

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

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5
6 **GRAND JURY No. 1 PROCEEDINGS**

7 **Case No. 28**

8 Conducted by:

9 Don Rees, Chief Deputy District Attorney

10 Todd Jackson, Deputy District Attorney

11
12 - - -

13 May 4, 2018

14 - - -

15 DA Case No. 2380019

16 Re: PPB Case No. 18-114856

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19
20
21 Katie Bradford, CSR 90-0148
22 Court Reporter
23 Portland, Oregon
24 (503) 267-5112

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

GENERAL INDEXVOLUME 1

	<u>Page No.</u>
1	
2	
3	
4	3
5	3
6	3
7	15
8	29
9	35
10	46
11	84
12	131
13	141
14	151
15	158

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16
17
18
19
20
21
22
23
24
25

1 Death Investigation

2 PPB Case No. 18-114856

3 Deceased: John Andrew Elifritz

4 Incident Date: April 7, 2018

5 Location: 526 SE Grand Avenue, Portland, Oregon

6 * * *

7 (Volume 1, Friday, May 4, 2018, 9:07 a.m.)

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

9 (Whereupon, the following proceedings were
10 held before Grand Jury No. 1:)

11 MR. REES: Good morning. This is Chief
12 Deputy District Attorney Don Rees and Deputy District
13 Attorney Todd Jackson appearing before Grand Jury
14 No. 1. This is Grand Jury Case No. 28 and this is DA
15 Case No. 2380019, a death investigation following the
16 use of firearms by police which caused the death of
17 Mr. John Andrew Elifritz on April 7th, 2018, in the
18 city of Portland. And the first witness to be called
19 before the grand jury is Sergeant Gary Britt.

20 **GARY BRITT**

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

23 **EXAMINATION**

24 BY MR. REES:

25 Q Good morning. Sergeant Britt, if you would,

1 for the record please state and spell your name.

2 A Yeah. It's Gary Britt, B-r-i-t-t.

3 Q And how are you employed?

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

6 Q How long have you been a police officer?

7 A For ten years.

8 Q I want to ask you about a call you responded
9 to on April the 7th, 2018, at about 2:20 in the
10 afternoon.

11 A Mm-hmm.

12 Q Do you recall that --

13 A I do.

14 Q -- that call?

15 What was the nature of the call you
16 responded to?

17 A The nature of the call was there was a male
18 that called in saying that his family was murdered at
19 a duplex at 79 and Holgate.

20 Q All right. And did you go to that location?

21 A I did not make it to the location.

22 Q Or the -- or the --

23 A But --

24 Q -- but the general neighborhood --

25 A Yeah.

1 Q -- or area?

2 A Yes.

3 Q All right. And so where -- where did
4 you go?

5 A I was actually in route to the location. I
6 was going westbound on Holgate. We had another caller
7 call in saying that a male was talking about his
8 family being murdered at 82 and Holgate and he was
9 walking eastbound, described him as a white male
10 wearing a black shirt and jeans.

11 And so when I came into the area, observed a
12 male later identified as Mr. Elifritz walking
13 eastbound on Holgate talking on a cell phone. He was
14 just walking, minding his own business.

15 So, at that point, I turned around and
16 attempted to contact Mr. Elifritz, you know, asked him
17 if he'd talk to me real quick. He told me he didn't
18 want to talk to me and he continued to walk and told
19 me to leave him alone.

20 At that point, officers were arriving to 79
21 and Holgate to check the -- the duplex in the area to
22 see if we actually had a crime committed, you know, a
23 murder or anything. Two other officers arrived at my
24 location.

25 At this point, we were at about 86th and

1 Holgate and pulled in front of Mr. Elifritz and got
2 out and tried to contact him as well.

3 Mr. Elifritz at that point ran briefly
4 southbound on 86th from Holgate and turned around and
5 quickly displayed a knife and just held it to his
6 throat real quick and then backed up from us.

7 Q When you had contact with him --

8 A Mm-hmm.

9 Q -- were you in uniform and a marked
10 patrol car?

11 A I was and so were the other officers.

12 Q And did you communicate verbally to him,
13 "Hey, can I talk to you for a moment," or something
14 like that?

15 A Yeah.

16 Q What did you say?

17 A It was -- it was exactly like that. You
18 know, I pulled up kind of just behind him, you know,
19 and just -- not aggressive or anything, just like,
20 "Hey, man, can I talk to you real quick?"

21 And, you know, he's like, "No. Leave me
22 alone. I don't want to talk to you." I was like,
23 "Hey, though, can you stop and talk to me real quick?"
24 It was just kind of that conversation, just trying to
25 figure out what's going on.

1 Q All right.

2 A So --

3 Q And were there other police officers who had
4 also responded to this call?

5 A Yes.

6 Q And what -- did you learn what they were
7 doing? Because as the sergeant you were the
8 supervisor of the scene, right?

9 A Yes. There was actually another sergeant as
10 well down on 79 and Holgate with the officers that
11 were -- they located the duplex and they were actually
12 clearing the duplex and making sure that there was no
13 signs of a crime or any homicide that occurred or
14 anything. And they didn't locate any evidence at the
15 duplex or even in the general area of 79 and Holgate.

16 Q And was that a duplex that was under some
17 kind of construction?

18 A Yeah, like a renovation.

19 Q And did police at the scene talk to the
20 contractor or the builder?

21 A They did.

22 Q And what information did they get from him?

23 A They described a male matching
24 Mr. Elifritz's description acting kind of odd out
25 front for a little bit and then he left.

1 Q So sign of a homicide?

2 A No, no sign.

3 Q All right. And so what else happened then
4 in -- in the contacts with Mr. Elifritz and the police
5 who had responded?

6 A So myself and the other officers that were
7 at 86th and Holgate, you know, we tried to engage in
8 dialogue with Mr. Elifritz, just asking him to calm
9 down, you know, see what's -- what's happening.

10 Every time he -- we would take a step
11 forward and try to talk to him, he'd take like two
12 steps back and he'd tell us to leave him alone. I
13 mean, at this point the knife wasn't at his throat
14 anymore. It was kind of half clasped in his hand.

15 You know, we asked him if he wanted to hurt
16 himself. He said no. We asked him if he wanted to
17 hurt anybody else. He said no. He just wanted us to
18 leave him alone.

19 You know, so based on, you know, the
20 information that we had down at 79 and Holgate where
21 there was no crime that we could find, we had real no
22 legal reason to keep pushing this incident with
23 Mr. Elifritz. That was when, you know, the decision
24 was made to disengage to see if we could try and
25 deescalate him. You know, maybe he'll calm down on

1 his own since it seemed like our initial contact with
2 him was -- was what, you know, agitated him.

3 Q And to make an arrest a police officer needs
4 probable cause --

5 A Yes.

6 Q -- to believe that a crime's been committed,
7 right?

8 A That is correct.

9 Q And -- and so did you believe you had
10 probable cause that he had committed any crimes at
11 that point?

12 A No.

13 Q All right. And then police officers have
14 authority to place someone on a civil hold for a
15 mental status?

16 A Yes.

17 Q Did you believe that at that point you had
18 the legal authority to -- to do that and to take him
19 into a involuntary mental health hold?

20 A Yeah. At that -- for that we need probable
21 cause that he's a danger to himself or others. And at
22 that time I didn't believe that we had probable cause.
23 I mean, his actions and stuff were -- it seemed like
24 he wanted us just to leave him alone. And also we
25 can't precipitate a force event.

1 So you look at it this way, like if we kept
2 pushing the issue with Mr. Elifritz with no probable
3 cause of a crime, you know, we really didn't have a
4 whole lot for a hold and we end up using force on him,
5 you know, would that be legally justified? No. So --

6 Q All right. Was -- did a police officer
7 document for purposes of the behavioral health unit
8 this encounter with Mr. Elifritz?

9 A Yes. So, you know, this tactic of
10 disengagement is something we use. Often in the city
11 is -- you know, we'll contact people that are really,
12 you know, high, you know, agitated or whatnot.

13 And so in order not to, you know, force the
14 issue we use disengagement as a deescalation where we
15 can refer to our BHU unit, Behavioral Health Unit, in
16 an attempt to, you know, gather intel for them.

17 The Behavioral Health Unit will recontact
18 them at a future date when hopefully they've calmed
19 down and they're less agitated, you know, to see if we
20 can get them some kind of help, or, you know --

21 Q And so in the report you had identified him
22 by name and documented this encounter for the
23 Behavioral Health Unit; is that correct?

24 A Yes. An officer did (indiscernible) report.
25 And we got that name from dispatch. While we were

1 trying to engage him in a dialogue they actually ran
2 the phone number that was called by the initial male
3 caller calling in the homicide and it came back to
4 Mr. Elifritz, which we IDed by a photo in one of
5 our cars.

6 Q Okay. And then, finally, after you made the
7 decision to let him just walk away --

8 A Mm-hmm.

9 Q -- did you receive any more information
10 about him from a -- a person who -- who came up to the
11 police in Lents Park afterwards?

12 A Yes, we did. There was a male who came
13 up -- 'cause we stayed in the area for a while just
14 to -- to -- in case we get more and more calls on him.
15 An individual did pull up to us and say that he tried
16 to get into his car, described Mr. Elifritz.

17 After he gave the description he -- he began
18 to drive off and we had to ask him to stop, asked him
19 if, you know, he wanted to press charges, you know,
20 for any potential crimes. He said, no, he just wanted
21 to relay the information to us.

22 Q And was that information relayed out either
23 by -- by radio or some other report to other
24 officers --

25 A Yes.

1 Q -- in the area?

2 A Yes.

3 MR. REES: Okay. Do you have any questions?

4 Do members of the grand jury have any
5 questions for Sergeant Britt?

6 A GRAND JUROR: Yes. So was he walking down
7 the -- this knife, how big was it?

8 THE WITNESS: It was a folding knife.

9 A GRAND JUROR: A folding knife?

10 THE WITNESS: Yeah.

11 A GRAND JUROR: Did he just pull it out when
12 the police showed up or did he have it out --

13 THE WITNESS: Oh, well, the --

14 A GRAND JUROR: -- before that or --

15 THE WITNESS: No. When -- when -- when I
16 initially saw him he was just walking up the street
17 talking on the cell phone.

18 A GRAND JUROR: Mm-hmm.

19 THE WITNESS: I mean, there's people out and
20 about. He was just acting like somebody talking on a
21 cell phone.

22 The only reason why I went to contact him
23 was 'cause he matched the description that one of the
24 callers gave. And as soon as we started pressing the
25 issue of trying to get him to stop, and, you know,

1 talk to him, you know, that's when the knife came out.

2 But once he got distance from us, you know,
3 it went from his throat down. He, you know, kind of
4 flipped it, you know, back in type of this. So it
5 kind of deescalated once he got more distance from us.

6 A GRAND JUROR: Wouldn't that cause a
7 concern that not only did this person say that --
8 described him as trying to get in his car and is
9 walking around with a knife, isn't he a danger? Like,
10 if someone is walking down the street with a weapon --

11 THE WITNESS: Well --

12 A GRAND JUROR: -- is that reason enough
13 to --

14 THE WITNESS: No. I gave -- like, we
15 need --

16 A GRAND JUROR: -- do more than let him go?

17 THE WITNESS: We need probable cause of a
18 crime and a victim, you know, to really pursue --

19 A GRAND JUROR: Right.

20 THE WITNESS: -- you know --

21 A GRAND JUROR: You have to wait until he
22 steals the car before you arrest him.

23 THE WITNESS: And, I mean, I don't -- I
24 don't make the laws. And there's individuals that
25 carry knives all the time in the city. I mean,

1 Southeast Portland, you know, folding knives or
2 whatnot.

3 A GRAND JUROR: But he put it up to his neck
4 like he was going to -- he would harm himself?

5 THE WITNESS: Yeah. If -- if we didn't --
6 you know, he did that -- the action was like he wanted
7 us to leave him alone and we were pressing the issue
8 that's when it came up, of trying to talk to him.

9 A GRAND JUROR: Did you get the name of the
10 person in Lents Park who --

11 THE WITNESS: No. He -- he drove off and
12 didn't want to give us -- you know, it was just he
13 wanted to relay the info, so --

14 MR. REES: All right. Did you have any
15 other questions?

16 A GRAND JUROR: Hmm-mm.

17 MR. REES: No. Okay. Hearing no other
18 questions from the grand jury, we'll excuse Sergeant
19 Britt.

20 Thank you for coming in.

21 THE WITNESS: Thank you.

22 MR. REES: And our next witness is Colleen
23 Vala.

24 (Pause in proceedings, 9:20 a.m.)

25

1 Remain standing and raise your right hand,
2 please.

3 THE WITNESS: Oh, sorry. Yes.

4 COLLEEN VALA

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

7 EXAMINATION

8 BY MR. REES:

9 Q Please be seated. And when you're ready if
10 you'd please state your first and last name and spell
11 your name.

12 A My name is Colleen Vala, C-o-l-l-e-e-n; last
13 name, Vala, V-a-l-a.

14 Q Ms. Vala, what's your occupation?

15 A I teach second grade.

16 Q How long have you been doing that?

17 A This is my 17th year.

18 Q Oh, 17 years. At what school?

19 A Lincoln Park Elementary. It's in the David
20 Douglas School District next to the high school.

21 Q All right. On April 7th, 2018, which I
22 believe was a Saturday --

23 A Mm-hmm.

24 Q -- were you the victim of a carjacking?

25 A Yes.

1 Q And did that happen at about 4:35 in the
2 afternoon?

3 A Yes.

4 Q Do you remember where that happened?

5 A It was at the corner of Southeast 72nd and
6 Foster.

7 Q And what -- what happened?

8 A I was at my home on Southeast 70th between
9 Foster and Schiller. And I was working with my dad.
10 I'm doing a large remodel project. So my dad and I
11 meet there on the weekends to work on my house. And
12 we had finished for the day and we were leaving. And
13 so I was in my car and my dad was actually behind me
14 in his truck.

15 And then I was going to go on to my
16 boyfriend's house for the weekend and he was going to
17 go on home. He lives just not very far from me, a few
18 blocks. And so I pulled up to the stoplight at
19 Southeast 72nd and Foster.

20 And I was sitting at the red light. And a
21 man was walking on Foster to the left of me. And he
22 was looking at me in my car, but it was pouring down
23 rain. And that intersection, people cross without the
24 light a lot of times there because you don't
25 necessarily know that I'm going to go through and it's

1 a different signal than the other cars. So I didn't
2 think anything of it.

3 But then as he got across the front of my
4 car he started waving at me. And -- and I was
5 watching him. And then he started coming toward the
6 car. And I remember looking and seeing that my
7 passenger side was unlocked. And so I went to try to
8 lock it and he was already in the car sitting in the
9 seat next to me.

10 And he just started yelling. And he was
11 saying, "They've already killed" -- and he -- he said
12 and -- what I thought was a name of a woman and it was
13 like a foreign-sounding name. And he was yelling,
14 "They've already killed this person."

15 And -- and I just started yelling, "Get out
16 of my car. Get out of my car. Get out of my car.
17 Get out of my car." And then he said, "I'll give you
18 the money." And he was shouting and -- and facing me
19 right here.

20 And I was trying to, like, not look at him.
21 And he was saying, "I'll give you the money. They're
22 going to kill people." And I was just saying, "Get
23 out of my car. Get out of my car." And then he said,
24 "You have to drive."

25 And I -- then I looked up and I saw the red

1 light and I started saying, "It's a red light. I
2 can't drive. It's a red light." And he was like,
3 "You've got to drive." And he was just yelling at me.
4 And then I -- I -- I -- he was shaking me because my
5 foot kept coming off of the brake.

6 And I kept saying, "It's a red light. It's
7 a red light." And then I looked at -- I looked across
8 the corner at Mercado. There's the food carts. And
9 there were three people standing there. And they were
10 looking at me and -- and I -- I -- so I locked my arms
11 and I just started honking and holding my hands.

12 And he was grabbing me. And I was looking
13 at them and I was thinking -- they were looking at me
14 like, "What is she doing?" and I was -- I don't know.
15 I just was, like, trying as hard as I could to just
16 keep the horn honking 'cause I didn't know what else
17 to do.

18 And then he was, like, saying to me, "Get
19 out of the car. Get out of the car." And he was,
20 like, pushing me. And I had my purse across my body
21 and I had the seatbelt on. And I was trying to keep
22 my foot on the brake and honk the horn.

23 And these people were watching me. And he
24 was yelling, "Get out of the car. Get out of the
25 car." And I was just frozen. I just started

1 screaming as loud as I could. And then he reached
2 across me and opened the door and tried to start
3 pushing me out, but I was tangled up and I couldn't
4 get out.

5 And then -- then I looked up and then my dad
6 was there and he was pulling me and saying, "Get out
7 of the car. Get out of the car." And I didn't know
8 how I got out of the car because then I was standing
9 outside of the car and I could see the back of my dad.
10 And I was thinking, "Get away from there. Go. Get
11 out of there." And so then --

12 Q And let me -- you're -- you're crying.
13 You're upset. Let me give you a tissue and get some
14 water. And just -- just (indiscernible) a moment.

15 A Okay.

16 Q And --

17 A Okay. Thank you.

18 Q Do you want to just have a second or --

19 A No. I -- no.

20 Q Okay.

21 A Just --

22 Q All right. Just --

23 A Thank you.

24 Q -- take a moment. And then -- and you're in
25 a safe space here.

1 A I know. Thank you.

2 Q So this was -- this was a terrifying
3 experience, it sounds like?

4 A It just didn't feel real.

5 Q What do you -- what did you think -- what do
6 you think was going to happen?

7 A Ah, I didn't know. And that's -- one of the
8 things I'm really struggling with now is knowing what
9 happened, I -- I -- I didn't feel like myself when it
10 was happening and I don't feel like myself now because
11 it happened.

12 And I'm -- and I just think about why didn't
13 I just get out of the car? Like, why did I stay in
14 the car? I don't understand. I would -- I mean,
15 anybody else told me that happened, I would be
16 thinking, "Why didn't you just get out of the car?"

17 And -- and I just -- I was just paralyzed.
18 I just couldn't move. And -- and I don't -- and I
19 just -- I keep thinking about that over and over
20 again, like why didn't I just get out of the car as
21 soon as he got in the car, why didn't I just get out
22 of the car and --

23 Q You said you were screaming?

24 A Mm-hmm.

25 Q You were honking the horn?

1 A Mm-hmm.

2 Q Were you crying then?

3 A No. And -- and that was the other thing.

4 Like, after I got out of the car I was sitting in the
5 grass on the side of the road and I just couldn't
6 breathe. I was just, like, gasping.

7 And there were strangers standing around me
8 the -- the -- the same people that I saw on the corner
9 at the intersection. And I just couldn't breathe.
10 And I remember saying to the -- to the woman, "I'm not
11 crying. Like, I'm not crying" and I just -- it was
12 just this surreal out-of-body experience.

13 Like, I -- I just wasn't myself. I -- I
14 didn't understand what had happened, why -- why I
15 wasn't crying. Like, I just couldn't breathe. And,
16 you know, she was like, "Try to breathe. Try to
17 breathe." And someone was telling me my -- "Your dad
18 is on the phone with 9-1-1," 'cause I didn't see
19 him then.

20 And I watched the car go across the
21 intersection. And I was facing the back of the car
22 and -- and I saw him try to pass someone on 72nd, but
23 then he couldn't. And then he just started driving
24 down 72nd.

25 Q Are you talking about your stolen car?

- 1 A My stolen car, yes.
- 2 Q Okay.
- 3 A So I watched him drive away.
- 4 Q All right.
- 5 A And then --
- 6 Q So I'm going to back you up a little bit --
- 7 A Okay.
- 8 Q -- 'cause we -- we kind of interrupted --
- 9 A Sorry. Yeah.
- 10 Q -- what was happening. That's okay.
- 11 A Okay.
- 12 Q That's okay. And it's hard, I think, to
- 13 imagine, not having gone through an experience like
- 14 this, then just how frightening it is. And do you
- 15 remember telling the police that you were frightened
- 16 for your life when this happened?
- 17 A I don't -- I don't remember that. And I
- 18 was -- I was terrified, but I -- I was more just like
- 19 paralyzed.
- 20 Q Now, you're --
- 21 A I was more terrified after.
- 22 Q Uh-huh.
- 23 A Thinking about what had happened.
- 24 Q Afterwards?
- 25 A And --

1 Q You're a -- you're a -- I think it's fair to
2 say you're a petite person, right?

3 A Yeah.

4 Q Very, very --

5 A I guess.

6 Q You're small -- well, you're small and thin.

7 And you're a --

8 A If you say so.

9 Q And you're an elementary schoolteacher?

10 A Mm-hmm.

11 Q Is this person larger or smaller than you?

12 A Much, much larger.

13 Q How -- how big did he seem?

14 A He seemed very large to me when I -- when he
15 was on the seat next to me. And even when he was
16 walking in front of me he had -- he had a clear poncho
17 on and a white T-shirt underneath it. So it made him
18 seem large. And then when he was next to me he felt
19 larger than, like, my boyfriend or my dad, just upper
20 body, big, round face, large.

21 Q And you say he was pushing you --

22 A He --

23 Q -- and saying, "Get out of the car." How
24 hard was he pushing?

25 A Enough to move me over; and, like, with --

1 with both hands he was -- he had both hands on me.

2 Q And then you saw your dad run up to the car?

3 A I didn't -- I didn't see my dad until the
4 door was open and my dad was standing in the open door
5 of the car.

6 Q And what happened then?

7 A So then as he was yelling, "Get out. Get
8 out of the car," I was -- I couldn't get out of the
9 car. I was tangled and I couldn't get out. And then
10 I just remember that I was out of the car.

11 I remember looking and seeing my dad. My
12 dad, I think, had his hands on me, too. And then I
13 just remember being out of the car and seeing the back
14 of my dad facing into the car, into the driver side of
15 the car door.

16 Q All right.

17 A And I didn't know how I got out of the car
18 until I went to look at the car with detectives on
19 Monday.

20 Q Yeah. So you went on -- on Monday you went
21 with detectives Erik Kammerer and --

22 A Correct.

23 Q -- Mark Slater --

24 A Mm-hmm.

25 Q -- to a storage facility to look at the car,

1 right?

2 A Yes. Mm-hmm.

3 Q And did you see that the driver side
4 seatbelt, your seatbelt, had been cut all the way
5 through?

6 A Mm-hmm.

7 Q What --

8 A But that --

9 Q What do you --

10 A -- again, was -- it was -- it's -- it's very
11 strange to me how -- how things have happened after
12 this. Like, time and just me, like, thinking about
13 everything, I just -- I keep looping on certain parts
14 of it.

15 And when I went to the car the detectives
16 were there and they said our goal was to look at the
17 outside of car and identify any preexisting damage and
18 any new damage and then look at the interior of the
19 car and do the same thing.

20 And so we walked around and I pointed out,
21 like, a scratch that had already been there and then
22 the wheels on the passenger side were both scraped and
23 scratched and the front passenger wheel and tire were
24 bent sideways and flattened.

25 And we went around the back and around the

1 car. And -- and then we looked at the interior and --
2 and he -- Detective Kammerer asked me, like, "Does it
3 look like anything's missing?"

4 And then I -- he said, "Is this your phone
5 on the seat of the car?" And I said, "No." There was
6 a cell phone on the seat of the car. And I said, "But
7 that's my mail." And it was just -- I was like why is
8 my mail -- did he go back and get my -- you know, I
9 just -- did he go back to my house and get into my
10 mailbox?

11 And then I couldn't remember if I had gotten
12 the mail and set it on the seat and he came and sat on
13 top of it. And -- and it was just this really surreal
14 thing where I had to, like, really think about what --
15 and my -- my dad was like -- I said, "Can I touch the
16 mail?"

17 "Yes." They gave it to me. And I said -- I
18 looked at it and I was like, "Okay. I remember seeing
19 it prior." When I left my house I -- I did get it
20 from my mailbox. I remember that now.

21 And then I saw the two detectives talking
22 over to the side and they called me around. And they
23 said, "Was your seatbelt like this before?" And I saw
24 that it was just cut, like a straight cut off. And
25 there was just a short piece hanging out and the rest

1 of it was either up in the door or I don't even know
2 where.

3 And I was like, "No. No, of course not.
4 No." And I told them, I said, "I always have my
5 seatbelt on. I -- I had the seatbelt on. I was
6 caught in the seatbelt. I couldn't get out of the
7 car." And they asked me, like, several times to where
8 I thought why do they keep asking me about the --
9 "You're positive that your seatbelt was not cut off
10 and missing?"

11 And I'm looking at my dad, "No. No. Of
12 course, I had the seatbelt on. I had -- I had the
13 seatbelt on. I couldn't get out of the car 'cause the
14 seatbelt was on.

15 "You're sure?"

16 "Yeah."

17 And then when we left I said something about
18 "They keep -- it was weird that the seatbelt was cut."
19 And then I -- I was like, "Oh, my God, he cut me out
20 of the seatbelt. That is how I got out of the car."

21 And I -- and it was very surreal to me that
22 I -- I couldn't put that together until we were
23 driving away and then all of a sudden I realized that
24 that's how I got out of the car, was that he had to
25 have cut the seatbelt out -- cut the seatbelt off and

1 then that's how I got out.

2 A GRAND JUROR: Who's "he"? Is that your
3 dad or --

4 THE WITNESS: No. The -- the --

5 A GRAND JUROR: John, the guy?

6 THE WITNESS: Yeah. My -- my dad doesn't
7 carry a knife --

8 A GRAND JUROR: All right.

9 THE WITNESS: -- or anything, so --

10 MR. JACKSON: Could you just describe what
11 your car looks like for us?

12 THE WITNESS: It's a Honda CRV. It's
13 silver. It had -- the other thing that -- as it -- as
14 my dad was on the phone with 9-1-1, they were asking
15 me for the license plate. And I -- I -- I knew it,
16 but I couldn't -- I couldn't come up with it.

17 I kept saying the letters in the wrong order
18 and -- but I had an OSU Beaver wheel cover on the
19 spare tire in the back. So I said that would be an
20 identifier possibly to help if it was spotted.

21 Silver and just like a 2003, so like
22 everybody else's CRVs around town, it's -- looks like
23 everyone else's cars, but I had that -- the beaver on
24 the wheel cover that made it stand out possibly.

25 MR. REES: Any questions from the grand

1 jury?

2 All right. If there's no other questions,
3 we'll excuse this witness. Thank you for coming in.
4 I'm sorry this -- this happened to you.

5 THE WITNESS: Me, too.

6 MR. REES: And we'll call our next witness,
7 who is Scott Vala.

8 MR. JACKSON: Thank you.

9 MR. REES: Sir, if you could remain standing
10 and raise your right hand, please. If you could raise
11 your right hand, please.

12 THE WITNESS: Oh, I'm sorry.

13 **SCOTT VALA**

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

16 **EXAMINATION**

17 BY MR. REES:

18 Q And if you'd please state your name and
19 spell your name.

20 A Scott Vala; V-a-l-a, S-c-o-t-t.

21 Q Mr. Vala, are you the father of Colleen?

22 A Yes.

23 Q And were you following in your car behind
24 her on April the 7th when a man jumped into the
25 passenger side of her car?

1 A Yes.

2 Q And did you see that happen?

3 A I saw him just as he was getting in.

4 Q What did you -- what did you think when you
5 saw that?

6 A I was probably almost a little over a block
7 away. And I just kind of thought, well, it must be
8 somebody she knows, because we were only a couple
9 blocks from her house and it was raining real hard.
10 At first I thought it must be -- 'cause he was already
11 getting in, I thought it was somebody she must know as
12 I approached.

13 Q When did you realize you were witnessing a
14 carjacking?

15 A As I got closer I saw his hands kind of go
16 up and he moved real close to her and I saw her
17 thrashing around and -- and I knew it wasn't right.

18 Q What did you do?

19 A I just pulled up as quick as I could and
20 jumped out. And her door was open at that time, by
21 the time I got there.

22 Q And so what happened?

23 A I came up and she was screaming like, "Get
24 out." And as far as I could see, I thought he was
25 going after her. And I -- the only thing I could

1 think of was getting her out of the car.

2 Q "Going after her," meaning what?

3 A Grabbing at her. He was, like, way over on
4 her side and -- and she was screaming and he was kind
5 of yelling.

6 Q Was he a big man or a small man?

7 A Yeah, he was a pretty good size.

8 Q Bigger than you?

9 A Yeah, I would say so.

10 Q And how did you manage to get your daughter
11 out of the car?

12 A Well, I was just saying, "Get out," and I
13 tried to grab her, but she was kind of tangled up, I
14 think, in the seatbelt. And next thing I knew all of
15 a sudden she came loose and I pulled her out.

16 Q And once you pulled her out of the car
17 what -- what happened? What did the -- what did the
18 man in the car do?

19 A Well, I just kind of took her over and she
20 went down to the ground. And as I turned around he
21 was in the seat -- I don't know how he got there so
22 quickly -- and took off.

23 Q Drove away in the car?

24 A Yeah.

25 Q All right. And did you call 9-1-1?

1 A Yes. I called 9-1-1 and kind of took a
2 couple minutes to even figure out how to call. I had
3 never done that on my cell phone. I'm kind of new to
4 that. And I called 9-1-1.

5 Q And were you -- I mean, were you sort of
6 rattled at this time?

7 A I certainly was.

8 Q Yeah.

9 A Yes. I mean, she was terribly rattled. And
10 it was fairly -- I mean, it was -- I kind of realized
11 how hard it is to realize what's going on. Just all I
12 wanted to do was get her out of the car. I thought --
13 I thought he was assaulting her or whatever. And it
14 was just very frantic.

15 Q Were you able to provide 9-1-1 a description
16 of the car and the license plate number?

17 A I couldn't -- you know, I looked right at
18 the license number as he drove off. And when I
19 finally got ahold of them I didn't tell her the
20 number. And I -- I had a hard time even telling them
21 what kind of car it was. I told them it was a Honda
22 and it was like a small SUV. I --

23 Q Was that because you were so upset?

24 A Probably, yeah. I assume so.

25 Q All right. Did you --

1 A It was just --

2 Q I'm sorry?

3 A I don't know. It was just -- you know, I
4 was --

5 Q Yeah. Were you eventually able to get the
6 information about the car to police?

7 A We -- they finally called us. They called
8 her back while we were waiting for the police. And
9 she couldn't remember the license number. And I took
10 her over to our house, which is real close, so she
11 could get the number.

12 MR. REES: All right. So you got the
13 license plate number back at your house. Okay.

14 MR. JACKSON: Sir, did you also provide a
15 description of the assailant to the police?

16 THE WITNESS: No.

17 MR. JACKSON: Okay.

18 MR. REES: All right. Are there any
19 questions from the grand jury?

20 A GRAND JUROR: Did Colleen speak at all to
21 9-1-1, to the police at all --

22 THE WITNESS: She -- not at the --

23 A GRAND JUROR: -- on the phone?

24 THE WITNESS: Not the 9-1-1 call. I think
25 the police called back and talked to her after that

1 while we were waiting at the site.

2 A GRAND JUROR: And then did she give a
3 description of him, do you know?

4 THE WITNESS: I'm not sure then. She did, I
5 know, when the police officer came to our house.

6 A GRAND JUROR: Mm-hmm.

7 THE WITNESS: She gave a description.

8 A GRAND JUROR: That same day? Like --

9 THE WITNESS: Yeah. Within --

10 A GRAND JUROR: -- was it --

11 THE WITNESS: -- half hour, 45 minutes.

12 A GRAND JUROR: Okay.

13 THE WITNESS: We went there to get the
14 license number and then the officer showed up there.
15 I was talking to somebody else out in the street while
16 they (indiscernible).

17 MR. REES: All right. If there are no
18 further questions from the grand jury, we'll excuse
19 Mr. Vala. Thank you for coming in.

20 THE WITNESS: Okay. Thank you.

21 MR. REES: And we're going to take about a
22 two-minute break.

23 (Recess taken, 9:42 a.m. - 10:07 a.m.)

24 MR. REES: All right. Our next witness will
25 be Andrew McKimmy.

1 All right. Come on in.

2 MR. REES: And, sir, when you're ready if
3 you could raise your right hand (indiscernible) swear
4 you in.

5 **ANDREW MCKIMMY**

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

8 **EXAMINATION**

9 BY MR. REES:

10 Q For the record would you please tell us your
11 name and spell your name.

12 A Andrew Barnard McKimmy, A-n-d-r-e-w,
13 B-a-r-n-a-r-d, M-c-K-i-m-m-y.

14 Q All right. Thank you very much for coming
15 in this morning and talking to us. We wanted to ask
16 you about something that happened to you on Saturday,
17 April 7th, in front of a business called My Father's
18 Place. Do you remember that incident?

19 A Yes. It wasn't directly in front of
20 My Father's Place. It was in front of the Shleifer
21 Furniture building, which is next door to My Father's
22 Place.

23 Q Okay. You're familiar with that business?

24 A Yes.

25 Q Okay.

1 A I'm a regular there.

2 Q You're a regular there. Okay. And you --
3 you -- you're here today with your dog, Tank. And I
4 gather that you and Tank go everywhere together; is
5 that right?

6 A Yes. Yes.

7 Q And you have a yoga mat for him to -- to
8 lay on?

9 A Yes.

10 Q Okay. Well, the best that you're able to,
11 can you tell us -- tell the grand jury about what
12 happened that night when the man held the knife to
13 your neck.

14 A So this would've been about a quarter to
15 8:00, 7:50 thereabouts. I deboarded the southbound
16 street car at Stark Street and walked up to the
17 Columbia shelter, which is a TPI shelter that was
18 being maintained at the Shleifer Home Furniture
19 building.

20 I noticed there were a lot of police with
21 their lights on. My preference in that scenario
22 would've been to have run right into the building. It
23 had been raining pretty hard. We were both wet. The
24 dog was wet.

25 And just as we showed up there was an

1 ambulance out front and they had just brought the
2 gurney in through the front door. So I didn't want to
3 bring a wet dog right next to where they're loading a
4 patient onto a gurney.

5 So I -- I sat his yoga mat down out front
6 about half way between the front door of the building
7 and -- and the corner of Stark Street. So I sat the
8 yoga mat down so that the dog could have something to
9 sit on while we waited for the paramedics to do
10 whatever they were doing.

11 After a minute or so this guy sidled up, I
12 think, from the direction of the Jacksons. So this
13 would've -- we would've been on -- on Grand. And he
14 kind of slid up to me and put his arm around my
15 shoulder, kind of slurring his speech, like, "Oh, he
16 must be drunk, ha-ha-ha."

17 That's why he's being so chummy because
18 I'm -- I'm not really a touchy-feely kind of a person.
19 But then he smoothly, yet swiftly and steadily brought
20 a knife out to my neck. And at that point there was
21 some dialogue. I don't remember exactly what was said
22 in between us.

23 I remember -- what I remember clearly of
24 what he said was that he did want -- wanted -- that
25 the police were looking for him, the police were here

1 for him; that he wanted to make them understand
2 something and that I had something to do with what he
3 wanted to make the police understand.

4 That he -- he was about to grab the
5 paramedic that was standing in front of the ambulance,
6 but that it was easier to grab me instead.

7 So what felt like a really long time, like
8 over the course of about five minutes, I was trying to
9 understand did he want to get away? Was there
10 something that he needed?

11 Was there something that I could do to -- to
12 help him out, just keeping my -- my -- my tone of
13 voice even and -- and calm to the best of my ability,
14 to at least keep him talking because I realized I had
15 to have my hostage negotiator hat on. And I was the
16 hostage in this equation.

17 Q Did you tell him to let go of you or to take
18 the knife away from your neck?

19 A I asked him, "Would you please take that
20 away from my neck." I -- I don't have very good
21 eyesight. And I didn't get a good look. And so I
22 knew he was holding an object, but I didn't know if it
23 was a utility knife or a box cutter or -- or a stick
24 or what.

25 I just knew that he was holding something

1 like a knife and I felt in danger. There were people
2 who were walking by. The expressions on their face --
3 I even heard some people say, "That guy's got a knife
4 to that guy's neck."

5 Q So you said --

6 A He --

7 Q -- "Get it away"?

8 A He said, "No, I can't take that away from
9 you right now."

10 Q And were you -- were you scared?

11 A Very. I --

12 Q How scared?

13 A With the number of police that had saturated
14 the neighborhood, the scenario I was in, the backdrop
15 behind us is plate glass windows and -- and that
16 would've gone into the women's dormitory in -- in the
17 women's shelter, it would've been.

18 If -- if it was a question of a sharp
19 shooter making that decision, they wouldn't have had a
20 safe backdrop. I was mouthing "Help me" to the people
21 that were going by as I was trying to negotiate with
22 him. But at the same time, I kept doing this with my
23 hands, which I believe is "Please don't shoot."

24 I've -- I've had some training for that type
25 of scenario, so I did -- I did what I was supposed to.

1 Q So how -- so how -- you say you were scared,
2 but how -- how scary was this?

3 A I -- I was thinking that if the police
4 didn't have a safe backdrop that he was probably going
5 to cut my throat before the cops got a shot at him.

6 Q Were you able to physically step away? Did
7 you feel like you could just move away from him?

8 A Ah, if -- no, 'cause he had -- he was a
9 strong guy. He had a really good solid grip around my
10 shoulder.

11 Q Was he bigger than you?

12 A Height-wise, no. I think in terms of muscle
13 mass, probably yeah.

14 Q Big upper body?

15 A Yeah.

16 Q And you mentioned something about seeing the
17 ambulance that was there. You're on the sidewalk.
18 The ambulance is parked right there on the street,
19 right on your side of the street?

20 A So he was kind of using me as cover as much
21 as anything. He was ducking behind me. I think he
22 might have been a little bit winded, like he was
23 panting a bit. Like, he was kind of leaning on me at
24 times. As much as anything, it was a chance for him
25 to catch his breath and get collected, as much as any

1 -- as anything else.

2 Excuse me. He was leaning on me some. I
3 was staying pretty motionless because I had ahold of
4 the dog. The dog was on the mat, so we wouldn't move
5 than a foot or so.

6 Q Well, did he -- did he give you any verbal
7 direction to move towards the ambulance?

8 A Yeah.

9 Q He did? What did he say or do?

10 A The medics brought the patient out with the
11 gurney on the ambulance. The door to the ambulance
12 was open. He said, "What we're going to do is go
13 inside that -- get inside the back door of the
14 ambulance."

15 So his plan was to highjack the ambulance.
16 I was going along with him. So we both went from
17 where the yoga mat was 'til at least underneath the
18 placard of the historical building.

19 And from there up to the ambulance, which
20 would've been 15 feet away, something like that, we
21 got just almost up to the door of the ambulance. And
22 he changed my [sic] mind, and said, "No, we're going
23 to go back to where we were before," so we went back.

24 I held onto the dog's leash, so I was
25 dragging the dog along with me. But I don't know if

1 that was a deterrent factor or he had some
2 subconscious stuff going on. I don't know.

3 But we didn't hijack the ambulance.
4 That -- that was his plan for a minute, is what --
5 what he communicated to me. So we're standing there,
6 still got the knife to my throat.

7 And then he brings it around and I can feel
8 the tip of the knife at the base of my skull right at
9 the top of my spine, not on the skin, but I can feel
10 it through my hair. I had the sensation of -- of the
11 tip of the blade there. And --

12 Q You said touching, like, the hair on the
13 back of your neck?

14 A Yeah. I -- I could feel -- I could feel the
15 knife tip. It's the end. It's a very distinctive
16 sensation to, like, the -- the -- the tip of this
17 knife was not touching my skin, but the tip of the
18 knife was in the hair at the base of my neck.

19 And it was a distinct sensation that was --
20 seemed -- was sharp that I had of the point of
21 something at the base of my skull. And, at that
22 point, I don't know what happened. Somehow we
23 dislodged from each other.

24 Q When you say "dislodged," do you mean you
25 got away from him?

1 A Yeah.

2 Q But you don't know how?

3 A I don't know how.

4 MR. REES: Okay. Any questions from the
5 grand jury about that incident?

6 A GRAND JUROR: You mentioned there was a
7 lot of police activity going on in the neighborhood.
8 Did any of the police officers witness the situation
9 that you were in?

10 THE WITNESS: At the very least, given the
11 cameras on those vehicles, there would have been
12 occasions as they were driving by where -- where there
13 would be footage.

14 BY MR. REES:

15 Q What I think -- I think what -- what this
16 grand juror means is: Did any police officers, like,
17 come up and talk to you or say anything to this man
18 or -- is that what you mean? Like --

19 A I -- I -- no, they didn't. My -- my
20 assumption is that they were aware of it, but that it
21 would've put me in danger if they approached.

22 Q But you don't -- okay. That's your
23 assumption, but you don't know?

24 A No.

25 Q And the fact is no police officers came up

1 to you two when this was happening, right?

2 A No.

3 Q Okay.

4 A And then the -- the -- well, not right then.

5 A GRAND JUROR: Did you go to the police
6 afterwards to tell them what happened?

7 THE WITNESS: Okay. Afterwards -- like
8 as -- as soon as we -- as soon as -- as soon as I was
9 released I -- I went in through the front door of the
10 Columbia Shelter. The -- the paramedic that -- that I
11 believed was at risk was there.

12 And so I told the paramedic that there was a
13 guy out there with a knife, that the reason I was
14 standing outside for so long was this guy had a knife
15 to my throat. And I asked the paramedic to put that
16 out on the radio so that the police would know what
17 was going on 'cause I figured that was the most direct
18 way to -- to make the police aware of what was
19 going on.

20 A GRAND JUROR: Do you know: Why would
21 there -- what was the police activity about? Why were
22 they there? Was it -- did it have to do with the
23 ambulance being there or was a separate thing
24 going on?

25 A I -- I think -- I think --

1 MR. REES: If I can just caution you. We
2 talked about speculation, that you can't speculate.
3 So you can only answer that question if you know the
4 reason.

5 THE WITNESS: I don't know, honestly.

6 A GRAND JUROR: Well, were the police right
7 there at the shelter or were they down the -- a block
8 away? Or how far away were they from you?

9 THE WITNESS: I would say that just about
10 every block there was a police car that was parked
11 with its lights on. And there also were police
12 regularly driving by, both on Stark and Grand.

13 A GRAND JUROR: Is that normal in that area?
14 You go -- you're -- you're around there often?

15 THE WITNESS: Sometimes, but not to that
16 extent. The -- the volume --

17 A GRAND JUROR: So something was going on?

18 THE WITNESS: Yeah.

19 A GRAND JUROR: You're just not sure what --

20 THE WITNESS: Something was going on.

21 A GRAND JUROR: -- exactly? Yeah. Okay.

22 MR. REES: Okay. Anything else? No?

23 All right. If there's no further questions,
24 then Mr. McKimmy, we'll excuse you.

25 (Recess taken, 10:22 a.m. - 10:58 a.m.)

1 MR. REES: For the record the next witness
2 will be Detective Erik Kammerer.

3 **ERIK KAMMERER**

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

6 EXAMINATION

7 BY MR. REES:

8 Q Good morning, Detective. If you would
9 please for the record state and spell your first and
10 last names.

11 A Erik, E-r-i-k; Kammerer, K-a-m-m-e-r-e-r.

12 Q What's your occupation?

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

15 Q How long have you been a detective?

16 A Since 2003.

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

18 A Since 1994.

19 Q How many homicide cases have you worked on
20 either as a lead investigator or as one of the
21 assisting detectives?

22 A The last time I counted it was just over
23 150.

24 Q Have you been assigned to investigate the
25 use of deadly force by police officers?

1 A I have, yes.

2 Q And have you received special training in
3 those areas of homicide investigations and
4 officer-involved shootings?

5 A Yes, I have.

6 Q On Saturday -- Saturday, April 7th, 2018,
7 were you called to respond to the scene of an
8 officer-involved shooting in the city of Portland?

9 A Yes, I was.

10 Q What time did you receive the call?

11 A It was shortly before 8:30 p.m.

12 Q Who called you?

13 A My sergeant, Sergeant Ken Whattam.

14 Q And what general information did you receive
15 at that time?

16 A At that time we had very limited information
17 other than there had been an officer-involved shooting
18 in the area of Martin Luther King and Stark and just
19 to respond to that area.

20 Q In addition to yourself who responded to the
21 scene that night?

22 A My partner, Detective Mark Slater; Sergeant
23 Whattam; several assisting detectives that work for
24 the Portland Police Bureau; assisting detectives from
25 the Multnomah County Sheriff's Office and the Gresham

1 Police Department who are part of the East County
2 Major Crimes Team; forensic specialists from our
3 forensic division at the Portland Police Bureau.

4 Representatives from the District Attorney's
5 Office; representatives from independent police
6 review; representatives from our Internal Affairs
7 Division and our Professional Standards Division.

8 Q And did that include layers of command staff
9 from both the Portland Police Bureau and the
10 Multnomah County Sheriff's Office?

11 A Yes, it did.

12 Q Is there a special protocol that's followed
13 by the investigators after officer use of deadly force
14 like this?

15 A Yes. It's very similar to every homicide
16 investigation we do. It's treated the same. We know
17 there's going to be a -- a lot more interest in the
18 investigation, so we are extremely thorough in
19 everything we do.

20 The standard things we'll do, we'll set up a
21 crime scene, make sure the scene has been established;
22 there's a clear perimeter; one point of ingress and
23 egress from the scene, so we don't have people just
24 wandering through.

25 We'll obviously locate and mark items of

1 evidence. We'll locate and record all the witnesses
2 we can find. We'll interview the witness officers.
3 We'll do weapons countdowns of all the involved
4 officers so we can determine how many rounds they
5 fired and match that back to the scene. Locate all
6 the items of evidence we can find.

7 Q What's done to separate witnesses to prevent
8 them from discussing the situation amongst themselves?

9 A So in this instance it was pouring down
10 rain. They requested a TriMet bus. They put all the
11 witness officers on that TriMet bus and assigned
12 someone that wasn't involved in the incident at all to
13 monitor them to make sure they do not discuss any of
14 the event so we can interview them in that
15 environment.

16 And that's -- that's -- they're ordered by a
17 sergeant not to talk about it and then they're
18 monitored to make sure that they don't.

19 Q And are the involved officers given an
20 communication restriction order, also known as a
21 gag order?

22 A Yeah. After we do the round countdown on
23 them they're provided with a communication restriction
24 order which says they can't talk about it with anybody
25 other than clergy and investigators, lawyers, until

1 the order is rescinded. And it's still in effect
2 today.

3 Q One video clip taken by a cell phone was
4 posted on social media by a witness and it's been on
5 the local media. Has -- has the Police Bureau
6 released any evidence like that in the case up to
7 this point?

8 A Absolutely not.

9 Q And why not?

10 A We have to protect the integrity of the
11 investigation. So we don't release anything. We keep
12 it all to ourselves. That way when -- in a grand jury
13 setting when witnesses come in to testify we know and
14 then you can know that what they're telling you is
15 from their recollection, from their perspective.

16 It's not a video they've seen or an
17 interview they've seen on TV. It's what they know,
18 what they remember. And that's how we protect the
19 integrity of the investigation.

20 Q All right. So if I can direct your
21 attention now specifically to this case before the
22 grand jury, what was the name of the person shot by
23 the police?

24 A John Elifritz.

25 Q And how was he identified?

1 A Ultimately, he was identified by the
2 identification he had in his pocket, which was located
3 on him at the scene.

4 Q And how old was he?

5 A 48 years old.

6 Q And what was his height and weight?

7 A 6'2", 240.

8 Q Did Mr. Elifritz have any known connections
9 to the location where he was shot by the police?

10 A None that we could find at all.

11 Q Was he homeless?

12 A No.

13 Q Where did he live at the time of the
14 shooting?

15 A He resided in Milwaukie.

16 Q All right. So in Clackamas County, Oregon?

17 A Yes.

18 Q And who did he live with?

19 A His wife.

20 Q Had he had any previous contact with the
21 Portland Police Bureau's Behavioral Health Unit?

22 A No.

23 Q You testified that you were contacted by
24 your sergeant, Ken Whattam, to respond to the scene.

25 I imagine it took you some time to -- you were at

1 home, I'm guessing, that night or some other location.

2 But you went to the scene directly?

3 A Yes. I went directly to the scene from
4 home.

5 Q About how long did that take?

6 A 20, 25 minutes.

7 Q And when you were at the scene did you
8 receive a briefing that covered some of the events
9 that preceded the shooting that night?

10 A Yes.

11 Q Thanks.

12 Were you told on the scene that there had
13 been a number of incidents related to the conduct of
14 John Elifritz in the hours preceding the shooting?

15 A Yes. Do you want me to stay standing?

16 Q If -- if you could use that diagram --

17 A Absolutely.

18 Q -- maybe you could explain to the grand jury
19 what the events were that you were briefed about.

20 A So the first incident that day occurred
21 around 2:30 p.m. Officers received a 9-1-1 call from
22 a man identifying himself as John Elifritz. He
23 claimed that his family had been murdered and were
24 located inside a duplex at 79 and Holgate.

25 Initial responding officers went to that

1 location, did not see anyone identifying himself as
2 Mr. Elifritz, but saw the described duplex; made
3 contact with -- it was under construction -- made
4 contact with the guy that was the general contractor,
5 who let them in.

6 They looked around, found no evidence of any
7 murder, no -- no dead bodies, anything like that. And
8 while this was going on other responding officers
9 located Mr. Elifritz at about 86th and Holgate, so
10 just up the street. And when they went to contact him
11 he pulled out a knife, held it to his throat and ran
12 away from the officers.

13 Based on everything they knew at that point
14 the officers decided that it would exacerbate the
15 situation to continue confronting him, so they opted
16 to just let him -- let him leave. As far as they
17 could determine, he had committed no crimes. There
18 was no need to force an issue with him, so they just
19 let him go.

20 Approximately two hours later Colleen Vala
21 calls 9-1-1 because she had been in her car at 72 and
22 Foster when a guy matching the description of John
23 Elifritz came up and started -- got into her car and
24 told her to drive her somewhere.

25 She didn't want to. Ended up getting in a

1 struggle to get her out of the car. Her father, who
2 was behind her, ended up pulling her out of the car.
3 And then he drove away in her vehicle, which was a
4 silver Honda CRV.

5 About three hours later a guy named
6 Mr. Elezar called 9-1-1 saying -- up in North Portland
7 here saying that he had been the victim of a road rage
8 on Columbia around Chautauqua area and had some cell
9 phone video of this. One of our officers went out to
10 deal with that.

11 And while that was going on a 9-1-1 call was
12 made just before 7:30 p.m. down at MLK and Stark. Two
13 calls came in. One described a vehicle crash and the
14 other described a vehicle that had been abandoned in
15 the middle of the street while the driver jumped out
16 of the car while it was still moving and ran away.

17 And the description given was a male in blue
18 jeans, no shirt, who appeared to have soiled himself
19 and that he was larger. The physical description was
20 consistent with John Elifritz.

21 When officers were responding to that
22 location about 15 minutes later a 9-1-1 call comes in
23 from Jacksons Food Mart, which is right down there
24 between Grand and MLK at about Alder to Washington,
25 saying a man had been inside Jacksons wearing blue

1 jeans and a coat holding a knife, had been there about
2 five and ten minutes and left.

3 So then when officers were responding to
4 Jacksons here an ambulance crew was staged up here at
5 Grand and Stark and got on their radio and said a
6 gentleman by the name of Andrew McKimmy had been there
7 and said a guy, pants, jacket, came up, held a knife
8 to his throat and then after a couple minutes left.
9 So when the officers were looking over here, over here
10 at 526 Southeast Grand, which is City Team
11 Ministries --

12 Q And if I could interrupt. The information
13 from the ambulance -- just point of clarification
14 first, were they on a completely unrelated call --
15 that is, the ambulance crew -- that had nothing to do
16 with the events you're describing?

17 A Yes.

18 Q And did the ambulance crew relay that
19 information that you just described to 9-1-1 to
20 broadcast to the various police officers?

21 A Yeah. So the way it works, they're on a
22 completely separate radio net than the police. So it
23 goes back to fire dispatch and -- and it's --
24 everybody's housed over at the Bureau of Emergency
25 Communications. There's a bunch of different radio

1 nets. So it gets relayed back to their dispatcher,
2 who relays it over to the police dispatcher, who then
3 relays it to the officers on the street.

4 So then while they're over here a couple
5 people come running out of City Team 'cause they see
6 all the officers over here and basically they're like,
7 "He's over here. The guy you're looking for is in
8 here."

9 And there's talk about him with a knife,
10 about him attempting to stab people. And this is the
11 information the officers have when they approach this
12 location.

13 Q All right. And so is it correct that that's
14 the information that you received from one of the
15 initial briefings when you arrive on the scene that
16 night, this -- this sequence of events?

17 A Yes.

18 MR. REES: All right. Thank you.

19 Any questions about that?

20 A GRAND JUROR: Yes.

21 MR. REES: Yes, ma'am.

22 A GRAND JUROR: First of all, no one's ever
23 mentioned how -- how -- how big was this knife? How
24 many -- what kind -- it was a switch blade?

25 THE WITNESS: Oh.

1 A GRAND JUROR: Was it a --

2 THE WITNESS: We've a picture of it.

3 A GRAND JUROR: -- hunting knife?

4 THE WITNESS: It's a pocketknife.

5 A GRAND JUROR: How -- how big was the
6 blade?

7 THE WITNESS: It's about that big.

8 A GRAND JUROR: So a three-inch blade?

9 THE WITNESS: Yeah, about.

10 A GRAND JUROR: Or -- or more?

11 THE WITNESS: Probably. I didn't -- we have
12 a pick of it with the measurement, but --

13 A GRAND JUROR: Okay. So -- so --

14 THE WITNESS: -- two to three inches
15 probably.

16 A GRAND JUROR: -- the thing that's really
17 eating away that I keep thinking about is the very
18 first incident when the -- when they got the 9-1-1
19 call he was saying his family was murdered, first of
20 all, that's a false 9-1-1 call.

21 I don't know if there's any -- if they
22 should've apprehended him for that. And, secondly,
23 what constitutes having -- someone with a knife in the
24 very first incident putting a knife to his neck,
25 wouldn't the mental health people have been brought on

1 at that point? Should they have been?

2 MR. REES: So I -- I don't know whether this
3 witness can answer those questions. And -- and
4 also --

5 A GRAND JUROR: Well, what constitutes --

6 MR. REES: -- it doesn't --

7 A GRAND JUROR: -- calling that, the mental
8 health --

9 MR. REES: Well --

10 A GRAND JUROR: -- unit?

11 MR. REES: Okay. Well, if he can answer
12 that question. So I'll let the witness answer the
13 question if he -- if he's able to, although that
14 doesn't ultimately directly go to the shooting that he
15 investigated.

16 A GRAND JUROR: Well, it has to do with
17 police action --

18 MR. REES: Well -- okay. Let's -- let's --

19 A GRAND JUROR: -- or inaction, is my
20 thought.

21 MR. REES: Okay.

22 A GRAND JUROR: What's the protocol when
23 someone's walking around with a knife?

24 MR. REES: Right.

25 A GRAND JUROR: It might not have escalated

1 to this is my thought.

2 MR. REES: Okay. Well, let's just go off
3 the record if we -- if we can for a second.

4 (Recess taken, 11:15 a.m. - 11:21 a.m.)

5 MR. REES: And we're back on the record.
6 And we had just had a discussion about the scope of
7 the question and the witness's ability to answer the
8 question and I think we have clarification that the
9 witness is able to answer a portion of the grand
10 juror's question.

11 So go ahead, Detective Kammerer.

12 THE WITNESS: So when you asked about the
13 involvement of the -- the mental health unit I'm
14 assuming you're talking about our Behavioral Health
15 Unit.

16 A GRAND JUROR: Yes.

17 THE WITNESS: And they are -- as I
18 understand it, they're more of a follow-up unit. So
19 officers on the street will contact someone and then
20 they'll make a referral to our Behavioral Health Unit
21 to have them come out and do some followup in their --
22 their teams of an officer and a clinician to see what
23 assistance they can provide.

24 And that is what was done in this case.

25 After the call was over --

1 A GRAND JUROR: Mm-hmm.

2 THE WITNESS: -- a referral was made to the
3 Behavioral Health Unit for followup. But we don't
4 have, you know, mental health units driving around in
5 police cars going and responding to 9-1-1 calls.

6 A GRAND JUROR: Okay. So if someone's
7 walking down the street with a knife and it seems like
8 a scary -- like this guy's just walking down the
9 street --

10 THE WITNESS: Right. It's very alarming.
11 And people are going to call the police and the police
12 will respond.

13 A GRAND JUROR: So it's not the same as if,
14 say, someone was on a bridge jumping off and they get
15 people in that are trained to help deescalate kind of
16 a mental tragic situation? There's no one --

17 MR. REES: And, again --

18 A GRAND JUROR: -- on call for that?

19 MR. REES: So I just want to caution the
20 witness to only answer that question if -- if you are
21 qualified to answer it, because, again, this seems to
22 be beyond the scope of his responsibilities as a
23 homicide detective.

24 A GRAND JUROR: Okay.

25 THE WITNESS: Yeah. I mean, we would be

1 getting into theoretical conversations now. Every
2 situation is unique. You know, the -- the variables
3 on each situation have to be dealt with at the time.

4 BY MR. REES:

5 Q Okay. As to the homicide investigation
6 itself you received briefing and you at some point
7 viewed the shooting scene itself, correct?

8 A I did, yes.

9 Q All right. And have you prepared some
10 exhibits with the assistance of others to illustrate
11 the scene as it appeared the night of the shooting?

12 A Yes. We have a diagram, a 2D diagram and
13 then a three-dimensional scan, if you will, of the
14 scene.

15 Q All right. So let's -- I'm going to put up
16 a line diagram of the scene. Thank you.

17 A Mm-hmm.

18 Q What does this exhibit represent and what
19 are these circles with numbers?

20 A So this is the inside of the main room of
21 City Team Ministries. This is the sidewalk out front,
22 Southeast Grand Avenue. The main door is here. This
23 is like a little desk counter area.

24 This area in the middle here, actually, is
25 a -- a railing about this high that encloses a set of

1 stairs that go down to a basement. And then this is
2 a -- just a low wall back here separating these two
3 sections. These are all doors that lead to various
4 locations inside City Team.

5 These are some stairs that goes up. Small
6 rooms, a kitchen area. And this -- that is a hallway
7 that runs all the way out back to the front. And the
8 small circles are what we refer to as placards, so
9 they show the location of items of evidence.

10 Q So each item of evidence is marked by
11 someone from the Forensic Evidence Division and given
12 a unique identifying number; is that correct?

13 A That's correct, yes.

14 Q All right. And then it's photographed and
15 in this case incorporated into this diagram?

16 A Yes.

17 MR. REES: And in a moment, ladies and
18 gentlemen, I'll pass out this sheet, which is an
19 index, which will guide you through the diagram. Each
20 number corresponds to an item of evidence. And the
21 number on this sheet corresponds to the numbers on the
22 circles on the diagram.

23 If you can't see it clearly, feel free to
24 move up to the board at some point. It depends on
25 your glasses if you can see those numbers. I can't

1 really see them, so -- yeah. But you can -- you can
2 look.

3 BY MR. REES:

4 Q And then, to assist us, let's go to the
5 Leica 3D digital image of the --

6 A Okay.

7 Q -- scene as well, if you can.

8 Okay. And so whether you want to begin with
9 the image that we see, the digital photographs that
10 are incorporated into our 3D image, or -- or this --

11 A Yeah.

12 Q -- why don't you give us an overview of what
13 we're seeing.

14 A Sure. It'll probably be easiest to -- to
15 work between the two of them. So this sits on a
16 tripod, does a scan. It covers all the areas that the
17 camera can see. So, like, down here this would be the
18 base of the tripod, so it's black where the camera
19 can't see.

20 This is that stairwell I was talking about
21 with the railing on it. Over here is the front door.
22 So the scan would be right about in here. So you're
23 looking out in this direction.

24 So here's the front. And then these are --
25 whoops. It's not going to let us zoom in. So these

1 are casings from our 40-millimeter less -- less-lethal
2 launchers. There's -- that corresponds with these
3 three right here on the -- on the sidewalk. And then
4 there's another one just inside the door here.

5 Q And we haven't heard really about that yet.
6 So are you able to explain a little bit about what --
7 what is that when you say a less-lethal 40-millimeter
8 launcher --

9 A Yeah.

10 Q -- is that the same thing as the beanbag
11 rounds that we hear about?

12 A Well, similar in theory, but -- so the
13 beanbag rounds were 12 gauge. So that's the size of a
14 caliber. So imagine, if you will, a shotgun, a
15 standard shotgun, 12-gauge shotgun. So it's a
16 rectangular shape that's rolled up into a circle.
17 It's cloth with, like, shot inside, so it has an
18 impact when it strikes.

19 It's rolled up into a tube, put in a regular
20 shotgun shell. When it's fired, it comes out the
21 barrel. Barrels, firearms, are smooth or rifled. If
22 they're rifled, it's -- it's got a twist in it.

23 So as the object, the bullet, if you will,
24 moves down the barrel it's imparted spin. And when an
25 object moving through the air is spinning it's more

1 stable than an object that's not spinning, which means
2 you'll have a flatter flight profile. It'll be more
3 accurate.

4 So a 12-gauge shotgun is smooth bore, no
5 spin is imparted upon the object. So when this
6 rectangular object opens it's acted upon by wind. It
7 has no spin, so they're not super accurate. They can
8 sheer off, go at weird angles.

9 We got rid of those. We've moved to a
10 40-millimeter launcher. So 40 millimeter, it's about
11 the size -- the base of it around is about the size of
12 a shot glass. The barrel on the launcher is rifled,
13 so it has that spin.

14 So when the projectile -- in this case now
15 it's a foam-nosed projectile and we've got some
16 pictures of them -- is launched down the barrel, it
17 spins, so it's given stability and accuracy. So
18 they're very accurate out to great distance. You
19 know, at least 40 yards it's super accurate --

20 Q So --

21 A -- whereas the old 12-gauge shotgun was not
22 very accurate out 15 yards.

23 Q So the Police Bureau was using these --
24 these sponge projectiles --

25 A Mm-hmm.

1 Q -- instead of the beanbags now --

2 A Yes.

3 Q -- as a less-lethal alternative to a
4 firearm; is that right?

5 A That is correct, yes.

6 Q And the sponge -- it's like a hard sponge or
7 a hard --

8 A It's -- it's foam. It's just a compact
9 foam.

10 Q And it's designed not to kill someone or
11 penetrate the skin, right?

12 A Right.

13 Q It's a pain compliance?

14 A Yeah. It -- so bullets are made of metal,
15 go right through skin. This is a foam round. It's
16 designed to expand when it hits your body, so it
17 doesn't penetrate into the body. It just -- you get
18 the kinetic energy of it whopping you basically.

19 Q And so just so we understand what -- this is
20 the -- we're looking at this picture. This is the
21 sidewalk in front of 526 Southeast Grand Avenue; is
22 that right?

23 A Yes, that's correct.

24 Q And does that correspond on this sheet to --
25 to anything we're seeing here?

1 A Yeah. Placards 1 through 3. So you can
2 see, you know, we have our placards out there: 1, 2
3 and -- and 3.

4 MR. REES: Okay. Let me pass out, folks,
5 your -- your legend or index so you'll have this.

6 A GRAND JUROR: What are those two dots
7 under that back tire?

8 THE WITNESS: Ah, rain. It was pouring down
9 rain, so you're actually seeing raindrops there.

10 MR. REES: There you go.

11 A GRAND JUROR: Thank you.

12 A GRAND JUROR: And they actually fired
13 these shots outside the building?

14 THE WITNESS: So they were fired in the
15 doorway. They had not entered yet. And it's a --
16 it's a single-shot launcher. So after you fire it,
17 you open the breach, you pull out the round and you
18 just discard it. It's no longer a good round at that
19 point. And then you load another one and you're ready
20 to go again.

21 BY MR. REES:

22 Q And so when you -- when you see the -- the
23 casings -- and that's on our index here Items 1, 2,
24 3 --

25 MR. JACKSON: 4.

1 BY MR. REES:

2 Q -- and 4. That's like a little -- I don't
3 know: Are you able to zoom in on that?

4 A No, I tried.

5 Q Can you see that?

6 A No.

7 Q Okay.

8 A It's like a tea light in size.

9 Q It's a little metal tea light. So that's
10 left behind after the foam ball flies through the
11 barrel?

12 A Yes.

13 Q And goes -- and goes away, right?

14 A Correct.

15 Q So when you -- when you see those in that
16 location, like, what are you -- what are you thinking
17 that probably means?

18 A That people that fired a 40-millimeter
19 less-lethal launcher were in the vicinity of those
20 rounds. You wouldn't expect them to be a great
21 distance away because all you're doing is just pulling
22 it out and discarding it. You're not throwing it.
23 They don't eject. So you just pull it out and
24 drop it.

25 Q All right. And -- and later on based on

1 statements of witnesses and video that you reviewed,
2 in fact, did it appear consistent that less-lethal
3 40-millimeter rounds were fired from the sidewalk
4 outside of the building initially?

5 A Yes.

6 MR. REES: Okay. Did anyone have any
7 questions about that or what we're talking about with
8 this less-lethal round?

9 A GRAND JUROR: Only -- only four nonlethal
10 shots were fired?

11 THE WITNESS: No, ma'am. That's just what
12 was fired from out front and --

13 A GRAND JUROR: Oh, okay.

14 THE WITNESS: -- we don't refer to them as
15 nonlethal because they could still be lethal depending
16 on the manner in which they're used, much like a
17 pencil or a pen could be lethal depending on the
18 manner in which you use it. These could also be
19 lethal if used improperly.

20 A GRAND JUROR: But on here any time I see
21 40-millimeter casing that's what it's referring to?

22 THE WITNESS: Yes, ma'am.

23 A GRAND JUROR: Okay.

24 A GRAND JUROR: Less lethal.

25 MR. REES: Yeah, less lethal.

1 A GRAND JUROR: Or, well --

2 THE WITNESS: Yes.

3 A GRAND JUROR: -- but then it also says
4 sponge round.

5 THE WITNESS: So that -- when these are
6 fired -- it's one complete cartridge, but when it
7 fires they separate.

8 A GRAND JUROR: Oh. Oh, sorry.

9 THE WITNESS: So what's left is the casing.
10 The sponge round is what goes down range.

11 A GRAND JUROR: Did all four of these hit
12 the victim?

13 THE WITNESS: I don't know if all four of
14 these hit. A total of nine rounds were fired with --

15 A GRAND JUROR: Oh.

16 THE WITNESS: -- six definite impacts.

17 A GRAND JUROR: So there's additional foam
18 (indiscernible)?

19 THE WITNESS: Yes. Yeah. More rounds were
20 fired inside.

21 A GRAND JUROR: Oh, okay.

22 A GRAND JUROR: So why were they firing
23 outside? Or you can't answer that?

24 THE WITNESS: Well, when we -- it should be
25 apparent when we watch the video on why they did that.

1 A GRAND JUROR: Okay.

2 MR. REES: And then --

3 THE WITNESS: But I will certainly try to
4 answer your question afterward.

5 A GRAND JUROR: Okay.

6 THE WITNESS: So these are additional -- the
7 picture's taken from about the same location as the
8 scan. So you can see all the placards all through
9 here all the way up to No. 26 are located right in
10 this area here, which corresponds with this area right
11 here.

12 MR. REES: And I don't know whether people
13 can read the number on those placards or not. If not,
14 we can have him read to you the placard numbers --

15 THE WITNESS: Absolutely.

16 MR. REES: -- and point them out. Did you
17 have --

18 THE WITNESS: And --

19 MR. REES: -- a preference on that, folks?

20 THE WITNESS: When we numbered them we
21 pretty much went chronologically from the front door
22 all the way to the back end of the -- the building
23 with the exception that we started to find other items
24 -- smaller items of evidence after we located the
25 larger ones. And most of these are all casings.

1 A GRAND JUROR: This doesn't seem to be
2 identical.

3 THE WITNESS: Well, it's not -- it's not
4 identical. This is -- this is a picture and this is a
5 hand-drawn --

6 A GRAND JUROR: No. I mean as far as the --

7 THE WITNESS: -- re-creation.

8 A GRAND JUROR: -- placement of that second
9 page. It looks a little different from this chart.
10 But can I see it again? Thank you. 16, five, 16 --

11 A GRAND JUROR: So what -- what are the 223
12 casings that are in that vicinity?

13 THE WITNESS: So the other -- the weapons
14 that were used in this are two different caliber Glock
15 handguns, an AR15 rifle and a 12-gauge shotgun. So
16 the AR15 rifle fires a 223 caliber round. So the
17 casing then would be what's expended from the rifle
18 when it's fired.

19 And this is -- so Placards 25 and 26 right
20 here you can see pretty clearly. Those are your 233
21 casings. 17 and 18 up here are 12-gauge casings.

22 BY MR. REES:

23 Q And, Detective --

24 A Yes, sir.

25 Q -- on this chart the 25 is here?

1 A Mm-hmm.

2 Q 26 is here. And you viewed --

3 A GRAND JUROR: From this way.

4 BY MR. REES:

5 Q -- the surveillance videos in this case that
6 we're about to show the grand jury, right?

7 A (No audible response.)

8 Q Does that correspond to the general location
9 of the officers firing those weapons?

10 A It does, yes.

11 So then we -- as we rotate over here you can
12 see the back of the building here. This is like a
13 little kitchen food storage area and there's --
14 there's no way to get out of that area.

15 Q What do you mean, "there's no way to get
16 out"?

17 A Once you go into that room, there's no --
18 there's no exit other than to come back in this way.
19 The door on that side was secured. So people that did
20 go in there trying to flee were -- were stuck and
21 could not get out that way. And these are these
22 various little doors you see here.

23 So now you can see right where that scan was
24 on the other side. We've moved across the room now,
25 so we're now on this side of the room looking back

1 that way to the front door. Here's that stairwell
2 again. And now you're -- you're looking down this
3 side right here where that little table is.

4 A GRAND JUROR: And the victim was lying?

5 THE WITNESS: He's lying right here. I'll
6 scroll down here in a minute. So this is just
7 additional items of evidence. Placard 35 here is that
8 blue foam round, the foam-tip round.

9 A GRAND JUROR: Is this behind --

10 THE WITNESS: Which is over here. And, you
11 know, so when these things hit they are, you know,
12 cone shaped. So you don't get -- they -- they go
13 everywhere once they impact. They impact an object
14 and then bounce off at whatever angle they kind of
15 want to go.

16 A GRAND JUROR: Is that a blue coat or is
17 that a tarp? What is that?

18 THE WITNESS: That's a -- that's someone's
19 blue coat, yeah. And there's another foam round
20 laying on top of that.

21 This is a shotgun wadding. So you have --
22 when a shotgun shell's fired you have the -- the
23 casing that contains this plastic wadding that holds
24 the actual shot, the round shot.

25 And so the wadding and the shot are expelled

1 out the end of the shotgun while the casing stays.
2 And then as it's traveling the shot separates from the
3 wadding, which also is called a wad cup.

4 BY MR. REES:

5 Q And, actually, on the -- on the legend it's
6 listed as a -- well, I thought it was listed as -- is
7 it listed as wad cup?

8 A GRAND JUROR: Yeah. Shot shell wad.

9 BY MR. REES:

10 Q Shot shell wad?

11 A Yeah. So shot shell wad, wadding, wad cup,
12 they're all interchangeable terms.

13 Q Okay.

14 A And then 40 here is a set of keys. So this
15 is the knife that we recovered, Placard 38. It's just
16 a, you know, standard pocketknife. And then,
17 obviously, this is Mr. Elifritz's location.

18 Is there any questions about any of that
19 so far?

20 Q Actually, I have one question. You just
21 showed us the close-up picture of the knife. So
22 that's Placard No. 38; is that correct?

23 A That's correct, yes.

24 Q Which is located immediately next to the
25 body of Mr. Elifritz?

1 A Yes. Yes. If we go to the picture here.
2 So this is his -- his waistline right here, his pants.
3 And that's where the knife was located.

4 A GRAND JUROR: Why are the (indiscernible)?

5 THE WITNESS: The keys, we believe, were in
6 his pocket because at the autopsy we pulled a couple
7 pieces of key out of his leg.

8 BY MR. REES:

9 Q So broken by a bullet?

10 A Yes. That's it for that.

11 MR. REES: Okay. So -- and I -- sorry if I
12 interrupted. Were there any questions about anything
13 physically at the scene post-shooting or about this
14 diagram or -- or any of the exhibits at this point?

15 A GRAND JUROR: No.

16 BY MR. REES:

17 Q Okay. Then I'll ask you to resume your
18 seat, Detective.

19 A Yes, sir.

20 Q And we're -- we're coming up on our noon
21 break, but before we break, let me ask you if you're
22 able to, in summary, through the course of the
23 investigation how many police officers used their --
24 their firearms, used deadly force in this incident?

25 A So six -- well, technically five officers

1 and one deputy fired their firearms. And then two of
2 our officers fired their less-lethal launchers.

3 Q So five members of the Portland Police
4 Bureau used deadly force and one member of the
5 Multnomah County Sheriff's Department?

6 A That's correct, yes.

7 Q Is that right?

8 A Yes.

9 Q And what -- what were the weapons used --
10 maybe start with the Multnomah County Sheriff's deputy
11 and then talk about the five other officers.

12 A So Deputy Sieczkowski had a Glock 22, which
13 is a 40-caliber handgun. Officer Polas, which is our
14 officer, had a Glock 17, which is a
15 nine-millimeter-caliber firearm, a handgun.

16 Officers Phifer and Nutting and Fender had
17 AR15 rifles. And Officer Martiniuc had a shotgun.

18 Q I think that's pronounced Martiniuc.

19 A Martiniuc. And Officers Bailey and
20 Damerville had their less-lethal launchers.

21 Q And so on our legend when we see Placard
22 No. 28 is a 40-caliber Smith & Wesson casing that
23 would be from the Multnomah County Sheriff's deputy
24 you just mentioned. You said he had a 40-caliber
25 handgun?

1 A Yes. So that -- the -- and it can be
2 confusing, 40-millimeter, 40 caliber, one is
3 significantly larger than the other. A 40 -- a 40
4 caliber, roughly 10 millimeters. So a 40 millimeter
5 would be, you know, three times more.

6 Q So Placard 28 is -- is the sheriff's
7 deputy's -- that's the casing from his --

8 A Yes, from Deputy Sieczkowski's.

9 Q -- handgun. And then I think that you --
10 this grand juror had already asked about the 223. Let
11 me see that number. That's the AR rifle rounds all
12 mentioned, right?

13 A Yeah, that's correct.

14 A GRAND JUROR: So you don't differentiate
15 between the 40-millimeter nonlethal and the 40 caliber
16 here, right?

17 THE WITNESS: It is -- it is different.

18 A GRAND JUROR: Oh.

19 THE WITNESS: It's a different size. Item
20 28 --

21 A GRAND JUROR: Yeah, I understand that.

22 THE WITNESS: -- is your -- it's --

23 A GRAND JUROR: But I'm not seeing that
24 here.

25 THE WITNESS: Item -- Item 28.

1 A GRAND JUROR: Oh, I'm sorry.

2 THE WITNESS: Item 28 is --

3 A GRAND JUROR: Oh, that's the 40 caliber?

4 THE WITNESS: -- 40 Smith & Wesson casing.

5 That's from the handgun.

6 A GRAND JUROR: All right.

7 BY MR. REES:

8 Q And -- and so -- I'm sorry -- did you -- you
9 identified their weapons. Have -- have -- did you
10 tell us the number of times the weapons were used?

11 A No, I did not.

12 Q Okay.

13 A So Deputy Sieczkowski fired his handgun
14 once. Officer Polas fired his handgun six times.
15 Officer Fender fired his rifle four times. Officer
16 Phifer fired his rifle twice. Officer Nutting fired
17 his once. Officer Martiniuc fired his shotgun three
18 times. Officer Bailey fired his less-lethal four
19 times. And Officer Damerville fired his five times.

20 A GRAND JUROR: What was Fuller?

21 THE WITNESS: I'm sorry?

22 A GRAND JUROR: There's someone named
23 Fuller? Phifer?

24 THE WITNESS: Phifer or Fender?

25 A GRAND JUROR: No, I missed one.

1 A GRAND JUROR: Can I get Fender and Polas
2 again? Sorry.

3 THE WITNESS: Yes, ma'am. Polas fired six
4 times and Fender fired four times.

5 A GRAND JUROR: Okay. Thank you. He's got
6 a really good memory.

7 THE WITNESS: Thank you.

8 A GRAND JUROR: I know. I'm like, "Oh."

9 THE WITNESS: It helps with my job.

10 A GRAND JUROR: So how many shots fired
11 (indiscernible)?

12 THE WITNESS: I'm sorry?

13 A GRAND JUROR: The shot that killed him was
14 only fired once by the guy who shot him?

15 THE WITNESS: Ah --

16 A GRAND JUROR: The shot that killed him by
17 the Nutting guy, he only shot once?

18 THE WITNESS: Nutting only fired once. I
19 don't know if that's the shot that killed him or not.

20 BY MR. REES:

21 Q Okay. So in terms of the counts that you
22 just went through and the officers, how did you arrive
23 at that conclusion?

24 A So, obviously, it'd be very easy if we just
25 counted the -- the casings that were on the ground and

1 left it at that. But we actually go through the
2 weapons of each officer.

3 In addition to their primary weapons, you
4 know, the shotgun or the rifle or the less-lethal
5 launcher, we also do a countdown of all their -- the
6 handguns. And then if they have a back-up handgun,
7 we -- we count that, too.

8 And then we just do the math. "You're
9 supposed to have this many number of bullets and
10 you're missing this number." And that corresponds
11 with what we're finding in the scene.

12 A GRAND JUROR: Is there any way to tell if
13 all these were going out at the same time? Or do we
14 assume that or --

15 THE WITNESS: The rounds being fired?

16 A GRAND JUROR: Yeah.

17 THE WITNESS: In the video you can see that.

18 A GRAND JUROR: Okay.

19 BY MR. REES:

20 Q So on the -- on the video, you -- you were
21 able to actually see the shooting?

22 A Yes.

23 Q And you also have an audio recording of the
24 shooting?

25 A Yes.

1 Q Did you measure the amount of time that this
2 shooting took place in?

3 A Roughly two to three seconds.

4 Q So all the shots you described occurred in a
5 span of two to three seconds of time; is that right?

6 A That's correct. Except for the
7 40-millimeter less-lethal shots.

8 Q Right. But so the -- but the -- but for
9 firearms -- and to go back to this grand juror's
10 question then -- you -- you've determined that these
11 shots were essentially fired simultaneously?

12 A Yes.

13 Q Okay. So --

14 A GRAND JUROR: So --

15 MR. REES: Oh, I'm sorry.

16 A GRAND JUROR: The two .223 casing, that's
17 the AR, right?

18 THE WITNESS: That's correct.

19 A GRAND JUROR: So here it's listed seven
20 times, but you said Phifer did twice, Nutting once and
21 Fender four.

22 THE WITNESS: Yes, ma'am.

23 (Pause in proceedings, 11:50 a.m.)

24 MR. REES: Did you have a follow-up
25 question?

1 A GRAND JUROR: No. I was just trying to
2 make sure I understood who had what 'cause he was
3 going fast and my notes were, like --

4 THE WITNESS: Sorry about that.

5 A GRAND JUROR: -- scribbling.

6 A GRAND JUROR: When the police go in there
7 is it to their discretion which handgun or rifle
8 they use?

9 THE WITNESS: Again, it -- it depends on the
10 variables in the situation; but for the most part,
11 yes.

12 A GRAND JUROR: Okay.

13 A GRAND JUROR: Who was the senior officer
14 in this group?

15 THE WITNESS: Well, the senior-most officer
16 would've been witness officer, Officer Wilcox.

17 A GRAND JUROR: Okay. So he wasn't involved
18 in the actual shooting?

19 THE WITNESS: Right. Just based on time in
20 the Police Bureau he'd be the senior-most person.

21 MR. REES: And, sir, do you mean ranking
22 officer or supervisory officer?

23 A GRAND JUROR: Yeah.

24 MR. REES: Okay. And so --

25 THE WITNESS: Sergeant Axthelm would've been

1 the -- the ranking officer.

2 A GRAND JUROR: Oh, the ranking officer
3 instead of senior.

4 MR. REES: If that's what you meant. And
5 the sergeant will be testifying.

6 A GRAND JUROR: Okay. So who was that
7 again?

8 THE WITNESS: Sergeant Axthelm.

9 MR. REES: We're coming up on noon, so I'll
10 propose that we take our noon break. Detective
11 Kammerer will be back with us at 1 o'clock and we'll
12 continue the questions and we'll present the video at
13 that time. All right? Thank you.

14 A GRAND JUROR: Thanks.

15 THE WITNESS: Thank you.

16 * * *

17 (Noon Recess taken at 11:52 p.m.)

18

19 ***AFTERNOON SESSION***

20 (Grand Jury No. 1, 1:39 p.m.:)

21 MR. REES: All right. We're resuming Grand
22 Jury No. 1 following our noon break. And we're
23 resuming with the testimony of Detective Erik
24 Kammerer, who remains under oath.

25 BY MR. REES:

1 Q Detective Kammerer, you're still under oath.
2 And as we resume your testimony there was a question
3 just at the end of our break. If you could write for
4 us the -- the names of the shooting officers and the
5 numbers of shots fired because I think some people
6 missed that when you went through it the first time.

7 A Sure.

8 A GRAND JUROR: Just the firearm?

9 MR. REES: For the firearms, yes, sir.

10 BY MR. REES:

11 Q And if you would for the record --

12 A Yes.

13 Q -- read what you've written so the
14 transcript will --

15 A So Fender fired four 223 rounds. Nutting
16 fired one 223 round. Phifer fired two 223 rounds.
17 Martiniuc fired three 12 gauge. Polas, six
18 9-millimeter. And Deputy Sieczkowski, one 40 caliber.

19 MR. REES: All right. And does that answer
20 the question.

21 A GRAND JUROR: (No audible response.)

22 BY MR. REES:

23 Q Okay. So, now, as we resume I want to ask
24 you about the portion of your investigation where you
25 and other detectives looked for any possible video of

1 the shooting you've been testifying about.

2 We've seen the scene itself after the
3 shooting. We talked about the evidence that you found
4 there. But you wanted to see if there was video that
5 actually showed the -- the events prior to the
6 shooting, correct?

7 A Yes, that's correct.

8 Q And were you able to obtain videos of the
9 shooting itself?

10 A Yes, we were.

11 Q And did you also look for video that might
12 show some of the earlier events that had been
13 mentioned involving Mr. Elifritz?

14 A We did, yes.

15 Q Okay. And did you bring those videos here
16 to the grand jury?

17 A Yes.

18 Q All right. Then I'm going to step aside and
19 why don't we show the first video.

20 A Okay.

21 MR. REES: And if any grand jurors -- if you
22 want to move to get closer to the screen, of course
23 feel free to -- to do that.

24 A GRAND JUROR: Would it help to turn the
25 lights off to see better?

1 A GRAND JUROR: Yeah.

2 A GRAND JUROR: Yeah. Okay.

3 A GRAND JUROR: Thank you.

4 (**TRANSCRIBER'S NOTE:** Video recording
5 played, 1:43 p.m., as follows:)

6 UNIDENTIFIED SPEAKER: (Indiscernible) that
7 was me (indiscernible) at the end of the --

8 (**TRANSCRIBER'S NOTE:** Video recording
9 stopped, 1:43 p.m.)

10 THE WITNESS: So I had previously talked
11 about the -- the road rage incident up here in
12 Columbia Chautauqua. So this is the complainant,
13 Mr. Elezar. And they were -- he was in the car with
14 his family and used his phone to video some of it.

15 (**TRANSCRIBER'S NOTE:** Video recording
16 played, 1:43 p.m., as follows:)

17 (Indiscernible speaking.)

18 (**TRANSCRIBER'S NOTE:** Video recording
19 stopped, 1:43 p.m.)

20 THE WITNESS: So that right there is the
21 Honda CRV that was stolen in the -- the carjacking
22 down there at 72 and Foster earlier in the day, about
23 three hours prior to this.

24 (**TRANSCRIBER'S NOTE:** Video recording
25 played, 1:43 p.m., as follows:)

1 UNIDENTIFIED SPEAKER: This car has been
2 chasing us and (indiscernible) close to us trying
3 to -- he's following us. (Indiscernible).

4 UNIDENTIFIED SPEAKER: You guys are scaring
5 me.

6 UNIDENTIFIED SPEAKER: (Indiscernible).
7 Chelsea, put the camera a little forward.

8 UNIDENTIFIED SPEAKER: I'm trying to get the
9 license (indiscernible), but --

10 UNIDENTIFIED SPEAKER: Mom, (indiscernible).

11 UNIDENTIFIED SPEAKER: (Indiscernible).
12 He's getting closer and trying to hit us.

13 UNIDENTIFIED SPEAKER: Stop.
14 (Indiscernible).

15 (Various speakers, speaking in a foreign
16 language.)

17 UNIDENTIFIED SPEAKER: And we're not doing
18 anything. He keeps following us.

19 (Various speakers, speaking in a foreign
20 language.)

21 UNIDENTIFIED SPEAKER: Is he actually
22 following us? (Indiscernible). He keeps following
23 us.

24 (Various speakers, speaking in a foreign
25 language.)

1 UNIDENTIFIED SPEAKER: He keeps following
2 us. And he -- he won't stop following us.
3 (Indiscernible).

4 (**TRANSCRIBER'S NOTE:** Video recording
5 stopped, 1:46 p.m.)

6 THE WITNESS: So you can hear the kids are
7 pretty scared.

8 BY MR. REES:

9 Q What's this next video?

10 A So this video is a dash-cam video from just
11 a citizen who was driving and contacted us later.
12 He's driving southbound on MLK up by the Convention
13 Center right now. I believe this is Interstate right
14 here. And --

15 A GRAND JUROR: What's the time on that?

16 THE WITNESS: So this says April 23rd, 2017,
17 at 0:27. So the time stamp is completely inaccurate
18 from real time.

19 A GRAND JUROR: Oh.

20 BY MR. REES:

21 Q But so -- that the real time, though,
22 Detective, isn't this -- would be a few minutes before
23 the report --

24 A GRAND JUROR: 7:25 p.m.

25 BY MR. REES:

1 Q -- of the vehicle crash?

2 A Yes.

3 Q Which is at --

4 A 7:29.

5 Q -- 7:29. So this is just before that
6 report?

7 A GRAND JUROR: 7:25 is what they said
8 earlier.

9 BY MR. REES:

10 Q Okay. 7:25, so it's four minutes before
11 this.

12 A So --

13 Q And because it's just -- as you say, this is
14 several blocks north of the location where the vehicle
15 crash was reported, right?

16 A Yes. And just for clarification 7:25 is
17 when the 9-1-1 call came in from the road rage
18 incident, so he actually went home before calling.

19 (**TRANSCRIBER'S NOTE:** Video recording
20 played, 1:47 p.m., as follows:)

21 THE WITNESS: So as you're watch, watch the
22 right side of the -- the screen.

23 (Beep.)

24 A GRAND JUROR: Oh. Oh.

25 UNIDENTIFIED SPEAKER: Ha, ha, ha. Ha, ha,

1 ha. Oh, my God. Oh, my God. Fucking A.

2 (TRANSCRIBER'S NOTE: Video recording
3 stopped, 1:48 p.m.)

4 THE WITNESS: So the reason he's laughing is
5 the car drives down the streetcar line here, which
6 isn't designed for vehicular traffic at all.

7 (TRANSCRIBER'S NOTE: Video recording
8 played, 1:48 p.m., as follows:)

9 UNIDENTIFIED SPEAKER: (Laughter).

10 THE WITNESS: Then he turns off to go to
11 work.

12 (TRANSCRIBER'S NOTE: Video recording
13 stopped, 1:49 p.m.)

14 THE WITNESS: It's just hard to see it
15 because the camera obviously focuses on the raindrops
16 on the windshield and not through the windshield.

17 A GRAND JUROR: I'm confused. Were those
18 two different cars seen? Two different cars?

19 THE WITNESS: What do you mean by "two
20 different cars"?

21 A GRAND JUROR: The one with a -- with a
22 cell phone --

23 A GRAND JUROR: This was the --

24 A GRAND JUROR: This was the dash cam.

25 A GRAND JUROR: -- car with the family

1 in it.

2 THE WITNESS: Yes, ma'am.

3 A GRAND JUROR: And now this car, was that
4 the same car?

5 THE WITNESS: Same car. Yeah, the car that
6 was following the Hispanic family --

7 A GRAND JUROR: Yeah.

8 THE WITNESS: -- is the same car that you
9 just saw drive around everybody and hit the curb.

10 A GRAND JUROR: No. No. No. I don't mean
11 the -- the guy. The family that was being followed --

12 THE WITNESS: Mm-hmm.

13 A GRAND JUROR: -- this video just now --

14 THE WITNESS: That's a, yeah, totally
15 different guy.

16 A GRAND JUROR: That's a different person?

17 THE WITNESS: Different guy --

18 A GRAND JUROR: Okay.

19 THE WITNESS: -- who's on his way to work
20 with a dash cam.

21 A GRAND JUROR: Oh, okay.

22 A GRAND JUROR: Did he -- did he call 9-1-1
23 or something or --

24 THE WITNESS: He did not call 9-1-1. He
25 called afterwards. So this video here is -- you're

1 looking at Grand again. The direction of travel would
2 be southbound. Or, I'm sorry, Martin -- MLK, not
3 Grand. Direction of travel southbound. This is a
4 business that -- Stark would be right down here and --
5 BY MR. REES:

6 Q Detective, you can use this --

7 A Oh.

8 Q -- too, to a point where -- where we are.

9 A So it's -- like this business here, the
10 camera looking down. And you're going to see that CRV
11 drive down the street. And as you do pay close
12 attention to the driver side of the vehicle.

13 (**TRANSCRIBER'S NOTE:** Video recording
14 played, 1:50 p.m.)

15 THE WITNESS: So he's hanging out of the
16 vehicle as he's driving up and he jumps out before he
17 even comes to a stop.

18 BY MR. REES:

19 Q And now, Detective Kammerer, a person or
20 persons called 9-1-1 about that incident, right?

21 A Yes, that's correct.

22 Q And was that reported as a -- or understood
23 by 9-1-1 as a crash report?

24 A Yeah. One of the calls, they -- they
25 believed it was a crash, like a vehicular crash, like

1 a traffic accident, if you will, at that location.

2 Q And was it reported that -- that a man with
3 no shirt on left the scene and -- and ran off into
4 traffic?

5 A Yes.

6 Q Now, you -- as part of this investigation
7 you and your partner went and looked at that -- at
8 that car, right?

9 A That's correct, yes.

10 Q And did you notice any damage to it?

11 A So the front passenger side of the vehicle,
12 on the right side, that front tire, where it attaches
13 to the axle was completely busted and at about a
14 45-degree angle to the rest of the tires. So I'm
15 guessing -- and the rim was dented, too.

16 So I'm guessing that occurred either when he
17 hit the curb, which I doubt because he was able to
18 drive much longer, but when he hit the streetcar line
19 and was on those chunks of concrete that's probably
20 what busted up the axle.

21 A GRAND JUROR: He snapped the axle?

22 THE WITNESS: Mm-hmm.

23 A GRAND JUROR: (Indiscernible).

24 BY MR. JACKSON:

25 Q You can actually see that if you back up the

1 film just like one click. Can you actually see that
2 on the car when it comes to a rest, that damage --

3 A Oh.

4 Q -- you just described?

5 A GRAND JUROR: I can see the tire.

6 BY MR. JACKSON:

7 Q Yeah. Just play it from there.

8 (**TRANSCRIBER'S NOTE:** Video recording
9 played, 1:52 p.m.)

10 A GRAND JUROR: Yeah, you can see it.

11 THE WITNESS: Yeah. It's --

12 A GRAND JUROR: Oh, gosh.

13 THE WITNESS: So you notice that tire's kind
14 of facing forward and that one's bent over. So I
15 don't know how he was able to drive it that far
16 really.

17 A GRAND JUROR: Lucky nobody got run over
18 during that.

19 THE WITNESS: Mm-hmm. So then this view is
20 from the camera outside City Team Ministries. So
21 you'd be looking north along Grand Avenue up towards
22 Stark Street at the top of the -- the screen there.
23 So then Grand -- or I'm sorry -- MLK would be one more
24 block over from where the car was dumped.

25 BY MR. REES:

1 Q Detective, at the top of the screen there --

2 A So that's Mr. Elifritz right there with no
3 shirt on crossing the street right behind a white car.
4 And then you'll see him come down the sidewalk.

5 Q Detective, is the date and time stamp on
6 this video correct?

7 A Yeah, that is.

8 Q Okay.

9 A GRAND JUROR: That's him?

10 THE WITNESS: I'm sorry?

11 A GRAND JUROR: That's him, the guy?

12 THE WITNESS: Ah, no, not yet. You'll see
13 him. He's coming down the sidewalk now at the top of
14 the screen there.

15 A GRAND JUROR: No police officers around?

16 THE WITNESS: Not at this time.

17 A GRAND JUROR: Not yet, right?

18 THE WITNESS: Correct.

19 A GRAND JUROR: Yeah.

20 THE WITNESS: If you see his right hand,
21 he's holding the knife with the blade extending down
22 from the bottom of his hand.

23 (Pause in proceedings, 1:55 p.m. Video
24 playing with no sound.)

25 THE WITNESS: So then this is the inside now

1 of City Team Ministries. This is the front door over
2 here on the right-hand side of the screen. This is
3 the counter area that we talked about earlier. This
4 is the Alcoholics Anonymous/Narcotics Anonymous
5 meeting going on right there.

6 So there's Mr. Elifritz coming in.

7 That's him trying coats on.

8 BY MR. REES:

9 Q So did you find out what that is, what's
10 happening? Is there a barrel of donated clothing?

11 A Yeah. So there's a bin of clothing right
12 there, right in the front. And he initially tried to
13 take this gentleman's jacket that was on the chair and
14 they directed him to the bin for -- you know, "If you
15 need a coat, take it out of there."

16 So this is that same camera again from the
17 first image where we've seen him come down the street.
18 Now he comes out and he walks southbound. Then he
19 comes back in. He's kind of just hanging out in the
20 doorway there.

21 A GRAND JUROR: Is that him in the upper
22 right?

23 THE WITNESS: Yeah, right there in the
24 doorway. And you can see he's still got that knife in
25 his hand.

1 (Pause in proceedings, 1:57 p.m. - 1:58 p.m.
2 Video playing with no sound.)

3 A GRAND JUROR: Was he quiet through all
4 this?

5 THE WITNESS: Was he quiet?

6 A GRAND JUROR: Yeah.

7 THE WITNESS: He was -- I mean, he wasn't
8 standing there not talking.

9 A GRAND JUROR: Is there audio?

10 THE WITNESS: No, there's no audio. But I
11 don't know what it is he was saying other than just
12 engaging people around him.

13 (Pause in proceedings, 1:58 p.m. - 2:01 p.m.
14 Video playing with no sound.)

15 A GRAND JUROR: There's --

16 THE WITNESS: Yeah. So these are the
17 officers responding to that initial call.

18 A GRAND JUROR: The paramedic call?

19 THE WITNESS: No. The -- the one about the
20 car.

21 BY MR. REES:

22 Q And so he momentarily stepped outside again?

23 A Yeah. So the officer goes by and he steps
24 out. He's looking around and then steps back inside.
25 But you can see his attention is clearly focused on

1 what's going on outside, not really what's going on
2 inside here. So he steps outside again, back in.

3 (Pause in proceedings, 2:02 p.m. - 2:03 p.m.

4 Video playing with no sound.)

5 THE WITNESS: So there he is coming outside.

6 And this is just a camera on the other side of the

7 door looking southbound.

8 BY MR. JACKSON:

9 Q Detective, where is the Jacksons on this
10 screen?

11 A So right above where it says 1937 that is
12 the back side of the Jacksons store. And then he went
13 out the door, ran across the street and headed right
14 for the Jacksons store.

15 (Pause in proceedings, 2:04 p.m. Video

16 playing with no sound.)

17 BY MR. REES:

18 Q Was there video from the Jacksons store?

19 A There was, yes.

20 Q And is that what we're seeing here?

21 A Yeah. So a detective that was there at the
22 time -- they didn't have the ability to download the
23 video, so he's just using his phone to record the
24 screen inside the Jackson store.

25 BY MR. JACKSON:

1 Q Who is that standing up by the door there?

2 A That's Mr. Elifritz. He's right -- right
3 there. And that person that just walked up there by
4 the door, her name is Carletta Davis.

5 A GRAND JUROR: Is the store video clearer?
6 This is hard to see.

7 THE WITNESS: Not much, no. It's hard to
8 see. But, like most convenience stores, the cameras
9 are set up to capture what the employees are doing and
10 not necessarily what else was going on in the store.

11 BY MR. JACKSON:

12 Q Did his behavior here generate a 9-1-1 call?

13 A Yes. Yes. The employee at the store called
14 9-1-1 saying that he was standing there holding a
15 knife for about five or ten minutes and just pacing
16 back and forth, acting weird.

17 THE WITNESS: And the audio you're hearing
18 is coming from the detective's phone as he's
19 recording. It's not from the store video.

20 So, again, we're -- the camera at City Team
21 Ministries is looking back towards Jacksons at the top
22 of the screen there. There goes Mr. Elifritz.

23 BY MR. JACKSON:

24 Q Is he crossing the street up there --

25 A Yes.

1 Q -- at the top of the screen?

2 A Yes.

3 Q Okay.

4 A Just hit the corner there, is walking down
5 the sidewalk on the west side. And you can see him up
6 there crossing by that car. And there's the ambulance
7 that I talked about earlier that was there.

8 Q Is that the Columbia homeless shelter across
9 the street?

10 A Yes. And this is where his interaction with
11 Mr. McKimmy takes place, right back there at the back
12 end.

13 (Pause in proceedings, 2:08 p.m. - 2:11 p.m.
14 Video playing with no sound.)

15 BY MR. REES:

16 Q So this time that we're sitting through, is
17 this when you believe Mr. Elifritz is holding
18 Mr. McKimmy at knifepoint?

19 A Yes, that's correct.

20 (Pause in proceedings, 2:12 p.m. Video
21 playing with no sound.)

22 THE WITNESS: Now, eventually you'll see
23 Mr. Elifritz cross Stark, cross over across Grand and
24 then come back down this way.

25 A GRAND JUROR: So by now you've received

1 the 9-1-1 call from the Jackson store?

2 THE WITNESS: Yes, sir.

3 A GRAND JUROR: And you've tied that -- tied
4 it to the earlier events?

5 THE WITNESS: Yeah. They're starting to
6 make those connections that it's all the same guy.

7 (Pause in proceedings, 2:12 p.m. - 2:13 p.m.
8 Video playing with no sound.)

9 THE WITNESS: So you see him coming down the
10 sidewalk now towards City Team right at the top there.
11 He's still got that knife in his hand. He comes in
12 the door and he's right there by the counter again.
13 So these are officers responding now to the call from
14 the ambulance crew about Mr. McKimmy.

15 BY MR. REES:

16 Q At some point persons inside shelter call
17 9-1-1 as well, correct?

18 A You'll see people come out the front door
19 and they're waving at the officers to come across the
20 street.

21 (Pause in proceedings, 2:15 p.m. Video
22 playing with no sound.)

23 THE WITNESS: So you see the flashing light
24 in the door there. The officers are across the street
25 now.

1 BY MR. JACKSON:

2 Q So at this point, Detective, are there --
3 how many camera angles are there inside of City Team
4 Ministries?

5 A Four. There's four that -- that capture the
6 events on the inside.

7 Q On the inside. And so were you able to pull
8 video from all of the different angles --

9 A Yes.

10 Q -- within City Team? Okay.

11 So which angle are we looking at here?

12 A So this is inside the -- the building.
13 There's a camera like right here looking like in this
14 direction so you see the front door all the way up to
15 about the stairway here, so that encompasses this area
16 right here.

17 Q Am I standing in the way? Can you see that?

18 A (No audible response.)

19 (Pause in proceedings, 2:16 p.m. - 2:17 p.m.
20 Video playing with no sound.)

21 THE WITNESS: So you see that he's cutting
22 his neck right there. And people are starting to
23 notice what he's doing.

24 (Pause in proceedings, 2:17 p.m. Video
25 playing with no sound.)

1 THE WITNESS: So now he's cutting the other
2 side of his neck.

3 As he moves around watch for his interaction
4 with the guy in the blue coat and the white ponytail.

5 BY MR. JACKSON:

6 Q Are officers now at the door?

7 A Yeah. Officers are now at the door. So he
8 tried grab the guy in the white -- white ponytail and
9 that blue coat.

10 BY MR. REES:

11 Q Who (indiscernible) --

12 A GRAND JUROR: It looks like he --

13 BY MR. REES:

14 Q -- identified as Mr. Herrera?

15 A Correct, that's Jerry Herrera.

16 (Pause in proceedings, 2:18 p.m. - 2:19 p.m.
17 Video playing with no audio.)

18 THE WITNESS: You can see the officers now
19 starting to breach the doorway there. And
20 Mr. Elifritz is still in the back corner of the room,
21 kind of in this area here. Some of the officers are
22 coming in.

23 BY MR. JACKSON:

24 Q Where's Mr. Elifritz now?

25 A He's still right there behind that pillar.

1 He's poking out right there. So about half the
2 officers are focused on dealing with him and the other
3 half are focused on getting all the civilians out of
4 there.

5 A GRAND JUROR: So it seems like the
6 thoughts were shired [sic] -- were shot, fired --

7 THE WITNESS: Right there.

8 A GRAND JUROR: -- right there.

9 THE WITNESS: Yep. We can back right up if
10 you want to see that again since I was talking through
11 it. You can see he's still back there. And then he
12 comes out and then starts running. And that's when
13 he's shot.

14 Can I get the light switch?

15 BY MR. JACKSON:

16 Q Yeah, go ahead. Let's actually look at the
17 (indiscernible).

18 So while I'm getting to the time stamp, do
19 you want to describe what this is?

20 A So this is that same camera view we saw
21 earlier on the outside of City Ministries looking
22 southbound. So all the officers are in the location
23 now because of the incident with Mr. McKimmy. And
24 then this guy comes out, saying, "He's -- he's cutting
25 his throat. You need to get in here."

1 (Pause in proceedings, 2:22 p.m. Video
2 playing with no sound.)

3 THE WITNESS: And they're also telling the
4 officer he's trying to stab people.

5 A GRAND JUROR: Was that the nonlethal with
6 the gray strap?

7 THE WITNESS: Yeah. So the red stripe
8 denotes the -- not nonlethal --

9 A GRAND JUROR: Or --

10 THE WITNESS: -- but less-lethal.

11 A GRAND JUROR: -- less-lethal, sorry.

12 THE WITNESS: Yes, ma'am.

13 And this guy here is a police officer. He's
14 in plain clothes because he has a trainee that he's
15 evaluating.

16 And then that's the second less-lethal
17 operator coming up there in the back.

18 (Pause in proceedings, 2:23 p.m. - 2:24 p.m.
19 Video playing with no sound.)

20 THE WITNESS: And that is Sergeant Axthelm
21 right there.

22 A GRAND JUROR: Portland Police don't have
23 body cams?

24 THE WITNESS: No, ma'am.

25 A GRAND JUROR: Oh.

1 UNIDENTIFIED SPEAKER: Do you want to stay
2 on this one or --

3 THE WITNESS: And I don't know if you
4 noticed or not, but they did fire the less-lethal from
5 out here before going in.

6 A GRAND JUROR: Those long two -- the first
7 two things that went in were long, like, rifles?
8 Those are the nonlethal?

9 THE WITNESS: No. The -- the orange straps.

10 A GRAND JUROR: Yeah. But from the other
11 video when you look in the door the first two guns
12 that you can see peeking in are long.

13 THE WITNESS: Yeah. Those are the AR15
14 rifles.

15 A GRAND JUROR: Okay. Oh.

16 THE WITNESS: So this camera angle is kind
17 of right here looking back this way towards the front
18 door. So these are all the folks at the meeting.
19 There's Mr. Herrera sitting right there, Mr. Elifritz
20 there.

21 A GRAND JUROR: It looks like he changed his
22 coat a few times.

23 THE WITNESS: It's the same coat that he got
24 from earlier.

25 (Pause in proceedings, 2:26 p.m. - 2:27 p.m.)

1 Video playing with no sound.)

2 THE WITNESS: So those guys are trying to
3 use chairs to keep him from coming out towards them.

4 BY MR. JACKSON:

5 Q And so what happened right there?

6 A He was struck with the less-lethal.

7 Q Okay. And where are the police right now?

8 A They're still outside. They're in the
9 doorway there.

10 Q Okay. Could you just go up and point to
11 direct the attention of where that happens?

12 A Mm-hmm.

13 A GRAND JUROR: About how many feet away was
14 that, was he from the -- from the doorway?

15 THE WITNESS: From there he's probably 40 or
16 50 feet.

17 A GRAND JUROR: Which is the distance that
18 those things work?

19 THE WITNESS: Oh, absolutely. So watch his
20 leg. Right there. See that round drop right down
21 there? Do you guys want to see that again?

22 A GRAND JUROR: Yeah. I --

23 THE WITNESS: Okay.

24 A GRAND JUROR: -- must have blinked when it
25 did it.

1 THE WITNESS: So the round's going to land
2 in the alcove. It'll be about here. And right about
3 -- watch his left thigh. Right there.

4 A GRAND JUROR: So he didn't feel it.

5 THE WITNESS: Correct.

6 BY MR. JACKSON:

7 Q What happened right there?

8 A Same thing.

9 Q He got hit again with less-lethal?

10 A Yes.

11 Q And there?

12 A And -- and another one impacted him.

13 Q Okay. So let's see that again.

14 A And if you can't see it from back there --

15 A GRAND JUROR: But he's not rushing anyone
16 at this point.

17 THE WITNESS: Nope.

18 (Pause in proceedings, 2:29 p.m. Video
19 playing with no sound.)

20 BY MR. JACKSON:

21 Q Are the police just standing there quietly
22 while this is happening or what --

23 A No. They're giving constant directions to
24 the civilians, constant directions to Mr. Elifritz to
25 drop the knife.

1 Q Does he appear to be complying with those
2 orders?

3 A No, he actually -- you can hear him yell,
4 "No." And then he runs out from back here. He runs
5 right out there towards the officers.

6 A GRAND JUROR: Where -- where was the
7 officer with the shotgun?

8 THE WITNESS: Ah, he was standing rough --
9 roughly over here.

10 A GRAND JUROR: Oh, okay. 'Cause I thought
11 there were shotgun casings up on the other corner if
12 you go back.

13 THE WITNESS: Yeah. So Mr. Martiniuc is
14 right there next to that pillar.

15 BY MR. REES:

16 Q And I think, Detective, he's asking about
17 then, if he's standing there, how does that correspond
18 to the placard with the shotgun shells.

19 A So you fire the shotgun. You rack the slide
20 back. It ejects the shell out.

21 A GRAND JUROR: Right.

22 THE WITNESS: And then depending on what is
23 between the shell and its resting place determines
24 where it goes from there. So if there's nobody there,
25 it maybe flies 10, 15 feet, hits. Depending on the

1 terrain. If it's smooth terrain, it rolls. If it's
2 grass, it stays.

3 If it impacts something between there, then
4 it moves in that -- that direction now. So if, you
5 know, there's an officer right next to him or a pillar
6 in this case, it's going to change the direction of
7 that casing as it's coming out.

8 BY MR. REES:

9 Q What was the distance from where
10 Mr. Elifritz fell to the floor from the officers who
11 were shooting at him?

12 A Depending on the various officer, between 18
13 to 20 feet.

14 BY MR. JACKSON:

15 Q And at that time that they were deploying
16 the less-lethal sponge rounds at him were they also
17 giving the constant commands to drop the knife, drop
18 the knife, drop the knife?

19 A Yes.

20 Q Okay.

21 A And by law we're required to notify them,
22 you know, "Drop the knife or something will occur. In
23 this case or you'll be hit with less-lethal or" -- you
24 know, there has to be a warning given.

25 Q So what angle are we seeing here on the

1 screen?

2 A So you would be in this corner here looking
3 down this way.

4 Q Okay.

5 A So everybody's starting to notice that he
6 made that first series of cuts on his neck.

7 Q You mentioned earlier in your testimony
8 there was a door that was locked in the back?

9 A Well, yeah. So there's this -- this doorway
10 right here. You can see the edge of the doorway,
11 which corresponds with this doorway here, which leads
12 to that food storage area. And so everybody was
13 funneling in that direction, but they couldn't get out
14 through here.

15 A GRAND JUROR: So there's only one way in
16 and one way out?

17 MR. REES: (Indiscernible).

18 THE WITNESS: Yeah. I mean, there are other
19 doors, but they were secured.

20 BY MR. JACKSON:

21 Q So all of these people we see on the screen
22 here were basically stuck in that back corner?

23 A That's correct, yes.

24 Q What are these people doing down here?

25 A They're just hiding. You can see the guy

1 hiding behind a desk. Another couple guys hiding
2 behind a garbage can. Those two guys are ducked down
3 behind a chair, just hoping not to be seen by
4 Mr. Elifritz.

5 A GRAND JUROR: And some guy's standing
6 there with their hands in their pocket.

7 THE WITNESS: Yeah.

8 A GRAND JUROR: Does he live in that
9 shelter?

10 THE WITNESS: I'm sorry?

11 A GRAND JUROR: Does he live in the shelter?

12 THE WITNESS: No, he does not live in the
13 shelter.

14 A GRAND JUROR: All right.

15 THE WITNESS: So you can see he's hiding
16 behind that pillar, trying to keep the pillar between
17 him and the officers. And then he just comes out and
18 starts running.

19 (**TRANSCRIBER'S NOTE:** Audio recording
20 played, 2:36 p.m., as follows:)

21 (Indiscernible yelling.)

22 (**TRANSCRIBER'S NOTE:** Audio recording
23 stopped, 2:36 p.m.)

24 BY MR. REES:

25 Q Okay. And what is this?

1 A So this is -- one of the guys that was
2 inside there going -- ah, got a cell phone out and
3 started videoing what was going on.

4 Q Is this the -- the video that was released
5 to the media?

6 A No.

7 MR. JACKSON: No. Okay.

8 (**TRANSCRIBER'S NOTE:** Audio recording,
9 played, 2:36 p.m., as follows:)

10 (Indiscernible yelling.)

11 (**TRANSCRIBER'S NOTE:** Audio recording
12 stopped, 2:36 p.m.)

13 THE WITNESS: So if you saw the orientation
14 really quick, this guy is back here in this corner
15 where he's videoing 'cause here's the stairs here.
16 Mr. Elifritz is back here. And then the officers are
17 way down here at the front.

18 (**TRANSCRIBER'S NOTE:** Audio recording
19 played, 2:37 p.m., as follows:)

20 (Indiscernible yelling.)

21 (**TRANSCRIBER'S NOTE:** Audio recording
22 stopped, 2:37 p.m.)

23 BY MR. JACKSON:

24 Q What do we see here?

25 A So this is taken from a different angle, so

1 another guy that would've been over here -- I'm
2 sorry -- over here videoing.

3 BY MR. REES:

4 Q And this was released to the media, but it
5 doesn't show the shooting?

6 A Correct.

7 (**TRANSCRIBER'S NOTE:** Audio recording
8 played, 2:37 p.m., as follows:)

9 (Indiscernible yelling.)

10 (**TRANSCRIBER'S NOTE:** Audio recording
11 stopped, 2:37 p.m.)

12 THE WITNESS: So that -- that snap you just
13 heard, that's a 40-millimeter less-lethal round being
14 fired.

15 (**TRANSCRIBER'S NOTE:** Audio recording
16 played, 2:37 p.m., as follows:)

17 (Indiscernible yelling.)

18 THE WITNESS: That's another one.

19 UNIDENTIFIED SPEAKER: Drop the knife now.

20 UNIDENTIFIED SPEAKER: No.

21 UNIDENTIFIED SPEAKER: (Indiscernible) fire.

22 (Indiscernible) fire it. Down now.

23 (**TRANSCRIBER'S NOTE:** Audio recording
24 stopped, 2:38 p.m.)

25 THE WITNESS: So I don't know if you can

1 hear that or not. "Drop the knife," and he screams,
2 "No."

3 A GRAND JUROR: Wait. That video is from
4 Oregon Live?

5 THE WITNESS: No. It was -- it was --

6 A GRAND JUROR: So they -- they --

7 THE WITNESS: -- given to the media.

8 A GRAND JUROR: -- they edited it --

9 THE WITNESS: And we were able to --

10 A GRAND JUROR: -- short.

11 THE WITNESS: -- retrieve it from Oregon
12 Live.

13 A GRAND JUROR: It seems that that person
14 that shot it probably has a longer version?

15 THE WITNESS: No. I think what happened is
16 he turned his phone off and then went out.

17 BY MR. JACKSON:

18 Q And what door would he have gone out of from
19 that position?

20 A He would've gone out through here, which is
21 this hallway that leads all the way down.

22 Q You mean on the other side of the --

23 MR. REES: The hallway's on the other side.

24 THE WITNESS: Oh, I'm sorry. Yeah. This
25 hallway here that leads all the way down.

1 MR. JACKSON: Yeah. Okay.

2 BY MR. REES:

3 Q Now, this next video, is this the cell phone
4 video that was released?

5 A No. So this is -- it's the same video as
6 the previous one, but this one was texted to our
7 detective, which is why it's such poor quality.

8 (**TRANSCRIBER'S NOTE:** Audio recording
9 played, 2:39 p.m., as follows:)

10 (Indiscernible yelling.)

11 UNIDENTIFIED SPEAKER: This shit's fucking
12 (indiscernible).

13 (Indiscernible yelling.)

14 THE WITNESS: So this is what we were
15 talking about earlier where he just ran outside.

16 (Indiscernible yelling.)

17 (**TRANSCRIBER'S NOTE:** Audio recording
18 stopped, 2:40 p.m.)

19 THE WITNESS: (Indiscernible). So this is
20 the video that shows the shooting. And he's standing
21 over here. You can see those stairs right here. And
22 then you'll -- you'll the interaction. That's
23 Mr. Elifritz standing right there at the right,
24 correct.

25 MR. JACKSON: Okay. So we should play it?

1 BY MR. REES:

2 Q Well, I'm sorry to keep asking this
3 question, but I just want to make sure we're clear.

4 A This is the -- this is the video that was
5 released to the --

6 Q Okay. Well, this is a critical point, so
7 I -- I just want to -- before we show it, to avoid
8 further confusion --

9 A Okay.

10 Q -- as this has been shown on the media
11 repeatedly. And it creates a completely distorted and
12 incorrect view of what occurred --

13 A That's correct.

14 Q -- right?

15 A Yes.

16 Q And why is that?

17 A So for whatever reason as he's recording,
18 the video and the audio are in sync. And then as it
19 progresses forward the video hangs, but the audio does
20 not. You can hear it continue forward without
21 hanging.

22 And then after a couple of seconds the video
23 unfreezes and continues to go forward from the point
24 where it hung. So now the audio and the video are out
25 of sync.

1 Q And so as a result it appears that the
2 police shoot Mr. Elifritz when he's really not doing
3 anything?

4 A Right. Long before he exits the -- the
5 alcove, it -- merely watching this video you would
6 think they shot him while he was still back there.

7 Q And that's been, of course, what's been out
8 in the public. Did -- did the police bureau release
9 this corrupted video?

10 A No. The -- the guy that took the video,
11 Morgan Pickering, loaded it on Instagram and that's
12 how it got out.

13 A GRAND JUROR: However, that other video
14 showed also when they started shooting the foam rounds
15 at him, he wasn't at that point running towards them.

16 THE WITNESS: That is correct. He wasn't.

17 A GRAND JUROR: He wasn't.

18 BY MR. REES:

19 Q Well, I'm -- so to be clear, if you remember
20 from the earlier video, the police don't use the
21 deadly force firearms until he runs. And that's what
22 we're talking about. Clearly, they were shooting him
23 with the less-lethal foam projectiles before he ran?

24 A GRAND JUROR: When he was further away.

25 MR. REES: Yes, that's correct. And they'll

1 explain why later.

2 BY MR. REES:

3 Q But we were trying to -- just to be clear --
4 we're talking about the use of deadly force. So go
5 ahead and -- with the understanding that in this
6 video, the pictures and the sound do not match, then
7 go ahead and show it.

8 A And right now it does, but you'll see when
9 it doesn't.

10 Q You mean at the beginning?

11 A Mm-hmm.

12 (**TRANSCRIBER'S NOTE:** Audio recording
13 played, 2:43 p.m., as follows:)

14 (Indiscernible yelling.)

15 UNIDENTIFIED SPEAKER: Get out from behind
16 him. Move. Come on.

17 UNIDENTIFIED SPEAKER: Oh, my God. Oh, my
18 God.

19 (Indiscernible yelling.)

20 THE WITNESS: Right here.

21 (Indiscernible yelling; dog barking.)

22 UNIDENTIFIED SPEAKER: Drop the knife.

23 (Indiscernible). Drop the knife. (Indiscernible).

24 (Indiscernible yelling. Shots being fired.

25 Dog barking.)

1 UNIDENTIFIED SPEAKER: Oh, God. Oh, no.
2 Please don't look (Indiscernible). Oh, my God. Oh,
3 my God. Oh, my God.

4 (Indiscernible yelling. Dog barking.)

5 UNIDENTIFIED SPEAKER: Drop the knife now.

6 UNIDENTIFIED SPEAKER: Oh, my God. Oh, no.

7 (Indiscernible yelling.)

8 UNIDENTIFIED SPEAKER: You guys, come here.
9 Get out of the way. Out. Out. Out. (Indiscernible)
10 and get out.

11 A GRAND JUROR: It seems to be synchronized
12 right now when he's saying, "Come on, get out."

13 THE WITNESS: It's -- it's still behind. It
14 never synchronizes.

15 (Indiscernible chatter and yelling in the
16 background. Sirens.)

17 UNIDENTIFIED SPEAKER: Oh, my God. Oh, my
18 God. Oh, my God. Oh, my God. Oh, my God. Oh, my
19 God. Oh, my God.

20 (**TRANSCRIBER'S NOTE:** Audio recording
21 stopped, 2:45 p.m.)

22 THE WITNESS: Okay.

23 A GRAND JUROR: Can we see the rest of it?
24 Is that the end?

25 THE WITNESS: Sure.

1 (**TRANSCRIBER'S NOTE:** Audio recording
2 played, 2:45 p.m., as follows:)

3 (Indiscernible chatter and yelling in the
4 background. Sirens.)

5 UNIDENTIFIED SPEAKER: Can I use the cell
6 phone?

7 UNIDENTIFIED SPEAKER: Well, I'm taping
8 this. Oh, my God.

9 (Indiscernible yelling in the background.)

10 UNIDENTIFIED SPEAKER: Oh, my God. Oh, my
11 God.

12 UNIDENTIFIED SPEAKER: I'm on my phone.
13 (Indiscernible).

14 UNIDENTIFIED SPEAKER: I don't know.
15 (Indiscernible).

16 (**TRANSCRIBER'S NOTE:** Audio recording
17 stopped, 2:46 p.m.)

18 THE WITNESS: So if you notice at the end
19 there the sound stopped, but the video continued for
20 another couple of seconds.

21 BY MR. JACKSON:

22 Q Okay. So what is this here, Detective?

23 A So though we don't have body cams, we do
24 have cameras in some of the cars. And this is the
25 camera from inside Officer Fox's car. When he exits

1 the vehicle he has a unit on him that records sound.
2 So when it stopped in front -- you're not going to see
3 anything different than rain and brake lights, but
4 you'll be able to hear what's going on inside the
5 building from Officer Fox's MAV.

6 A GRAND JUROR: Which officer?

7 THE WITNESS: Officer Ken Fox.

8 (Pause in proceedings, 2:48 p.m.)

9 (**TRANSCRIBER'S NOTE:** Audio recording
10 played, 2:48 p.m., as follows:)

11 THE WITNESS: As soon as he turned on the --
12 activated the lights, it activates the video. So it
13 shows him driving around for a while.

14 BY MR. JACKSON:

15 Q So can you orient us here?

16 A Yeah. So right now he's northbound on
17 Grand. That would be Stark down there and so he's
18 roughly down in this area right now.

19 Q So My Father's Place is to the left of the
20 screen as we look at it?

21 A Correct.

22 Q And City Team is to the right?

23 A Correct.

24 MR. JACKSON: Okay.

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

1 played, 2:49 p.m., as follows:)

2 UNIDENTIFIED SPEAKER: (Indiscernible).

3 THE WITNESS: And the way the audio records
4 on this, it's one channel per source. So there's a
5 source in the car and there's a source on his person.
6 But they play simultaneously, so you're going to hear
7 what's going on in the car simultaneous to what's
8 going on inside.

9 OFFICER FOX: Do we know where he went?

10 A GRAND JUROR: Do they know he's inside the
11 building at this point?

12 THE WITNESS: Not yet, no. Officer Fox
13 justed asked, "Do we know where he went?"

14 UNIDENTIFIED SPEAKER: Officer,
15 (indiscernible).

16 THE WITNESS: Hear the guy yelling,
17 "Officer."

18 UNIDENTIFIED SPEAKER: (Indiscernible).

19 UNIDENTIFIED SPEAKER: (Indiscernible)
20 sounds like (indiscernible).

21 UNIDENTIFIED SPEAKER: (Indiscernible).

22 UNIDENTIFIED SPEAKER: I know.

23 UNIDENTIFIED SPEAKER: We need help.

24 UNIDENTIFIED SPEAKER: Okay.

25 UNIDENTIFIED SPEAKER: He's trying to stab

1 people now (indiscernible).

2 THE WITNESS: You hear that? "He's trying
3 to stab people now."

4 UNIDENTIFIED SPEAKER: All right. Get back.
5 Get back. Get back. Get back in. Get everyone back
6 there (indiscernible) you guys get inside a room.

7 UNIDENTIFIED SPEAKER: (Indiscernible).

8 UNIDENTIFIED SPEAKER: Stay right there.
9 (Indiscernible). Hey, drop the knife or you're going
10 to get beanbagged. Throw it down to -- throw it down
11 to the ground. You're going to get beanbagged.

12 UNIDENTIFIED SPEAKER: (Indiscernible) get
13 this door open.

14 UNIDENTIFIED SPEAKER: Get back.
15 (Indiscernible). We're going to beanbag.

16 UNIDENTIFIED SPEAKER: Back off.

17 UNIDENTIFIED SPEAKER: (Indiscernible)
18 coming at everyone (indiscernible). You're going to
19 get shot. Drop the knife, dude. Drop the knife.

20 (**TRANSCRIBER'S NOTE:** Audio recording
21 stopped, 2:50 p.m.)

22 THE WITNESS: So I don't know if you're able
23 to hear those orders, but it's "Drop the knife or
24 you're going to get beanbagged. If you come at us,
25 you're going to get shot." And he's been given

1 warnings and -- and --

2 A GRAND JUROR: But beanbags weren't used,
3 right? He was just --

4 THE WITNESS: It's a -- it's a phrase.

5 A GRAND JUROR: Yeah.

6 THE WITNESS: A beanbag is less-lethal.
7 They just got these tools out on the street. So a lot
8 of the guys are used to saying "beanbagged," but it's
9 a description of what's going to happen.

10 A GRAND JUROR: They were not beanbags.

11 THE WITNESS: It's a less-lethal.

12 (**TRANSCRIBER'S NOTE:** Audio recording
13 played, 2:51 p.m., as follows:)

14 UNIDENTIFIED SPEAKER: (Indiscernible) on
15 the ground (indiscernible) less-lethal
16 (indiscernible).

17 THE WITNESS: There's another -- "You're
18 going to get hit with a less-lethal."

19 A GRAND JUROR: The foam was used instead.

20 (**TRANSCRIBER'S NOTE:** Audio recording
21 stopped, 2:51 p.m.)

22 MR. JACKSON: I'm sorry. What was your
23 question?

24 THE WITNESS: It was the other type, the
25 foam, not the beanbag rounds.

1 THE WITNESS: We don't have the beanbag
2 rounds anymore.

3 A GRAND JUROR: Okay. So he was just saying
4 it 'cause --

5 THE WITNESS: He was just --

6 A GRAND JUROR: -- that's --

7 THE WITNESS: Right.

8 A GRAND JUROR: -- what they call it.

9 THE WITNESS: 'Cause, you know, years of
10 training, "You're going to do this or you're going to
11 get, you know, shot with a beanbag," but it's all
12 less-lethal. And then the other officer said, you
13 know, "Drop the knife or you're going to get shot with
14 a less-lethal."

15 A GRAND JUROR: Okay.

16 BY MR. JACKSON:

17 Q And in your experience do people more
18 readily understand what it means to be shot with a
19 beanbag than a 40-millimeter --

20 A Oh, yeah.

21 Q -- foam-tip round --

22 A Absolutely.

23 Q -- projectile?

24 Okay. So if you're shouting in a dynamic
25 situation --

1 (**TRANSCRIBER'S NOTE:** Audio recording
2 stopped, 2:53 p.m.)

3 MR. JACKSON: Would anyone like to hear it
4 again now, the audio?

5 No? Okay. All right.

6 A GRAND JUROR: I can't understand what
7 they're saying anyway.

8 THE WITNESS: Yeah. Unfortunately, you
9 know, it's just one microphone.

10 A GRAND JUROR: But there's so much --

11 THE WITNESS: You've got everything else
12 going on and -- and then you factor in all the --

13 A GRAND JUROR: I mean, you can hear the dog
14 barking --

15 THE WITNESS: -- noise from the car.

16 A GRAND JUROR: -- (indiscernible)
17 everything else.

18 THE WITNESS: Yeah.

19 A GRAND JUROR: So it was only the one
20 officer with audio?

21 THE WITNESS: Yeah. Only one officer that
22 night had the -- the MAV unit.

23 A GRAND JUROR: Hmm.

24 MR. REES: Okay. So that concludes our
25 presentation of Detective Kammerer. Do you want ask

1 questions now or I believe he'd be available to us
2 during next week's sessions Monday, Tuesday and
3 Wednesday as well.

4 Is that right?

5 THE WITNESS: Yes. Tuesday and Wednesday
6 (indiscernible).

7 MR. REES: But are there any immediate
8 questions before we dismiss him for the afternoon?

9 All right. Thank you, Detective.

10 We'll take -- I'm sorry. Was there a
11 question?

12 A GRAND JUROR: I can ask it later. I was
13 just wondering --

14 MR. REES: Are you sure?

15 A GRAND JUROR: -- about the dog
16 (indiscernible).

17 MR. REES: So Officer Gore, who's the canine
18 handler, is one of our witnesses. You'll be able to
19 ask him exactly that question. Okay. So we'll
20 dismiss Detective Kammerer now.

21 Thank you.

22 THE WITNESS: Thank you.

23 MR. REES: And then we'll go off the record
24 and take our afternoon break. Thank you.

25 (Recess taken, 2:56 p.m. - 3:16 p.m.)

1 the knife I was standing in the doorway of the -- the
2 building. He came in 15 minutes before the second --
3 the first time he came in I was standing in the
4 doorway. He came in, kind of brushed by me. He had
5 no shirt on. He looked really confused. You know, I
6 don't know if he was high on something or whatever.

7 But he just started screaming, "I need a
8 shirt. I need a -- I need a jacket. Give me a shirt.
9 Give me a jacket."

10 Someone had said, "There's a donation bucket
11 right there." He dug through it. He threw on a
12 jacket quick. I stepped like five feet off to the
13 side. He stood in the doorway peeking out the door,
14 looking back in, peeking out the door as if somebody
15 was chasing him or something. I don't know. Then
16 he -- he did that for about three to four minutes and
17 then he left.

18 Q All right. And then did you see him again?

19 A He did. He came back in. It was during an
20 AA meeting that was in the process of going on. He
21 came back in and had a knife in his hand, walked in
22 the door, just said -- he was repeatedly [sic]
23 saying, "They killed my family. They're going to kill
24 me. I'm taking you all out. I'm killing everybody in
25 here. Nobody's going to take me down."

1 He kept repeating something about somebody
2 killed his family, that they wanted to kill him and
3 that he's here to take everybody out.

4 Q And did you have any reaction to what he was
5 doing and saying at that point?

6 A Yeah. I stood up. I moved a little bit
7 away from him. Everybody was kind of scurrying to the
8 other side of the room. I just kind of stood up to
9 look to see what he was doing next. He proceeded to
10 take a knife that was in his hand and cut his throat
11 -- or the side of his throat, it looked like.

12 Then he was almost, like, grabbing for
13 people that were kind of, like, scurrying past him.
14 It looked like he was trying to grab somebody. I
15 picked up a chair like this. I held the legs out and,
16 you know, I just said, "Stay -- stay away from me,"
17 and I started to move to the back of the room
18 (indiscernible).

19 Q And so did you think at that point that he
20 was a danger, possibly was going to cut or stab other
21 people?

22 A He was a complete danger. He looked like he
23 was -- he was trying to grab and, you know, kill
24 anybody that he could. That's what it seemed to me
25 anyway, yes.

1 Q So were you -- were you afraid?

2 A I was.

3 Q And what happened then?

4 A Then the group of us kind of moved to the
5 back side of the room. And he just started kind of
6 pacing back and forth, looking as if he's looking to
7 find somebody. You know, he's a big kind of guy. He
8 was. Maybe find somebody weaker than him or not. We
9 all moved to the side of the room.

10 Next thing you know, the Portland Police
11 Department came in. As soon as they got in the door,
12 "Drop your weapon. Get on the ground. Drop your
13 weapon. Get on the ground." You know, and we're just
14 kind of standing there. I'm thinking, "Okay. Cool.
15 It's going to all be over in a second." Well, he
16 wouldn't.

17 He -- he wouldn't -- he -- he looked like he
18 was -- like he was trying to grab somebody else at
19 that time maybe, like, as a shield or something, you
20 know. But he wouldn't -- he just -- he wouldn't drop
21 his weapon and he wouldn't get on the ground.

22 He looked like he -- I mean, and you could
23 hear them clear as day. I -- I would say they
24 probably said it ten to 12 times, "Drop your weapon.
25 Get on the ground. Get on the ground." And he -- he

1 wouldn't do anything.

2 Q That was the police making those commands?

3 A Correct.

4 Q And you could hear them clearly?

5 A Oh, yeah.

6 Q Did you see Mr. Elifritz, the man with the
7 knife, any kind of response to that at all?

8 A He looked like he was getting more and more
9 mad. That's how it looked on his face. He -- he was
10 starting to more and more move around like this, like
11 he was looking for something to grab somewhere. It
12 even looked like he was looking -- there was a -- like
13 a little side entrance, like, behind him. He -- he
14 wouldn't -- like, he wasn't even looking to get out.

15 Like, he was looking for somebody to grab or
16 somebody to -- he actually -- there was a gentleman
17 that walked -- kind of walked by him within a couple
18 feet and he reached out and tried to grab the guy, but
19 the guy kind of scurried away and -- one of the guys
20 that were in the place.

21 And then he was like, "Oh, my -- okay.
22 Well" -- you know, and he just kept saying, you know,
23 "I'm going to kill myself. I'm going to kill
24 everybody." He just kept repeating that.

25 Q So what happened after that?

1 A After that I -- we were in the back corner.
2 We were probably 10 to 15 feet away from him. We
3 heard a couple -- like, a ping, ping, ping. I don't
4 know if he was -- if he was shot with, like -- like a
5 rubber bullet or something. I -- you know, something
6 like that. I'm not sure of that point.

7 But he -- the police just kept saying, "Get
8 down. Get on the ground. Drop your weapon. Get on
9 the ground." We all scurried over towards the
10 restroom. When I'm saying "we all," there's probably
11 15 of us or so, which is on the opposite side of the
12 room. He's over here. We're over here.

13 And they -- there was a little semicircle of
14 Portland Police Department officers. There was
15 probably five to eight of them or so. They just kept
16 screaming, "Get on the ground now. Drop your weapon
17 now. Get on the ground now."

18 Then he looked like he was -- to me he
19 looked like he was -- he took a few steps towards them
20 like he was going to charge them. That's what I
21 thought.

22 I even -- one of the guys next to me I'm
23 like, "oh, shit, look" -- excuse my language -- "Oh,
24 crap, look what -- oh, no." And next thing you know
25 then there was shots fired and they told us to leave

1 the building.

2 Q Did -- did you see him fall to the ground?

3 A I did.

4 Q When you -- when you heard the noise and you
5 said maybe it was a rubber bullet -- you're not sure
6 what that was -- but when that happened did that seem
7 to have any effect on him?

8 A Not at all. They -- I -- like I said, I'm
9 not sure what that was. But, you know, if -- if
10 somebody -- if -- if the officers did try to shoot
11 him -- or, you know, with a -- I don't know --
12 sometimes officers have a beanbag thing or a rubber
13 bullet or whatever.

14 If they did that -- it sounded like two or
15 three times that you could hear the ping, ping, ping.
16 It sounded like a BB bouncing around a -- you know,
17 the room or whatever.

18 That guy -- that took no effect on that guy.
19 That guy was still -- the gentleman was still
20 standing. He was still gripping a knife, holding it
21 up in his hand. And he was looking like he still
22 wanted to take somebody out, you know.

23 I mean, after you say, "I'm going to kill
24 everybody in here," ten times, you know, that's all in
25 your mind, "Wow, this guy is going to try to take us

1 all out," you know.

2 Q Is this man bigger or smaller than you?

3 A I would say he's like 6 -- oh, he's much
4 bigger than me. I would say he's like 6'4" and
5 300 pounds. He's a pretty big guy, he looked like
6 to me.

7 Q Would you ever have any thought of, you
8 know, trying to grab him or something?

9 A No.

10 Q Grab the knife?

11 A He's bigger than me. I mean, unless he was
12 an imminent threat to my kids or something, no, I -- I
13 wouldn't want to pick a fight with this guy, no.

14 Q All right. In that situation what do you
15 think would've happened if you had done that?

16 A He would've stabbed me for sure. I mean, he
17 was -- he -- I think he would've stabbed anybody that
18 tried to confront him.

19 MR. REES: All right. Are there any
20 questions from the grand jury?

21 A GRAND JUROR: Yeah. So what -- what was
22 your reason for being there? What --

23 THE WITNESS: So I -- I work for Franz
24 Bakery here in town. I live in Salem, Oregon. My
25 license had been suspended. So I -- I make a -- you

1 know, I make 65, 70 grand a year. I'm not going to
2 give that job up. I'm married. I have kids. We have
3 a house in Salem.

4 But I took the Amtrak back and forth as a
5 commuter. But the commuter system here isn't as great
6 as, like, you know, the San Francisco area or the
7 East Coast area.

8 So there's times when I start too early
9 where I can't get here in time, so I sometimes stay
10 there instead of, you know, I mean, get a hotel room,
11 you know, things like that. You know what I mean? So
12 I kind of sacrifice because I love my job and I love
13 supporting my family.

14 A GRAND JUROR: Mm-hmm.

15 THE WITNESS: So I was told about that place
16 from somebody. I pay \$5. I go in there at like 9 --
17 9 o'clock at night. I go to sleep and I get up and go
18 back to work in the morning.

19 On my weekends off -- I mean, I have two,
20 three -- you know, a couple days off a week. I go
21 home. If I'm not starting early in the morning, I
22 take the Amtrak home, you know, which is nice, and
23 then just come back in the morning.

24 But that's the only reason that I would ever
25 be at a -- I'm not saying it's a bad place. I'm just

1 saying that's the only reason that I -- I was there.
2 That night we got off work at like -- we started at
3 4:00 a.m. that day. We got off at 6:00.

4 I shower at my -- at Franz. And I went
5 there to stay for the night. And I ended up getting
6 there at like 7 o'clock or something like that, but --

7 A GRAND JUROR: (Indiscernible).

8 THE WITNESS: Yeah, exactly. It's pretty
9 expensive lodging here in Portland, okay? Especially,
10 you know what I mean? You know, so hopefully just a
11 few more months I'll have my license back; and, you
12 know, I'll be commuting like I have for the last four
13 years, so --

14 MR. REES: Any other questions? No.

15 All right. Well, thanks, Mr. Wollin, very
16 much for -- I think on your work break, so thank
17 you --

18 THE WITNESS: No problem.

19 MR. REES: -- for coming in. Appreciate it.

20 THE WITNESS: Great. I appreciate your
21 time.

22 MR. REES: Thank you.

23 THE WITNESS: Have a nice day, sir.

24 MR. REES: Take care.

25 All right. Are we ready for the next

1 witness?

2 MR. JACKSON: Yep.

3 MR. REES: All right.

4 MR. JACKSON: And the next witness is Jerry
5 Herrera.

6 If you want to stand right hear and raise
7 your right hand, I'll swear you in.

8 **JERRY HERRERA**

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

11 **EXAMINATION**

12 BY MR. JACKSON:

13 Q All right. Have a seat.

14 Could you please state and spell your name.

15 A Jerry Herrera; J-e-r-r-y, H-e-r-r-e-r-a.

16 Q Okay. And, Mr. Herrera, I want to take you
17 back to April 7th of 2018. Were you staying at the
18 City Team Ministries that night?

19 A Correct.

20 Q And how long had you been staying there?

21 A A couple of nights.

22 Q A couple of nights. And that evening did
23 you decide to take a nap at the AA meeting that was
24 happening in the main room?

25 A That's correct.

1 Q Okay. And where were you sitting?

2 A Towards the back.

3 Q Toward the back?

4 A Yeah.

5 Q And is the back, as you refer to it, kind of
6 toward the front doors --

7 A Correct.

8 Q -- of the -- of the building?

9 A Correct.

10 Q Okay. And what were you sitting on?

11 A Chairs they had laid out.

12 Q For the meeting?

13 A Yeah.

14 Q Could you estimate about how many other
15 people were at the meeting in and around that room?

16 A Well, I was asleep. I -- my guess is
17 probably 15.

18 Q 15 or so?

19 A But I wasn't paying attention. I was
20 just --

21 Q Okay. And I guess I meant before you went
22 to sleep how many people were around --

23 A Yeah.

24 Q -- there. About 15?

25 A My guess is 15.

1 Q Okay. And what woke you up from your sleep?

2 A Ah, commotion in the back.

3 Q Okay. And what did you see?

4 A A guy ranting and raving. And I had just
5 woke up, so I had cobwebs. And I was kind of taken
6 offguard. I wasn't sure what was going on.

7 Q Mm-hmm. Safe to say that wasn't happening
8 when you went to sleep?

9 A Correct.

10 Q Okay. And how were the other people around
11 you reacting to that individual?

12 A Ah, that's kind of interesting because I
13 thought they were overreacting. I -- I didn't see --
14 I didn't feel a threat.

15 Q Were they reacting to him, though?

16 A Yes.

17 Q And what, if anything, did you see in his
18 hands?

19 A Something that looked like a box cutter.

20 Q Okay. Like a knife?

21 A Yeah. I don't think it was an actual knife.
22 I think it was a box cutter, something you'd cut a box
23 with.

24 Q Okay. And did you see him actually use that
25 knife to slice his own neck?

1 A I did. I did. But --

2 Q Okay. About how many times did you -- would
3 you say he did that?

4 A That's a -- that's the interesting part of
5 it. It was --

6 Q Well, Mr. Herrera, how many times -- let me
7 just jump in. How many times would you say you saw
8 him actually use the knife on himself?

9 A Twice.

10 Q Twice. Okay.

11 A Twice.

12 Q And were you still seated at that point or
13 had you stood up?

14 A I had stood up.

15 Q Okay. And then at some point did he move in
16 your direction?

17 A Correct.

18 Q And what happened then?

19 A He -- he had grabbed me. I was the last
20 physical contact that he had before he was killed.

21 Q Okay. And he grabbed on -- do you remember
22 what part of your body he grabbed onto?

23 A I think it was my right shoulder. It had to
24 have been 'cause I was sitting this way. I'm thinking
25 my -- my right -- my right shoulder.

1 Q Okay. And did he still have that knife you
2 described in his hand at that point?

3 A I don't recall seeing it.

4 Q Okay. And then how did you get away
5 from him?

6 A I turned around and -- and just shook him
7 off and looked directly into his eyes and --

8 Q And then did you move more kind of away from
9 where he was at that point?

10 A Yeah.

11 Q In what direction did you move to?

12 A It would've been off to the -- off to the
13 left. And then I turned around and I was just
14 standing there watching him.

15 Q Okay.

16 A Watching what he was doing.

17 Q And then did you see at some point the
18 police arrive at the door to the building?

19 A At that point it was absolutely chaos. And
20 I heard the shouting outside the door. And as he was
21 -- and I was moving towards the corner, watching it --
22 I'm sorry. What was the question?

23 Q The question was: Did you become aware that
24 the police had arrived --

25 A Yes.

1 Q -- at the building?

2 A Yes.

3 Q Okay. And were you still inside at that

4 point or had you --

5 A Yes.

6 Q -- moved outside?

7 A No. I was still inside.

8 Q Okay. And what -- what did you do then once

9 the police arrived?

10 A I had made my way back to the corner of the

11 room, the exit.

12 Q Near the front door?

13 A Yeah. Yeah. But in -- in the corner.

14 Q Okay.

15 A For some reason I ended up in the corner and

16 I was just sitting back there watching, taking

17 things in.

18 Q Okay. And then did you leave the building?

19 A As the shots were fired, yes.

20 Q Okay. And so did you actually see the shots

21 or did you just hear them?

22 A No. I turned. I turned at that -- just as

23 I turned the shots were fired.

24 Q Turned away --

25 A Yeah.

1 Q -- you mean or turned toward?

2 A No. No. I -- I turned away --

3 Q Okay.

4 A -- and was headed out.

5 Q Headed out the door?

6 A (No audible response.)

7 MR. REES: Okay. All right. Do you have
8 any other questions?

9 Do you folks have any questions?

10 A GRAND JUROR: Yes.

11 A GRAND JUROR: Do you -- a recollection of
12 what he was saying during the -- the whole event?

13 THE WITNESS: Something was said. It was
14 real vague. But it's something to the effect that
15 "I'm going to take somebody." We just talked about
16 that. And -- and I don't really recall precisely.

17 But it was -- it was -- what was said. But
18 I'm a little concerned. I'm from Albuquerque,
19 New Mexico. And in Albuquerque, New Mexico, we had
20 the highest --

21 BY MR. JACKSON:

22 Q Well, Mr. Herrera, let me -- let me just
23 jump in here. And so when you got outside of the
24 building did you speak to the police about what you
25 had observed and seen that night?

1 A Yes.

2 Q Okay. Provided them a statement?

3 A Correct.

4 MR. REES: Okay. All right. Okay. Are
5 there any other questions?

6 A GRAND JUROR: I think I heard you say that
7 you didn't particularly feel threatened even though he
8 was so close to you that he had contact with you.

9 THE WITNESS: Not in the least. Not in the
10 least.

11 BY MR. REES:

12 Q Now, is it -- is it correct that you --
13 you've also said that you weren't sure which part of
14 this was real or which part was not real or there was
15 some confusion on that point?

16 A Yeah. Yeah, there is.

17 Q And do you know why that would be, why you'd
18 have confusion over which part really happened and
19 which part didn't happen?

20 A I would have to go to the entire -- I was
21 questioning the validity of the entire episode, quite
22 frankly. It wasn't -- it wasn't adding up between his
23 body language, the pandemonium at hand. It just -- it
24 wasn't adding up. And his -- so I was questioning the
25 whole situation.

1 Q And is part of that because you were just
2 waking up, do you think? Or --

3 A Oh, that obviously factors into it, yes.

4 Q Okay. At some point I thought you also had
5 said that you -- you thought maybe this was connected
6 to something that was going on with you --

7 A A conflict of interest.

8 Q -- forces maybe that are following you
9 across the country or something. Is that part of it?

10 A I -- I -- I'm not going to answer that
11 particular question --

12 Q Oh.

13 A -- as phrased that way.

14 Q Oh, I'm not -- maybe I'm not phrasing it
15 that way, but --

16 A GRAND JUROR: Can I ask: What -- did you
17 feel -- just by observing him, did he seem
18 threatening? Did he seem scared or paranoid? What --
19 what -- how would you describe his demeanor, how he
20 was acting?

21 THE WITNESS: He wanted -- he was looking
22 for some help and I could see it. When I turned and I
23 looked -- I looked right into his eyes. And back to
24 the way he was cutting himself.

25 He wasn't cutting himself to -- to -- to do

1 irreparable damage. Just -- just by the way he was
2 cutting himself, he was looking for attention. He --
3 he wanted -- he was desperately seeking attention.

4 I'm a proponent of mental health. He wanted
5 some help. He wasn't there to end his life. It was
6 the only way he knew to reach out. He was in a bad
7 spot for whatever reason. And the pandemonium just
8 caught up. It just caught up with him in that moment.
9 And he was killed for that reason.

10 MR. JACKSON: Are there any other questions?

11 A GRAND JUROR: No.

12 MR. JACKSON: Thank you very much for being
13 here, Mr. Herrera.

14 Well, why don't we go off of the record for
15 a minute.

16 And we're back on the record. Our next
17 witness is Carletta Davis.

18 If you'd stand right here and raise your
19 right hand, she'll swear you in. Right over here?

20 THE WITNESS: Okay.

21 **CARLETTA DAVIS**

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

24

25

1 was that day?

2 A Second shift, 3:00 to 11:00.

3 Q 3:00 to 11:00 p.m.?

4 A Yes.

5 Q Okay. And so that evening do you remember a
6 man coming in and kind of acting oddly by the door?

7 A Yes.

8 Q Okay. Could you describe for us what you
9 saw.

10 A He was by the door and he was pacing,
11 looking. At times he was standing in front of the
12 door almost like -- you know, just standing right in
13 front of the door where customers come in. And I
14 didn't think nothing of him at first, but I get a lot
15 of customers coming in and they stand there.

16 So I went up to him and I asked him, "Are
17 you looking for someone?" At that time a cop car had
18 went by going down the street by the U.S. Bank. He
19 says when I asked (indiscernible) well, the cops --
20 the cops are after me. The cops are looking for me."

21 I said, "There's nobody out there." I said,
22 "There's no cop out there." And then the next thing
23 -- I didn't believe what he said. I said -- I just
24 had a -- like, I couldn't believe what he said, the
25 cops were looking, because I didn't believe him when

1 he first told me this.

2 And then paramedics went down to the
3 Shleifer Building. I said, "You come outside and see.
4 There's no cops outside. There's nobody looking for
5 you. They're just probably on another call or
6 something," 'cause I didn't believe him when he told
7 me this.

8 He said, "Yes," and he told me, he said,
9 "You get them back" -- he said, "You get them down
10 here. You get them down here now." And I asked him
11 why. He said he wanted to kill them all. He said he
12 wanted to kill them all.

13 Q He said he wanted to kill them all?

14 A He said he wanted to kill all the cops. He
15 wanted to kill them all.

16 Q Were you inside the store?

17 A Outside the store between the two pillars in
18 the front.

19 Q Okay. Okay. And did you see anything in
20 his hands?

21 A Not at that time. We was still talking --

22 Q Okay.

23 A -- at this time. He did not have nothing in
24 his hand. He was just in the clothes that he had on.

25 And I said, "No." I said, "I'm not calling a cop down

1 for you to come out" -- just point blank, I said, "No,
2 you can't do this." I said, "Please. Please. No."

3 He said, "You get them down here and you get
4 them down here now." Then he proceeded to tell me
5 that he'd done three or four robberies before. He
6 told me he would do it again.

7 "You get the cops down here and you get them
8 down here now." And I asked him, I said, "It can't be
9 that bad." He proceeded to walk over to the other
10 pillar over there. And then he pulled a knife out. I
11 was scared. I just stepped back and said, "Okay." I
12 didn't approach him after that.

13 Q I'm sorry. You said you didn't approach him
14 after that?

15 A No. I couldn't approach him after that.
16 And after I told him, "Okay," he put the knife back in
17 his pocket and proceeded to walk back in the store,
18 pacing back and forth.

19 I went inside and told my other two
20 cashiers. I didn't want to go that far from him, but
21 I didn't want nobody else to be near him. The next
22 thing I know, there was -- he let one lady in. I
23 waited on her.

24 And I went and see -- 'cause she -- 'cause I
25 told her I wasn't quite sure if I should make a 9-1-1

1 call on this issue or not. But he told me pretty much
2 get them down here now, he'd done three or four
3 robberies, he would do it again, "You get them down
4 here now." He told me I had to get them. I didn't
5 want to.

6 Just tell me to make the call. I said, "I
7 can't tell them that 'cause the guy was wrong. I told
8 her tell him he was off, he wasn't thinking right.

9 Q You told him that?

10 A I told the other cashier who made the call.

11 Q Okay. And when you say "made the call"?

12 A To the 9-1-1 operator.

13 Q Okay. So you guys did call 9-1-1 because of
14 his behavior?

15 A Yeah.

16 Q Okay. And then you said you helped the lady
17 that had come in --

18 A Yeah.

19 Q -- to the store?

20 A Yeah, it was a lady. She lived at the
21 Shleifer Building before they moved them all out.
22 They helped her get a place down the street somewhere
23 not that far from where we are.

24 Q Okay. And then when you went back to the
25 front he was gone?

1 was having something. He wasn't right. He wasn't
2 thinking right. I tried. I don't know what else I
3 could've done for him. But I felt like if I didn't
4 ever make the call -- I don't know. Maybe if I didn't
5 make the call, maybe he'd still be alive.

6 But if I didn't, somebody else up there in a
7 cop uniform -- that's all I could think of 'cause they
8 come in and out of my station all the time, getting
9 gas, food, drinks like anybody else who's working.

10 BY MR. REES:

11 Q 'Cause he had said he wanted to kill them?

12 A He wanted to kill all the cops. He said he
13 wanted to kill them all. He didn't put a specify on
14 it. He said all of them. Just all. It was all. But
15 he's dead.

16 MR. REES: Okay. Are there any other
17 questions?

18 Okay. So you're done. Thank you,
19 Ms. Davis.

20 THE WITNESS: Thank you.

21 MR. REES: Okay. And we can go off the
22 record.

23 * * *

24 (Grand Jury No. 1 adjourned,
25 Volume 1, 5-4-18 at 4:06 p.m.)

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REPORTER'S CERTIFICATE

I certify, by signing below, that the foregoing is a correct transcript, of the audio record in the above-entitled cause, as recorded on CD and transcribed to the best of my ability and in accordance to the quality of the audio CD.

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