 A Um, when they were actually tracking him,
8 because I know that officers were in the area, and
9 that's when I started paying more attention because I
10 was thinking he was in a car.

11 And then when the "shots fired," it was more
12 like we're not going to go to the meeting, we're going
13 to head to assist the other officers.

14 Q So what did you do at that point?

15 A I was a passenger in the car with Officer
16 Temple, and she started driving that way, and I started
17 helping her navigate to that area. So we drove on --
18 we got out of New Columbia, drove east on Lombard and
19 then we went south on Oatman.

20 Q Okay. When you arrived at the location,
21 what did you observe?

22 A I observed officers staged kind of north of
23 Saratoga. And when we parked, I just kind of got out
24 my car and I ran. And then by that point, I believe
25 the shield was already out, and the sergeant was coming

1 up with a plan so we can render aid to the suspect and
2 put him in handcuffs safely. And we were kind of
3 coming up with that when we arrived.

4 Q Is that Sergeant Christensen?

5 A Yes, Sergeant Christensen.

6 Q All right. And what was your role on the
7 custody team?

8 A I was part of the hands-on custody team. I
9 put on gloves and I was part of the handcuffing.

10 Q And before you proceeded across the
11 intersection to affect the arrest, were you able to
12 observe the suspect?

13 A Yes.

14 Q And what did you see?

15 A He was laying down on the ground with his
16 back on the ground and he was facing up. And I just
17 remember his feet were facing us. So he was kind of --
18 we were looking at his feet.

19 And I just remember the officers were giving
20 him commands, but he was unresponsive at that time. But
21 he wasn't making any movements or anything of that sort.

22 Q Okay. And at that point before you
23 proceeded across the intersection, were you able to
24 observe anything around his person?

25 A So I did not. However, during like the

1 handcuffing, I did observe a wallet near him. I don't
2 recall the exact location, but there was a wallet on
3 the ground.

4 Q And do you remember what color it was?

5 A It was black.

6 Q It was black?

7 A Yes.

8 Q Did you find anything else of relevance when
9 you were patting him down at the time of his arrest?

10 A Yes. I remember there was a big stack of
11 cash, like it looked like brand new cash. It was
12 probably like really thick. So I remember noticing
13 that specifically.

14 Q That's relevant given the earlier robbery
15 call?

16 A Yes, it was. I was thinking, oh, that's
17 probably the money he got.

18 Q Okay. Did he say anything at all while you
19 were there?

20 A No. I just remember asking him several
21 times if -- because we could see a shot wound. I asked
22 him several times if he had been shot anywhere else,
23 and eventually he said no, or something along those
24 lines that he wasn't shot anywhere else. I remember
25 just asking him over and over. But nothing else other

1 than moans.

2 Q Okay. And you cuffed him yourself?

3 A Me and Officer Temple did, yes.

4 Q Okay. And you patted him down?

5 A Yes.

6 Q And did you discover any weapons or guns or
7 knives?

8 A No, we did not.

9 Q All right. And, to my understanding, you
10 actually rode with him to the hospital; is that right?

11 A Yes.

12 Q Anything of interest about that?

13 A No. I just remember he was unresponsive,
14 but he was kind of doing what they were asking him to
15 do.

16 I remember when they were telling him at one
17 point to take deep breaths, he was taking deeper
18 breaths. So he was listening, but he still wasn't
19 talking to you, even medical, because I think they were
20 asking him if he was allergic to anything, his name and
21 stuff like that for medical purposes, and he wasn't
22 speaking or anything.

23 MR. DAVIDSON: Okay. All right. I think
24 those are all of the questions I have for Officer
25 Ortiz.

1 A GRAND JUROR: Officer, you said you were
2 in the ambulance with him.

3 THE WITNESS: Yes.

4 A GRAND JUROR: Did you notice that he may
5 have had other wounds?

6 THE WITNESS: Yes.

7 Once they -- I think we noticed once he was
8 inside the ambulance, the medical personnel noticed that
9 there was another bullet wound.

10 And I think we established like his foot --
11 his foot was bleeding when they took off his shoes
12 initially. And I think at that point we put two and two
13 together and figured out that he was shot on his foot
14 also. So it was like two additional injuries once we
15 were in the ambulance.

16 MR. DAVIDSON: So shoulder -- you kind of
17 pointed to your abdomen.

18 THE WITNESS: Yeah. I don't remember what
19 side it was. Not thinking about it. But I think it
20 was the left lower and then his right, yeah, right toe
21 was bleeding.

22 MR. DAVIDSON: Okay.

23 A GRAND JUROR: Thank you.

24 MR. DAVIDSON: Anybody else have additional
25 questions?

1 A GRAND JUROR: Yes.

2 You said you saw the money.

3 THE WITNESS: Yes.

4 A GRAND JUROR: How did you see the money?

5 THE WITNESS: When we were patting him down,
6 it was inside one of his jacket pockets. And it was a
7 big wad. It's like stacks. It was very noticeable.

8 A GRAND JUROR: Sticking out of the pocket?

9 THE WITNESS: Yeah. Well, I think once we
10 were trying to take off the clothing for medical to
11 attend to him, that's kind of where we saw it. That's
12 where I noticed it at least.

13 MR. DAVIDSON: Anybody else have any
14 questions?

15 A GRAND JUROR: So you were, you were behind
16 the shield?

17 THE WITNESS: Yes.

18 A GRAND JUROR: Walking towards him?

19 THE WITNESS: Yes. Yes.

20 A GRAND JUROR: And he was still not --

21 THE WITNESS: Not responding. No, he
22 wasn't. No.

23 A GRAND JUROR: -- to commands.

24 THE WITNESS: No. No. He was --

25 A GRAND JUROR: You were saying things like

1 --

2 THE WITNESS: I believe it was Officer
3 Ceaser at this time giving him commands, yeah. But by
4 that point, we just asked him to stay there. And then
5 he was awake and looking at us once we got up to him,
6 because he was giving me eye contact when I was asking
7 him questions.

8 A GRAND JUROR: Okay.

9 MR. DAVIDSON: All right. Anybody else?
10 No.

11 Okay. Officer Ortiz, you are done.

12 THE WITNESS: Thank you.

13 THE GRAND JURY: Thank you.

14 MR. DAVIDSON: You are free to go.
15
16
17
18
19
20
21
22
23
24
25

1 DENAISHA SHONAY MEADOWS,
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. DAVIDSON:

8

Q And if you could go ahead and state and

9

spell your full name for us, please.

10

A My middle name, too?

11

Q Sure.

12

A Okay. Denaisha Shonay Meadows. First name,

13

D-E-N-A-I-S-H A. Middle name, S-H-O-N-A-Y. Last name,

14

M-E-A-D-O-W-S.

15

Q All right. Thanks for joining us.

16

Again, how do you pronounce your first name?

17

A Denaisha.

18

Q Denaisha?

19

A Yeah.

20

Q Okay. Thanks, Denaisha. I appreciate you

21

being here.

22

Denaisha, could you tell us how old you are?

23

A Twenty-two.

24

Q And where do you reside at, generally

25

speaking?

- 1 A Where I live?
- 2 Q Yes.
- 3 A Ridgefield, Washington.
- 4 Q And is that where you grew up?
- 5 A No. I grew up in Vancouver, Washington.
- 6 Q So Clark County for the most part?
- 7 A Yeah. Pretty much, yeah.
- 8 Q Did you go to high school there?
- 9 A Yeah.
- 10 Q And what do you -- do you have a job
- 11 currently? Do you work, go to school?
- 12 A Yeah. I work at the airport.
- 13 Q And what do you do there?
- 14 A I do ramp service.
- 15 Q All right. What is "ramp service"?
- 16 A Well, there's a lot of different things.
- 17 But specifically what I do is luggage, so I make sure
- 18 luggage gets on and off the aircraft.
- 19 Q Okay. So you are out on the tarmac?
- 20 A Yeah.
- 21 Q Okay. And how long have you been working
- 22 there?
- 23 A A year.
- 24 Q And do you like that?
- 25 A Yeah. It's fun.

1 Q It's a little cold this time of year?

2 A Oh, yeah. And it's extra cold because all
3 of the wind from the, the Gorge, the river, the
4 aircrafts.

5 Q Okay. So I think you know why we're here.

6 We're here to discuss this incident that
7 occurred on the 25th of October that involved an
8 individual named Chase Peeples.

9 Are you familiar with Mr. Peeples?

10 A Yeah. We were dating.

11 Q All right. And how long have you known Mr.
12 Peeples? I'm assuming you've heard of him as Chase.

13 A Yeah. Um, since like July.

14 Q Of this year?

15 A Yeah.

16 Q Okay. And how did you first meet him?

17 A Um, downtown Vancouver at the Share House.

18 Q The what?

19 A The Share House, which is a homeless
20 shelter.

21 Q Okay. And in the beginning was your
22 relationship just a friendly one or was it mostly --

23 A Yeah, we -- okay. So we became friends
24 first just -- I don't know. I don't know how to
25 explain it. Not in a bad way, just we became friends.

1 I wasn't like attracted to him like at first.
2 He wasn't my type. And then we hung out more and we had
3 things in common. So that same, that bond started, and
4 a couple weeks later we started dating.

5 Q All right. So you met him back in July, you
6 said.

7 A Yeah.

8 Q And were friends in the beginning and then
9 after a couple of weeks, you started dating.

10 A Yes.

11 Q So would you consider yourselves
12 boyfriend/girlfriend?

13 A Yes.

14 Q All right. And did you reside together?
15 Did you have separate residences?

16 A So he was living there because he didn't
17 have -- he's not from here, so he didn't have a place
18 to go.

19 And then I don't want you to live there, so I
20 asked my aunt if he can come live with us. So after a
21 week or so, he started living with us.

22 Q A week or so after you met him or a week or
23 so --

24 A After dating.

25 Q After dating for a week or so, he came and

1 lived with you and your aunt?

2 A Yes.

3 Q Okay. All right.

4 MR. DAVIDSON: Just to let the jurors know
5 that we're going to introduce some statements made by
6 Mr. Peeples that occurred almost days before the
7 shooting occurred.

8 And they are being offered for the purpose of
9 demonstrating his mental state at the time the shooting
10 occurred. And that's the purpose and the only purpose
11 for which they are being offered, so just that caveat.

12 BY MR. DAVIDSON:

13 Q So Mr. Peeples and you had a -- I know from
14 a conversation you had with the detectives after the
15 shooting, that you and Mr. Peeples had had some
16 conversations in the days leading up to the shooting
17 that led you to be concerned about maybe his mental
18 state; is that right?

19 A Yes.

20 Q That potentially, he was depressed or
21 suicidal?

22 A Yes.

23 Q Could you just walk us through what he was
24 saying to you in those days prior to the shooting?

25 A Well, I don't know where to start. So he

1 was suicidal and he's very religious, too. At times he
2 would like -- well, there's no reason for him to be
3 alive because he knows he'll go to heaven, which is --
4 that's fine with a lot of religious people, but he
5 would really like go into it if that makes sense.

6 Q Like what kind of things would he say?

7 A Like it wouldn't matter if a police officer,
8 even a specific police officer would shoot him, and he
9 would just go on that.

10 Q Okay. So, in fact, he said to you, if I
11 understand the detective's report correctly, that he
12 said to you, "At some point I wouldn't care if the
13 police shot me, killed me"; is that right?

14 A Yeah.

15 A GRAND JUROR: And that's because he would
16 be suicidal and going to heaven -- or not suicidal, but
17 go to heaven; is that --

18 THE WITNESS: Yeah.

19 A GRAND JUROR: Okay.

20 BY MR. DAVIDSON:

21 Q But did he seem also depressed and suicidal?

22 A Yes, because he has basically nothing to
23 live for is what his outcome is about.

24 Q Is that what he said to you, that he had
25 nothing to live for?

1 A No, but his actions and basically just
2 everything he tried to do would like backlash at him.
3 Like trying to get a job.

4 Q So he was depressed about his inability to
5 get a job?

6 A And just life.

7 Q And life?

8 A Yeah.

9 Q All right. And so did he make these kinds
10 of statements to you on more than one occasion?

11 A He didn't really figure out suicide until
12 the end of our relationship.

13 Q Okay.

14 A Because I didn't know until he said it.
15 Because he would go for walks to talk to God, you know.
16 That's fine, you know. He would go and cool down. Go
17 on walks. And then he would like bring it up about how
18 he had like suicidal thoughts and stuff like that.

19 Q Okay. And the reference to specifically
20 potentially committing suicide by cops, so to speak,
21 that didn't occur until the very end of your
22 conversations with him about this?

23 A Yeah.

24 Q And do you remember the shooting occurred on
25 October 25th? I think you had told the police that the

1 last day you saw him was the day before that on
2 October 24th.

3 A Yeah.

4 Q When, in relation to those dates, did he
5 make those statements about the police, do you
6 remember?

7 A Like that night before that, like the night
8 before he got out of the car.

9 Q Okay. So the night of the 23rd of October?

10 A Yeah. Over the course of that weekend, that
11 weekend.

12 Q Over the course of that weekend he -- what
13 did he do?

14 A He was talking about like weird stuff.

15 Q Like what?

16 A Like basically wanting to get shot, and then
17 like he would do actions of pretending to have a
18 weapon.

19 I told the cops that, and then I didn't, I
20 didn't say it because I don't remember. But like, you
21 know, the whole thing around the news, not having
22 something in their pocket when he got shot because of a
23 gun. It's not a gun. It's something else. It was like
24 the hood of a jacket that I got him or something like
25 that.

1 Q So I'm sorry, he's like actually doing this
2 for you?

3 A No, not towards me, but, like, oh, you know,
4 it's just deodorant, just mocking kind of -- not
5 mocking the cops, but mocking the situation because --
6 I don't know how to explain it.

7 Q So if I can try to get a better sense of
8 this.

9 So you were having this conversation on the
10 night of the 23rd and he was literally talking about --

11 A Like conversating. He would do it while we
12 were sitting in the car.

13 Q So he would -- I'm trying to get a grasp on
14 what he was saying to you.

15 It sounds like, if I understand you correctly
16 and correct me if I got it wrong, he was specifically
17 saying to you he could commit suicide by a cop by
18 simulating having a weapon to the police?

19 A He didn't say that word for word, but, yes.
20 That's basically what he was intentionally trying to
21 show, what I was taking it, and I was getting pissed.
22 I don't care if you are just joking or whatever you was
23 doing, that's not funny.

24 Q Okay. All right. Was it concerning to you
25 that he was saying these things?

1 A Yeah, kind of. It was like, what is your
2 mind at right now and what are you trying to do? Like
3 I know he wasn't trying to put me in danger or anything
4 like that or trying to do that right then, but I don't
5 know exactly what was going through his mind.

6 Q Okay. And that conversation took place you
7 think on the 23rd?

8 A The 23rd, yeah, the day of.

9 Q The day of the 23rd?

10 A Yeah.

11 Q Or the day that you -- the last day you saw
12 him?

13 A The day before I last saw him.

14 Q The day before.

15 Can you tell us about the last day you saw
16 him or the last time you saw him?

17 A So we didn't sleep that night, and he was
18 tripping out because I told him that I didn't feel
19 comfortable sleeping in my car in this parking lot.

20 So he was like, well, why don't we go
21 somewhere and ride in the park or wherever. It's -- you
22 know, it's more common for people to sleep in their car.

23 Q That's up in Vancouver?

24 A No. This was in Longview.

25 Q Longview. Okay. And so what happened?

1 A And he was like tripping out. Like I was --
2 he said, "Well, I could just get out right now."

3 I go, "What are you talking about right now?
4 No one is telling you to get out." I was just saying,
5 "Let's go park somewhere else and sleep somewhere else."

6 Then he just -- that night, he just walked
7 out and just walked away. And I'm like we're in the
8 middle of Longview, like he's not from here and I'm not
9 from here.

10 I just -- get out, like where are you going
11 to go? Then he told me that he's going to go get -- he
12 wanted a black and mild.

13 Q Is that a cigarette?

14 A Cigar, yes. I'm like, okay, like as long as
15 you get back in the car, so I don't just leave you.
16 This is when it started to get cold again. And then I
17 found him at a bus stop trying to get on a bus. It was
18 super late.

19 Q In Longview?

20 A Yeah, and he gets back in my car. He's
21 like, you know what I'm talking about. I don't know
22 what you're talking about. I don't know anything you
23 are talking about.

24 And then we didn't go back to sleep that
25 night. We drove back to Vancouver. And this was like

1 when the sun started rising, so everybody is busy going
2 back to work.

3 And that's when we stopped at the Chevron
4 downtown Vancouver because I was going to drop him off
5 right at the Share House so he had somewhere to go,
6 somewhere he knows where he's been.

7 And then he went to Chevron and came back out
8 and grabbed his stuff and just walked away. He didn't
9 say anything. And I'm like, well, that's weird. He
10 walked like -- here is the Chevron. He walked like this
11 way -- no, this way, and then the Share House is that
12 way.

13 I'm like, "Why are you walking the opposite
14 way? Where are you going to go?" And he just walked
15 away.

16 Then like I got out and followed him, and
17 then he asked me why I followed him. I'm like, "Well,
18 you didn't say bye." You know, it was just weird.

19 I was like, okay, "I'm just making sure you
20 are okay," and I walked away. He's not looking at me.
21 He's like looking into the distance. I just go back to
22 my car, and that was it. And that's when I go home, and
23 that's the last time I saw him.

24 Q Okay. So that was on the 24th, I guess the
25 morning of the 24th?

1 A Yeah.

2 Q The day before the shooting?

3 A Yeah, earlier.

4 Q Okay. And so he walks off. And did you
5 make any efforts to try to locate him after that?

6 A The day that he got shot, which is ironic, I
7 didn't get off until like 1:30. This was before my new
8 schedule. So I stayed later because I wanted to get my
9 mind off things.

10 Then I went to looking in places that we
11 usually would like meet up, where he might be. Like I
12 meet him on like MLK, since a lot of the buses that go
13 to Delta Park or Jantzen Beach go that way. We go to
14 that Mongolian Grill right there all of the time. So I
15 thought maybe he'll be there. Maybe he was downtown by
16 the waterfront.

17 Q So you are looking in Portland at this
18 point?

19 A Yeah. Because he always walks -- that's
20 where he was walking towards that morning. So I'm like
21 I figured he always walked over the Jantzen Beach
22 bridge, that bridge.

23 Q The I-5 bridge?

24 A Yeah. I'm like, well, maybe, it's the day
25 after, so I'm sure he made it over here sometime. I

1 also checked. I did check the homeless shelter.
2 That's where he said he was going to go. Maybe he just
3 went for a walk because it's early in the morning. No
4 one is awake. And he wasn't there. So I was looking
5 in, and I just gave up like after an hour, and I --

6 Q I'm sorry, was this in the morning or the
7 afternoon?

8 A When I went to look for him, it was in the
9 afternoon, after work.

10 Q What time do you get off work?

11 A That day, I got off work at 1:30. That was
12 my old schedule. So it was like two hours after my
13 shift.

14 Q Okay. So you were not able to locate him?

15 A No.

16 Q All right. So when did you first --

17 A When he got shot -- so I think by that time
18 he was already -- I don't know exactly what time he was
19 shot.

20 Q It was in the early afternoon.

21 A Yeah.

22 Q So when did you find out that he had been
23 shot?

24 A The next, the next morning when the
25 detectives came to my house.

1 Q And since that time have you spoken with him
2 at all since then?

3 A No.

4 Q And since that time you've learned some
5 additional things about what occurred, including the
6 fact that he had committed two robberies there on
7 Lombard; right?

8 A That's what it says, yeah.

9 Q And that he kind of just walked away from
10 the scene of the second robbery, right, didn't run
11 away?

12 A Did he run away from the first one?

13 Q What's that?

14 A Did he run away from the first one?

15 Q I don't know that he did. I think the
16 evidence seems to indicate he just kind of walked down
17 the street.

18 So when you and I were chatting, I think
19 maybe when you discussed this with the detective, in
20 your mind do you think he had a purpose in what he did
21 that day?

22 A I think so.

23 Q What do you think he was trying to do?

24 A I don't think he's -- most people rob a
25 bank, they rob a bank because they want money. I mean,

1 I'm sure he wanted money because he didn't have any
2 money. He didn't have a job.

3 He didn't have any source of money except for
4 when we were together, I tried to give him, you know,
5 whatever I could. But I think his intention was to get
6 caught and to get shot.

7 Q By the police?

8 A Yeah.

9 Q Kind of consistent with what he was telling
10 you in the days previous?

11 A Yeah, because the article says that he gave
12 them his ID. And no person trying to get away with
13 money is going to do that. I mean, that's what the
14 article says.

15 Q Okay. So you're thinking, knowing what you
16 know about him and what he said was -- that this was
17 maybe an intentional attempt to get the police to shoot
18 him?

19 A Yeah, pretty much.

20 Q Okay. Do you think it's possible that he
21 was high that day at all?

22 A I'm not sure.

23 Q You don't know?

24 A 'Cause I don't even know -- who knows if he
25 even slept that night, the night before the shooting.

1 Q Okay. Did you observe him use any
2 intoxicants, drugs, alcohol in the --

3 A He drank, yeah.

4 Q I guess not in general, but just like
5 immediately before, like those last hours you saw him
6 or maybe the day you saw him.

7 A Yeah. He had I think a beer that morning.

8 Q A beer? Okay.

9 A I don't know if he had more than that,
10 but...

11 Q But nothing more serious than that?

12 A No.

13 Q Heroin, meth, anything like that?

14 A No.

15 Q Okay.

16 A Alcohol would definitely change his demeanor
17 like -- the way I say it is I don't think he has a
18 drinking problem, I think he has an alcohol problem.
19 So if he would have one like sip of beer, he would be
20 like a totally different person.

21 MR. DAVIDSON: Okay. I think those are most
22 of the questions that I have for today, Denaisha.

23 Anybody else have questions for Denaisha?

24 A GRAND JUROR: How many people have
25 interviewed you since the shooting?

1 THE WITNESS: Just, just the detective, so
2 one, once.

3 MR. DAVIDSON: I think you had maybe an
4 in-person and maybe a phone call interview.

5 Does that sound right?

6 THE WITNESS: I think I told him stuff over
7 the phone. Like the suicide, he told me to call if I
8 had any more things to say, if I remembered.

9 MR. DAVIDSON: Okay.

10 A GRAND JUROR: Did I -- maybe I missed
11 this.

12 Did you say where you work?

13 THE WITNESS: Yeah, at the airport.

14 A GRAND JUROR: Oh, yeah, the airport.

15 MR. DAVIDSON: We're talking about Portland,
16 PDX?

17 THE WITNESS: Yeah.

18 A GRAND JUROR: Okay. And did you, did you
19 befriend him at the shelter? Is it something where you
20 also hang out or you volunteer there?

21 THE WITNESS: I was there for my ex who went
22 there because he got kicked out of his house.

23 A GRAND JUROR: Oh, you knew someone else
24 that was there that you went to see?

25 THE WITNESS: Yeah. Yeah. And then that

1 ended, and then I was there because I made friends, I
2 guess.

3 A GRAND JUROR: Sure. You met other people.

4 THE WITNESS: Yeah. Sure.

5 And then that's when we met there because I
6 think that's when he was over there for a couple of
7 weeks.

8 But I noticed that -- I would always have
9 people hanging out with me, and he noticed that I didn't
10 have anyone hanging out with me so he came up and talked
11 to me. A week went past, and I invited him to go to the
12 carwash because somebody spilled chocolate on the rug.

13 A GRAND JUROR: Is the shelter in Portland
14 or Vancouver?

15 THE WITNESS: It's downtown Vancouver.

16 And then we were talking in my car at the gas
17 station. We were laughing about something that
18 happened, and then that's when we had bonded, I guess.

19 A GRAND JUROR: How did the police know to
20 contact you? Like how did they associate him with you?

21 THE WITNESS: I think because of something
22 that happened.

23 MR. DAVIDSON: Yeah. We're not going to be
24 able to talk about that.

25 A GRAND JUROR: Does, does he have an

1 accent, or does he speak like we speak here?

2 THE WITNESS: I think -- well, he's from
3 Florida, so maybe.

4 A GRAND JUROR: Maybe, okay.

5 MR. DAVIDSON: A Floridian accent.

6 A GRAND JUROR: Yes. Yes. Okay.

7 MR. DAVIDSON: But I mean, he doesn't have
8 like a deep southern accent?

9 THE WITNESS: No. And I don't know if --
10 like I don't know what happened to the shooting if he
11 talked to somebody --

12 A GRAND JUROR: Oh, no. I was just curious
13 if he spoke a different language.

14 THE WITNESS: Oh, no. He's from Florida.
15 He's been up here for I think, I think he's up here
16 since he was 19 because he was in the military two
17 years and then, yeah, in Tacoma.

18 MR. DAVIDSON: Okay. Any additional
19 questions for Denaisha?

20 A GRAND JUROR: Can you describe why his
21 personality would change under alcohol?

22 MR. DAVIDSON: Let's go off the record for a
23 second.

24 (Off-the-record conversation.)

25 MR. DAVIDSON: Anybody with any additional

1 questions? No.

2 Okay. Okay. Denaisha, you are all done.

3 THE WITNESS: I am?

4 MR. DAVIDSON: Yes. See how easy that was.

5 THE WITNESS: Okay.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 JAMES BRIAN HABKIRK,
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. DAVIDSON:

8 Q Would you please state and spell your full
9 name for us?

10 A James Brian Habkirk, J-A-M-E-S. B-R-I-A-N.
11 H-A-B-K-I-R-K.

12 Q And how are you employed?

13 A As a Portland police officer.

14 Q And how many years of law enforcement
15 experience do you have?

16 A It will be 24 in February.

17 Q And all of that time with Portland Police
18 Bureau?

19 A Correct. Yes.

20 Q Can you tell us a little bit -- well, let me
21 ask you before that.

22 Did you attend college?

23 A I did.

24 Q And where did you go to college at?

25 A Sac State, California State University,

1 Sacramento.

2 Q And did you obtain a degree?

3 A Yeah. I got a Bachelor's of Science in
4 business administration.

5 Q All right. Could you tell us a little bit
6 about the training you received when you first became a
7 police officer?

8 A Yeah.

9 When you first get hired, you go down to the
10 basic academy. I went down there for eight weeks down
11 in Salem. And then after that training, I came back.

12 You work with what they call a field training
13 officer, a coach for -- I did that for probably a couple
14 of months. Then I went to what we call the advanced
15 academy. It's a second academy that Portland puts on.
16 I did that for another eight weeks.

17 Then after that, you go back out with a
18 coach. I went back out with a coach. I probably had a
19 coach for a little over a year the whole time. And then
20 after that, I'm on my own.

21 And since then, you get a yearly training.
22 We call it in-service. It's usually a week's worth of
23 training every year. Sometimes it's more. Sometimes
24 it's less. Just kind of depends over the years.

25 Q And what various assignments have you held

1 since joining the Bureau?

2 A I had worked -- my last assignment on
3 probation was what was at the time Northeast Precinct,
4 which is now North Precinct, and I've stayed there ever
5 since. It must have been about June of 1996. I've
6 been there since.

7 Q So for over 24 years, you've basically been
8 a patrol officer in the exact same part of town?

9 A Yes.

10 Q Okay.

11 A GRAND JUROR: While you are talking about
12 training, could I ask a training question?

13 MR. DAVIDSON: Sure.

14 A GRAND JUROR: What training, updated to
15 today's standards, do you see or get dealing with
16 people that have mental challenges?

17 THE WITNESS: Oh, we -- we've got quite a
18 bit.

19 At one point I went to, what is it called,
20 it's called Critical Incident Training. It's called CIT
21 training. I went through that the first round back, I
22 couldn't tell you the year, back originally when we
23 first started doing it here.

24 And then since then, everybody has got that
25 training, and now it's called ECIT, which is a

1 different -- which is a little bit more training. I
2 don't have that training, but I got the original
3 training. And then in in-service every year, there's
4 always classes about dealing with people in crisis.

5 A GRAND JUROR: So you are taught to
6 recognize it when you see it on the street dealing with
7 the public?

8 THE WITNESS: Correct. Yes.

9 A GRAND JUROR: Thank you.

10 BY MR. DAVIDSON:

11 Q All right. So you've worked essentially in
12 the same area of town, which is now kind of North,
13 Northeast Portland.

14 A Yeah. It's called North Precinct now.

15 Q Okay. And what shifts have you worked, and
16 what shift do you work now?

17 A I've worked all the shifts, from graveyard
18 to swing shift, and now I've landed on day shift for
19 the last probably seven or eight years.

20 Q And what are the hours of day shift?

21 A I work pre-relief, which is from 6:00 in the
22 morning until 4:00 in the afternoon.

23 Q All right. So I think you know why we're
24 here. We're here to discuss this officer-involved
25 shooting incident that occurred on October 25th at the

1 intersection of North Saratoga and North Oatman.

2 A Yes.

3 Q So I'm assuming that things were typical.

4 You started your shift at 6:00 that day.

5 A Yes.

6 Q And were you working solo car or a partner
7 car?

8 A I was working a partner car with Officer
9 Reagan as I've typically done. And I've done for the
10 last few years.

11 Q So that's your typical assignment, a partner
12 car with Officer Reagan?

13 A Yes.

14 Q Are you assigned to any particular district
15 in North Precinct?

16 A Yeah. My district is 590 and Officer
17 Reagan's is 570. They join. So when we work together,
18 we cover both districts typically.

19 Q And can you just give us the general
20 geographic boundaries of that conglomerated district?

21 A Yeah. 590 is kind of more or less from
22 Shaver to MLK, I-5 to Broadway more or less. It goes
23 over a block or two here and there.

24 And 570's goes on the other side of I-5,
25 pretty much from around Greeley up to about, I think

1 it's Rosa Parks and goes over to about I-5. They kind
2 of sit on two sides of I-5, kind of connected.

3 Q Okay. So that day, the 25th of October, how
4 were you dressed?

5 A Just exactly like I am today.

6 Q All right. Wearing a police bureau uniform
7 with --

8 A With a badge.

9 Q -- badging and things of that nature?

10 A Yes.

11 Q And was Officer Reagan dressed similarly?

12 A Yes, he was.

13 Q And the patrol vehicle you were in, can you
14 tell us a little bit about that?

15 A Yeah. It's a Ford Crown Vic. It's got
16 overhead lights and painted. Just the typical Portland
17 Police Bureau car that you see driving around.

18 Q We've heard a little bit about this, but
19 it's our understanding from prior testimony that
20 officers, when they are on duty and in the field, don't
21 identify themselves necessarily by name on the radio
22 but instead by a unit number; is that correct?

23 A That's correct. Yeah. That's how we
24 identify ourselves on the radio.

25 Q And what was your unit number that day?

1 A 590.

2 Q 590. And that represents, I guess the car
3 that both you and Officer Reagan are in?

4 A Yes.

5 Q Okay. So this incident I imagine then kind
6 of happened towards the end of your shift; is that
7 right?

8 A Yes.

9 Q So is there anything unusual about anything
10 that occurred to you guys earlier in the day, or was it
11 a pretty typical day on patrol?

12 A Just a typical day on patrol.

13 Q And was one of the two of you driving that
14 day?

15 A Yeah. Officer Reagan was driving that day.

16 Q And does Officer Reagan always drive?

17 A We typically switch off for the most part.

18 Q Like every other day kind of thing?

19 A Usually, yeah, for the most part.

20 Q So where were you when you first heard the
21 call come out about the Ace Cash Checking property?

22 A We were in the area of like Campbell, south
23 of Lombard.

24 Q And what were you doing at the time?

25 A There's a contact office there. We come out

1 of the contact office.

2 Q What's the contact office?

3 A Contact office is a place you can go and use
4 the restroom, have a break, write your reports, do that
5 kind of stuff.

6 Q Okay. But it's separate from the main
7 precinct then?

8 A Yes.

9 Q So just walk us through what you heard and
10 what your response was to it.

11 A The first call was a call at the Ace Cash
12 Checking place. It's about the 2700 block of Lombard.
13 The call came out. And with the updates, it turned out
14 it was a male, black, in his 20's, black hat, black
15 backpack, black jacket, black pants and yellow shoes
16 had done the robbery of that one.

17 They said that he was last seen walking
18 westbound on Lombard. So what we did is we did like an
19 area check for -- actually that's exactly what we did --
20 an area check about a block south, a block or two south
21 of Lombard, kind of paralleling it.

22 We went westbound out, I don't know, maybe
23 15, 20 blocks past that location when the second robbery
24 call came out at the U.S. Bank.

25 Q Before you get into that, how far away were

1 you at the contact station from where that Ace Cash
2 Checking location is?

3 A We were probably about seven or eight blocks
4 away, somewhere in that neighborhood, give or take a
5 block.

6 Q How long did it take you from the call to
7 when you responded to the area?

8 A Oh, pretty quick. We were there within
9 minutes.

10 Q Okay. So you're searching an area and you
11 hear the second call come out.

12 What was the nature of the second call?

13 A The second call was, was a bank robbery. As
14 that call progressed, it turned out, same description
15 as the same guy. And then we turned around and we
16 started coming back towards the location. We're still
17 a block --

18 Q Towards U.S. Bank?

19 A Towards U.S. Bank, yeah.

20 We had gone westbound past it and we were
21 coming eastbound. We're still a block or two south of
22 Lombard.

23 And as we are coming back, they started
24 giving GPS -- he had taken the GPS tracker, and they
25 were giving updates. He was going south on Oatman,

1 which is pretty much where the bank was, just south on
2 Oatman.

3 And as the, as the updates kept coming out,
4 at one point they said he's going about 2.2 miles per
5 hour, which they said is like he's walking, a walking
6 speed.

7 So as we're going, they said -- as we get
8 closer, there's an update that he's at Bryant. And then
9 as we get in the area from -- we're north of Bryant, as
10 we come down Oatman, that he was at Saratoga.

11 So as we come down Saratoga, we -- as we come
12 down -- we don't come down Saratoga. We come down
13 Oatman towards Saratoga.

14 Q Actually, Officer, can I get you to hold on
15 for one second?

16 So can we go into a little more detail about
17 the information that you received in the call?

18 Do you recall what was the -- other than the
19 description, which you've already given, what
20 information did you have as far as you can recall
21 about -- you received over the air about what had
22 occurred at the Ace Check Cashing location and at the
23 bank?

24 A At the Ace Check Cashing location, there was
25 a note for \$5,000. And at the second location, I

1 believe the only information was there was a note.

2 Q Okay. So you didn't have any information,
3 for example, in regards to the U.S. Bank call about
4 what the content of the note was?

5 A No.

6 Q Just that it was, in shorthand, a note
7 robbery, I guess?

8 A Yeah.

9 Q And what is your understanding in general of
10 what a note robbery is? Is that something that you've
11 encountered before in your policing?

12 A Yes. Typical for a bank robbery, they'll go
13 in with a note, slide the note across to the cashier,
14 asking for whatever they are asking for, and usually
15 get the money back and then leave.

16 Q Okay. And does it sometimes have a
17 reference to a weapon and sometimes not?

18 A Yeah. It just depends. Every note is a
19 little bit different. But sometimes it will reference
20 a weapon or explosives or some kind of -- sometimes it
21 will.

22 Q All right. But as far as the content of the
23 second robbery, the U.S. Bank robbery, you knew it was
24 a note robbery, but didn't know what the content of the
25 note was?

1 A I did not know, no.

2 Q But the note wouldn't broadcast to you any
3 description or threat or reference to weapons?

4 A No.

5 Q All right. So I interrupted you. You said
6 you were heading south on Oatman.

7 Actually I will just see if I can pull up a
8 slide with our overhead map of that area. Let's just
9 kind of go back.

10 A GRAND JUROR: The one that has the GPS
11 dots on it is a pretty clear mapping. That one.

12 BY MR. DAVIDSON:

13 Q All right. So you were testifying you were
14 heading south on Oatman from Lombard, essentially
15 following the directions that the GPS was headed; is
16 that right?

17 A Yeah. We weren't coming from Lombard. We
18 were coming from a street or two south on Lombard but,
19 yeah, and then we turned --

20 Q So where did you intersect with Oatman then?

21 A I'm not sure if we were on Holland or Morgan
22 or Bryant. We were south of it. I'm not exactly sure
23 which street we were on.

24 Q So you didn't turn on to Oatman off of
25 Lombard?

1 A No. No.

2 Q So what happened when you turned south on to
3 Oatman?

4 A Well, as we got down closer to Saratoga,
5 there was an update that he was at Saratoga. And as we
6 get close to Saratoga, we see a guy that matches the
7 description, black male in his 20's, black hat, black
8 backpack, black jacket, black pants, yellow shoes.

9 And he's the only one there in the area.
10 He's on the east side, just south of the intersection on
11 the sidewalk. As we approach, he's walking, just a
12 walking speed southbound.

13 Q So he's not in a hurry. He's not running;
14 he's just walking?

15 A Yeah. Just, just a casual 2.2-mile an hour
16 walk. And as we approach, I get on the radio and say,
17 "We have him here."

18 Q Now, did you and Officer Reagan have any
19 conversation at that point?

20 A Yeah. We said -- I can't remember if it was
21 me or him -- said, "That's him." And I got on the
22 radio, broadcast that we had him here. As we get to --
23 we stopped north of the intersection, you know,
24 probably 25 to 30 yards away from him, which is
25 typical.

1 Q Let me flip to another slide here. Here is
2 a close-up of the intersection.

3 Maybe you could point out to us where you
4 stopped your patrol vehicle.

5 A Oh, probably, probably close to, close to
6 where that green arrow is. I think it was right close
7 to here somewhere, in this, in this area, walking
8 southbound.

9 Q Okay. And did you, did you -- when you
10 stopped your vehicle, did you stop it directly at a
11 90-degree angle to the intersection or was it canted in
12 some way?

13 A You know, I don't know if it was exactly
14 straight or it might have been canted a little bit.
15 I'm not exactly a hundred percent sure.

16 Q Okay. All right. So you stopped the
17 vehicle.

18 A Yes.

19 Q You called -- sorry. Officer Reagan stopped
20 the vehicle.

21 A Yes.

22 Q You called on the radio that you were out
23 with the suspect.

24 A Yes.

25 Q And what happened next?

1 A As we come out of the car, we open the
2 doors, I'm getting my gun out. Officer Reagan is
3 giving him commands. Stop. Get your hands up.

4 Q If we can -- before you continue.

5 Could you tell if Officer Reagan had his gun
6 out?

7 A You know, I, I assume he did, but I wasn't
8 looking at Officer Reagan. I was looking at the
9 suspect. So my assumption is that he had his gun out.

10 Q But you don't know?

11 A I don't know for sure.

12 Q At that point. Okay.

13 A GRAND JUROR: Was yours your handgun?

14 THE WITNESS: Yeah, that's my handgun.

15 That's all I carry is my handgun.

16 BY MR. DAVIDSON:

17 Q So let me ask you a question. Why at this
18 point have you unholstered your firearm?

19 A Because we have the suspect in, in two
20 robberies that just happened within the last few
21 minutes, I believe that he could be armed. It was a
22 person crime, felony.

23 Q Okay. And were you pointing your firearm at
24 him or did you have it pointed at some other direction?

25 A I was pointing it towards him.

1 Q You were pointing it towards him?

2 A Yeah.

3 Q Okay. At that point you were still in the
4 lee to the door of the car?

5 A Yes. I was still -- I was just standing on
6 the outside of the car between the door and car.

7 Q And he's been hailed by Officer Reagan. And
8 is he stopping at where that X is in general?

9 A In general. He's a little bit south of it.
10 He was walking away from us. And then once we started
11 giving -- not we. Officer Reagan started giving him
12 commands, he turns around and starts walking towards
13 us.

14 Q Now, if I can stop you there.

15 A Sure.

16 Q What do you estimate the distance at that
17 point between yourself and Officer Reagan and the
18 subject?

19 A I go 25 to 30 yards, somewhere in the
20 neighborhood of that.

21 Q And can you tell me, to the best of your
22 recollection, what were the commands that Officer
23 Reagan gave him?

24 A Something to the effect of stop. Get your
25 hands up.

1 Q Now, where were his hands as far as you
2 could tell when you first observed him?

3 A When I first observed him, he looked just to
4 be walking. I didn't see his hands anywhere.

5 Q Okay. And did you know where his hands were
6 when Officer Reagan gave him the command to put his
7 hands up?

8 A Well, he had turned and started walking
9 towards us. As he started walking towards us, I saw a
10 large bulge in his right front pocket. Then I saw him
11 immediately put his hand into that pocket.

12 Q Now, was that before or after Officer Reagan
13 directed him to keep his hands up?

14 A I don't know if it was before or during.

15 Q Okay. So either --

16 A Well, no. It was after, because once
17 Officer Reagan started giving direction, then he
18 stopped and he turned around, so it was after.

19 Q Okay. So Officer Reagan directed him to
20 turn around and put his hands up?

21 A Stop. Put your hands up, as he started with
22 the directions. He -- then he turned around and
23 started walking towards us.

24 Q And then put his hands in his pocket?

25 A And he then put his hands in his front

1 pocket.

2 Q So mode of operation is Officer Reagan
3 orders him to put his hands up and turn around. At
4 that point Mr. Peeples, we learn later was Mr. Chase
5 Peeples, turns around, is walking back, and instead of
6 keeping his hands up, puts his hand in his pocket?

7 A Yes.

8 Q All right. Now, you said you observed even
9 from that distance that he had a sizable bulge in his
10 pant pocket.

11 A Yes.

12 Q And is there anything about that that's
13 concerning to you as a police officer?

14 A Yeah. I thought a bulge in his right front
15 pocket, I thought he had a gun in there or a weapon of
16 some sort.

17 Q Okay. And you received -- I guess as part
18 of the training you described, do you have instruction
19 on the issue of, you know, where weapons might be
20 concealed on a person and things of that nature, about
21 seeing the hands?

22 A Yes.

23 Q Can you tell us a little bit about that?

24 A Well, weapons are usually concealed
25 somewhere in the waistband or in the pocket, somewhere

1 in this area. And we always want to see their hands
2 and make sure they don't have anything. We don't want
3 them putting their hands in this -- this is the danger
4 zone where all of the weapons are. We don't want them
5 putting their hands down there, (indicating).

6 Q Okay. So when Mr. Peebles stuck his hand in
7 that pocket that had the bulge in it, do you remember
8 if it was his right or left pocket?

9 A His right.

10 Q What was your thinking when he did that
11 after being directed to keep his hands up?

12 A I thought he was reaching, reaching for a
13 gun. I thought he was going to bring a gun out and
14 shoot us.

15 Q Okay. How much time lapsed between when you
16 both exited the vehicle and he put his hand in his
17 pockets?

18 A Seconds.

19 Q Ten seconds, five seconds?

20 A No. Just seconds. Maybe one or two
21 seconds. Real quick.

22 Q So almost instantaneously?

23 A Yeah.

24 Q All right. So when you saw him go into his
25 pocket with his right hand, what happened at that

1 point?

2 A At that point Reagan is giving him
3 directions, he puts his hand in, and then I see the
4 hand start coming out. At this point I think he's
5 coming out with a gun to shoot us.

6 But at this point for me what happened is
7 there's a wooden light poll. As he had come up, I lost
8 vision of him. I couldn't see him. I didn't have a
9 shot at him.

10 Q Is the light poll on the -- over -- on which
11 part of the intersection is the light poll?

12 A You want me to go up to the diagram?

13 Q Yes, if you wouldn't mind.

14 A Somewhere right about there where that line
15 is.

16 Q Okay. So he disappeared behind it and you
17 lost sight of him?

18 A Yes. I lost sight of him. The last I had
19 seen of him, he had his hand in his pocket. I thought
20 he was coming out with a gun.

21 At that point I didn't have a shot at him
22 anymore. I thought he was coming out with a gun. If I
23 would have had a shot at that point, I would have shot
24 him, but I didn't. So at that point what I did was I
25 turned and ran around the car, ducked down.

1 Q Which part of the car did you run around?

2 A The back, my side. I ran around the back of
3 the car to go help Officer Reagan. I thought that we
4 were going to be in a gun fight.

5 As I was running, I was looking straight
6 ahead, running as fast as I could. That's when the
7 gunshots came off. There was like three to five
8 gunshots. And I didn't know who was shooting. I didn't
9 know what was happening.

10 And as I came around the corner of the car,
11 then I could see Officer Reagan was still in the --
12 still in the V of the door, kind of where I was, and I
13 could see the suspect down on the ground.

14 He was lying on his back. He was kind of
15 rolling around. But at that point I could see -- I
16 could see his hands. I asked Officer Reagan if he was
17 okay. He said, yeah.

18 At that point I got on the radio. I radioed
19 that shots had been fired. Suspect was down. I said we
20 need medical to stage, so we had medical ready when we
21 got there.

22 And that when -- the sergeants have ballistic
23 shields in their car. For them to bring up the
24 ballistic shield when they got there because we're going
25 to have to take the suspect into custody and try to get

1 some medical care.

2 Q Okay.

3 A So we sat -- the cars showed up real quick.
4 There was two robberies in a short, short period of
5 time real close, so there was a lot of cars in the area
6 already looking for the suspect.

7 So as they get up there, Sergeant Christensen
8 showed up with the shield. We got together a custody
9 team. They gloved up, went up there, took him into
10 custody, and had medical come in and treat him. They
11 ended up taking him to the hospital.

12 Q It is my understanding that the 590 car was
13 actually moved at some point; is that right?

14 A Yeah. As the shield -- as the shield went
15 up, Reagan drove the car and I was in the driver's
16 door, and I believe there was another officer on the
17 passenger door, we kind of just went up kind of in line
18 with the, with the shield and stopped when we got to
19 the other side of the intersection, and that's when he
20 was taken into custody.

21 Q So, Officer Habkirk, you indicated that as
22 soon as he dove into his pockets, counter to what he
23 was being instructed to do, and again come out of his
24 pockets, if you had a line of a clean shot at him, you
25 would have taken it?

1 A Yes.

2 Q Why not just wait to see what comes out of
3 his pocket?

4 A Well, you can't wait and see, 'cause it is
5 action-reaction. The action is always going to be
6 through the reaction.

7 With the action, you have to react to it.
8 You have, you have to see it, process what you are
9 seeing. Make a decision what you are going to do. Have
10 your mind put the reaction in and then react. If you
11 wait for then, if he's coming out with a gun, he's going
12 to get a couple shots off at you.

13 A GRAND JUROR: Do you always use deadly
14 force when you pull your gun and point it and fire?

15 THE WITNESS: Yes. Yeah. You're aiming
16 for, for center of mass, yes. It's a deadly force
17 encounter.

18 BY MR. DAVIDSON:

19 Q So is this something that's instructed by
20 the Bureau across the board to all officers as far as
21 this action-reaction principle?

22 A Yes.

23 Q We're going to hear more about that from the
24 training officer.

25 So is it -- do you have a question?

1 A GRAND JUROR: Yes, I do.

2 The, the messages that you got over the
3 dispatch about the two robberies, did the dispatcher
4 use -- ever use the word "armed suspect, armed" or was
5 it known?

6 THE WITNESS: Did we know that he was armed,
7 is that your question?

8 A GRAND JUROR: Yeah. Isn't it usual --
9 would it not be usual if the suspect had been armed in
10 trying to carry out two robberies, would it not have
11 been usual for the dispatcher to say "armed suspect"?

12 THE WITNESS: Yeah, if they had seen -- if,
13 if at any of the robbery scenes they had seen a weapon,
14 yeah, they would have told us that, yes.

15 A GRAND JUROR: And that word was not used
16 in dispatch?

17 THE WITNESS: Correct. Yeah.

18 A GRAND JUROR: So you were not especially
19 looking for an armed person?

20 THE WITNESS: I was looking -- what we are
21 looking for was somebody that had done two robberies in
22 a short period of time. Just because they use a note
23 doesn't mean they are not armed. They just didn't show
24 their weapon during the course of the robbery.

25 A GRAND JUROR: Sounds a little like it

1 would be an unusual robber to not show a weapon if he
2 had a weapon.

3 THE WITNESS: Well, I wouldn't call it
4 unusual. But sometimes -- the notes -- people that do
5 make the bank robberies, then that they can pass a note
6 and get it done. And if they show a weapon during the
7 robbery, it's a much higher crime.

8 A GRAND JUROR: Do the notes indicate
9 that -- anything about a weapon or any kind of threat?

10 MR. DAVIDSON: Let me ask you this question,
11 Officer.

12 BY MR. DAVIDSON:

13 Q Do you -- at the time this encounter
14 occurred, were you aware of the exact content of the
15 notes that he passed?

16 A No, I didn't know.

17 Q That information was not necessarily
18 broadcast over the air?

19 A The only content about either note was they
20 said something about him asking for \$5,000 at the
21 initial Ace. That's the only content of the note that
22 I'm aware of at the time.

23 Q Did you at any point observe anything on the
24 ground near the suspect before you approached?

25 A Yeah. There was a black object a few feet

1 in front of him towards the wall.

2 Q And from the distance you were standing,
3 which you referred to was about 30 yards, were you able
4 to determine what that object was?

5 A Not from that distance, no.

6 Q Did you later learn what that was?

7 A As we got closer, it looked to be some sort
8 of wallet of some sort.

9 Q But you had to be closer before you were
10 able to determine that?

11 A Yeah.

12 Q Once you approached and saw Mr. Peeples
13 there, was it confirmed that he matched the description
14 that was broadcast?

15 A Yeah. When I saw him, I knew he was the
16 person we were looking for.

17 Q Okay. And how much time transpired from
18 again, when you got out of the car and the shots were
19 fired, do you think?

20 A I'd have to say a few seconds. Somewhere
21 between two to five seconds, somewhere in that area.
22 Real fast.

23 A GRAND JUROR: Was there a reason why there
24 was so many shots fired? It seemed like it was just --
25 if you hit him once or twice -- I heard there was six

1 shots.

2 MR. DAVIDSON: So we can -- that's probably
3 a question that's probably best -- because obviously,
4 Officer Habkirk didn't fire those shots, but the
5 question is potentially best given to Officer Reagan
6 and the training officer can talk to the number of
7 shots.

8 Officer Habkirk didn't fire a shot. That's a
9 valid question, but maybe we'll have another witness
10 testify to that.

11 Yes.

12 A GRAND JUROR: Were you and Officer Reagan
13 aware that other, other cars, other police cars were on
14 their way, that they were in the neighborhood and that
15 they are on their way?

16 THE WITNESS: Aware, at what point?

17 A GRAND JUROR: At any point.

18 THE WITNESS: Well, I knew there were other
19 cars in the area looking for him in the general area,
20 yes. I knew there were other cars in the area, yes.

21 A GRAND JUROR: Did you hear the sirens from
22 one of the other cars?

23 MR. DAVIDSON: At what point?

24 A GRAND JUROR: On your way, just before you
25 arrived at the point where you saw the suspect.

1 THE WITNESS: No. I never heard any sirens.
2 Typically on bank robberies we don't come
3 into the area with our lights and siren going. We
4 usually come in a little lower key so we can -- so we
5 have a better chance to apprehend.

6 That guy can hear lights and sirens coming
7 from maybe 20, 30 blocks away and know if they are
8 coming from over there, he's going to go this way, you
9 know.

10 So typically on bank robberies, we don't
11 usually come in with lights and siren as we get close
12 enough that they can hear it.

13 A GRAND JUROR: When, when you and the other
14 officers saw the suspect and spoke to him, did he run
15 or did he lunge?

16 THE WITNESS: What he did was he turned
17 around, walked towards us, and then dove his hand into
18 his pocket.

19 A GRAND JUROR: How many steps did he take
20 forward?

21 THE WITNESS: You know, I got to guess. I'd
22 have to say maybe somewhere in the neighborhood of
23 three to six steps.

24 A GRAND JUROR: And when he was -- that's
25 all for now.

1 MR. DAVIDSON: Okay. Any other questions
2 from the grand jury?

3 A GRAND JUROR: How are you trained to deal
4 with areas, residential areas in the use of your
5 firearm in a residential area?

6 THE WITNESS: Well, you're trained that
7 every time that you use your firearm, you got to take
8 into consideration the backdrop. And the backdrops
9 change and dependent on the circumstances.

10 So you have to take into consideration the
11 backdrop because you don't want to be shooting someone
12 in front of like a nursery -- like a nursery school or a
13 house where there's a bunch of people outside at a
14 party. You know, there's different factors you got to
15 decide based on the totality of the circumstances.

16 MR. DAVIDSON: Did you -- was there enough
17 time during this encounter to do much, if anything,
18 before this escalated?

19 THE WITNESS: No. We, we just were
20 reacting. Just time to react.

21 A GRAND JUROR: Can I ask a question?

22 MR. DAVIDSON: Yes.

23 A GRAND JUROR: So when you were following
24 via the tracker info, right, and they are telling you
25 where he's going and what speed, did it seem like he

1 was just sort of strolling along?

2 THE WITNESS: Well --

3 A GRAND JUROR: That seems slow to me. Like
4 he's just moseying down. I just robbed a bank, but I'm
5 not in a hurry.

6 THE WITNESS: Yeah. Based on all of the
7 information we had, it sounded like he was walking.
8 And then when we saw him, he was walking. So, yeah, he
9 seemed to just be walking just at a normal speed.

10 A GRAND JUROR: Doesn't that seem atypical
11 of a bank robber?

12 THE WITNESS: You know --

13 A GRAND JUROR: I mean, I know that's asking
14 you to generalize a bit.

15 THE WITNESS: Yeah.

16 A GRAND JUROR: But I mean, it's like he
17 doesn't even think he committed a crime, you know.
18 He's just walking.

19 THE WITNESS: Yeah. That's true, but then
20 other times with these bank robbers, especially when
21 you go into areas that have more people than that,
22 that's typically how they will act so they blend in.

23 A GRAND JUROR: Oh.

24 THE WITNESS: They don't want to look like
25 they are hustling somewhere and draw attention.

1 A GRAND JUROR: Sure. And yet, he's in a
2 residential neighborhood.

3 THE WITNESS: Yeah. So he is in a
4 residential neighborhood, it's a little bit different.
5 But it's typical for a bank robber like, say, he does
6 one by the Lloyd Center and goes to the mall, that's
7 exactly the way he's going to act going to the mall.
8 He's not going to try to --

9 A GRAND JUROR: Try to disappear in the
10 crowd?

11 THE WITNESS: Yeah.

12 A GRAND JUROR: Yeah. That strikes me as --
13 and hearing that he's just moseying along, maybe like
14 things could have slowed down instead of suddenly
15 speeding up into, you know, a shooting like, well, here
16 is this guy moseying, maybe we can just like lock him
17 off and not -- I mean, he doesn't seem threatening as
18 he's moseying. I realize that reaching into his pocket
19 is --

20 THE WITNESS: Yeah.

21 A GRAND JUROR: -- is huge.

22 MR. DAVIDSON: Let me ask you this, Officer.
23 I mean, in your -- how many years in law
24 enforcement?

25 THE WITNESS: It's almost 24.

1 MR. DAVIDSON: Have you just encountered
2 folks in kind of innocuous situations that you later
3 learned were armed?

4 THE WITNESS: Yes.

5 MR. DAVIDSON: So just the fact that
6 somebody seems innocuous doesn't necessarily mean they
7 are not armed. In fact, in your experience, you
8 encounter people in just that exact scenario.

9 THE WITNESS: Yes. The way we stopped him
10 like that is how we -- that's typical of how we do it,
11 and I've done it a thousand times.

12 A GRAND JUROR: Yeah.

13 THE WITNESS: It usually goes just fine.

14 A GRAND JUROR: Yes. So we heard from some
15 witnesses further up the street when he walked past, he
16 was, we would call it indexing, because we learned that
17 and --

18 MR. DAVIDSON: You learned that in another

19 --

20 A GRAND JUROR: In the Grand Jury, yes.

21 MR. DAVIDSON: I don't think we've talked
22 about that.

23 A GRAND JUROR: No. We've been around the
24 block now. Come on.

25 THE WITNESS: Not the first one. You learn

1 a lot of things.

2 A GRAND JUROR: So did it seem like he was
3 maybe indexing his chunk of money or was it more like
4 I'm getting something out?

5 THE WITNESS: That's exactly what it was
6 like. It was -- again, I have no doubt in my mind he
7 was reaching in his pocket coming out with a gun. The
8 way he was reaching in, it was coming out.

9 A GRAND JUROR: He wasn't just like, oh,
10 let's see, do I have my phone on me?

11 THE WITNESS: No. It was a quick motion in
12 and a quick motion starting to come out, yes, ma'am.

13 A GRAND JUROR: In a situation where you
14 feel -- that you feel a threat against you, are you
15 trained to kill or to disable?

16 THE WITNESS: We are trained to use a
17 firearm, to use it until there's no more threat.

18 MR. DAVIDSON: But you are not trained to
19 kill?

20 THE WITNESS: No. Just, just there's no
21 more threat, until the threat is gone.

22 MR. DAVIDSON: And Officer Howery will talk
23 a little bit more about that.

24 THE WITNESS: How are the -- the threats can
25 change. There's different ways of checking. It can go

1 away.

2 A GRAND JUROR: And at what point did you
3 see Mr. Peeples on the sidewalk, like lying down on the
4 sidewalk?

5 THE WITNESS: When I come back -- when I
6 come around the car.

7 A GRAND JUROR: How many shots had been
8 fired?

9 THE WITNESS: Somewhere between three to
10 five.

11 A GRAND JUROR: There were six shots fired.

12 THE WITNESS: I'm not aware of that.

13 A GRAND JUROR: Three went into the fence.

14 A GRAND JUROR: No. One went into the
15 fence, and there were three chips in the block wall.

16 THE WITNESS: I'm not --

17 MR. DAVIDSON: Is that a question?

18 THE WITNESS: I'm not aware -- I'm not aware
19 of how many shots were actually fired.

20 MR. DAVIDSON: Your perception was between
21 three and five?

22 THE WITNESS: Three and five, yes.

23 MR. DAVIDSON: You weren't in your mind
24 going one, two, three, four?

25 THE WITNESS: No.

1 A GRAND JUROR: So the -- Mr. Peeples
2 reached in with his right hand and pulled something
3 out. It looked like he was pulling something out, and
4 obviously, it must have come out because it's laying on
5 the sidewalk.

6 THE WITNESS: Yeah.

7 A GRAND JUROR: You guys did not take it out
8 of his pocket yourselves?

9 THE WITNESS: I didn't see it come out of
10 his pocket, so I --

11 MR. DAVIDSON: You were moving at that
12 point?

13 THE WITNESS: I was moving. When I came
14 around, it was on the ground. So I don't know, I don't
15 know how it got to the ground. I didn't see how it got
16 to the ground. I could guess or extrapolate --

17 MR. DAVIDSON: We don't want to do that.

18 THE WITNESS: But I didn't witness it coming
19 out.

20 MR. DAVIDSON: Anybody else for Officer
21 Habkirk?

22 All right. Thank you.

23 THE GRAND JURY: Thank you.

24

25

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

5
6 THE WITNESS: This is from my understanding
7 from Mr. Davidson. You guys had a couple of questions
8 and you want to see the timeline.

9 So the way I developed the timeline is BOEC
10 developed a call log, a CAD record of the call. And
11 it's basically the call taker or the dispatch person or
12 even an officer can input records into that call log.

13 Sometimes the call log may not actually match
14 what's actually said over the radio, which is a separate
15 recording. So when you hear the recordings, sometimes
16 they -- you may actually get more information in the
17 recordings than you do in this.

18 In this case I just basically went to the CAD
19 printout and pulled these out. So the two bolds are the
20 actual initial robbery calls. The highlighted red is
21 Unit 590, Officer Habkirk and Reagan, is when they get
22 dispatched to the second call to the U.S. Bank.

23 They are already on scene at 1320 on the
24 first call. So they are in the area, trying to check
25 out, the second call comes in. They get dispatched to

1 the second call. So they are actually dispatched and en
2 route at the same time.

3 Do you want me to read this out?

4 MR. DAVIDSON: How do you guys want this
5 information? Do you want him to read it out or --

6 A GRAND JUROR: I just have a question.

7 So there were five blocks between sites,
8 robbery sites.

9 THE WITNESS: Yes.

10 A GRAND JUROR: Five blocks.

11 THE WITNESS: Approximately.

12 You also need to remember there's a delay in
13 time because you're getting phone calls. Phone calls
14 have to be relayed to -- the call taker takes the
15 information. The information gets relayed to dispatch
16 who then relays it to the officers. So there's
17 always -- so there's going to be a lag.

18 A GRAND JUROR: So there's only seven
19 minutes between the two calls, initial calls?

20 THE WITNESS: Uh-huh.

21 A GRAND JUROR: The guy went five blocks and
22 did his robbery deal in seven minutes.

23 THE WITNESS: They are not very far apart.

24 If you look at the walking distance, they are
25 like maybe two-tenths of a mile between each other.

1 They are not very far.

2 A GRAND JUROR: Do -- it's curious, but this
3 isn't necessarily related. But the GPS tracker, when
4 they give that out, it's activated at a point they give
5 it or --

6 THE WITNESS: Yeah. You would have to ask
7 the teller person. But from my understanding is when
8 they hand it out, it's activated when they hand it out.

9 A GRAND JUROR: Somehow it gets activated.

10 THE WITNESS: Yes, it gets activated.

11 A GRAND JUROR: Then when it's activated,
12 that information goes to, I forget, to BOEC?

13 THE WITNESS: It goes, it goes to a security
14 company that monitors the tracker who then relays that
15 information to BOEC. Yes. So there's a call taker
16 talking to the security, and they are getting this
17 information, and they are giving it to the dispatcher.

18 A GRAND JUROR: Okay. At the same time.

19 A GRAND JUROR: Very modern science.

20 THE WITNESS: Now it is.

21 You can see this is the security service on
22 these GPS updates. This is what they are relaying to
23 the call taker.

24 A GRAND JUROR: Right.

25 THE WITNESS: So it's almost simultaneously

1 they get an update. Mr. Peebles just crossed Saratoga.
2 He's still southbound in Oatman.

3 590, in the CAD, it just has this. But when
4 you hear the radio call, you'll hear them say route,
5 somebody at Oatman and Saratoga. And then 20 seconds
6 later is when there's the update that the suspect is
7 down.

8 MR. DAVIDSON: So missing from this CAD
9 timeline is the call-out on the radio from Officer
10 Habkirk that they were out with the suspect?

11 THE WITNESS: Yes. Yes.

12 That's why I was saying there's some
13 disparities between the actual call record, the CAD
14 printout, and what's on the air sometimes. If you hear
15 the radio call, you are going to hear a little more
16 information.

17 A GRAND JUROR: Okay. Can you explain what
18 the CAD printout actually is?

19 THE WITNESS: So it's -- basically it's like
20 a note record. Somebody is actually physically
21 inputting this information in. So you'll --

22 A GRAND JUROR: Concurrently?

23 MR. DAVIDSON: Is it the same person who we
24 hear as the dispatcher over the air, or is it somebody
25 else?

1 THE WITNESS: So it could be a call taker.
2 Again, it could be the call taker or the dispatch
3 person actually making the notations in the CAD call.
4 So it's basically a notation. It's not a verbatim-type
5 recording of what's happening.

6 A GRAND JUROR: Right. Clearly.

7 A GRAND JUROR: And it's basically a
8 dispatch slip that everybody is looking at?

9 THE WITNESS: Yes.

10 A GRAND JUROR: Can you go back to the
11 screen just before this?

12 The red is where 590 sends out stuff, right?
13 So I see 590 dispatched. And then I see 590 said,
14 "Suspect is down."

15 Somewhere along the line, did 590 say like --
16 I forgot their term -- getting out of the car.

17 What was their term?

18 A GRAND JUROR: Out with suspect.

19 THE WITNESS: Yeah. So it's literally --

20 MR. DAVIDSON: We will hear it on the audio.

21 THE WITNESS: You'll hear it on the call.
22 It's not notated in the actual CAD printout, but you'll
23 hear it on the call that they are out with somebody.

24 A GRAND JUROR: Okay.

25 A GRAND JUROR: So that's a really long

1 minute there.

2 THE WITNESS: Yes.

3 MR. DAVIDSON: A lot happened.

4 THE WITNESS: A lot can happen in a minute.

5 MR. DAVIDSON: Well, you heard about how
6 Officer Habkirk say it was seconds.

7 A GRAND JUROR: Right.

8 A GRAND JUROR: Yeah.

9 MR. DAVIDSON: So it's not at all unusual in
10 your opinion or in your experience, typically there
11 would be some disparity between what's captured in the
12 dispatch audio and what's inputted by the CAD; is that
13 right?

14 THE WITNESS: Yes.

15 MR. DAVIDSON: That's typical.

16 THE WITNESS: You'll even have like -- like,
17 say, if you call 911, that call taker's conversation
18 with you is recorded. And there's times where the
19 recording isn't going to match that.

20 MR. DAVIDSON: Go ahead.

21 THE WITNESS: So at 13:33 is when it's noted
22 that the suspect is down, and that's the rest of the
23 information there. Pretty much, the supervisor is on
24 scene pretty quickly. They start formulating a custody
25 team.

1 That's why it says Sergeant Christensen has a
2 shield. Medical is staged, and it comes up pretty
3 quickly. The FBI is even notified about this case just
4 in case.

5 MR. DAVIDSON: Because of the bank robbery
6 aspect of it?

7 THE WITNESS: Yes.

8 MR. DAVIDSON: Okay.

9 A GRAND JUROR: What's "S/O"?

10 THE WITNESS: South of.

11 A GRAND JUROR: So the tracker was heading
12 north on Oatman, two buildings south on Lombard.

13 THE WITNESS: Yeah. That could be just --

14 A GRAND JUROR: Okay. I get that it was
15 heading north. I didn't get that whole --

16 THE WITNESS: It could be a little --

17 A GRAND JUROR: But then they just got an
18 address on Saratoga.

19 THE WITNESS: Yeah.

20 A GRAND JUROR: Okay.

21 MR. DAVIDSON: Any additional questions
22 about that?

23 THE GRAND JURY: Thanks.

24 THE WITNESS: Somebody wanted to see the
25 bank note.

1 A GRAND JUROR: Yes.

2 THE WITNESS: So the U.S. Bank case, we
3 didn't recover the demand note, but this is the one
4 from the Ace Check Cashing place.

5 A GRAND JUROR: Okay. Wow. That's lame.
6 I'm just going to say it. That's a lame note.

7 A GRAND JUROR: Well, I can see what the
8 confusion was about.

9 THE WITNESS: Yes. So at first, the teller
10 thinks he's maybe applying for a loan. She doesn't
11 really know. That's why there's some confusion.

12 There's a question about the boot. So if you
13 can see right there is a big arrow. So that's the right
14 toe right there. That's the sock, and that's just a
15 closeup shot of that shot there.

16 MR. DAVIDSON: So all of the strikes to
17 Mr. Peebles were on the front of his body?

18 THE WITNESS: Yes.

19 A GRAND JUROR: And he was vertical when
20 they were all -- he was still standing. All three of
21 them went into him when he was standing up?

22 THE WITNESS: That would be a question you
23 would have to ask the officer. I can't tell you that.

24 MR. DAVIDSON: But this presentation is
25 consistent with that; correct?

1 THE WITNESS: Yes.

2 MR. DAVIDSON: For example, if he had gone
3 down, there might be shots to the bottom of his foot or
4 at some oblique angle, but that's not the presentation;
5 correct?

6 THE WITNESS: Yes.

7 This is just for your edification. So we did
8 a search. Just Detective Hawkinson got a Federal search
9 warrant to actually search Mr. Peeples' clothing. This
10 is what we found in his pocket.

11 That's the money from U.S. Bank. It's about
12 a little over \$2,000. He actually had his ID,
13 Washington ID in his pocket with him.

14 This is the actual tracker. You can see
15 there's a rubberband part right there. It just gets
16 folded into the money. And it's actually -- so this
17 looks like a real bill, but it's actually like a stack
18 of paper, and inside, there's the actual GPS.

19 MR. DAVIDSON: And it's all glued together,
20 so you can't actually pull it apart?

21 THE WITNESS: It's all glued together.

22 A GRAND JUROR: Is there a battery in it, or
23 how is it --

24 THE WITNESS: I'm not sure how that works.
25 Now you can buy those little GPS trackers that you can

1 stick anywhere. So I'm assuming there has to be some
2 kind of battery that emits the signal.

3 And I just put this up as a -- to help you
4 out if you do decide to look at the CAD printout and a
5 little bit about the non-compressed versus compressed
6 radio. So the non-compressed, it basically, it captures
7 all of the radio traffic on that net.

8 So this would have been North Precinct. So
9 it could have been a call non-related to this actual
10 that's actually captured. And it's capturing all of the
11 dead air, too. And the compressed, basically it just
12 puts everything together.

13 A GRAND JUROR: Is it compressed by the
14 machine or a person? Are those blanks cut out?

15 THE WITNESS: You would have to ask BOEC,
16 but I'm assuming it's going to be compressed by the
17 machine, that they have the ability to do it off their
18 system to compress it.

19 Then these are just -- if you look in the
20 logs, you'll see "CT" stands for call taker. It will
21 say, "Call taker 7." That's the person actually
22 inserting the note or "DP."

23 "Service desk" is basically like a
24 supervisor's desk. They'll take calls and they can
25 input a call.

1 And if you see a number, just a plain number,
2 like 590 or 560, that's the patrol unit's number.

3 And then on the side, there's a section that
4 has all of the units that were dispatched -- that are
5 assigned to the call. It will give you a dispatch time,
6 a time en route, a time they got on scene, and a time
7 they actually cleared the call.

8 MR. DAVIDSON: So do you guys want to hear
9 the compressed version from -- with the compressed
10 version, from the first call about Ace Check Cashing to
11 suspect down is about six and a half minutes with the
12 compression.

13 A GRAND JUROR: I think that, and then I
14 would like to hear just from the time when they arrived
15 on scene to when they reported "shots fired"
16 uncompressed, so I can kind of gauge the time.

17 MR. DAVIDSON: Okay. Sure.

18 A GRAND JUROR: I'd like to even hear more.
19 I'd like to hear from 13:16 to 13:39 uncompressed.

20 MR. DAVIDSON: Okay. So that is how many
21 minutes of uncompressed time?

22 A GRAND JUROR: Close to 20, I'd say.

23 A GRAND JUROR: Twenty-three minutes. I
24 have time.

25 THE WITNESS: Do you need me for that

1 portion?

2 MR. DAVIDSON: Well, let's do this much.
3 Let's listen to the uncompressed version and then --
4 the compressed version.

5 A GRAND JUROR: The compressed version.

6 MR. DAVIDSON: I'm sorry, then we'll take
7 our break and then we'll kind of assess scheduling-wise
8 how we want to do this because we have witnesses
9 waiting, and we can do the other thing any time. So
10 why don't we just kind of see where we are.

11 A GRAND JUROR: Okay. That works.

12 MR. DAVIDSON: I'll have the detective stay
13 for the compressed version just in case you guys have
14 any questions about it.

15 (CD Compressed audio played.)

16 DISPATCH: "550.

17 550: "Go ahead.

18 DISPATCH: "For you and 590, it's 27 Adam,
19 2722 North Lombard at the Ace Cash Express.

20 550: "10-4.

21 590: "590, cover.

22 3602: "3602. Go ahead and make the call.

23 DISPATCH: "3602. Copy.

24 1814: "1814. Clear Charlie.

25 DISPATCH: "1814. It's 1318.

1 550: "550. I'm here with eyes on it. I'm
2 waiting on the call.

3 DISPATCH: "550. The supervisors are doing
4 the call, I think. 550, it's a good robbery. The male
5 subject entered the store, passed the paper. He has
6 since walked away. A black male, 25, black baseball
7 cap, black hoody, dark jeans and yellow shoes.

8 550: "Okay. If 590 go look for him and
9 I'll go make contact.

10 DISPATCH: "590. Area check and we did not
11 so far have any kind of area or direction of travel and
12 630 is going to and for those doing an area check for
13 that robbery suspect. He left on foot westbound on
14 Lombard.

15 640: "640. 640.

16 DISPATCH: "Start you for a call with
17 medical, 768 North Morgan. It's a slumper at a wheel
18 of a dark Honda Odyssey van. They have a needle stuck
19 in their finger. ZEBRA, ZEBRA, EDWARD, 938. Medical
20 is going to him."

21 MR. DAVIDSON: I'm going to stop this for
22 just a moment. Maybe we talked about this already.

23 But there's one channel for the precinct, so
24 you'll hear unrelated -- you'll hear reference to a
25 slumper. That's unrelated to this call. So there are

1 other officers that Detective Cui responded to other
2 calls, and that's all coming over the same channel.

3 A GRAND JUROR: What's a "slumper"?

4 THE WITNESS: A slumper is somebody actually
5 sleeping in a car kind of thing, so they go out and
6 make sure they are checking.

7 MR. DAVIDSON: We'll pick up here.

8 (CD Compressed audio played.)

9 640: "Copy from Rocky Butte.

10 DISPATCH: "590.

11 590: "590.

12 DISPATCH: "For you and 630 on the area
13 check, he additional would have a beard and black
14 backpack and he was a black male, black baseball cap,
15 black hoody, dark jeans and yellow shoes. And he did
16 not have any -- he did not get any money from the
17 employee.

18 211: "211.

19 DISPATCH: "211.

20 211: "1724 NE Alberta, Apartment B.

21 DISPATCH: "1724 NE Alberta, Number B like,
22 boy, it's 1325.

23 541: "541. Can you check a plate in our
24 call with the RO info?

25 DISPATCH: "541. Go ahead.

1 541: "WILLIE, CHARLIE, 21239, should be a
2 Chevy S-10 pickup.

3 DISPATCH: "Affirmative. Registered to her
4 at that address.

5 541: "Copy. Thank you.

6 DISPATCH: "1325. 640, you can 10-8.

7 Medical said he was just sleeping.

8 640: "Copy.

9 1802: "1802.

10 DISPATCH: "1802.

11 1802: "Put me, uh, 1074. I'm out to the
12 radio shop.

13 DISPATCH: "Radio shop at 1326. 580.

14 580: "580.

15 DISPATCH: "Robbery at U.S. Bank, 3233 N.
16 Lombard. I don't have any description or anything yet.

17 580: "Copy. It's probably the same guy.

18 DISPATCH: "630. Since six, since the other
19 unit was already on that, can you divert for this one?

20 630: "Copy. And anyone in that area, too.
21 Can I have an area check?

22 DISPATCH: "Copy.

23 580: "What bank is it?

24 DISPATCH: "The U.S. Bank, 3233 N. Lombard.

25 580: "Do you have direction, arriving.

1 DISPATCH: "I don't have anything yet at
2 all.

3 580: "Okay. So we don't know if he left or
4 not?

5 DISPATCH: "It literally only says bank was
6 robbed. I'm waiting for the call taker. 630 says
7 black male, 20's, black baseball cap, black coat. Used
8 a note.

9 580: "All right. 580. That's the same as
10 the other one, right?

11 DISPATCH: "I think it's probably the same.
12 I'm asking if they noticed his shoes.

13 550: "The shoes were a mustard color, like
14 Timberland types.

15 DISPATCH: "Copy. Additional is that he is
16 possibly southbound on Oatman on foot and they do have
17 a GPS tracker.

18 3602: "3602. Attach me to that call. Are
19 we getting updates on the tracker?

20 DISPATCH: "I believe so. I'm asking the
21 call taker what the difference is. I think they're
22 giving me an update. It's southbound on Oatman at
23 Morgan.

24 642: "642. I'm coming into the area.

25 DISPATCH: "642, copy. For those area

1 checking the speed of the GPS says 2.2 miles per hour,
2 so they're guessing on foot and the last was
3 approaching Bryant.

4 3602: "3602. Start a K-9.

5 DISPATCH: "K-9 on this side.

6 K-9-4: "K-9-4.

7 DISPATCH: "He was there for a bank robbery
8 at 3233 N. Lombard. They have a GPS tracker last at
9 Oatman/Morgan.

10 K-9-4: "Okay. 205 and Foster.

11 DISPATCH: "GPS tracker now says Oatman at
12 Bryant. And for those on the area check passing Bryant
13 southbound is the GPS tracker."

14 (Someone says: "Okay. Copy.")

15 DISPATCH: "And for those coming in the
16 area, Oatman ends at Liberty, just north of Rosa Parks
17 Way.

18 590: "590. We have him here at Oatman and
19 Saratoga.

20 DISPATCH: "590. At Oatman and Saratoga,
21 non-emergency off.

22 580: "580. I'm with (unintelligible.)

23 DISPATCH: "Copy.

24 590: "590. Shots fired. Suspect down.
25 We're facing southbound.

1 DISPATCH: "Shots fired. Facing southbound,
2 Oatman and Saratoga.

3 590: "Stage the medical to the north.

4 DISPATCH: "Copy. Medical started. 3602,
5 do you copy?

6 3602: "3602. Copy.

7 580: "Hey, 580. Cars coming in. Come from
8 the south or from the north or you can come from the
9 west on Saratoga.

10 DISPATCH: "Come in from the north, up north
11 --

12 580: "I'm gonna need -- I'm gonna need
13 Oatman blocked at Willamette.

14 DISPATCH: "Next in to block Oatman.

15 590: "We may need a shield, too.

16 DISPATCH: "590, is that a shield?

17 590: "Yeah. A sergeant coming. We'll
18 probably need a shield.

19 690: "690. Put me on.

20 650: "650. Where is that again?

21 DISPATCH: "Oatman and Saratoga.

22 650: "33."

23 (Conclusion of compressed version played.)

24 MR. DAVIDSON: So that captures most of it,
25 so there's more regular chatter.

1 A GRAND JUROR: I missed about the K-9
2 responded, 3602.

3 THE WITNESS: Is the sergeant.

4 A GRAND JUROR: That's the sergeant.

5 MR. DAVIDSON: Sergeant Christensen, I think
6 testified that he called for a K-9.

7 A GRAND JUROR: And that was before "shots
8 fired"?

9 THE WITNESS: Yeah.

10 So before they even get to a scene, they'll
11 start calling resources in case they need to do an
12 article search or if they need to do something for a
13 suspect. So I'll ask if a K-9 is available and they'll
14 start sending people that way.

15 A GRAND JUROR: Well, this 590, is that
16 Pryce?

17 THE WITNESS: No. 590 is Habkirk and
18 Reagan.

19 A GRAND JUROR: And 580?

20 THE WITNESS: Is Pryce.

21 A GRAND JUROR: Could we hear just right
22 before "shots fired" again?

23 MR. DAVIDSON: Sure.

24 (CD compressed version played.)

25 DISPATCH: "590. At Oatman and Saratoga

1 non-emergency off. Bryant southbound is the GPS
2 tracker. And for those coming into the area, Oatman
3 ends at Liberty just north of Rosa Parks Way.

4 590: "590. We are in the area of Oatman
5 and Saratoga.

6 DISPATCH: "590 at Oatman and Saratoga,
7 non-emergency off."

8 A GRAND JUROR: So what is that
9 "non-emergency"?

10 THE WITNESS: So "non-emergency" means only
11 590 is on the air. Unless it's critical information,
12 nobody else gets -- because you heard all of the other
13 traffic about the slumper, and all that stuff has to
14 stop.

15 MR. DAVIDSON: Why would they do that,
16 Detective?

17 THE WITNESS: It's because it's a critical
18 situation, so you want all resources -- you know,
19 everybody is focused on this one event now.

20 A GRAND JUROR: Right.

21 (CD compressed version played.)

22 590: "Shots fired. Suspect down. We're
23 facing southbound.

24 DISPATCH: "Shots fired. Facing southbound.
25 Oatman and Saratoga.

1 590: "Stage the medical to the north.

2 DISPATCH: "Copy. Medical started.

3 3602, you copy."

4 (Conclusion of compressed version.)

5 MR. DAVIDSON: Is that enough?

6 A GRAND JUROR: Yes.

7 MR. DAVIDSON: So we're kind of at the time
8 where we agreed that we would take a break. That's all
9 I have for Detective Cui at this point.

10 Do you guys have some follow-up questions for
11 Detective Cui beyond what's already been asked?

12 A GRAND JUROR: So that wad of cash was
13 it -- I mean, how thick is that when it's spread out?

14 THE WITNESS: It was -- when they pulled it
15 out, it was about that thick (indicating).

16 A GRAND JUROR: And that's how they pulled
17 it out? It was bent in half?

18 THE WITNESS: Yeah, just like that. That's
19 how it's pulled out. That's how our Fed criminalist
20 pulled it out and took a photograph right there.

21 A GRAND JUROR: It was rolled up, though.

22 THE WITNESS: Yeah, it was rolled just like
23 that.

24 MR. DAVIDSON: And that was in his pocket?

25 THE WITNESS: And that was in his pocket,

1 yeah.

2 A GRAND JUROR: Okay. I just want to really
3 clarify who's in what car. 3602.

4 THE WITNESS: Is Sergeant Christensen.

5 A GRAND JUROR: With the ballistic shield
6 calling for dog.

7 A GRAND JUROR: And 590.

8 THE WITNESS: 590 is Habkirk and Reagan.

9 A GRAND JUROR: 580.

10 THE WITNESS: I believe is Jimmy Pryce. I
11 have to go through my report and look at all that.

12 A GRAND JUROR: I have it in my notes.

13 A GRAND JUROR: And 690.

14 THE WITNESS: I would have to look it up,
15 but we have the printouts.

16 A GRAND JUROR: Thanks a lot.

17 MR. DAVIDSON: Any other questions for
18 Detective Cui right now?

19 Okay. I'm going to let him go and we'll take
20 our break.

21

22

23

24

25

1 RYAN REAGAN,
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. DAVIDSON:

8 Q If you could go ahead and state and spell
9 your full name for us, please.

10 A Yes. It's Ryan, R-Y-A-N, Reagan,
11 R-E-A-G-A-N.

12 Q And how are you employed?

13 A With the Portland Police Bureau.

14 Q In what capacity?

15 A I'm a police officer at North Precinct a
16 little over 19 years now.

17 Q So has all 19 years of your years been with
18 the Portland Police Bureau?

19 A Yes, that's correct.

20 Q And no other legal -- no other work as a
21 police officer outside of Portland Police Bureau?

22 A Not as a sworn police officer.

23 Q Were you a reservist?

24 A I was an intern for Washington State
25 University Police Department when I went to college.

1 Q So you attended Washington State?

2 A I did, yes.

3 Q And did you get a degree?

4 A Yeah. I earned a Bachelor's degree in
5 sociology and criminal justice.

6 Q And what year was that?

7 A I graduated Washington State in May of '98,
8 and I got hired with Portland, November of '98.

9 Q Okay. Can you tell us a little bit about
10 the training you received in order to become a police
11 officer?

12 A Um, after I got hired with Portland, we went
13 through our basic and advanced. Everything was in
14 Portland at that time because they did a mass hiring at
15 that time. So we had the basic and advanced all in one
16 with Portland.

17 We do annual in-service training, as well,
18 which includes firearms training, defensive tactics
19 including action-reaction principles, patrol tactics,
20 Crisis Intervention Training, things of that nature.
21 Much more, of course, a lot of scenario-based training.

22 Q And that amounts to, I guess about 40 hours
23 a year?

24 A Yes, that is correct.

25 Q And you mentioned Crisis Intervention

1 Training. What is that?

2 A It's, it's training having to deal with
3 the -- with mental health and what you are going to
4 encounter in the streets with the mentally ill, and how
5 to better, how to better deal with them on the streets.

6 Q And so what assignments have you had since
7 you've been with the Bureau?

8 A I worked night shift at Northeast, the old
9 Northeast, now North Precinct. I worked afternoon
10 shift, and I worked day shift. And by choice, I love
11 working the street, and that's, that's where I stayed.

12 Q So you have basically been in the one part
13 of Portland your entire career?

14 A Pretty much my entire career, yes. I did
15 the rotation at the very beginning of my career. I
16 rotated through Central Precinct, East Precinct, a
17 short stint at the old North Precinct, and then pretty
18 much Northeast Precinct has been where I've been my
19 whole career.

20 Q Okay. And do you work any particular
21 district on a regular day?

22 A So Officer Habkirk and I work together as a
23 partner car. We work 590 and 570 together districts,
24 which is Emanuel Hospital, Interstate Avenue, kind of
25 that area.

1 Q And you mentioned you were a partner car
2 with Officer Habkirk. How long has that been the
3 situation?

4 A That's a good question. Several years. I'd
5 be guessing, six, seven years, probably somewhere in
6 there.

7 Q Okay. And the day this occurred, what are
8 the hours of your day shift? When did you start your
9 shift?

10 A I started my shift at 0600, 6:00 a.m., and I
11 finished at 1600, 4:00.

12 Q All right. And that day -- the day we're
13 talking about is obviously, October 25th of this year.

14 A Yes.

15 Q When you started your shift that day with
16 Officer Habkirk, how were you dressed?

17 A I was dressed in my, my uniform, the uniform
18 I wear every day. It's a blue uniform, blue pants,
19 blue shirt, badge displayed. Patches on both arms. I
20 believe I was wearing a baseball cap that day as well,
21 no jacket.

22 Q And were you carrying a sidearm?

23 A Yes. I was carrying my Glock 17.

24 Q And is that Bureau standard issued?

25 A Yes, it is.

1 Q And what caliber of pistol is that?

2 A It's a 9-millimeter handgun.

3 Q And the car that you were operating with
4 Officer Habkirk, is that marked, unmarked?

5 A It's marked. It has "Portland Police
6 Bureau" down the sides. It has lights on top. It's a
7 Crown Vic. It's a blue and white car.

8 Q Obvious it's a police car?

9 A Yes, that is correct.

10 Q Okay. So earlier in your shift, is there
11 anything unusual going on? What kind of day were you
12 having before this incident occurred?

13 A Before it occurred, it was pretty
14 uneventful. There's, there's nothing of note. I mean,
15 it was just pretty quiet really.

16 Q All right. And who was driving the car that
17 day?

18 A I was driving that day.

19 Q And do you have an arrangement with Officer
20 Habkirk about who was driving on any particular day?

21 A Yes, we do. We usually alternate. One
22 person drives one day. The next person drives the next
23 day.

24 Q And this day you were driving?

25 A That's correct, yes.

1 Q So where were you when you first heard the
2 call come out over the radio about the Ace Check
3 Cashing robbery?

4 A Officer Habkirk and I were at Lombard and
5 Campbell.

6 Q What were you doing there?

7 A Um, it's actually our union office. I was
8 sitting in the car. I was writing a report at that
9 point. I think Officer Habkirk was actually walking
10 back to the car or just getting into the car when the
11 robbery call came out.

12 Q When you say "union office," what do you
13 mean? What is that?

14 A It's the Portland Police Association office
15 there.

16 Q Officer Habkirk referred to it as a "contact
17 office."

18 A Yeah. It's also a contact office.

19 Q Okay. And so what were you doing there
20 exactly?

21 A I think I was writing a report inside the
22 car. I think Officer Habkirk might have been using the
23 restroom.

24 Q Okay. So what did you hear come over the
25 radio?

1 A Um, we heard a robbery call or a 27 Adam or
2 silent alarm come up over the air at the Ace Check
3 Cashing place at the 2700 block of North Lombard, which
4 is about ten blocks just to the west of where we were
5 located.

6 Q All right. And was Officer Habkirk in the
7 car when that call came out over the radio?

8 A Um, he was, he was near the car or just
9 getting into the car when the call was coming out.

10 Q Okay. So did the two of you have a
11 conversation about what action you were going to take?

12 A Yes.

13 So we spoke about what route we were going to
14 take. We were facing -- we were facing southbound on
15 North Campbell. We ended up leaving that location and
16 then making a westbound turn on to North Buffalo, which
17 parallels to the south -- which parallels Lombard to the
18 south.

19 Q All right. And were you -- did you have
20 lights or sirens activated?

21 A No lights. No sirens.

22 Q So what was your plan? What were you going
23 to do?

24 A Our plan was -- as we were heading westbound
25 on North Buffalo, we did receive a suspect's

1 description of the suspect from the Ace Check Cashing
2 robbery. It was a black male in his 20's, black
3 jacket, black backpack, black pants and mustard yellow
4 shoes.

5 So at that point our plan was -- is to just
6 parallel North Lombard, thinking the suspect might
7 possibly move to the south from Ace Check Cashing into
8 the blocks.

9 Q And did you receive any additional
10 information about the circumstances of the robbery over
11 the radio?

12 A Um, at that point I wasn't -- I'm not a
13 hundred percent sure. I don't know if he presented a
14 note or if he got money or what the exact circumstances
15 at that point were.

16 Q Okay. So you're proceeding to the area to
17 do the search for the suspect?

18 A Yes.

19 Q No lights, no siren?

20 A That's correct.

21 Q Why are you not using lights and siren at
22 that point?

23 A Because at this point we're so close to the
24 Ace Check Cashing that we were actually just -- we're
25 looking for the suspect. No reason for lights or

1 sirens at that point.

2 Q All right. So what's the next thing that
3 occurred?

4 A Um, we ended up paralleling North Lombard,
5 heading westbound, kind of zigzag through the blocks,
6 North Buffalo.

7 We ended up coming up to about the 4200 block
8 of North Lombard. And as we were sitting at the 4200
9 block of North Lombard, another robbery call came out at
10 the U.S. Bank, which is located at the 3200 block of
11 North Lombard, now ten blocks to our east of where we
12 were located.

13 Dispatch informed us that another robbery
14 came out there at the -- and the description of the bank
15 robbery at the U.S. Bank matched that description of the
16 robbery at the Ace Check Cashing.

17 Q So what did that mean to you exactly?

18 A It meant that the suspect walked about,
19 about five blocks, did another robbery.

20 Q So you were -- you thought that was the same
21 person?

22 A Yes. Absolutely.

23 Q Okay. So did you change your mission at
24 that point, or what were you doing?

25 A At that point we were ten blocks away,

1 extremely close, using Lombard. I believe I may have
2 turned my overheads on at that point because the
3 robbery just came out.

4 We were traveling eastbound on North Lombard.
5 We made a northbound turn at the bank. And at that
6 point I stopped the car and I looked into the bank.
7 There's big windows there.

8 I saw a bank employee on the phone. She
9 looked at me. We made eye contact. She wasn't flagging
10 us in or come in, anything like that. I assumed at that
11 point the suspect had fled the bank. So Officer Habkirk
12 and I continued looking to the north of the bank.

13 I observed two citizens out in their front
14 yard doing some work about half a block from the bank.
15 I asked them if -- I gave them a description of the
16 robbery suspect and if they had seen this individual.
17 They said, "No, we have not seen him."

18 Q Okay. Had you received any additional
19 information about the circumstances of the U.S. Bank
20 robbery at that point?

21 A I believe, over the air, I believe both of
22 them were the suspect used a note in the, in the bank
23 robberies.

24 Q Okay. But did you have any information
25 about the content of the note?

1 A You know, not, not that I know of, no.

2 Q Okay. All right. So you made contact with
3 these citizens.

4 What happened next?

5 A GRAND JUROR: Can I just interject?

6 You were going north on Lombard.

7 THE WITNESS: Yeah. We are on the north
8 side of Lombard at this point, yeah.

9 MR. DAVIDSON: North off of Lombard.

10 THE WITNESS: Off of Lombard, yes.

11 A GRAND JUROR: And now you are on Oatman or
12 you're on the --

13 THE WITNESS: Not yet. I'm not a hundred
14 percent sure on the road that's just east of the U.S.
15 Bank, but that's the road.

16 BY MR. DAVIDSON:

17 Q So you're heading north on that road. You
18 made contact with the citizens.

19 What did you do next?

20 A At that point we decided to head back to the
21 west a little bit and just search on the north side of
22 the bank.

23 About that time we received information from
24 dispatch that U.S. Bank had a GPS tracker and was
25 tracking the suspect. So it had a GPS tracker on the

1 money that the suspect stole. And the suspect was
2 currently southbound on North Oatman from North Lombard
3 Street.

4 So at that point we come up to -- we're about
5 North Lombard. I'm not quite sure on the cross street.
6 But Officer Habkirk and I weren't a hundred percent sure
7 where North Oatman was.

8 So Officer Habkirk got on his phone. He
9 looked on his phone. He found that North Oatman was
10 actually the street directly across from the U.S. Bank.

11 So we decided to turn down North Vincent,
12 which is one -- one street to the west of North Oatman
13 and just parallel on North Vincent.

14 At about that time --

15 Q Can I ask you why you decided to do that
16 rather than just come straight down Oatman?

17 A You know, I'm not, I'm not a hundred percent
18 sure. We might have turned on North Vincent when we're
19 still trying to find out where North Oatman was.

20 I just turned because I knew he was going
21 south. We knew he was around there somewhere and him
22 trying to look at his phone. But we turned down North
23 Vincent. We knew that, at that point that North Oatman
24 was to the east of us.

25 Q Okay.

1 A At about that time we received more
2 information from dispatch that U.S. Bank had updated
3 them; that the GPS unit was showing the suspect still
4 southbound on North Oatman crossing North Bryant Street
5 at 2.2 miles an hour, which indicates to us that the
6 suspect was on foot.

7 Q Okay.

8 A So Officer Habkirk and I made an eastbound
9 turn on to North Bryant and then a southbound turn on
10 to North Oatman expecting to see the suspect right
11 there.

12 We drove slowly down North Oatman and
13 approaching North Saratoga. At that point we looked up,
14 and I observed -- prior to North Saratoga, we're on the
15 north side of that.

16 Prior to approaching that intersection, I
17 looked up and I saw the suspect, a black male, wearing a
18 black backpack, black jacket, black pants and mustard,
19 yellow shoes. He was walking across North Saratoga on
20 the east sidewalk on North Oatman.

21 So at that point I pulled my vehicle up just
22 prior to North Saratoga, allowing distance between the
23 suspect later identified as Mr. Peeples.

24 We were approximately -- giving him some
25 distance -- we were probably 60 to 70 feet from Mr.

1 Peeples. I pulled my vehicle up in about a south --
2 facing southeasterly towards Mr. Peeples.

3 Q At that point, just to ask you again, did
4 you have either sirens or lights activated?

5 A No lights or sirens activated.

6 So we're pulled up into a southeasterly. I
7 stopped the vehicle. And I'd like to demonstrate this,
8 so you can understand this.

9 I get out of my vehicle. Exit my driver's
10 side door of my vehicle. I put myself in the doorjamb
11 of my vehicle. I pull my gun out. Based on the
12 circumstances, I'm a depressed ready over the top of my
13 door frame.

14 Q Now, can you tell us what "depressed ready"
15 is?

16 A So depressed ready is gun in your hand and
17 gun pointing down toward the ground.

18 Q So what is -- I'm assuming there are various
19 stances you can take with your firearm.

20 What is the -- I guess what is "depressed
21 ready" kind of -- why is it utilized in certain
22 circumstances and not others?

23 A Certain circumstances. I mean, it's based
24 on action-reaction. You don't want to be behind the
25 curve. And based on these circumstances, a serious

1 felony person crime, the bank robbery, I chose to pull
2 my gun out and have it ready in depressed ready.

3 Q Okay. But, for example, you weren't
4 pointing it at Mr. Peebles; you were pointing it at the
5 ground?

6 A I was pointing it at the ground. I had my
7 gun out of the holster.

8 Q What advantage does that give over leaving
9 your gun in the holster?

10 A It can give you a couple -- several seconds
11 based on the circumstances of having to get your gun
12 out of your holster and to fire your gun.

13 Q Okay. Could you tell whether or not -- what
14 did Officer Habkirk do at that point while you were
15 getting out your --

16 A You know, I know Officer Habkirk stepped out
17 of the vehicle. I know that he notified dispatch of
18 our location. But at that point when I was addressing
19 Mr. Peebles, I don't know where Officer Habkirk was.

20 Q Okay. And would it be typical and
21 consistent with Bureau training in a situation like
22 this when attempting to apprehend what appears to be a
23 bank robbery suspect to unholster your firearm?

24 A Yes, very typical. That's how we're
25 trained.

1 Q At this point did you know whether or not
2 Mr. Peeples was armed or not?

3 A I had no idea if he was armed or not.

4 Q Okay. So this was --

5 A GRAND JUROR: Can I ask a question?

6 MR. DAVIDSON: Yes.

7 A GRAND JUROR: So you're entirely behind
8 the door and holding the gun down in front of you but
9 not like over the door, right?

10 THE WITNESS: No. I am in the --

11 A GRAND JUROR: Does that make sense?

12 THE WITNESS: So I'm in the doorjamb.

13 A GRAND JUROR: Right.

14 THE WITNESS: I'm in the doorjamb. The door
15 is coming out. My gun is over the crease of the door.
16 Just over the top like this (indicating.) So my upper
17 torso and my head is exposed over the door.

18 A GRAND JUROR: Okay.

19 BY MR. DAVIDSON:

20 Q So was your gun then visible to Mr. Peeples?

21 A Probably, yes.

22 Q Okay. It wasn't concealed -- it wasn't
23 below the level of the door, it was in front of the
24 door?

25 A It was up and over the window and the crease

1 of the door where the door meets the hinge.

2 Q Okay. All right.

3 A GRAND JUROR: Excuse me, could you --
4 could you tell us everything that you heard on the
5 dispatch about the first robbery, and then about the
6 second robbery, everything that you heard on the
7 dispatch so that, you know, that set the scene for you?

8 THE WITNESS: Okay. So we were given --
9 that the Ace Check Cashing robbery, we were given a
10 description on that -- of, of that robbery.

11 MR. DAVIDSON: Of the person or of the --

12 THE WITNESS: Of the person, the person on
13 that robbery.

14 MR. DAVIDSON: The person.

15 A GRAND JUROR: And what was said about the
16 robbery itself?

17 THE WITNESS: I believe there was a note
18 given. I'm not a hundred percent sure, but I believe
19 there was a note given. And I believe both of them
20 wore -- were similar in nature. Both descriptions
21 were, were on, and I believe both -- notes were given
22 in both descriptions.

23 A GRAND JUROR: Was the suspect described as
24 armed or unarmed?

25 THE WITNESS: Um, this -- there was no

1 mention of a weapon used in the bank robbery is how it
2 came out.

3 A GRAND JUROR: On a dispatch, if it is
4 known that -- if a robber uses a weapon for a robbery
5 and that is known, isn't that usually the first thing
6 that comes out over the dispatch, "armed suspect"?

7 THE WITNESS: Yes. That would be the first
8 that would come out.

9 A GRAND JUROR: And you did not hear that in
10 the dispatch?

11 THE WITNESS: That information was not
12 dispatched. Notes were given at both robberies.

13 A GRAND JUROR: What, what is the meaning of
14 the term "dead robbery"?

15 MR. DAVIDSON: "Dead robbery"?

16 A GRAND JUROR: Yeah.

17 THE WITNESS: I never heard --

18 A GRAND JUROR: No. I think they said "good
19 robbery."

20 THE WITNESS: Good robbery, yes.

21 A GRAND JUROR: Okay. Good robbery.

22 THE WITNESS: A lot of times we get -- they
23 are called 27 Adams. They are silent arms from usually
24 financial institutions.

25 Some of those, it could be a bank teller's

1 issue. It could be somebody working on the alarm system
2 or a bank teller accidentally pulled up the magnetic
3 strip from the bottom of the till. It could be a false
4 alarm. So sometimes we get those.

5 So that's how you clarify the bank -- the
6 dispatch will call into the bank and speak with a bank
7 employee to find out if it's a good robbery or if it's a
8 false alarm.

9 A GRAND JUROR: Okay. On both of the
10 dispatches alerting you and Officer Habkirk to the
11 suspect on both of those, there was no mention of, of a
12 weapon?

13 THE WITNESS: No mention of a weapon being
14 used in the robberies, yes, that's correct.

15 A GRAND JUROR: Okay.

16 BY MR. DAVIDSON:

17 Q So at the time you encountered Mr. Peeples,
18 you didn't know if he was armed or not?

19 A No. I had no idea if he was armed or not.

20 Q Okay. So I think you had indicated you were
21 standing in the lee of the door.

22 A Yes.

23 Q You've got your firearm at -- it was low
24 ready.

25 A Yes.

1 Q Before you had exited the vehicle, did
2 either one of you, either you or Officer Habkirk, get
3 on the radio?

4 A Officer Habkirk did get to the radio and
5 notify dispatch of our location. We knew that there
6 was several officers in the area because we were
7 looking for the individual that did two robberies, so
8 we knew they were close.

9 Q Okay. And Officer Habkirk announced that
10 you were out with the suspect?

11 A Yes.

12 Q All right. So what happened next? What did
13 you do?

14 A So I'm standing in the door. I see Mr.
15 Peeples. I had my gun at depressed ready. I was
16 trying to low-key it. Hopefully, he'll comply to our
17 commands. I yell out, something to the effect of,
18 "Hey, buddy, let me see your hands."

19 Q Now, where was he oriented and where were
20 his hands when you said that?

21 A His hands were -- one hand was down. And at
22 this point I realized that his right hand was in his
23 right pocket.

24 Q Now, is he facing away from you?

25 A He's walking away from us at a very, very

1 slow rate.

2 Q Southbound?

3 A Southbound.

4 So I said, "Hey, buddy, let me see your
5 hands." Mr. Peeples looks over his right shoulder right
6 at me, and I gave him another command stating, "Hey, let
7 me see your hands."

8 Mr. Peeples then turns, takes about half a
9 step, pulls out of his right pocket, and spins quickly,
10 and pulls out what I believe to be a black handgun,
11 going straight into a shooter stance, knees bent, arms
12 straight out. And Mr. Peeples at this point that I
13 believe is looking straight down the barrel of a black
14 handgun.

15 Q So he's got a black object in his hand?

16 A Yes.

17 Q Which you believed to be a handgun?

18 A I believed to be a handgun.

19 Q You refer to him as being in a "shooter
20 stance."

21 A A "shooter stance," exactly how we were
22 trained, just like this (indicating).

23 Q That's -- what you're replicating right now
24 is exactly how he presented to you?

25 A Yes. At that point, I'm behind the car

1 door. I'm thinking, oh, shit. I was thinking that he
2 had the advantage. I'm thinking rounds are going to be
3 coming my way, and I didn't want to take one in the
4 head.

5 So at that point I instinctively lifted my
6 gun and fired what I believed to be four to five rounds
7 at Mr. Peeples. Mr. Peeples immediately went to the
8 ground, straight back, dropping what I believed to be
9 the handgun out of his right hand to the ground, and he
10 fell straight to his back.

11 Q Okay. Let's unpack some of that.

12 A Okay.

13 Q So you say when you first observed him, I
14 think you said he was how many yards away?

15 A He was about 60 to 70 feet.

16 Q Okay. But on the other side of the
17 intersection?

18 A He was on the other, yeah, the other side.

19 Q South side of the intersection?

20 A The south side of the intersection. He was
21 on the south side of the intersection on the east
22 sidewalk.

23 Q Southeast corner then?

24 A Yes.

25 Q And facing away?

1 A Yes.

2 Q Now, at some point you saw one of his hands
3 after -- you gave him a command to put his hands up?

4 A Yes. I said, "Buddy, let me see your
5 hands."

6 Q When he turned back and looked at you, would
7 it have been apparent to him that you were both police
8 officers in a marked police vehicle?

9 A Yes. He looked back. He stopped and looked
10 back directly at me. Kind of like paused. Looked
11 directly at me. I saw his hand in his right pocket.

12 And I said again, "Hey, let me see your
13 hands." And that's when he turned back away from me,
14 took about half a step and spun quickly to his right.

15 Q Can you tell me, as a police officer, with
16 as many years experience you have and having received
17 the standard bureau training, what is it about having
18 his hands in or near his pockets that's concerning to a
19 police officer?

20 A It's a threat us to. It's a threat to
21 anybody really. It's, it's where guns are commonly
22 kept, in either in your pocket or your waistband or
23 somewhere around your waistband.

24 Q And is that, in fact, why you told him to
25 keep his hands up?

1 A Yes. The hands are the threat, and then
2 that's why we would like to see the hands.

3 Q Okay.

4 A GRAND JUROR: So can I ask?

5 MR. DAVIDSON: Yes.

6 A GRAND JUROR: Indexing, he wasn't just
7 checking himself when he looked back? You didn't think
8 he was just maybe like, hey, whatever, I want to make
9 sure my wallet doesn't fall out?

10 THE WITNESS: No. I knew he had his hands
11 in his pocket when he looked back. But it's when he
12 spun quickly into a shooter stance, that he pulled out
13 what I believed to be a small black handgun.

14 A GRAND JUROR: Okay.

15 BY MR. DAVIDSON:

16 Q And how much time lapsed between when you
17 got out of the car and when you fired your weapon in
18 your estimation?

19 A I'll say it like this. I stepped out of my
20 car and immediately said, "Hey, buddy, let me see your
21 hands." He looks back at me. "Hey, let me see your
22 hands." He turns away. He spins. Shots fired.

23 Q So just basically in that time?

24 A In that time.

25 Q So ten seconds maybe?

1 A Yes. Probably not even.

2 Q Okay. It sounds like you think you fired
3 about five shots?

4 A Yeah. Four to five at the time is what I
5 thought.

6 Q Okay. And do you know how long it took you
7 to fire those five shots?

8 A A split second. I have no idea. A split
9 second.

10 Q Okay. And why did you stop firing?

11 A Because the threat had gone down. He
12 immediately went down.

13 Q Okay. Now, when -- I'm assuming you've been
14 through the bureau of training in regards to use of
15 deadly force.

16 A Yes.

17 Q Okay. And are you, during the course of
18 that instruction, are you taught to shoot to kill?

19 A No.

20 Q How are you instructed as far as use of
21 deadly force?

22 A Taught to neutralize the threat.

23 Q And what does that mean? I mean, how --
24 were you aiming? Tell us about that.

25 A I was aiming center of mass. Once he went

1 down, I believed that the threat was neutralized when
2 he went down. He was, he was no longer a threat to
3 where I needed to continue firing my weapon.

4 Q Okay.

5 A GRAND JUROR: Can I ask?

6 MR. DAVIDSON: Yes.

7 A GRAND JUROR: How many rounds does your
8 weapon hold?

9 THE WITNESS: It holds 17 in the magazine
10 and then one in the chamber, so 18 total. Then we have
11 two 17-round magazines that we will hold usually.

12 BY MR. DAVIDSON:

13 Q So two additional magazines in your utility
14 belt?

15 A Yes, that's correct.

16 Q So it was your firm belief at the time you
17 fired your service weapon that he was in the process of
18 firing a gun at you?

19 A Yes, that is correct.

20 Q Okay. So what happened after he went down?

21 A He went down. He went straight back. I
22 could see his hands. I continued giving him commands.
23 "Just let me see your hands. We have medical on the
24 way."

25 Officer Habkirk immediately got on the air,

1 notified dispatch that shots had been fired; that cover
2 needed to come in from the north on North Oatman, and
3 that we needed Code 3 medical.

4 I asked Officer Habkirk, at that point, I
5 said, "Hey, can you give us a ballistic shield so that
6 we can get a custody team to move up on Mr. Peeples to
7 render medical aid?"

8 And once officers arrived, which is really
9 quick, when officers arrived on scene, they established
10 a quick plan to contact Mr. Peeples behind the ballistic
11 shield as a custody team.

12 I also used my car as more of a shield for
13 other officers. And so we went up on Mr. Peeples. They
14 placed Mr. Peeples in handcuffs, and they immediately
15 rendered medical aid to him.

16 I observed several officers taking his
17 clothes off and actually do blood sweeps on him. And
18 what a blood sweep is, is how we're taught is we're
19 gloved up. And we actually check the body of the
20 individual that was shot to see where the extent of
21 their injuries are.

22 I saw them doing that. And then medical
23 arrived shortly after that and transported Mr. Peeples
24 to the hospital.

25 A GRAND JUROR: I got a question.

1 Did your partner see Mr. Peeples in that
2 stance that you were just --

3 THE WITNESS: I, I don't know what my
4 partner saw.

5 A GRAND JUROR: You don't?

6 THE WITNESS: I do not.

7 BY MR. DAVIDSON:

8 Q Have you spoken with your partner since that
9 day?

10 A We, we cannot speak to each other.

11 Q So, in fact, the Bureau places a
12 communication restriction on you?

13 A A communication restriction order, yes.

14 Q So you are not allowed to speak with anybody
15 else about this other than your attorney?

16 A Yes, that's correct.

17 Q Spouse potentially?

18 A GRAND JUROR: So I assume you took notes,
19 though.

20 Are you just doing this from memory or did
21 you at the time at that day write a report of what you
22 remembered happening?

23 THE WITNESS: I didn't write a report. I
24 did an Internal Affairs investigation, and I gave my
25 statements to the transcripts of that. I remember it

1 like it was yesterday.

2 A GRAND JUROR: Right. Vivid.

3 A GRAND JUROR: So after the shots were
4 fired, Officer Habkirk is on the radio and you're still
5 covering the suspect, you're still talking to him,
6 telling him to like keep your hands, whatever?

7 THE WITNESS: Yes. I was telling him, just
8 make sure he kept his hands out away from his body --

9 A GRAND JUROR: Sure.

10 THE WITNESS: -- which he did.

11 And I was, I was telling him that medical is
12 on the way to treat your injuries, and that, that, you
13 know, we would give him medical help.

14 A GRAND JUROR: Okay.

15 A GRAND JUROR: Did he say anything at all
16 to you after he was down?

17 THE WITNESS: I, I never heard one word from
18 Mr. Peeples during the entire contact with him. I
19 never heard a moan, a groan, not a word from him.

20 BY MR. DAVIDSON:

21 Q As you approached, were you able to observe
22 anything near Mr. Peeples that you concluded was
23 potentially a black object you saw in his hand?

24 A I did see the black object that was at his
25 feet at that point. I realized that it was not a

1 handgun. It was a black object of some sort. I don't
2 want to guess what it was. I was still a little ways
3 away. I never had any physical contact with Mr.
4 Peeples. I never actually got out of my car to contact
5 Mr. Peeples after the shooting.

6 Q Okay. It's my understanding that perhaps
7 the 590 car was moved across the intersection to be
8 utilized as additional cover.

9 Do you recall that part of it?

10 A Yes.

11 So we -- I actually moved my car, our car up
12 as cover to move toward Mr. Peeples, along with our
13 custody team, which is off to my left, off to my
14 driver's side. My custody team went behind the
15 ballistics shield, and I moved the car up, as well.
16 Officers used my car as cover.

17 Q And how close did you have to get before you
18 realized that the black object wasn't, in fact, a
19 firearm?

20 A Um, I don't know. I didn't have to get -- I
21 mean, very close. I mean, as I was moving up, I
22 realized that it was not a handgun.

23 MR. DAVIDSON: Okay. Did you have a
24 question?

25 A GRAND JUROR: I do.

1 MR. DAVIDSON: Okay.

2 A GRAND JUROR: Would you say again how, how
3 many shots you fired and how much time elapsed between
4 shots?

5 Did you stop to see if, if Mr. Peeples had
6 been disabled by a shot before taking another shot?

7 THE WITNESS: At the time, at the time of
8 the shooting, my belief was I fired four to five
9 rounds. Now, now, after the fact, I believe that it
10 was actually more than that. There were six shots
11 fired. At the time of the shooting, that's what I
12 believed is what I fired.

13 And as far as the shots go, four to five
14 rounds or six rounds will take a split second for me to
15 fire. But I did see Mr. Peeples -- once I was firing
16 those rounds, I saw Mr. Peeples fall straight back, and
17 I realized that the threat had been neutralized and I
18 immediately stopped firing my weapon.

19 BY MR. DAVIDSON:

20 Q Did you know what your backdrop was?

21 A I did.

22 When we pulled up, I did see a fence there,
23 and they had a two to three-foot concrete wall, brick
24 wall underneath the fence where the fence sits on top of
25 this two to three-foot concrete wall.

1 Q So you didn't see any people behind in your
2 backdrop?

3 A No people were in my backdrop, yeah. I
4 didn't see, I didn't see anybody actually out there.

5 Q Okay. Assume this stop had gone differently
6 and Mr. Peeples had not dropped into that shooter
7 stance with the black object in his hands, what was,
8 what was your plan?

9 How would you have, I guess, completed this
10 interaction had that not happened?

11 A Um, typically what would happen is we have
12 this plan. It was -- our original plan was to low-key
13 this. "Hey, buddy, let me see your hands."

14 He turns and shows his hands. "Hey, can you
15 do me a favor, can you get down on your knees, please?"
16 And he gets down on his knees.

17 "Hey, can you, can you lay on your stomach
18 for me with your arms like an airplane?" And he would
19 have did that.

20 We had a ton of officers in the area. And we
21 would have waited for additional resources to come up,
22 use cover with our vehicles, go up and place him in
23 custody -- a felony custody.

24 Q Okay. So but for his dropping in that
25 shooter stance with the black object in his hand,

1 that's how you would have handled that situation?

2 A He forced me to shoot him, yes.

3 Q Now, you've not been -- you've not utilized
4 deadly force before in your 19 years --

5 A Yes.

6 Q -- as a police officer?

7 A No, I have not, no.

8 Q And that stance, it's pretty distinctive. I
9 don't know if there's another purpose for that stance
10 other than to, I guess, replicate or at least try to
11 get the impression that you're holding a firearm.

12 Has that been your experience?

13 A That's correct, yes.

14 Q I mean, did you -- you're sure, in fact, of
15 what you described, and you physically have done it
16 here. You're not misperceiving it as something other
17 than it is. It was definitely intended to appear as a
18 shooter stance?

19 A Absolutely, yes. Yes.

20 Q Okay. When is the first time you realized
21 where Officer Habkirk was?

22 A Um, after, after the shooting, I was giving
23 commands to Mr. Peeples to keep his hands out.

24 Medical, medical is on their way.

25 I believe Officer Habkirk was behind me

1 somewhere. And he asked -- I think he might have asked
2 if I was okay. I could hear him on the radio. I don't
3 know if I could hear the transmissions through my radio
4 or I could hear him directly behind me. He's giving
5 updates as far as shots fired, get medical, Code 3, and
6 cover come in from the north.

7 But as I was dealing with Mr. Peeples, I
8 never saw Officer Habkirk until, until Mr. Peeples was
9 actually placed in handcuffs and medical came.

10 Q Officer, you had mentioned a couple of
11 things. You mentioned the action-reaction principle
12 and being behind the curve, I think you said.

13 Can you elaborate a little bit more on how
14 you are instructed by the Bureau in that regard?

15 A Well, we go through training.
16 Action-reaction -- and what it is is action will be
17 always faster than reaction, right.

18 So you are never going to be able to react
19 fast enough to somebody's action. You are always going
20 to be behind the curve if you react to somebody's
21 action.

22 And the way we train anyway, if I can explain
23 this a little bit to make it better to understand it is
24 we have two individuals. We use simulated or blank
25 guns.

1 One person has their gun down to their side.
2 The other person has a gun pointed at that person. So
3 99.9 percent of the time the guy with the gun down to
4 his side is going to get the first shot off even though
5 that person has the gun pointed at him.

6 They even know it's going to happen, and
7 you -- still your brain does not -- can't compute that
8 fast to do this. So action is always faster than
9 reaction.

10 A GRAND JUROR: I'm sorry. Could you
11 clarify and say that again?

12 A GRAND JUROR: You're saying you have two
13 people in this simulated environment. One has the gun
14 pointed at you and the other has the gun at his side.

15 Who prevails?

16 THE WITNESS: And the guy down -- with the
17 gun down to his side -- okay, so you are going to move
18 on his action, right, with the guy with the gun down to
19 his side.

20 MR. DAVIDSON: Maybe you want to do it with
21 you and I?

22 THE WITNESS: So the guy, he knows I'm going
23 to fire at him and my gun is --

24 MR. DAVIDSON: Okay. So I'm this guy?

25 THE WITNESS: Yes, and my gun is down at my

1 side. I will win every time because his brain can't
2 compute fast enough to know --

3 A GRAND JUROR: To respond to your --

4 THE WITNESS: To reaction.

5 MR. DAVIDSON: I will not, I will not
6 attempt to shoot until I see your hand move.

7 THE WITNESS: Yes. Right.

8 MR. DAVIDSON: And what you're saying is
9 that the training and the studies show that a hundred
10 percent, 90 percent of the time?

11 THE WITNESS: It's high that I will
12 99 percent of the time get a shot off on him before he
13 gets a shot off on me.

14 A GRAND JUROR: Because you're taking the
15 action?

16 THE WITNESS: I'm taking the action --

17 MR. DAVIDSON: Because he knows it's going
18 to happen -- it's because you know it is going to
19 happen and I don't know when it's going to happen?

20 THE WITNESS: Yes.

21 MR. DAVIDSON: All right. So that's the
22 action-reaction principle?

23 THE WITNESS: Yes.

24 MR. DAVIDSON: And that's taught
25 Bureau-wide?

1 THE WITNESS: Yes.

2 A GRAND JUROR: That's real interesting.

3 BY MR. DAVIDSON:

4 Q So that's what you talked about being behind
5 the curve.

6 A Yes, that's correct.

7 Q All right. So at the moment again, that he
8 dropped to that shooter stance and pointed the black
9 object at you, were you convinced in your mind that
10 what he was holding was a gun?

11 A Yes, I was.

12 Q Were you convinced in your mind that he was
13 about to shoot you?

14 A Right. I was, yes.

15 Q Were you in fear for your life?

16 A I was in fear for my life.

17 Q And when you took the actions to fire your
18 service weapon, was that in self-defense of your
19 person?

20 A Yes, it was.

21 MR. DAVIDSON: Any additional questions from
22 the Grand Jurors?

23 A GRAND JUROR: Did all of the bullets go
24 into the -- into Mr. Peeples while he was vertical?
25 You know, you shot him and then he fell down and you

1 stopped shooting.

2 THE WITNESS: Yeah. I stopped shooting when
3 he fell down. As far as, as far as where the bullets
4 went, I don't have that information. I was -- I'm not
5 privy to that information.

6 MR. DAVIDSON: Any more questions for
7 Officer Reagan?

8 A GRAND JUROR: How are you doing?

9 A GRAND JUROR: That was my next -- yeah.
10 This is your first --

11 THE WITNESS: I'm doing okay. It's been a
12 long seven weeks. Yeah.

13 A GRAND JUROR: This is your first shooting
14 on duty?

15 THE WITNESS: Yes.

16 MR. DAVIDSON: And you've been on leave;
17 correct?

18 THE WITNESS: I've been on admin leave.

19 MR. DAVIDSON: And that's standard
20 procedure?

21 THE WITNESS: Standard procedure here.

22 Family is doing good.

23 MR. DAVIDSON: Any additional questions for
24 Officer Reagan?

25 Okay. Sounds good.

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

THE GRAND JURY: Thank you.

THE WITNESS: Thank you.

1 JOSHUA HOWERY,
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. DAVIDSON:

8 Q Would you please state your full name and
9 spell it for us?

10 A Yes. My name is Joshua Howery, H-O-W-E-R-Y.

11 Q And as you can see, we have a court reporter
12 here.

13 A Yes.

14 Q And maybe you are a little bit like me and
15 you speak maybe rapidly. But if you could just speak
16 as slowly and deliberately as possible so she can keep
17 up?

18 A Yes, ma'am.

19 Q All right. I'm sorry, if you can tell us
20 how you are employed, please?

21 A I'm a police officer with the Portland
22 Police Bureau.

23 Q And how long have you been in law
24 enforcement?

25 A Seventeen years.

1 Q All of that with Portland?

2 A Yes.

3 Q Prior to joining the Bureau, did you attend
4 college?

5 A I did.

6 Q Where did you go?

7 A I went to George Fox University.

8 Q And did you obtain a degree?

9 A Yes. Bachelor of Arts.

10 Q What year?

11 A 1998.

12 Q Any particular discipline?

13 A Biblical studies.

14 Q Can you tell us a little bit about the
15 training you received in order to become a police
16 officer?

17 A Yes. I initially attended the basic police
18 academy, DPSST. At the time it was in Clackamas.
19 Portland Police was able to put on their basic academy
20 there. I did that.

21 I did some time on the street in our field
22 training program and then came back for about a 12-week
23 advanced academy through Portland Police.

24 My entire training time was 18 months from
25 the day I got hired until I was off probation. There's

1 an 18-month probationary period. So during that time
2 you do the two academies and then you also do the rest
3 of your field training through that time.

4 Q And did you mention field training
5 officer -- you had a field training officer?

6 A I had a field training officer during that
7 time when I was on the street.

8 Q All right. So you would ride with an
9 officer, a more experienced officer?

10 A Yes, that's correct.

11 Q And what would have been your assignments
12 since you first joined the Bureau?

13 A I worked Southeast Precinct night shift for
14 about six years. I moved to, I moved to afternoon
15 shift for a short time. Then I was assigned to the
16 prostitution coordination team on 82nd Avenue.

17 Q It may be apparent, but what's the special
18 mission of that team?

19 A That was to look for and try to, I don't
20 know, keep to a manageable level the prostitution
21 activity on 82nd Avenue. It was really geared toward
22 making -- toward neighborhood livability.

23 Q What about after that?

24 A After that, I was actually assigned to the
25 detective division in the human trafficking division.

1 I was, I was there for about a year. And that was
2 mostly investigating juvenile sex trafficking cases.

3 After that, that job kind of went away for
4 officers and became a detective's position. I went back
5 to the street. I worked there for about another year
6 and a half, and then I was assigned to the training
7 division full-time.

8 Q So how long have you been with the training
9 division?

10 A I've been with the training division since
11 October of 2012, so a little over five years.

12 Q And what's the special mission of the
13 training division?

14 A We actually give -- we provide the training
15 for all of the officers in the Bureau. So there's two,
16 two tracks that we mainly stick to.

17 There's the in-service side where we give
18 yearly training to every officer in the Bureau. And
19 then there's the advanced academy side where we also
20 take our, you know, our new recruits as they are on
21 their probation and their training time and we bring
22 them in for that advanced academy. So we give them that
23 14 -- it's down to ten weeks now, ten-week academy.

24 Q Okay. And how many people are assigned to
25 the training division?

1 A There's a captain, three lieutenants, three
2 sergeants, about 17 to 18 officers, and then maybe
3 about that many non-sworn administrative staff as well.

4 Q So it's a pretty large operation?

5 A Yes.

6 Q And approximately how many hours a year of
7 additional training do officers receive?

8 A Officers are, at this time at the very
9 minimum through in-service, getting another 40 hours of
10 in-service training. That's every single officer in
11 the Bureau.

12 Q Okay. And do you have a specific set of
13 responsibilities within the training division?

14 A Yes. I'm the lead control tactics
15 instructor, formerly defensive tactics, assigned to the
16 advanced academy mainly.

17 My partner and I split our responsibilities,
18 so he takes in-service. I take advanced academy. And
19 then through that advanced academy, I also teach the use
20 of force block, the decision-making.

21 The way it ends up, since there's just two of
22 us for the entire Bureau, we both teach both. So we're
23 responsible for basically all of the training for
24 controlled tactics that goes on.

25 Q Okay. So I think you know why we're here.

1 A Yes.

2 Q We're here to discuss this October 25th use
3 of force incident, use of force encounter that did not
4 result in the death, but deadly force was definitely
5 used --

6 A Yes.

7 Q -- involving Officer Reagan as the officer
8 who used force. We've just heard his testimony here
9 prior to your being sworn in.

10 A Okay.

11 Q And what he basically described was -- and I
12 know you know a little bit of background because you
13 and I have talked.

14 A Yes.

15 Q Again, we had not heard Officer Reagan's
16 account until just now.

17 You're aware that on this date there was a
18 bank robbery call that came out at the Ace Check Cashing
19 location --

20 A Yes.

21 Q -- with a description of the suspect?

22 And then shortly thereafter, a second bank
23 robbery, a bank robbery called, the U.S. Bank there off
24 of North Lombard, with basically a description that was
25 almost identical to the one that came out of the first

1 robbery, so the suspect seemed to be the same.

2 Those two locations are five blocks apart on
3 Lombard. So various units responded to the area
4 including, Unit 590, which was a partner car that had
5 Officer Reagan driving and Officer Habkirk as the
6 passenger.

7 That they had received some information that
8 indicated that one or both of these robberies were
9 so-called "note robberies." No discussions about
10 weapons were included in these calls.

11 A Okay.

12 Q Officer Reagan testified that they were in
13 the area, and then started getting updates over
14 dispatch that the U.S. Bank clerk had included a GPS
15 tracker in the money that she had given the suspect.

16 And it was -- the GPS tracker was indicating
17 that the suspect was walking southbound from Lombard
18 down Oatman, North Oatman in the direction of -- I think
19 the original call was North Bryant, in that direction,
20 so southbound.

21 Officer Reagan testified that they tried to
22 figure out where that area was and then proceeded to
23 that area. They eventually drove, I want to say,
24 westbound on Bryant and then hit Oatman and then turned
25 south.

1 And as they approached -- drove southbound,
2 they were approaching the intersection of North Oatman
3 and Saratoga when they observed who we now know to be
4 Mr. Chase Peeples on the southeast corner of the
5 intersection walking slowly away to the south. He
6 matched the description.

7 A Okay.

8 Q What they then testified to was they stopped
9 their patrol vehicle, which was a marked, typical
10 Portland patrol vehicle. They were both wearing
11 standard-issued uniforms; that they stopped the vehicle
12 north of the intersection pointing southwards.

13 They opened the doors; that Officer Reagan
14 and Officer Habkirk exited. Officer Reagan had
15 unholstered his firearm and kept it at what he referred
16 to as low ready.

17 A GRAND JUROR: Depressed ready.

18 BY MR. DAVIDSON:

19 Q Depressed ready, sorry. Thank you.

20 A Okay.

21 Q That Officer Habkirk indicated he had
22 unholstered and actually trained his firearm on Mr.
23 Peeples.

24 A Okay.

25 Q Officer Reagan testified that he yelled out

1 a command to Mr. Peeples to stop and show his hands,
2 something to that effect.

3 A GRAND JUROR: "Hey, buddy, let me see your
4 hands."

5 THE WITNESS: Okay.

6 BY MR. DAVIDSON:

7 Q That perhaps at that point Mr. Peeples
8 stopped.

9 And if I get order of this incorrect, you
10 guys I know will correct me, that Officer Reagan, I
11 think indicated at that point that Mr. Peeples looked
12 back over his right shoulder at Officer, at Officer
13 Reagan and made eye contact with him, and was maybe at
14 that point putting his hand in his right pocket.

15 THE GRAND JURY: He already had his hand in
16 his pocket already.

17 MR. DAVIDSON: He had his hand in his pocket
18 already, which caused Officer Reagan concern, and then
19 he gave him a second admonishment which was --

20 A GRAND JUROR: "Hey, buddy, show me your
21 hands."

22 BY MR. DAVIDSON:

23 Q At that point I will try and stand and
24 replicate what Officer Reagan did.

25 He said Mr. Peeples then basically spun

1 quickly, dropped -- Mr. Peeples dropped into what
2 Officer Reagan described as a shooter stance with a
3 black object and pointing it directly at Officer Reagan
4 in this fashion (indicating); and that Officer Reagan
5 believed at that point that Mr. Peeples was -- had a
6 loaded firearm was pointing it at him.

7 And so fearing for his life, Officer Reagan
8 stated he fired what he believed to be four to five
9 shots.

10 A GRAND JUROR: Yes.

11 BY MR. DAVIDSON:

12 Q We've later learned was actually six shots.
13 And that as soon as he observed Mr. Peeples go to the
14 ground, he ceased firing.

15 A Okay.

16 Q Backup was called for. Medical was staged.
17 They waited for additional resources. Sergeant
18 Christensen arrived with the shield.

19 Sergeant Christensen was in charge of the
20 scene at that point. Put together a custody team. They
21 approached Mr. Peeples and they asked -- shouted
22 commands at him. He was nonresponsive.

23 They actually moved the 590 car up
24 simultaneously with the custody team for additional
25 cover. They had a shotgun there with Officer Pryce.

1 And they took Mr. Peeples into custody.

2 A Okay.

3 Q What they discovered at the scene was a
4 black wallet, which we believed to be the item that was
5 actually in Mr. Peeples' hands, as well as the cash
6 from the U.S. Bank robbery to include the GPS tracker.

7 A Okay.

8 Q So that is the information, in general, that
9 we're in possession of right now.

10 So I just want to kind of go over again,
11 unpack those things a little bit and just kind of go
12 over kind of one by one --

13 A Sure.

14 Q -- and ask you, you know, what your thoughts
15 are as far as whether or not what was -- the actions
16 taken by the officers was in compliance with Bureau
17 policy and training.

18 A Okay.

19 Q So let's start with the first contact.

20 When officer -- the officers spot Mr.
21 Peeples, he seems to match to a tee the description
22 given out about these two robberies, they stop their
23 car, open their doors, took cover behind their doors and
24 both drew their weapons --

25 A Yes.

1 Q -- and contacted Mr. Peeples at a distance.

2 What are your thoughts on that tactic and
3 what they did there?

4 A That seems appropriate to me through our
5 training. You know, based on the nature of the call,
6 robbery, a bank robbery, which is a significant crime
7 with a significant amount of risk involved, there's a
8 certain amount of danger associated with bank robbery
9 with the -- usually the suspect, with the ability to --
10 or perhaps with the intent to use force to commit that
11 robbery.

12 You know, so we talk about if we can, we want
13 more distance because it gives us a little bit more
14 reaction time.

15 You know, if, if we get there and we open the
16 doors, we use our cover, that also, you know, gives us a
17 little bit more reaction. Plus, it provides some amount
18 of safety.

19 If there's something to hide behind and you
20 are afraid that a person could potentially use force
21 against you at a distance with a firearm perhaps, it
22 makes sense to try to hide behind something. Although,
23 you can never get fully behind cover or you cannot see a
24 person either.

25 But, yeah, trying -- we're trying to make --

1 we're using tactics to our advantage there trying to
2 safely resolve that confrontation.

3 Q You know, you've got -- the calls so far did
4 not include any indication of what -- there's no
5 indication there's weapons. Though, it's not
6 definitively known at that point whether there was or
7 wasn't actually on Mr. Peeples' person.

8 A Right.

9 Q There's no indication that during the calls,
10 radio traffic, that a weapon was used.

11 A Correct.

12 Q So explain to us why it would still be then
13 appropriate to treat Mr. Peeples as he was potentially
14 armed?

15 A The nature of bank robberies or robberies in
16 general indicates a person crime. There's a threat of
17 force. There's a very high likelihood that force could
18 be used to accomplish that, that type of crime.

19 The other thing is, you know, you look at why
20 banks just hand over money with just a note with not
21 even a weapon being seen.

22 But the reason they -- you know, part of the
23 reason they instruct their tellers to, you know, just
24 hand over money is because there is that high likelihood
25 that force would be used against a teller in the form of

1 many times a gun or a knife or whatever that could be.
2 And banks don't want their, their employees to be in
3 that danger or, you know, subject them to being injured
4 or killed.

5 So, you know, based on all of that, you know,
6 just totality of the circumstances, just the fact that,
7 hey, this is a significant crime with a significant risk
8 of injury, the officers are going to approach it as
9 such, and they are going to take much more precaution as
10 far as, you know, taking cover, keeping distance,
11 actually drawing their weapons to protect themselves
12 and, you know, the public in general.

13 Q Will a standard-issued police car door stop
14 a firearm round?

15 A That is inconclusive. A normal police car
16 door, we've done some tests, and sometimes it does and
17 sometimes it does not.

18 Car doors are made out of a lot of different
19 stuff, you know. Whether the windows are up or down,
20 whether a bullet were to hit a car door and just hit
21 sheet metal, it may go right through. If it hits, you
22 know, the frame of the door, it may stop or it may not.

23 You know, shooting -- if we had just one
24 piece of sheet metal and we were shooting through it, we
25 could relatively predict what the bullet would do.

1 But with a car door, there's just so many
2 variables. And, yeah, we've done tests, and sometimes
3 bullets go through and sometimes they don't.

4 Q Let's also talk a little bit about the
5 equipment the officer is wearing.

6 My understanding is standard-issue for a
7 patrol officer would be some kind of bullet-resistive
8 vest; is that right?

9 A Yes, that's correct.

10 Q What do the officers wear, and is it
11 bulletproof, and tell us about that?

12 A Officers wear a Level III-A body armor. It
13 is soft body armor, so it's flexible so officers can
14 actually move around and, you know, function without
15 being weighted down by, you know, 30 or 40 pounds of
16 just solid steel plating.

17 It is designed to stop a certain threat of
18 handgun round. It will not stop rifle rounds. And it
19 only covers the torso. It's a vest. It doesn't go down
20 to the arms or anything like that.

21 There are standards put out by the Federal
22 government. NIJ, I believe is the National Institute of
23 Justice. They put standards out that body armor
24 typically has to be able to stop a certain amount of
25 rounds in a certain amount -- in a certain space from

1 certain calibers.

2 And they test only a few, and they assume
3 that other calibers more powerful or less powerful may
4 or may not be stopped by that. It's designed to do
5 that.

6 There's always some back-face impact, which
7 means that once -- when it hits that bullet -- that,
8 that vest, it doesn't just stop like it's hitting a
9 steel plate and then fall to the ground, but it actually
10 absorbs that energy, so that vest actually moves in to
11 the wearer. And it's designed to minimize that
12 back-face hit. But again, you know, different factors
13 happen.

14 Q So what parts of the officer's body is still
15 potentially vulnerable to gunfire?

16 A Anything from the neck -- from about here
17 up, (indicating), all of the shoulders, all of the arms
18 and anything from about two inches above the beltline
19 down to the feet.

20 Q Okay. As I said, the testimony was that
21 both officers had their guns out. And you talked about
22 why that might be.

23 What is the advantage in this scenario to --
24 why wouldn't you just leave your gun holstered and hail
25 Mr. Peeples?

1 A Um, a lot of times what happens is we run
2 into time constraints. You know, the human body is
3 only physically capable of doing so much in so much
4 time. And there are absolute limits to how fast the
5 mind can work and how fast the body can react to that.
6 In addition to that, now, you also have the
7 complication of going through a Level III holster.

8 Q What is a Level III holster?

9 A The holsters for our duty -- for our duty
10 pistols actually have three retentions for that to
11 actually draw the firearm.

12 The reason is because if somebody is in a
13 close encounter with somebody and somebody tries to grab
14 their gun, it's not just easy to yank it out of the
15 holster.

16 So there's an advantage there. On the other
17 side, nothing comes for free. And so it's harder to get
18 that gun out of the holster and so it takes a little bit
19 more time.

20 A typical holster that we issue right now,
21 there's a hood that goes over the top of the holster,
22 and they have to press down and rock that forward. And
23 then there's a button for the thumb to actually press
24 back to unlock that -- to unlock that gun.

25 And then they have to draw the gun straight

1 up. If they twist it or rock it forward or back, it
2 still won't come out. So there's, there's quite a bit
3 of training that goes into and muscle memory just so
4 folks can get that reliably out.

5 What we know is that a typical officer
6 reacting to just a single stimulus, like on the range,
7 no pressure, but there's a target, it will take them
8 about one and a half seconds. If they hear a beep, just
9 one audio stimulus, that they know on the beep they are
10 to draw and fire one round. It will take about a second
11 and a half to get that out.

12 And so when they are trying -- when they are
13 coming into a situation where they believe that this is
14 a higher threat situation already, they've already
15 started to use distance to their advantage because that
16 gives us a little bit more time and they've started to
17 use cover, which also may give them a little bit more
18 time, they are trying to minimize the amount of their
19 reaction time to something that happened.

20 Q Okay. Could we talk a little bit more about
21 that reaction -- it's been referred to as the
22 action-reaction principle.

23 A Yes.

24 Q Officer Reagan referred to it as being
25 behind the curve.

1 A Yes.

2 Q Tell us about what the science is and the
3 state of the art on that as far as it applies to
4 policing and how the Bureau teaches that to officers,
5 especially as it relates to deadly encounter -- deadly
6 force encounter.

7 A Sure.

8 The principle action-reaction is, is one of
9 the rules that we set out there just as far as the way
10 the world works. This is the way human physiology
11 works.

12 And so the way we describe it is in a contest
13 of time, and we keep it initially just very basic like
14 that, in a contest of time, the initiator of an action
15 will have an advantage over the person trying to react
16 to that action.

17 If a police officer shows up to a situation
18 and is waiting for something to happen, and they
19 actually see it, it will take some time. And the way
20 we -- and the parallel we draw with that is driving.

21 Driving is a rather complicated thing that we
22 do on a daily basis for the most part. And, you know, a
23 lot is going on when we're driving.

24 And when we have traffic lights, and a
25 traffic light turns from green to yellow, we know that

1 by Oregon law, we're supposed to stop at a yellow light.

2 If we see -- engineers have built in a
3 reaction time. And it's about one and a half seconds
4 for a person to actually recognize that the light turned
5 from green to yellow, make that conscious decision, I
6 need to stop my car and actually start to move their
7 foot to the -- from the gas to the brake pedal.

8 So for us, we -- it's something for us to be
9 aware of. And we teach officers, hey, look, when you
10 are reacting to something, understand that, as Officer
11 Reagan says, like he described, you are behind the
12 curve. Something is already happening.

13 There's been some studies done that if a
14 police officer has their finger on a trigger of a gun,
15 and they are pointing down range, and they are to react
16 to a single stimulus like a buzzer going off, and that
17 buzzer goes off, it will take them on average .25
18 seconds, a quarter second just to even -- for it to get
19 into their brain for them to start making the first
20 movement. It will take another .06 seconds from the
21 action to pull the trigger.

22 So we're already one-third of a second after
23 the event has happened. And that's if your finger is on
24 the trigger, ready to go, and you are only responding to
25 a single stimulus.

1 Now, we also know that every extra stimulus
2 takes more time. If you, if you only have to press a
3 button when a light comes on, it will take about
4 one-third of a second for that, for that hit to be
5 registered.

6 If you have to make a determination you only
7 go on a green light, but if the red light comes on, then
8 you don't, it will take upwards of more than half a
9 second to make that decision and actually press that
10 button.

11 So again, when we're talking about something
12 very, very complicated, right, our reaction time based
13 on somebody else's action, it just gets lengthened out.
14 And so again, we're trying to use whatever we can to our
15 advantage to make those decisions.

16 Q Okay. Officer Reagan has actually talked
17 about a training exercise in which maybe with -- I
18 think it's called soft shot is what you used to call
19 it, like less lethal -- I mean, kind of styrofoam
20 rounds with the guns, that if you're pointing it at
21 somebody --

22 A Yes. We use simunition rounds.

23 Q Can you explain that drill a little bit to
24 us?

25 A Yeah. What we do, and I teach this in a lot

1 of community academies just as a demonstration.

2 Q What is a community academy?

3 A That's when we have community members come
4 to the training division, that we actually give them
5 some training. We show -- we do a lot of
6 demonstrations for them.

7 They get to come out. They get to, you know,
8 fire some of our weapons. We get to try to teach them,
9 you know, some of the principals we work on as to how we
10 train, you know, how do we, how do we keep ourselves
11 safe, you know, how complicated is the job of a police
12 officer. We, we have them come out. One of the
13 demonstrations we typically do is an action-reaction
14 demonstration.

15 What we'll do is we have simunition pistols.
16 It is the same as our standard pistols, but they only
17 fire either blanks or like plastic pellets that we can
18 train with. And so we can actually see where folks are
19 hitting, but, you know, not cause any injury during
20 training.

21 And so we're able to do a force-on-force type
22 scenario. Typically, we do it with blanks. Sometimes
23 we do it with the paint markings rounds. It's like a
24 glorified paintball gun.

25 The way we typically set it up is we'll have

1 like the demonstrator, usually myself, I'll have one
2 simunition pistol, and I'll have it down by my side
3 pointed directly at the ground, finger off the trigger.

4 We'll have one of our community academy
5 folks. They'll be on the other side. Usually we'll ask
6 for a volunteer.

7 What we do is we have them with a loaded
8 pistol, one of the simunition pistols, and we tell them,
9 okay, you can point the gun at me with your finger on
10 the trigger and you can be ready to pull that trigger as
11 soon as I move the gun up to try to shoot you.

12 Again, sometimes we set it up with blanks.
13 That way nobody is getting hit, you know, with actual
14 paint rounds or anything like that. But from a
15 standing, when I decide that I'm going to move my hand
16 up and pull the trigger, I will always get that shot off
17 first.

18 That person is waiting for me and they are --
19 all they are waiting for is for me to start to move my
20 hand. And because again, because of that time delay,
21 I've made the decision.

22 I don't have -- there's no reaction time for
23 me. I make the first move. They have at least a
24 quarter second to even process that I'm even starting to
25 move and then pull the trigger. And many times, I get

1 two to three shots off before they get one off.

2 Q Is that kind of the real-life demonstration
3 of that action-reaction principle?

4 A Yes. Absolutely.

5 Q Okay. So in this instance, as I described,
6 Officer Reagan said that he observed Mr. Peeples with
7 his hand in his pocket.

8 A Yes.

9 Q What is concerning about that, in general,
10 for a police officer in this situation and how does
11 that work into this action-reaction principle?

12 A You know, obviously, somebody's hand in
13 their pocket, you can't see what's in their hands. We
14 train. The thing that people hurt you with are
15 typically their hands.

16 You know, if somebody is within two or three
17 feet of you, they might kick you. But, in general, even
18 at that range and then all of the way out, because of,
19 you know, weapons, potential for weapons, a person is
20 able to hurt you, but they typically have to use their
21 hands to do that.

22 If you can see their hands, they typically
23 can't -- you know, and they are empty, they can't shoot
24 a gun. They can't pull a knife and stab you. But
25 without seeing those hands, and then again, you know, we

1 look at the totality of circumstances.

2 What are all of the other things going on?
3 Just because I'm walking down the street doesn't mean
4 that everybody with their hands in their pockets has a
5 gun in their pocket -- you know, in their hand.

6 But, you know, a person who's just committed
7 a robbery, a bank robbery, with the -- you know, showing
8 that intent to commit -- to use force to commit that
9 robbery, it's more reasonable for an officer to think
10 there's probably something in those hands that could
11 potentially hurt me.

12 Q And so does an officer necessarily have to
13 wait in that circumstance that I described before --
14 you know, Officer Reagan is giving commands, keep your
15 hands up, he's not keeping his hands up, his hands are
16 in his pockets, does an officer, even under your policy
17 necessarily have to wait before whatever is produced
18 out of that pocket to use force?

19 A No.

20 Q Officer Habkirk, for example, had said as
21 soon as the command was given and Mr. Peeples put his
22 hand in his pocket, and Officer Habkirk said he saw a
23 bulge in the pocket, Officer Habkirk said that had he
24 had a shot, he would have taken it, would that have
25 been consistent with Bureau policy?

1 A Yes.

2 Q And why, why -- again, you touched on it,
3 but why doesn't the officer have to wait until whatever
4 comes out of the pocket comes out?

5 A Sure. Right.

6 If we wait until what comes out of the
7 pocket, right again, that type -- that -- the amount of
8 time that that takes has been measured down to as low as
9 .09 seconds for a person to produce something out and
10 actually fire a shot. They've done this with real guns.

11 In the time -- that's less than one-tenth of
12 a second. At 35 yards, which is 100 feet, a bullet only
13 takes one-tenth of a second for it to travel that far at
14 a thousand feet per second.

15 So before the officer can even realize that
16 this is happening, the next thing they are going to see
17 is the flash of the muzzle if that person decides to
18 shoot, and the bullet is going to be there before they
19 even realize -- before their brain can tell them to do
20 the next step. That's just the way -- that's just the
21 timing of the matter.

22 MR. DAVIDSON: We're at 1:00. We probably
23 have quite a bit to still go over. Let's take our
24 lunch break.

25 (Luncheon recess.)

1 A F T E R N O O N S E S S I O N

2 BY MR. DAVIDSON:

3 Q All right. Back from our lunch break.

4 Officer Howery, you are still under oath
5 obviously. So just to kind of pick up where we left
6 off. Let's talk about the Bureau's policy and training
7 specifically on the use of deadly force.

8 What is the Portland Police Bureau's formal
9 written policy on officer use of deadly force?

10 A The policy says a member may use deadly
11 force to protect themselves from what they reasonably
12 believe to be an immediate threat of death or serious
13 physical injury.

14 Q And I would assume that having perceived to
15 be a firearm pointed at you in the scenario we
16 described would qualify under that policy?

17 A Yes.

18 Q And the officers are trained with that
19 policy in mind; correct?

20 A Yes.

21 Q Okay. We've had some questions and some
22 conversation with prior witnesses about when officers
23 are presented with that scenario, confronted with that
24 scenario, how are they trained to respond with their
25 firearms.

1 Like, for example, where are they taught to
2 aim and what is their ultimate objective in the use of
3 deadly force?

4 A Okay. The use of deadly force, the
5 objective is to stop the threat. So it's authorized to
6 use deadly force if the threat exists. To make that
7 threat go away or to make that threat stop, they are
8 authorized to use deadly force.

9 That can come in a number of ways. In this
10 case with a firearm. Then point of aim, what we teach
11 is the center of available mass. Because to use deadly
12 force in the form of a firearm to stop a threat, to stop
13 that threat, a hit is necessary. You have to be able to
14 hit that target. Otherwise, there's no reason to use
15 that deadly force. And so -- or that, that tool.

16 So to hit, we teach center of available mass
17 because that's the best chance of creating a hit on that
18 target.

19 And so if it's an entire person, it would be
20 the center of that person. If it's a part of that
21 person, we would teach that -- we would teach the
22 officer to aim for the center of what you can actually
23 see or what you actually can hit on that person to stop
24 that. That person is a threat.

25 Q Are officers specifically trained to kill?

1 A No. Again, the whole idea of using deadly
2 force to stop that threat of death or serious physical
3 injury.

4 Q Okay. Why not, for example, in a case where
5 an officer is confronted with a weapon in a hand, why
6 not just shoot at the weapon or the hand to try to end
7 the confrontation in that fashion?

8 A The hand is a very small target. If you
9 start thinking my hand is about four or five inches in
10 diameter if it's not fully opened, and then, you know,
11 as range increases, the likelihood of creating a hit on
12 that greatly decreases.

13 That, coupled with the fact that hands move
14 very quickly, very easily, and shooting a moving target
15 the size of a hand at any amount of distance is nearly
16 impossible. To aim for that type of moving target and
17 actually score a hit would be almost luck in most cases
18 at any distance.

19 Q And, I guess we understand this distance has
20 been variously described as 60 to 90 feet, I think is
21 kind of what we've heard.

22 A Okay.

23 Q And in that kind of distance would be very
24 difficult to do, what you just described?

25 A Oh, very, very difficult. You know, myself,

1 I have hundreds of hours of training with firearms.
2 I'm part of our Special Emergency Reaction Team. I
3 probably train more than most officers. And just being
4 able to hit a three or four-inch target at 20 to
5 30 yards reliably, every shot is very, very difficult.

6 Q What about less lethal options. We hear a
7 lot obviously about Tasers, which I think all of the
8 officers carry. There are potential less lethal
9 options.

10 Would those have been appropriate in this
11 scenario?

12 A No, I don't believe so.

13 You know, the officers are facing, facing a
14 threat which they believed to be a deadly threat at that
15 point. That, coupled with the actual distance, a Taser
16 is not even a viable option.

17 The maximum distance that a Taser can
18 possibly travel with the cartridges we carry are
19 25 feet, plus arm's length, because again, if I'm
20 25 feet away from somebody and I can reach out my arm's
21 length.

22 But, one, the Taser probe is -- just won't
23 even go that far. Two, you know, there's a likelihood
24 that the Taser fails as well. And when confronted with,
25 you know, the belief -- in the officer's belief that

1 they are faced with, you know, a threat of death or
2 serious physical injury, the tool that we would suggest
3 they use is, you know, they would confront deadly -- a
4 deadly threat with deadly force.

5 Q Okay. I want to turn now to the number of
6 shots that were fired. It's our understanding from the
7 evidence that six shots were fired.

8 A Okay.

9 Q And I believe Officer Reagan's testimony was
10 he fired them just one rapidly right after another.

11 A Okay.

12 Q Does that number seem excessive to you?

13 A No.

14 Q And I mean, in your experience, how long
15 would it take to fire that many shots?

16 A I believe that amount -- that number of
17 shots could be fired in less than one and a half
18 seconds. A typical cadence for a rapid fire would be
19 about one shot per .25 seconds per quarter second.

20 And if you start at zero being the first
21 shot, at .25, it would be two shots. At .5, it will be
22 three shots. At .75, it would be four shots. One
23 second would be five shots. And one and a quarter
24 seconds would be six shots.

25 That's an average cadence for rapid fire.

1 So, yeah, those shots would be fired within a matter of
2 a second and a half.

3 Q And Officer Reagan testified that as soon as
4 he saw Mr. Peeples going down, he stopped firing.

5 A Yes.

6 Q Is that what you would expect out of your
7 officers?

8 A Yes. We train our officers that they are
9 constantly assessing the situation. And so he's using
10 deadly force. He's firing his weapon to stop a deadly
11 threat. But as he's observing, once that threat is no
12 longer there, he would stop firing at that point.

13 Q Okay. Let's turn now and talk a little bit
14 about what happened after the shots were fired.

15 How do you train officers to deal with the
16 situation like this where they potentially think they
17 have an armed suspect who goes down as a result of
18 officer use of force?

19 Should they rush up and begin, I guess taking
20 them into custody, things of that nature, or how do you
21 train them to respond?

22 A We don't train officers to just immediately
23 rush up on a subject they just used deadly force
24 against. You know, they've just been in a hyper
25 situation where they believe their life was in danger.

1 They felt that immediate threat of death or
2 serious physical injury. Um, we want to make sure that
3 the officers are continuing to think through their
4 problem that they have and the situation.

5 We try to slow them down a little bit. You
6 know, there's a lot of things that start going through
7 their mind. I need to get on the radio. I need to
8 offer aid. I need to get other -- you know, I need to
9 get help, whatever there is.

10 We want people -- we want officers to just
11 stop for just a second and assess their situation. Am I
12 injured? Do I need medical attention? Do I need to
13 take care of myself? Is my weapon still in -- maybe
14 I've just fired my weapon. Is it still functioning?

15 The suspect, what's the condition there? And
16 they want -- we want them to assess that. Is the person
17 down or are they still fighting? Are they running to
18 cover to try to continue the fight? What -- what's the
19 situation now? Can I give commands to that person and
20 then get on the radio and start calling for resources to
21 help them?

22 A lot of cases, you know, especially with
23 distance, they don't know the situation fully. They
24 still can't see everything that's going on. The person
25 may be down. They may be on top of a gun. They, they

1 may still be a threat.

2 So we want officers to slow down. We still
3 want to get people help that we just, you know, may have
4 injured, but we want to do that in a safe manner because
5 again, if, if officers rush in and they get themselves
6 hurt, they can't offer aid to anybody else. Now,
7 they're drawing more resources to them as well.

8 Q Okay. So in this instance they formed what
9 is called a custody team or what they referred to as a
10 custody team.

11 A Correct.

12 Q Can you tell us about that training there
13 and how that functioned?

14 A Yeah.

15 Typically, we would have other officers
16 arrive. It would be more than, than the officers that
17 were immediately on scene because a lot of times there's
18 not very many of them.

19 Sometimes it's one officer. And that's not
20 enough to safely provide cover and take the person into
21 custody by themselves, even with two.

22 So we typically have at least three officers
23 in a custody team. One to provide lethal cover because,
24 you know, this person just presented as a deadly threat.
25 They still may continue to be a threat. So we have

1 somebody cover them. And then we typically have at
2 least two people that would go hands on and help put
3 handcuffs on that person.

4 Q Okay. And in this instance they used the
5 shield.

6 A Yes.

7 Q Can you tell us a little bit about those?

8 A We brought in shield training several years
9 ago when we started getting ballistics shields so we
10 could actually move up on people that in some cases had
11 been shot by us, and we could offer them aid in a safe
12 manner to be able to approach.

13 Our typical shield team consists of three
14 people minimum and not typically a lot more than that,
15 because you're trying to fit people behind a shield that
16 can be carried. So too many people just creates -- you
17 know, the shields aren't really protecting anybody. So
18 three people is about what we recommend.

19 There's a shield carrier, and their only job
20 is to hold the shield in front of them and everybody
21 else behind them. We have one person with their gun out
22 as lethal cover to approach, if that's necessary, you
23 know.

24 In the case of, you know, a deadly force
25 incident that just happened, we would, we would consider

1 that pretty standard to have a lethal cover person.

2 And then we would have a third person behind
3 them that's able to go hands-on or able to go to a
4 Taser, for instance, to provide less lethal-type options
5 if we needed to use that type of force as well.

6 But typically, that shield team is going to
7 move up if they feel that they have a good chance of
8 effecting custody in a safe manner and using that shield
9 to provide them a little extra protection.

10 Q What about medical attention provided
11 directly by the officers and/or -- I guess how do you
12 handle AMR and staging medical while the scene is
13 secured?

14 A Medical will usually stage in a place where
15 that if gunfire erupts again, they are out of the way
16 and they are not in -- you know, down range of bullets
17 potentially flying.

18 That's -- medical getting called on a
19 situation like this happens very, very quickly. That's
20 one of the priorities on the radio call is to get
21 medical there.

22 Officers are all trained in, you know, with
23 tourniquets and wound packing and that sort of thing.
24 They have that capability with them in the cars.

25 But the first priority is to make sure that

1 the scene is safe. And we want to make sure that we can
2 approach correctly, you know, approach safely, get that
3 person into custody so we can give medical aid but in a
4 safe manner where the person is not a threat anymore.

5 Q Okay. I want to go back a little bit and
6 just talk a little bit more about Officer Reagan's
7 description of Mr. Peebles basically pulling something
8 black -- putting something black in his hand and going
9 into a shooter stance.

10 A Okay.

11 Q What is striking about that to you from a
12 training perspective?

13 A What's striking to me about that is, one,
14 the distance at 20 yards, 20 to 30 yards, that's far
15 enough that there's no way you'd be able to actually
16 tell exactly what was in someone's hand, a dark object.

17 And so the stance becomes very important in
18 my mind, because taking the stance that you described
19 earlier is only used for one thing and it's really for
20 shooting a gun. I can't think of any other -- I mean,
21 it's very specific to that one action.

22 There's -- you know, if you see somebody do
23 that action and you see something in their hands,
24 automatically the mind goes to that's a gun and they are
25 going to shoot a gun.

1 If, for instance, I was walking into a church
2 or I was walking into a mall, and all of a sudden with
3 my -- just my fingers, empty hands, I took that stance
4 suddenly, people are going to jump back, right.

5 With all that's going on in this country
6 right now, right, in some of the scary situations that
7 have happened, if you take a stance like that, people
8 understand what that means.

9 And whether they see a gun or not, in some
10 people's minds, their mind may actually fill in the
11 blanks and put a gun in your hand.

12 And as you take that stance, you know, both
13 arms out, kind of just, you know, a targeting-type
14 stance, that's not something like, oh, here's my ID,
15 right, I'd like to swipe my credit card. I'm answering
16 the phone or anything else.

17 That's a very specific stance, and people are
18 going to understand it. And they are going to -- you
19 know, the reaction is going to be, wow, that person has
20 a gun and the reality is they may not.

21 Q Mr. Howery, let me ask you this.

22 As an officer in the training division and
23 instructor on defensive tactics, in your opinion, was
24 Officer Reagan's use of deadly force in the scenario
25 consistent with Bureau policy or inconsistent?

1 A It was consistent.

2 Q Okay. And the fact that later on it was
3 determined that the black object was not, in fact, a
4 gun, but a wallet, does that change your opinion about
5 that?

6 A No, it does not.

7 MR. DAVIDSON: Okay. All right.

8 Questions from the Grand Jury?

9 A GRAND JUROR: Speaking as a layperson, it
10 sounds like the ideal situation that could have
11 happened here was that before the shots were fired,
12 everybody was behind the shield and they approached the
13 guy together as a group.

14 Is there any sense that the training says
15 don't go in alone? I mean, he wasn't alone. He was --
16 I'm just saying with the situational awareness that you
17 guys had, he was walking.

18 Is there any suggestion that somebody should
19 have taken charge and coordinated a more, you know,
20 large scale approach to this guy rather than go with one
21 car, you know, intercepting him with two guys when you
22 had all, all those resources coming there anyway?

23 THE WITNESS: Um, you know, a lot of the
24 times you look at the totality, right, and you are
25 like, okay, we're looking for a suspect. They match

1 this description. Sometimes you see the person.

2 I can speak, you know, to this from a patrol
3 experience. Sometimes you find the suspect or you find
4 somebody that matches the description and you have to
5 deal with them right then.

6 A GRAND JUROR: Right.

7 THE WITNESS: You know, 30 yards, it's a
8 long pistol shot for sure, but it's not long to see
9 somebody. It's certainly not very far for them to be
10 able to see the police, recognize the police.

11 And now, if they run and go into the blocks
12 and we turn into a block search and they are able to
13 hide and everything else, that could actually create a
14 situation where it's more dangerous for both the public
15 and the police to try to, you know, catch this person.

16 The fact that the person is there now and
17 you're challenging them, you're giving them their
18 warnings and everything else like that and trying to
19 stop them from doing what they were doing and take them
20 into custody, that's part of their job. That would be
21 the expectation.

22 And so they did use -- you know, we can
23 always say, oh, they could have done this and they could
24 have done this and they could have done this, but
25 getting resources into place like that on a hot call, it

1 takes time.

2 Whether that takes a minute and a half, how
3 far can somebody run in a minute and a half? If you can
4 stop somebody, get their attention on you and actually
5 get them to maybe pause and now they are focused on you,
6 all right, now we're working through the problem, how do
7 we get them into custody?

8 All right. But, yeah -- you know, I try to
9 stay away from, well, we should have always tried to,
10 you know, completely surround the person. That causes
11 other problems. And I just think many times, it's just
12 not feasible. We just don't have enough time, you know,
13 or we can't get enough resources in the amount of time
14 that we would like to.

15 Does that answer your question?

16 A GRAND JUROR: Yeah, it does.

17 I mean -- but again, in this specific
18 situation with the GPS, the 2.5 miles an hour, he's on
19 foot, et cetera, et cetera, et cetera.

20 THE WITNESS: Right.

21 A GRAND JUROR: Do you still -- that still
22 seems like a legitimate response -- scenario for the
23 response.

24 THE WITNESS: Oh, yeah. Yeah.

25 MR. DAVIDSON: So, for example, if he had

1 not -- he could have run into a house, potentially
2 barricaded himself into a --

3 THE WITNESS: Yeah. Any number of things
4 could have happened. Again, you know, we never know --
5 we can't know the future for us.

6 A GRAND JUROR: Right.

7 THE WITNESS: But, yeah, you know, it's one
8 of those things. Hey, we found the guy that we believe
9 is the guy, we got to do something now. And so, you
10 know, getting out of the car and actually confronting
11 him at that point is probably the, the most realistic
12 thing that would happen --

13 A GRAND JUROR: Right.

14 THE WITNESS: -- and should happen.

15 A GRAND JUROR: So in escalating the
16 circumstance, Mr. Peeples made the decision after
17 receiving instructions to do something other than what
18 he was told to do.

19 THE WITNESS: Correct.

20 A GRAND JUROR: So I guess I'm not sure I'm
21 asking a question, but making a statement.

22 He escalated the circumstance by doing
23 something other than his instruction, so the officer had
24 to respond to that escalation.

25 THE WITNESS: Correct.

1 A GRAND JUROR: Do you think that the
2 officers would have come on this scene with a different
3 attitude if it hadn't been a bank robbery or a person
4 crime, if there was just like -- you know, if it had
5 been a different type of call, would their response
6 have been less?

7 Is that -- does the fact that it's a pretty
8 serious crime heighten their response, I guess is what
9 I'm asking?

10 THE WITNESS: Yes. Absolutely.

11 When you look at, you know, all of the models
12 of reasonableness, when we talk about what's reasonable
13 for force, right, the Supreme Court laid out some things
14 that officers are, you know, able to use as guidelines
15 as, hey, what helps us understand what's reasonable for
16 a force response.

17 And those three things are the threat, an
18 immediate threat to the officers, other people or the
19 persons, officers involved. The severity of the crime
20 was one of the things that the Supreme Court laid out,
21 and then the person's -- their resistance or attempts to
22 flee.

23 And so in this case, right, the severity of
24 the crime certainly was forefront in their minds, I
25 would think as far as their response and how they

1 would -- you know, to put it in their mindset, it was
2 like, okay, this is a pretty serious deal and probably
3 are facing a heightened risk.

4 A GRAND JUROR: I guess for me, there's just
5 sort of a breakdown between, wow, here is a bank robber
6 and here is this guy just moseying down the street. I
7 mean, sauntering, 2.5 miles an hour is slow. I mean,
8 he's not even like running from the crime.

9 MR. DAVIDSON: Let's go off the record for a
10 second.

11 (Off-the-record conversation.)

12 A GRAND JUROR: So between a, you know, the
13 heightened response of we're going to catch a bank
14 robber and the reality of some guy sauntering down the
15 road, wouldn't his actions decrease their sense of
16 threat or no? I don't know.

17 THE WITNESS: Not always.

18 The reason I want to touch on that is this.
19 We've had bank robberies where the person walks into the
20 bank and they do the bank robbery and they walk out and
21 try to play it cool because they don't know that they've
22 been given a tracker.

23 A GRAND JUROR: Right.

24 THE WITNESS: Right. So they think the
25 police are just going to drive right by them and they

1 are just going to fit in.

2 Because the sure sign, the sure suspicious
3 thing is the guy running out of the bank at full speed
4 with the bag of money or his pockets bulging and money
5 falling out, right.

6 And so we've had people that walked out of
7 the bank nice and calm and got on the bus and had a gun
8 and were driving -- you know, they are driving down the
9 road on the bus when they were stopped and confronted.

10 And we had to, you know -- we were able to
11 safely take those people into custody. And sometimes
12 they are armed with guns. But again, so it doesn't --
13 you know --

14 A GRAND JUROR: I guess you can't always
15 apply logic.

16 THE WITNESS: Right. Exactly.

17 And then again, sometimes -- that's part of
18 their strategy to get away with the bank robbery
19 sometimes is that, you know, they are going to walk out
20 just as cool as they can to not draw suspicion.

21 A GRAND JUROR: Okay.

22 THE WITNESS: And we know that as well. So
23 we're still going to be kind of our heightened
24 awareness, if you will.

25 A GRAND JUROR: Sure. Okay.

1 MR. DAVIDSON: More questions for Officer
2 Howery?

3 A GRAND JUROR: Just for my own edification,
4 do you teach deescalation in the training bureau?

5 THE WITNESS: Yes, very much so.

6 A GRAND JUROR: I mean, I would think that
7 would come in especially with, you know, drug crimes.

8 MR. DAVIDSON: Can you actually -- that's an
9 excellent question.

10 On that point can you talk a little bit about
11 the CIT, the ECIT programs?

12 THE WITNESS: Yeah.

13 So every, every officer in the Bureau is
14 trained in CIT, Crisis Intervention Training. We also
15 have another program called Enhanced Crisis Intervention
16 Training. And those officers go through more training
17 to deal with people, persons in crisis and how that we
18 can, you know, maybe safely take people into custody.

19 Deescalation is, you know -- we -- it's an
20 attempt to resolve a confrontation using less force or
21 no force, if possible.

22 A GRAND JUROR: Right.

23 THE WITNESS: You know, you look at the
24 things that the officers did and you could look at
25 certain techniques -- certain tactics that they are

1 using that lend themselves, if the person is willing,
2 to deescalate -- to effect deescalation, right. They
3 stop 30 yards away, right. They get out of their cars.
4 They try to get the guy to comply.

5 Now, yeah, they drew their guns and they have
6 their guns out or trained on the person, but they didn't
7 jump -- they didn't drive right up to the guy, jump out
8 of the car and just shoot him, right. They are trying,
9 they are trying to get him to comply.

10 Well, those aren't all attempts at
11 deescalation, right. And so we teach that, you know,
12 hey, if you can, we should try to use less force.

13 The "if you can" part, a lot of times comes
14 into time. How much time do we have when a person
15 presents a threat? How big of a threat do we think that
16 person is to begin with, and so -- you know, we can't
17 get too close maybe. But again, we may not have much
18 time to react.

19 If you don't have time, then sometimes you
20 have to go straight to using force instead of
21 deescalation.

22 Does that make sense?

23 A GRAND JUROR: Right. That makes a lot of
24 sense.

25 THE WITNESS: Okay.

1 A GRAND JUROR: The contact statement of,
2 "Hey, buddy, I need to see your hands," seems a little
3 more congenial than saying, "Hey, you, get your hands
4 up."

5 THE WITNESS: Yeah.

6 And, you know, that's part of, you know,
7 inflection, the inflection in your voice. Sometimes the
8 words that you choose, you know. Saying things in a
9 low-key manner can definitely help for deescalation.

10 And again, what, what we train our officers
11 is, hey, we expect you to try these things when you have
12 time when you can safely, but keep in mind also that
13 deescalation is a two-way street.

14 A GRAND JUROR: Right.

15 THE WITNESS: And that person actually has
16 to go along -- they have to deescalate. We can't --
17 you can't force it on them.

18 A GRAND JUROR: Good.

19 MR. DAVIDSON: Any other questions for
20 Officer Howery?

21 All right. Sounds like we are all wrapped up
22 with Officer Howery. All right.

23 THE GRAND JURY: Thank you.

24 THE WITNESS: Thank you.

25 (Conclusion of proceedings.)

CERTIFICATE

--o0o--

I certify, by signing below, that the foregoing is a true and correct transcript of the record of proceedings in the above-entitled matter. A transcript without an original signature, a conformed signature, or digitally signed is not certified.

This the 19th day of January, 2018.

/s/ Karen M. Eichhorn

KAREN M. EICHHORN, CSR, CRR

My Certificate Expires: 6-30-18