

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

3  
4  
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 8, 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 wma audio recording;  
                 transcript provided by Certified Shorthand Reporter.

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(Volume 3, Tuesday, May 8, 2018, 8:42 a.m.)

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

(Whereupon, the following proceedings were held in open court:)

MR. REES: We're back on the record. This is Tuesday morning, DA2380019, Grand Jury No. 1, Case No. 28. And to begin our morning session, our first witness is Officer Richard Bailey.

**RICHARD BAILEY**

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

MR. REES: For the record, would you please state your name and spell your name.

THE WITNESS: My name is Richard Bailey, R-i-c-h-a-r-d; last name, B-a-i-l-e-y.

**EXAMINATION**

BY MR. REES:

Q And are you a police officer with the City of Portland Police Bureau?

A Yes, I am. I have been so for the last about 2.7 years.

Q Okay. And are you one of the two officers on scene who had the less-lethal 40-millimeter projectile device?

1           A     I was, yes.

2           Q     Okay.  And without going into great detail,  
3     but just to mention, what -- what brought you to that  
4     location where the shooting occurred?

5           A     I was -- heard that a crashed stolen  
6     vehicle, crashed on MLK and Stark.  While on route  
7     there, as you all have previously heard, I heard about  
8     the carjacking via the radio, Southeast Portland.  I  
9     heard about the gentleman also pointing potentially a  
10    firearm -- not confirmed, though -- a gentleman or  
11    someone in North Portland.

12                    Looked around to find him and then I also  
13    was dispatched to Jacksons where a gentleman was  
14    waving around a knife, potentially high on drugs  
15    wearing a red-and-blue jacket.

16                    So that was my thought process, that this  
17    guy's pretty violent or has showed indicators of such.  
18    And the knife portion was learned obviously at the  
19    Jacksons, so my concern is he still has the knife  
20    with him.

21           Q     When you -- so you said you were dispatched  
22    to the Jacksons convenience store, which is just south  
23    of the Cityteam Ministries.

24           A     Correct.

25           Q     And on the west side of the street.  Did you

1 make it to that location then? Did you have any  
2 interaction with someone at that location?

3 A I did. So I was dispatched -- everyone was  
4 on this crash stolen vehicle call. We were all  
5 looking around and dispatch needed someone to free up  
6 and go to this call at Jacksons. Someone's waving  
7 their knife around. We need police officers to go.

8 So as I'm getting closer, I'm driving up  
9 Grand from about Main. And dispatch informs us that  
10 the subject left Jacksons walking southbound on Grand.  
11 I'm driving northbound on Grand. I don't see the guy.

12 They already gave a brief description. I  
13 don't see the guy. I tell dispatch that. And someone  
14 thinks that maybe this is -- it's probably all tied  
15 together. Crash is at MLK and Stark. One street  
16 south is Washington. And Jacksons is at Washington  
17 between -- south of Washington between MLK and Grand.

18 They say, "Hey, we think this is all tied  
19 together. Can someone go there and just get a little  
20 bit more info at Jacksons?" I tell dispatch to show  
21 me a route. I pull in the parking lot. I've been  
22 there numerous times.

23 I see an employee there. He's a white male,  
24 about in his fifties. I say, "Hey, you know, where'd  
25 this guy go?" He says, "He walked towards Grand from

1 the parking lot," and then he told me -- which he --  
2 he told dispatch southbound.

3 He told me, "Hey, he probably could have  
4 gone northbound. I'm not sure." Maybe -- so now  
5 he's -- now he's kind of retracting what he said. And  
6 he told me he was wearing, like, a blue denim-type  
7 jacket.

8 Sometimes dispatch is real quick and they  
9 try to pull information and then they kind of, like,  
10 end the call or they try to push it onto us. So  
11 sometimes people feel rushed. So when I get there, he  
12 kind of said, "Hey, maybe he went northbound."

13 And Cityteam Ministries is half a block from  
14 Jacksons. Jacksons is on the west side of Grand.  
15 Cityteam Ministries is on the east side of Grand.

16 Q All right. So what did you do?

17 A So I -- I'm about to put that information  
18 over the radio. I think it's pretty significant that  
19 he may have gone northbound versus southbound. And an  
20 updated description that he's wearing a blue colored  
21 jacket.

22 I'm about to put it out and I hear dispatch  
23 say that AMR sees a gentleman with a knife to his  
24 throat. That's what I thought I heard is a knife to  
25 his own throat at the shelter. They didn't specify

1       which shelter.

2               So I drive out of the parking lot. I  
3       essentially park at Washington and Grand. I see AMR  
4       on the west side of Grand. I know there's a shelter  
5       right there, about Stark and Grand on the west side  
6       and I also know directly across from there is Cityteam  
7       Ministries on the east side of Grand.

8               So, initially, I thought they're on the west  
9       side; but I see officers moving toward Cityteam  
10      Ministries. In my mind, this gentleman just had a  
11      knife, waving it around, high on drugs at Jacksons.  
12      Let me bring the 40-millimeter tool with me as another  
13      option.

14              So I took that in the car and we had to kind  
15      of configure it. It's not set up -- well, I don't,  
16      you know, drive around with that thing strapped to me  
17      unless I have additional rounds. I don't drive around  
18      with that strapped to me either.

19              So I had to take it out of the rack. I had  
20      to attach the additional rounds to, like, a snap to my  
21      leg. I put that on and I started moving quickly to  
22      Cityteam Ministries.

23              Q     Okay. And we've seen -- the grand jury has  
24      seen the video from outside of Cityteam Ministries  
25      where we see a large number of police officers on the

1 sidewalk outside the front door. We've seen two of  
2 the officers with a bright colored strap, which --  
3 which I believe is the -- the strap on the 40  
4 millimeter?

5 A That's correct.

6 Q Is that right? And I assumed that the  
7 Bureau is using that as a color code for officers to  
8 look and visually see that someone has that device and  
9 it's not some kind of rifle or shotgun, that it's a  
10 less-lethal device; is that right?

11 A Absolutely. We used to have the orange,  
12 less-lethal shotguns. That's pretty distinguishable,  
13 an orange shotgun. That distinguishes it. We moved  
14 to this new system. The reason we moved to this new  
15 system, it's more accurate.

16 The less-lethal shotgun just had eyesight.  
17 It's very difficult to -- I'm sure you guys have been  
18 briefed on this, but it's more accurate. It's a more  
19 effective tool. And so, yes, the way to distinguish  
20 it is an orange strap.

21 Q Okay. And so were you aware, either  
22 visually or by the radio or some other means, that  
23 there was another officer on scene with a  
24 40 millimeter as well?

25 A Getting out of my car, no.



1 Q Okay.

2 A Getting out of my car, no. I was like, this  
3 is a tool I have. Let me bring it along.

4 Q Okay.

5 A It's better to have it and not need it than  
6 in the middle of a situation, like, ah, I wish I had  
7 that tool. So as I'm getting closer, I see there's  
8 already a lot of officers at the door. I'm a little  
9 -- a few seconds late. As I'm approaching the door, I  
10 see all the officers facing in towards Cityteam  
11 Ministries.

12 I see -- I don't know exactly who it was,  
13 but I see one rifle on the left side of the double  
14 doors, I see one rifle on the right side of the double  
15 doors, and I also see Officer Damerville with a  
16 less-lethal bright orange strap across his back, also  
17 facing in. And he's in between the two rifles. And  
18 they're all facing in Cityteam Ministries.

19 Q And beyond that, can you see what's --  
20 what's happening?

21 A Yeah, so it's --

22 Q Can you see someone inside the -- the  
23 homeless shelter?

24 A I can. It's dark and rainy outside. It was  
25 a pretty terrible, wet day. And I see in and it's --

1 it's well lit like this.

2 As I'm looking, I see a gentleman standing  
3 in the middle of the room. He has a (indiscernible)  
4 in the room. In the middle, there's a staircase that  
5 goes down. There's a pole in the middle. And I see a  
6 knife in his -- I believe in his right hand. He's  
7 waving it around, pacing back and forth.

8 I hear officers. I don't know who said, but  
9 were saying things along the lines of, "Drop the  
10 knife." I don't know who said that. I also see  
11 people in the back left corner, probably about 15,  
12 20 feet away from him that you guys have probably  
13 heard about.

14 And I'm -- I'm very concerned about those  
15 people. They're in very close proximity to this  
16 gentleman. And they -- they're going to a shelter.  
17 They just want to get some shut-eye, get some food in  
18 their belly.

19 They don't want a guy running in with a  
20 knife. I mean, that's -- for the time being, that's  
21 -- that's their safe haven. And this guy just came in  
22 running around with a knife. So I'm -- I'm very  
23 concerned.

24 I think that he might run over there and  
25 start stabbing somebody. I also, again, heard that --

1 or my belief is that he said -- that dispatch said  
2 that he had a knife to his throat.

3 I don't know if that was -- if I heard that  
4 incorrectly, but that's what I thought I heard. Knife  
5 to his throat, so now this guy wants to -- he  
6 committed all those crimes and now he's potentially  
7 going to commit suicide? I don't want that to happen  
8 either. That's the last thing.

9 I don't want him to kill anybody. I don't  
10 want him to kill himself. I just want him to put the  
11 knife down. We can take him into custody, take him to  
12 the hospital. If he needs to go to jail, whatever.  
13 We'll figure that out. But, like, just drop the  
14 knife, dude.

15 But he's pacing back and forth, seems  
16 extremely agitated. He's not listening to anybody.  
17 He's -- he is just pacing back -- he seems very angry.  
18 I think I see, like, blood on his shirt or around him.  
19 And I think I see him, like, bring the knife in the  
20 vicinity of his throat.

21 Q And if I may interrupt.

22 A Yes.

23 Q That point -- and I kind of put a pin on  
24 that point right there. I want to step back for just  
25 one moment to ask you whether, in your time as a

1 police officer, you -- you've had other encounters  
2 prior to this involving people who are agitated,  
3 perhaps under the influence of drugs or in a mental  
4 crisis armed with a knife?

5 A I've had a couple incidents. As far as  
6 distinguishing the two, I -- I dealt with a gentleman  
7 about two or three months prior to this. It was a  
8 welfare check. We were dispatched on that.

9 He was in a -- under a staircase in  
10 Northwest Portland. And we get there and he has his  
11 stuff strewn about. I see medications everywhere.  
12 And I look at them. I recognize them from my training  
13 as a CIT officer, not ECIT, but CIT, that it was  
14 probably schizophrenic medications.

15 And I ask him, "Hey, man, are these your --  
16 your psych meds?" And he says, "Yeah, they are." And  
17 I kind of -- we're just having a conversation.  
18 He's -- he's coherent. He says he doesn't take his  
19 psych meds.

20 He usually self-medicates with  
21 methamphetamine. He told me that he moved from  
22 California up to Portland 'cause he was having issues  
23 with his -- with his family. But we're having this  
24 conversation and he's rational and we're trying to  
25 offer him services.

1           And he ends up kind of packing his stuff up  
2           and he was -- he was okay, rational. That same  
3           gentleman I see about a month later in Southwest  
4           Portland. We were also dispatched to that. And he is  
5           frantic, pacing back and forth. I get there, he's  
6           pacing back and forth. He's -- he's throwing his  
7           stuff everywhere.

8           We're trying to talk to him and he's not  
9           listening to us at all. These are the classic signs  
10          that I see as he's high on stimulant, methamphetamine,  
11          most likely. And we're trying to talk him.

12          We get additional resources there, an ECIT  
13          officer. And, "Hey, man, let's go to detox, get you  
14          in a warm place, let you just sober off this  
15          methamphetamine." And he is just out of it. He is so  
16          high on meth, he is not having any rational  
17          conversation.

18          AMR gets there. He doesn't want anything to  
19          do with them. Long story short, he did not want to  
20          listen to us. We had to put him into handcuffs to get  
21          him into detox. And he still kind of struggled  
22          with us.

23          We didn't hurt him or anything, but it took  
24          a second to get him in handcuffs. I just want to  
25          distinguish the two. He told us he had schizophrenia.

1 And I dealt with him the first time, rational,  
2 coherent. And now this time, high on methamphetamine.  
3 And he was out of it, very high.

4 Q You -- you had an encounter with someone a  
5 week before this call on April 7th armed with a knife  
6 in the same neighborhood?

7 A Correct. Afternoon, probably about a week  
8 prior, we get dispatched to a call about a guy walking  
9 around with a machete. Pretty concerning. It was,  
10 like, Grand and Taylor area. And I also had my  
11 less-lethal tool with me at the time in the rack.  
12 Kind of look around for him.

13 We end up finding him and he still has the  
14 machete -- it's a double-edged machete -- in his hand  
15 as we -- we pull up. We kind of use distance to our  
16 side. No one's around. And we immediately tell him,  
17 "Drop the machete." And he does immediately. He  
18 drops the machete.

19 He also has a metal ice pick with him. We  
20 tell him to drop that. People do some weird things,  
21 but those are concerning. I mean, ice pick, machete,  
22 very dangerous weapons. And we tell him to drop that  
23 as well. And he does so. No issues at all. We tell  
24 him to sit down. He does that as well.

25 We move the weapons off to the side, get his

1 name. We find out he has a misdemeanor warrant. We  
2 take him into custody. No issues, no force, nothing.  
3 I mean, this guy has walked around with a machete and  
4 it wasn't an issue. It was --

5 Q So -- so on April 7th then, getting back to  
6 this case, you were aware about -- I interrupted. You  
7 said that you're -- you're seeing the suspect and you  
8 said he was pacing, agitated, angry. What are you --  
9 what are you thinking you might be able to do with  
10 your less-lethal device, you and Officer Damerville?

11 A Well, my initial hope, again, is us telling  
12 him to drop the knife, my hope is he would do the same  
13 thing the gentleman did a week prior. That is my  
14 hope. I'm just hoping that, put the knife down, dude.

15 Let's get you to the hospital, let's get you  
16 wherever. Let's get you away from these people who  
17 want to be -- you know, get some rest for the night.  
18 Obviously, he's not listening to that. That's very  
19 concerning to me. Pretty agitated.

20 So with the less-lethal tool, it gives us a  
21 little bit of stand-off distance. We don't want to  
22 run up there because if we run up there and try to  
23 grab ahold of him, he can end up stabbing us and then  
24 that's going to be a lethal encounter and that's just  
25 right up there.

1           So our hope is if I use the less-lethal  
2 tool, you know, it'll capture his attention, cause  
3 some pain and he'll drop the knife and we can, again,  
4 take him into custody.

5           Q     And in practice, not necessarily your  
6 practice, but per your training, is that what has  
7 happened in situations, encounters where people  
8 haven't dropped the knife on a verbal command, but  
9 they've been hit with less lethal and -- and then  
10 they'll drop a knife?

11          A     Yes. I mean, reactions vary, but I don't  
12 know the statistics. I think training may have a  
13 better idea of that. But if a Major League Baseball  
14 player threw a baseball at your thigh, I mean,  
15 whatever you had in your hand, you -- I mean, just --  
16 I would drop something. It would capture my  
17 attention.

18                 That's the velocity this thing's moving.  
19 It's not -- it's a foam round, but it -- it's going to  
20 capture your attention. You're going to stop doing --  
21 you hope they stop doing whatever they're doing. And  
22 I've been on calls in the past where individuals have  
23 been impacted by less-lethal rounds and they drop the  
24 knife and get safely taken into custody.

25          Q     So what did you do in the situation on -- at



1 the sidewalk?

2 A So as everyone's facing in where, again, I  
3 told you what I saw -- I heard, "Drop the knife or  
4 we'll do less lethal." It's pretty clear in our  
5 policy that we have to give a warning as well. And,  
6 obviously, I want him to comply with the least amount  
7 of necessity for force as possible.

8 I tell him something along the lines of  
9 "Drop the knife or you'll be shot with a less lethal."  
10 He doesn't -- I -- he didn't respond to me at all. It  
11 was pretty noisy in there. There was people yelling  
12 and screaming with fear. And he didn't respond. I  
13 aim at the preferred target area, as we're trained.

14 I aim towards his left thigh facing me, my  
15 right side. I aim towards his thigh. I say, "Less  
16 lethal." I believe I say, "Less lethal," once and I  
17 deploy one less-lethal round towards his thigh. I  
18 believe I see the material kind of move and he does  
19 not respond.

20 I'm thinking to myself like, this is  
21 terrible, like, dude, oh, my goodness. He just got  
22 shot with a less-lethal round and he's not responding.  
23 Like, oh, my goodness.

24 Like, we -- we're kind of limited on what we  
25 can do right now. That's a pretty -- less lethal,

1 shooting a -- or deploying a less-lethal round is --  
2 it's pretty significant and he didn't respond to it.

3 Q When you say pretty significant, meaning  
4 that the next level of force beyond that would be  
5 deadly force?

6 A Yes.

7 Q So do you -- do you use your less lethal  
8 again after that?

9 A I do. So I deploy one round. Officer  
10 Damerville, he deployed right before or after mine.  
11 I'm not sure. Someone mentioned something about we're  
12 in a fatal funnel. And what a fatal funnel is if  
13 we're standing in the doorway here, it's pretty easy  
14 -- you've kind of restricted in your movement.

15 And if someone has a gun, like I thought he  
16 may also potentially have, as I mentioned in the North  
17 Portland call, he potentially pointed a gun at  
18 somebody, we're standing in this fatal funnel and it's  
19 concerning. We want to get out of there.

20 So either we can back out and kind of fan  
21 out and we're going to have an obstructed view because  
22 of the building and we're kind of, essentially, you  
23 know, leave the people in there to fend for  
24 themselves, which I don't want to do.

25 I want to get this guy safely into custody.

1 We decide to move in. When we move in, I glance to my  
2 left, like, as I'm opening the door, like, this  
3 gentleman over here seated, and I see about five, ten  
4 people standing over here. And they looked terrified.  
5 So I tell them, "Hey, get out of here, like walk  
6 behind us."

7 I yelled, "Just get out of here," and for  
8 whatever reason, they don't. I don't know if they  
9 were just frozen in fear, but they don't. So I think  
10 to myself, he's about 15 yards in front of me. I need  
11 to put myself in between these people that don't have  
12 any training and experience that I know of, they don't  
13 have tools with them, and this gentleman.

14 So I -- we positioned ourself in between  
15 them and him. He's still pacing back -- his behavior  
16 hasn't changed at all. Still doing the same things he  
17 was doing. He kind of moves off to my right a little  
18 bit and people are still giving him commands.

19 I, again, look towards his right thigh and I  
20 say, "Less lethal," again and I deploy one more round  
21 to the same area, his -- his left thigh, looking at  
22 him, my right. It impacts. I believe I see material  
23 move. Again, no response. And I'm even more  
24 concerned now. Again, multiple rounds deployed and  
25 he's not responding.

1 Q Any -- any additional rounds by you?

2 A He moves to the right even more so and I  
3 believe I gave him one more warning of, "Drop the  
4 knife or be shot with less-lethal rounds," and, again,  
5 I target the same area. I don't know why I kept  
6 targeting the same area, but that was my tendency to  
7 want to target the same area.

8 He doesn't respond to that command again and  
9 I deploy one more round to his right thigh. I say,  
10 "Less lethal," before I deploy the round, I believe.  
11 And no -- no response.

12 Every time in between, this is a system  
13 where you have to manually open it up, take a round  
14 either out of the pouch on the -- on the blunt stock  
15 or out of my leg pouch. So it's not like -- it's not  
16 like you can just deploy rounds. You have to open --  
17 you guys are well -- well aware of that. I don't want  
18 to reiterate it more, but it takes time.

19 So throughout this whole time, I'm  
20 reassessing, like, if he drops the knife at any point  
21 and puts his arms out, if he drops the knife, like,  
22 we'll move in, put him into handcuffs and we'll go  
23 from there. We'll take him into custody, get him to  
24 the hospital, whatever, but he never does.

25 Q And if -- if I could interrupt you again.

1 Have you been trained that you need to assess and make  
2 an independent justification for each time that you  
3 use your less lethal?

4 A Yes.

5 Q And are you doing that in this process?

6 A Throughout the whole time. I mean, if his  
7 behavior changes at any point, we're going to take  
8 appropriate action. And my hope, again, constantly  
9 reassessing. If he just drops the knife and we  
10 approach, take him into custody.

11 You know, maybe prone him out, get him in a  
12 safe position where we can safely take him into  
13 custody. And he never -- his behavior never changes.  
14 So after deploying that third round -- the second  
15 round in my mind is a little fuzzy. It's -- I don't  
16 know why. It's just -- it's not as clear.

17 I may have even dropped a round, but I'm  
18 pretty -- relatively certain that I deployed that  
19 second round and then went to that third round when he  
20 was in the far right corner.

21 And, again, I believe I gave another  
22 warning, "Drop the knife or you'll be shot with less  
23 lethal." I say, "Less lethal," again, target that  
24 area. It impacts him. Again, no response. That's  
25 the third round. My mind goes down to my leg pouch.

1 For some reason, I kept loading from there.

2 And as my mind went there, I noticed that he  
3 rapidly moves towards us. I think he still had the  
4 knife in his hand. I'm not absolutely certain. My  
5 mind was more focused on getting that system  
6 operational again. Then I see officers engage him  
7 with lethal rounds.

8 He ends up -- as he's moving towards us, he  
9 ends up falling to the ground face first. I notice  
10 that his -- looking at him, his left arm falls under  
11 his body and I can't see his right arm. And I don't  
12 -- in my mind, like, I'm a little taken aback by  
13 what's going on here.

14 Like, this is not a usual experience for me.  
15 This is the last thing a police officer wants to -- as  
16 a human being, I don't want to be around this, but I  
17 don't want anyone to get seriously injured or killed.

18 MR. REES: Okay. So I'm just going to stop  
19 you right there and just -- let's just see if there's  
20 any questions -- well, questions from the grand jury.

21 A GRAND JUROR: You said you had CIT  
22 training?

23 THE WITNESS: Yes, ma'am.

24 A GRAND JUROR: What does that include? I  
25 forget what it stands for, so if you can refresh my

1 memory.

2 THE WITNESS: I think it stands for crisis  
3 intervention training.

4 A GRAND JUROR: Okay.

5 THE WITNESS: All Portland police officers  
6 get it in our advanced academy. It's 40 hours and  
7 we're taught how to identify some mental illness; how  
8 to communicate with those mental -- that might be in  
9 mental crisis, connect them with resources and  
10 deescalation assist.

11 A GRAND JUROR: Does it include  
12 methamphetamine drug psychosis?

13 THE WITNESS: It -- it mentions that it's --  
14 it can be -- it can, at times, be difficult to  
15 differentiate.

16 A GRAND JUROR: Mm-hmm.

17 THE WITNESS: It doesn't go real in-depth.  
18 A lot of what that comes from is -- from my experience  
19 in dealing with those with methamphetamines, just  
20 like --

21 A GRAND JUROR: Mm-hmm.

22 THE WITNESS: I mean, it's not a perfect  
23 example, but if you drank, like, ten pots of coffee,  
24 you'd be -- you'd be going, right? You'd want to --  
25 you don't want to sit still here. You'd be going.

1 And it does -- drugs do some crazy things to your --  
2 to your mind.

3 A GRAND JUROR: Mm-hmm.

4 THE WITNESS: But we've also -- we had  
5 someone come in who was a doctor who had  
6 schizophrenia. Very coherent. I mean, just because  
7 you have a mental health condition doesn't mean you  
8 can't -- you can't manage that. And you're not acting  
9 like you are when you're on -- on drugs.

10 But it gives us skills to -- to attempt to  
11 deescalate. But you have to be -- the other party has  
12 to be a willing participant. If I walk in this room  
13 and all you guys are just facing the other way, you  
14 won't listen to me, I mean, I can't make you.

15 We're all our own free person. Our own --  
16 we have our own free will. And if you don't want to  
17 listen to me, I -- there's nothing I can do. I mean,  
18 deploying less-lethal round, in my opinion, is going  
19 to catch your attention. And it did not. But that's  
20 what CIT training is.

21 A GRAND JUROR: I'm just wondering if he  
22 might have felt trapped with a whole -- whole line of  
23 police kind of -- you know, like a trapped in a corner  
24 kind of thing, whereas when you're dealing with a  
25 mentally ill or -- I don't have any experience with



1 people on meth.

2 But it would seem that he was so paranoid  
3 walking around, like, a one-on-one conversation that  
4 you described earlier with another incident where, if  
5 you could talk one on one, if it wasn't so crowded and  
6 hectic in that room --

7 THE WITNESS: Mm-hmm.

8 A GRAND JUROR: -- maybe someone could have  
9 got to him, communicated with him. Do you -- do you  
10 think that might have been possible?

11 THE WITNESS: My concern is -- is all the  
12 people in the room. I mean, in my mind, there's  
13 immediacy there. I want him to be safely taken into  
14 custody. That's what everyone there wanted to do, in  
15 my belief, but that's my belief. And I'm hoping for  
16 that, but I can't let him run into that corner and  
17 just kill innocent people.

18 I -- I -- I can't do that. Like, I don't  
19 want anything bad to happen to him, but I don't want  
20 innocent people to die. Like, it's -- it's a terrible  
21 place to be in. Like, I'm not saying that this -- the  
22 gravity of the situation is extreme, but I can't let  
23 people die.

24 And in my belief if we just leave, like,  
25 he's going to run over there and kill somebody or kill

1 himself. Again, I thought he maybe had a knife to his  
2 throat. I thought he brought it up to his throat. I  
3 thought I saw blood somewhere on him. Like, I don't  
4 want him to die either. I don't.

5 And if he -- if we impact him with a  
6 less-lethal round and he drops the knife, if it's  
7 effective, he's not going to kill anyone else and he's  
8 not going to kill himself, that's my hope. And  
9 deploying all those rounds, it was -- he did not  
10 respond to them.

11 I'm not going to say they weren't effective,  
12 but he did not respond to them. They weren't  
13 effective as we would hope. I would say that for the  
14 effectiveness.

15 A GRAND JUROR: I have a question.

16 THE WITNESS: Yes, ma'am.

17 A GRAND JUROR: Officer Livingston, he said  
18 it was approximately four minutes between the last  
19 less lethal and when the lethal shots were fired,  
20 according to his testimony. Do you know what was  
21 going on between --

22 THE WITNESS: From the first and last?

23 A GRAND JUROR: I believe that's what  
24 he said.

25 THE WITNESS: Oh.

1           A GRAND JUROR: It was four minutes between  
2 the last less lethal and when the lethal shots were  
3 fired.

4           THE WITNESS: We all perceive things  
5 differently --

6           A GRAND JUROR: Okay.

7           THE WITNESS: -- right? I'm not a  
8 psychologist and I don't know how the mind works, but  
9 without looking at a clock, I mean, I believe if we  
10 ask everyone in this room how long we've been sitting  
11 here, I think it might feel a lot longer 'cause I'm  
12 sitting here in this seat.

13           To me, it felt like 40 -- 40 seconds to a  
14 minute. It was very quick. Four minutes, in my  
15 opinion, it did not feel that way. I also not -- I  
16 also know from what we're trained is stress -- which  
17 this was an extremely stressful situation -- people  
18 perceive things differently. Sometimes people, time  
19 slows down. Sometimes people, time speeds up.

20           Sometimes it -- the time is about accurate.  
21 I mean, this -- this conversation about, like, a Major  
22 League Baseball player seeing a baseball and can see  
23 the seams as it comes towards him. And, anyway,  
24 everyone perceives things a little differently. So I  
25 don't know why he said that. That's what he

1 perceived, I'm assuming.

2 A GRAND JUROR: Okay.

3 THE WITNESS: It seemed like 45 to 60  
4 seconds at the most.

5 A GRAND JUROR: But you just kept doing it  
6 as fast as you can, like, as far as less lethal before  
7 the lethal was shot?

8 THE WITNESS: Yeah. We deploy our first  
9 round; and, I mean, I'm trying to get that thing  
10 operational. I deploy that first round at the doorway  
11 as we moved in in between each successive round  
12 between the first and third round.

13 I mean, it's maybe -- in the time for me to  
14 -- it's on -- you know, I deploy a round, I bring it  
15 down, open it up, put another one, bring it back up,  
16 on target and deploy another round. And that's maybe,  
17 at the most, five to ten seconds at the most.

18 A GRAND JUROR: You're kind of alternating  
19 between the two?

20 THE WITNESS: Yeah.

21 A GRAND JUROR: Okay.

22 THE WITNESS: I think four minutes is --

23 A GRAND JUROR: How -- how often are the  
24 non-lethal weapons effective? I mean, what's the -- I  
25 mean, I -- I realize distance has something to do with

1 it and if they're moving or -- but -- and -- and you  
2 didn't aim at his torso.

3 THE WITNESS: No. It's --

4 A GRAND JUROR: 'Cause it's --

5 THE WITNESS: -- we're trained not to aim at  
6 the torso. It's -- there's a lot of organs. And  
7 again, it's a less-lethal tool. We don't -- if I hit  
8 the guy in the abdomen or -- I wouldn't say abdomen,  
9 but, like, in the chest area, I don't know if it's  
10 going to break a rib. And that's not how we're  
11 trained.

12 I mean, these -- your thighs, like they're  
13 big, large muscle groups. There's no organs in your  
14 thigh. And we're trained, if they're facing towards  
15 us, the waist area and below. If we aim above that,  
16 we target the head area, the neck area, that's  
17 considered lethal force.

18 And that's not my intent. My intent was not  
19 to use this platform, this tool when I deployed it, as  
20 lethal force, so I was targeting his waist area and  
21 below. I also noticed that he was wearing a jacket  
22 and the split second when I thought of it, I thought  
23 that the jacket would act as, like, padding.

24 I don't know if that -- if it would have or  
25 not. So I targeted his -- his thighs where he's

1 wearing jeans. And that's how we're trained.

2 MR. REES: Any other questions, folks? No?

3 All right. If there's no further questions,  
4 thank you, Officer Bailey, for coming in.

5 THE WITNESS: You're welcome.

6 MR. JACKSON: All right. Let's wait for  
7 just a second here. All right.

8 **JUSTIN DAMERVILLE**

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

11 MR. REES: Okay. You can have a seat.

12 Could you please state and spell your name?

13 THE WITNESS: Officer Justin Damerville.

14 Last name is D-a-m-e-r-v-i-l-l-e.

15 **EXAMINATION**

16 BY MR. JACKSON:

17 Q Okay. Do you work for the Portland Police  
18 Bureau?

19 A I do.

20 Q And were you working as a police officer on  
21 April 7th of 2018?

22 A Yes, I was.

23 Q Did you respond to the Cityteam Ministries  
24 that evening?

25 A I did.

1           Q     Okay.  Very briefly, could you explain for  
2     us your understanding of the call as you were  
3     responding there and some of the events that  
4     transpired.

5           A     I can.  Leading up to the call, heard  
6     numerous calls coming out over the radio, one of which  
7     was a crashed car that was identified as a car taken  
8     in a carjacking.  There was another mention of a call  
9     with suspect holding his knife to his own throat or  
10    someone else's.

11                     Due to all the different calls coming out  
12    pretty quick sequence, I had a trainee, I was trying  
13    to explain to her those, so I missed some bits of  
14    information as we were responding.

15                     Then I heard another call directly across  
16    the street from the Cityteam Ministries at the old  
17    Shleifer furniture store, which is now the Columbia  
18    shelter, with a guy holding a knife to his own throat.

19                     I heard an officer that he was nearby, so  
20    we -- my trainee and I initially respond to that  
21    location to assist that officer.  We get there, no one  
22    was there.  So as I --

23           Q     Now, when you say "there," do you mean --

24           A     At the Shleifer furniture location.

25           Q     Okay.  All right.

1           A     Or the Columbia shelter, as it's now called.  
2     No one's outside the Columbia shelter that was  
3     involved with any of the calls.

4           As I am unloading my less lethal because of  
5     that call, I'm putting it back in the car. As I'm  
6     doing so, my trainee says, "Hey, he's across the  
7     street, has a knife to his throat."

8           At that point, I take my less lethal back  
9     out of my car, started getting it prepared, wait for,  
10    you know, oncoming traffic to pass. I cross over. I  
11    can see --

12          Q     Let me -- let me jump in with another  
13    question --

14          A     Okay.

15          Q     -- for you before we get --

16          A     Okay.

17          Q     -- up to the Cityteam --

18          A     Absolutely.

19          Q     -- Ministries. So was it your understanding  
20    that all of the calls that you just described involved  
21    the same person --

22          A     Yes.

23          Q     -- that you are looking for?

24          A     They all had the same general description of  
25    a medium to large build male, no shirt, tattoos, with,



1 I think, blue or black pants. And then there was also  
2 mention that a shelter had provided the suspect with  
3 a coat.

4 And I missed the call -- another call that  
5 came down the street at the Jacksons gas station.  
6 There was another call with a similar description that  
7 came out as an unwanted. I missed the details of what  
8 was making him an unwanted at that location, but there  
9 was another call with a similar description.

10 Q Okay. So when you got to the Columbia  
11 shelter, which is across the street --

12 A Correct.

13 Q -- from Cityteam, that you took your  
14 less-lethal platform with you?

15 A Yes.

16 Q And so are you certified to operate that  
17 system?

18 A I am.

19 Q Okay. And why did you decide to take that  
20 tool with you?

21 A Because there was a mention of him holding a  
22 knife to his own throat. And then the connection with  
23 the previous carjacking with the knife; the -- there  
24 was a brief mention of a gun in one of the other  
25 calls, which was dispelled by one of the East Precinct

1 officers over the radio, but confirmed that it was a  
2 knife.

3 Q Okay. That there was a knife involved?

4 A Correct.

5 Q Okay. And that's why you brought the  
6 less-lethal platform with you?

7 A Correct.

8 Q Okay. So I interrupted you as you were  
9 describing coming up to Cityteam.

10 A Yes.

11 Q You had your less-lethal --

12 A I did.

13 Q -- system with you?

14 A I did.

15 Q Okay.

16 A I know there was, at that point, Officer  
17 Phifer was there. There was another officer in the  
18 doorway as well. I don't know who that was. I wasn't  
19 really focused on who the other officer was. I took  
20 position next to Officer Phifer, who had his rifle. I  
21 immediately start giving commands to Elifritz to drop  
22 the knife.

23 The reason I went straight to commands is  
24 because he's in -- he's now inside of a shelter with,  
25 I don't know, 30-plus people inside the shelter.

1 There had been mention of, you know, some active  
2 aggression towards others during the carjacking, so  
3 opposed to, you know, trying to establish a dialogue,  
4 we have, you know, unrestricted access to numerous  
5 victims.

6 So I go straight to the commands of, "Hey,  
7 drop the knife or you're going to be beanbagged." At  
8 that point, he's still kind of backing away from us,  
9 which means he's going in the general direction of  
10 most of the people who were in the room. They're kind  
11 of spread out throughout the whole room.

12 Q And you said you gave him a warning that he  
13 needed to drop the knife or he would be beanbagged?

14 A Correct.

15 Q But you didn't actually have beanbag rounds  
16 with you?

17 A Correct. It's a --

18 Q Why did you say that?

19 A -- terminology. We often use that  
20 terminology because we just recently changed from our  
21 old shotgun beanbag rounds to this new 40 millimeter  
22 less-lethal launcher platform. It's a -- it's more of  
23 a foam-impact weapon. It's about two inches long, 40  
24 millimeters in diameter.

25 I opted to continue using the term "beanbag"

1 because it's more recognizable. It's -- you know, if  
2 just -- if I tried to explain this before. I thought  
3 if it was in a static environment where I wasn't on a  
4 call and going through the terminology of, "Stop or  
5 drop the knife or you're going to be less-lethaled,"  
6 it just doesn't flow right.

7 So I stuck with beanbag. Generally, people  
8 know what a beanbag round is, so I -- I opted to stick  
9 with that terminology.

10 Q Okay. How did Mr. Elifritz respond to your  
11 commands?

12 A There was a -- he continued to back away. I  
13 believe he said no, but the room was so loud and  
14 chaotic, I -- I can't say for sure that's what he  
15 said, but that's what it seemed like he said.

16 Q Okay. In response to you saying, "Drop the  
17 knife"?

18 A Yeah.

19 Q Okay. What happened then?

20 A At that point, he was somewhat behind a  
21 chair. Our less-lethal platform, we aim for below the  
22 belly button, generally. I end up beanbagging him in  
23 the left thigh. He's somewhat behind of a chair.  
24 He's never stationary. He's always moving. His  
25 movements are pretty sporadic.

1           So at one moment he's standing behind the  
2 chair. He moves just enough that it opens up that  
3 kind of target area on the left thigh and I beanbag  
4 him for the first time.

5           Q     Okay. And where were you positioned at  
6 that point?

7           A     I was still in the doorway.

8           Q     Okay.

9           A     So from the door, you have a desk on the  
10 right and amid all of the room, there's, like, a half  
11 wall that's a stairwell going down. So he's kind of  
12 between the corner of the stairs and the corner of the  
13 desk, kind of at an angle.

14           They -- I mean, obviously, they're not  
15 perfectly 90 degrees. They're more at an angle. He's  
16 midway kind of between the two. I'm --

17           Q     Were you aware --

18           A     -- beanbagging him.

19           Q     Go ahead.

20           A     I saw the knife in his right hand up to his  
21 right -- his left side of his neck. I could see what  
22 was either a laceration or a puncture wound on his  
23 left neck and there was blood on the floor as he was  
24 backing away.

25           Q     Okay. You saw all that?

1           A     I saw all that.

2           Q     Were you aware of whether there were other  
3 less-lethal operators --

4           A     At that --

5           Q     -- nearby or around?

6           A     At that moment, I was the only one in the  
7 doorway. I had beanbagged him the first time and as  
8 soon as I beanbagged him the first time, I knew there  
9 were tons of officers behind me.

10                   I didn't know how many or who they were or  
11 if there was another less lethal, so I immediately  
12 yelled, "Hey, get me another less lethal." Because  
13 with the new system, we -- it's a 40 millimeter tube.

14                   It only holds one, so after each deployment,  
15 you have to open the tube, manually remove it, drop  
16 it, grab the next one, reload it, reclose it, which  
17 can take, you know, anywhere from two to five seconds,  
18 depending on how smooth or if you stumble with the  
19 pouches or anything else. So I immediately wanted a  
20 second less lethal there.

21           Q     And did one arrive?

22           A     Officer Bailey arrived.

23           Q     Okay. How did things progress from that  
24 point?

25           A     At that point, I'm not sure if the second

1 less lethal was me or if it was Officer Bailey. There  
2 was another deployment of a less lethal. Well, there  
3 were two more in pretty quick succession from each  
4 other. And it was either Bailey then me or me and  
5 then Bailey for the second and third. And there, I'm  
6 not quite sure.

7 Q Was it your impression that the rounds were  
8 impacting him?

9 A Yes. So the first one, I saw kind of a  
10 little forward movement of his upper body, an auditory  
11 groan or a word.

12 Again, it was loud and pretty chaotic, so I  
13 couldn't understand what it was; but there was an  
14 auditory reaction as well of my first round. My  
15 second round, generally the same target area. I don't  
16 remember an auditory reaction on that one, but I did  
17 see the upper body movement.

18 And then Officer Bailey's round, either  
19 being the second or the third, I don't recall any  
20 reaction at all. I wasn't paying attention. I was  
21 probably in the process of reloading, so I didn't  
22 actually see his round impact.

23 Q Okay. At any point, did Mr. Elifritz drop  
24 the knife?

25 A He did not.

1           Q     Okay.  So, at some point, did you and other  
2 officers move into the room?

3           A     Correct.  That would be after the third less  
4 lethals.  I don't -- I don't know who said it.  I  
5 think it was Officer Phifer who said, "Hey, we need to  
6 push forward.  We need to get those people out."

7                     At that point, we kind of pushed forward,  
8 kind of fanned out from what would be the desk to the  
9 northern side of the stairwell, 'cause he is more on  
10 the southern end of the room generally, kind of  
11 creating a egress route for all the people in there.

12                    And I know that a lot of the officers that  
13 would be on the northern end of kind of that fan were  
14 giving commands and getting people out.  And that was  
15 their primary focus based on what I could hear, the  
16 commands being given and, you know, the people moving  
17 behind us and getting out of the building.

18           Q     Okay.  And what was your focus on?

19           A     My focus was on Elifritz.  He was still kind  
20 of moving back and forth, still had the knife in his  
21 hand.  At one point, he starts actually moving towards  
22 the group of people in what would be the northeast  
23 corner of the room.

24                    The -- the citizens or witnesses that'd were  
25 in the room there, they actually start creating a



1 little barricade with chairs to keep Elifritz back,  
2 'cause he's moving towards them generally. Elifritz  
3 stops at one point, either behind a pillar or behind  
4 that half wall with the stairwell. I don't remember  
5 which.

6 I know there was the stairwell and then  
7 behind it was a pillar. So my -- my depth perception  
8 in that moment, I -- I can't recall if he was behind  
9 the pillar or the wall. That point, I attempt a third  
10 less lethal. He's behind the wall.

11 I have a very small target area of his right  
12 hip -- sorry, his left hip. I attempt to beanbag him  
13 there with a less lethal, used my less lethal at that  
14 moment. And that round I'm not even sure makes  
15 contact with him.

16 It either skips off of his hip or skips off  
17 the corner that he was behind, so I end up seeing the  
18 round impact the back wall. So it ricocheted either  
19 off of Elifritz or off the wall, I'm not -- not sure  
20 which. The -- the impact round's moving at 300 feet  
21 per second, so it's really hard to see exactly where  
22 it impacts beyond a general idea.

23 Q Mm-hmm.

24 A But I -- I couldn't tell.

25 Q Okay. What -- what's going through your

1 mind as you're deploying these rounds and they aren't  
2 having any effect on this person?

3 A That moment, my priority is getting the --  
4 the citizens, you know, the bystanders out of that  
5 room, 'cause once we can remove them from the  
6 equation, we can slow things down.

7 We can, you know, go more into our  
8 conversational piece. But when there's, you know, an  
9 act of aggression towards, you know, innocent  
10 bystanders, we have to address that piece first.

11 And so that was my -- my priority was  
12 getting them out, obviously trying to get Elifritz to  
13 drop the knife with the less-lethal impact rounds.  
14 You know, and historically, they -- there are numerous  
15 deployments of those that get compliance.

16 I mean, I know of numerous cases where, you  
17 know, four or five are used before compliance is  
18 reached. So we were evaluating that. I had had -- we  
19 had some brief conversation on the line prior to  
20 moving in after the first or second round that they're  
21 not effective.

22 We're going to have to try to use it again,  
23 but we need to move people out. And I think that was  
24 Officer Phifer saying that, but I'm -- I'm not a  
25 100-percent certain.

1 Q Okay.

2 A There were a lot of voices going on at the  
3 moment.

4 Q So you're in the room. You guys have kind  
5 of fanned out. Your focus is on Mr. Elifritz. Other  
6 officers are trying to move these citizens out. What  
7 did you see happen then?

8 A At that point, Elifritz then moves kind of  
9 in a southwest direction. Generally in our direction,  
10 but not directly at us. More of a southern with a  
11 slight westward tendency to it.

12 There's a pillar on the south end of the  
13 wall. He kind of takes position behind that. While  
14 he's moving, I can still see the knife in his hand.  
15 Again, I believe it's his right hand.

16 As he's moving across, I aim midline just  
17 above the belt line, kind of between the belt line and  
18 the belly button and I bean -- less lethal him for the  
19 fourth time, for my fourth deployment. That point,  
20 I -- I don't recall a physical or an auditory  
21 reaction.

22 I do see the round impact him, but I don't  
23 recall a reaction. At that point, he moves kind of  
24 behind a small one-foot pillar, maybe a  
25 foot-and-a-half pillar that's up against the wall. I

1 lose my angle there. Officer Bailey's on my left. So  
2 that point, I go to move.

3 I actually go to move toward the other end  
4 of where the officers are fanned to get a better  
5 angle. As I'm moving, I see Elifritz make a pretty  
6 deliberate movement towards officers back kind of in  
7 the position I was at originally with Officer Phifer,  
8 Bailey and then whoever else was next to him in -- in  
9 that little fan.

10 At that -- at that moment, I hear, you know,  
11 several gunshots within -- you know, within a second  
12 of him making a pretty deliberate movement towards  
13 them.

14 MR. JACKSON: Okay. Any questions? Do you  
15 folks have any questions? I see none.

16 All right. Thank you very much.

17 THE WITNESS: All right. Thank you.

18 MR. JACKSON: So let's go off the record.

19 (Recess taken, 9:32 a.m. - 11:09 a.m.)

20 MR. JACKSON: All right. We're back on the  
21 record with our next witness.

22 Raise your right hand.

23 **AARON SIECZKOWSKI**

24 Was thereupon called as a witness; and, having been

25 first duly sworn, was examined and testified as follows:

1 MR. JACKSON: You can have a seat.

2 Could you please state and spell your name?

3 THE WITNESS: Certainly. Name's Deputy  
4 Aaron Sieczkowski. The first name's A-a-r-o-n, the  
5 last S-i-e-c-z-k-o-w-s-k-i.

6 EXAMINATION

7 BY MR. JACKSON:

8 Q And where are you employed?

9 A The Multnomah County Sheriff's Office.

10 Q How long you been a sheriff's deputy for the  
11 Sheriff's Office?

12 A For almost seven years. I've been employed  
13 since July 11th, 2011.

14 Q Okay. And what have been your positions in  
15 the Sheriff's Office?

16 A I worked patrol on the onset and then I was  
17 assigned to the Transit Police Division about 2013.  
18 It's a specialty position. And I've spent about five  
19 years at the Transit Police Division with another year  
20 back on patrol on night shift.

21 Q Okay. And so as a member of the Transit  
22 Division, are your patrol areas kind of all over  
23 the --

24 A Yes.

25 Q -- metropolitan area?

1           A     Exactly.  Anywhere in the three counties.  
2     So, like, I guess the easiest way to explain TriMet  
3     for those that don't know is it's a number of agencies  
4     that work together that take 9-1-1 calls for service  
5     on -- anywhere on the line.

6                     And the line is anywhere the bus goes,  
7     anywhere the light rail goes.  So it's -- it's pretty  
8     huge territory in Clackamas, Washington and Multnomah  
9     Counties.

10           Q     Okay.  And where are you currently assigned?

11           A     I'm assigned out to East Precinct, which is  
12     generally, like, 82nd all the way up and down  
13     Clackamas out to Troutdale.

14           Q     Okay.  Gresham area?

15           A     Yeah, certainly.

16           Q     Yeah.

17           A     East Portland.

18           Q     East Portland.

19           A     Yeah.

20           Q     Okay.  Do you have a partner?

21           A     I do, yes.

22           Q     Who's that?

23           A     It's Deputy Tyler Simpkins.

24           Q     How long have you two been together?

25           A     We're not set partners.  We kind of rotate

1 based on our availability. We're really short staffed  
2 right now, just like anyone else is, but so usually if  
3 someone's off, we'll jump in the car with someone  
4 else, so that's how we kind of work.

5 Q And is Deputy Simpkins with the Clackamas  
6 County Sheriff's Office?

7 A He is, yes.

8 Q Is it common for you guys to be partnered up  
9 with members of other agencies?

10 A Certainly, yeah. I've had West Linn  
11 partners, I've had Washington County partners, I've  
12 had Clackamas County partners. It's kind of like the  
13 -- it's a weird position where you kind of go  
14 everywhere within the city limit sprawl and then you  
15 work with a number of agencies to kind of accomplish  
16 what you're trying to do.

17 It's -- because we don't have that many  
18 calls on -- on TriMet for service, we also help out  
19 the agencies in the jurisdictions that we're kind of  
20 currently in if they need help on a call. Because  
21 everyone across the board is short staffed  
22 police-wise, we'll kind of help them on calls. And  
23 that was kind of the scenario with this incident.

24 Q Okay. So let's move to this incident.

25 April 7th, 2018, you were working?

1 A Yes, I was.

2 Q Okay. And what were the hours of your  
3 shift?

4 A It's from 2:00 in the afternoon to midnight.

5 Q Okay. And when did you first become aware  
6 of John Elifritz?

7 A It was about 2:30 in the afternoon. At  
8 TriMet, we listen to -- I -- I generally work in East  
9 Portland, between 82nd and 182nd -- or 162nd. And so  
10 I -- I usually am monitoring east net.

11 And I think in this -- in this scenario, it  
12 was broadcasted that east dispatch, which is -- which  
13 is East Portland, had nonemergency off the air, which  
14 means that they're holding the air because of a  
15 critical situation with a person involving a knife in  
16 a potential stabbing.

17 And that's when I became privy to all the  
18 information that was broadcasted in that call out at  
19 Lents Park with a person holding the knife to his  
20 throat and a bunch of officers canvassing the area  
21 looking for bodies.

22 Q Okay. And was it your understanding that  
23 they did not find any crime scene or any bodies, as  
24 you put it?

25 A We listened to the whole thing and they --



1 they didn't. And so, therefore, they disengaged from  
2 Mr. Elifritz at that time.

3 Q Okay.

4 A Who we determined to be Elifritz.

5 Q Later on in your shift, did you actually  
6 respond to a call at Cityteam Ministries in the Stark  
7 and MLK --

8 A Yeah.

9 Q -- area?

10 A We did, yes.

11 Q Okay. And prior to arriving there, what  
12 additional information, if you could just briefly  
13 summarize, did you learn?

14 A Sure. Again, because of, like, this  
15 position of being an officer able to go through all  
16 these different precincts and stuff, we were able to  
17 go to all the nets. And on this particular day, it  
18 was a super stormy day. It's kind of more of an  
19 administrative day for me. I had a search warrant  
20 to write.

21 I had a couple other cases to review video  
22 on. And with the weather being so bad, we weren't  
23 going to get a lot of calls for service, so I was just  
24 able to kind of monitor the different nets. And after  
25 hearing the disengagement out at Lents Park, I'd heard

1 numerous other calls going on regarding Mr. Elifritz  
2 and his behavior at that point.

3 Other citizens calling in 9-1-1 because I  
4 knew at that time that Lents Park was having a rugby  
5 game and there was a lot of people in that area. So  
6 we kept on hearing these other calls come in before we  
7 switched back to our regular net. And then we went to  
8 lunch over in North Portland.

9 And I think the time we went to lunch about  
10 6:30 in the afternoon. It was my partner and I. We  
11 were with our sergeant. And I was listening to the  
12 north net when we got back into our car. On my  
13 computer, we have message that go out to everyone's  
14 BOLO, right, be on the lookout.

15 And the information on there was the  
16 carjacking information, that John Elifritz was  
17 suspected to be involved in this carjacking by force.  
18 And there was probable cause to arrest him for robbery  
19 and the, what we call UUMV, which is Unauthorized Use  
20 of a Motor Vehicle. It's basically a robbery  
21 involving a car.

22 And as we were reading this information --  
23 mind you, we're listening to the north net -- we heard  
24 dispatch say that there was a road rage incident  
25 coming out in North Portland where the person driving

1 the same Honda CRV -- they had the same license plates  
2 -- had pointed a gun at another citizen as they were  
3 driving, just kind of this erratic behavior.

4 We listened to this call, and as soon as the  
5 plates come out, my partner and I are able to stitch  
6 it together and we were like, it's the same guy. He's  
7 without a shirt on, he's heavily tattooed, he's  
8 driving a stolen vehicle and now pointing a gun at  
9 someone. So immediately, we're like, this guy's crime  
10 spree is continuing.

11 This incident at Lents Park wasn't just  
12 isolated. His behavior is now propagated to -- you  
13 know, all the way to North Portland. I mean, that's,  
14 like, two opposite sides of the metropolitan area.

15 As we're listening to this information here,  
16 I believe it was K9 officer come on and say, "Hey,  
17 we're going to make contact with this victim of the  
18 road rage incident." We get some more details about  
19 the gun, firearm.

20 We knew that he was at least armed with a  
21 knife based on the Lents call. Now, we have a firearm  
22 involved. As that K9 officer's contacting that person  
23 and broadcasting the information about that, we -- our  
24 dispatcher kind of simultaneously said, "Hey, Central  
25 has that car crashed on MLK and Stark," the downtown

1 Portland inner southeast corridor.

2 And, at that point, I turned to my partner.  
3 We were -- we were right at like 60th and Sandy at  
4 that point. I'm like, "Hey, we -- we're right here on  
5 the freeway. Let's -- let's go help out Portland with  
6 catching this guy."

7 Q Okay. So you decided to go and assist the  
8 Police Bureau?

9 A Correct, yes.

10 Q All right. And let me just take one step  
11 back. Prior to starting your shift that day, was  
12 there anything unusual going on in -- in your personal  
13 life?

14 A No. It was -- it was a normal day. I  
15 helped coach an endurance class up in Vancouver and I  
16 had that. So I was -- I was, you know, definitely,  
17 like, pretty energized to go to work and came in  
18 realizing what the weather was doing. It was just any  
19 day -- it was any other day other than the weather  
20 being just fraught, so --

21 Q Okay. And prior to starting your shift or  
22 at any time during your shift, did you consume alcohol  
23 or drugs that would affect your ability to do  
24 your job?

25 A No.

1           Q     Okay.  So you hear that the car is crashed  
2 down inner southeast corridor.  You decide to respond  
3 in there.  What function were you planning to perform?

4           A     We're going to assist in the apprehension of  
5 this guy and see -- contact him.  I knew that area  
6 really well.  I'd worked Central for two-and-a-half  
7 years at TriMet, so I'm really familiar with that  
8 southeast area, that inner southeast area, Grand, MLK  
9 area.  And I knew that I had pretty good knowledge of  
10 this.

11                     We're a two-man partner car, which is an  
12 advantage.  Most -- most officers, Portland officers  
13 don't operate two-man partner cars, so we have that  
14 added ability of having two officers on scene to help,  
15 and, like, deal with an incident.  We have more  
16 resources available.

17                     And in addition to that, he can operate the  
18 computer and piece this case together while I'm  
19 driving, focusing on lights and sirens coming down --  
20 downtown.

21           Q     Okay.  And were you in uniform?

22           A     I was, yeah.

23           Q     And the vehicle you were driving was a  
24 marked patrol car?

25           A     Yeah.



1 that's him for sure. We now know that -- and it's  
2 very close to the proximity where that -- that vehicle  
3 crashed.

4 Q Mm-hmm.

5 A So, like, let's swing by that Jacksons and  
6 see if he's still there, see if we can maybe just get  
7 an indication from someone at the gas station where'd  
8 he go, so we can contact him.

9 We drive up to the gas station and the  
10 attendant's outside. I believe it was an attendant,  
11 nice lady. She's just pointing south, which is, "That  
12 way, light blue jeans, light blue pants. That's him."

13 So I broadcast, "Hey, this is good  
14 information. He's still in this area, still has the  
15 knife and he's last seen southbound." Where he --  
16 where he turned out to be is just north of that  
17 location.

18 So we continue to look for him. Very soon  
19 after that, within I'd say just a few minutes, the  
20 ambulance, which we could see right when it was being  
21 broadcasted, it said, "Hey, there's a -- there's a  
22 person standing outside of the -- the homeless shelter  
23 on the west side of the street with a knife in his  
24 hand."

25 This is him. He's now migrated up north.

1       Somehow, he's up there. So we -- we believe the  
2       information was good. And we see the ambulance is  
3       right there, so my partner and I, we drive up real  
4       quick to there. We stack up between. There's another  
5       Portland officer, Portland officer and myself behind  
6       this ambulance.

7                We're thinking he's on the west side of the  
8       street facing us. And one of the Portland officers  
9       runs up and contacts the ambulance operators.  
10       Determined that it was kind of older information, but  
11       the description, everything fit.

12               And immediately, I'm like, "Hey, let's go  
13       back to this area search thing." I start walking back  
14       to my car and I see him. And it was -- I'll never  
15       forget it. It was -- it was just insane to me.

16               I guess in the cop world at least, you know,  
17       you try to go into every situation thinking you can  
18       handle whatever it is, right, 'cause, like, who else  
19       you going to call, you know?

20               And I just remember, like, saying, like,  
21       this is no big deal. We'll find him, we'll arrest  
22       him, we'll take him to jail, hold him accountable for  
23       what he's done, get him the help he needs.

24               And as I'm walking back to my car, I see  
25       him, and he's just gushing blood from his neck and



1 he's staring at me from the window across the street,  
2 the east side street.

3 Which was alarming me because we had thought  
4 that he would be on the west side of the street, the  
5 homeless shelter. There's also a homeless shelter on  
6 the opposite side of the street with big storefront  
7 windows. And it was really well lit. And he's  
8 just -- he's just standing there like -- like this.

9 He's got that knife in his hand. He's just  
10 looking at me, just fixed. And I'm like, oh, Jesus.  
11 And immediately I see just this, you know, the red.  
12 Blood that comes from your neck is arterial red. You  
13 know it's pretty serious stuff.

14 And I was working when the -- the slaughter  
15 happened on the MAX train last summer where the guy  
16 with the knife came, murdered two people on the train  
17 and darn near killed the other guy. And I saw all the  
18 videos in that. And, God, it's horrific what -- what  
19 a knife can do in a close situation like that.

20 And it really just flashed back to me  
21 immediately in that moment, hey, you know, this guy's  
22 bleeding from his own throat. No doubt it's him,  
23 right? He's huge. And everyone around him, 'cause  
24 the place was full of people, you know. It was a  
25 shelter. It's full of people.

1           They're backing away from him like, what --  
2           what is going on? And -- and he's just staring me  
3           down. And I -- I hear, "Hey, I -- I got him right  
4           here." And -- and everything in that moment to me  
5           becomes really serious.

6           It's not this, like, hey, we're the police,  
7           we're going to go, we're going to go do our thing  
8           and -- and we're always in control of the situation.  
9           At that moment, I had that -- that kind of, like,  
10          fleeting worry. This is really, really serious. He's  
11          bleeding from his neck and he's got a room full of  
12          people in this -- in this building.

13          I've been in that building before. It's not  
14          big, you know. And it -- with the amount of people  
15          inside, the fact that he was actively bleeding, I knew  
16          that this was going to be like -- this is going to  
17          be -- like, this is -- this is a big deal.

18          Q       Okay. So you get up to the door.

19          A       Yeah. I immediately run across the street.  
20          I think I get into my car. So, I mean, Grand is a big  
21          street. I'm focused on him. He's focused on me,  
22          staring at me. And I -- I (indiscernible) the door  
23          and I remember just flinging that door open.

24          The door's not easy to open, but I think I  
25          had, you know, just like -- that immediacy to me, that

1       adrenaline. Just opened the door. I remember the  
2       door, like, flying out of my hand. Oh, geez, you  
3       know.

4                I pulled the door and I see that there's  
5       even more people that I thought originally in there.  
6       And they're kind of, like, cowering in the -- in the  
7       back zone, scared of this guy and what's going on.

8                I come in and immediately he -- he -- he's  
9       standing at me in this, like, kind of, like, stance.  
10      And he starts backing -- backing up away from me, you  
11      know. And as he does that, he comes into contact with  
12      this older gentleman and immediately grabs him and he  
13      brings his arm around him with the knife like this,  
14      you know, like, over his shoulder.

15              And I'm like, oh, Jesus, Jesus. And it's  
16      happening so fast. It's like I'm -- I -- I tell you,  
17      I have dreams and stuff like that. I feel like my  
18      legs are like jello at this point. I'm --  
19      fortunately, you know, dreams -- this situation did  
20      not play out like the way I kind of -- you know, like,  
21      I dreamt about in the past.

22              But he holds him up with this knife and I'm  
23      thinking, wow, we have a hostage situation now. I put  
24      it out over the air, "Hey, we might have a hostage  
25      situation." As that's happening, I have more Portland

1 officers kind of, like, coming up behind me, helping  
2 to hold these doors open.

3 And he's -- he's -- I swear, he's just  
4 staring right at me when this happens. As soon as I  
5 see this hostage situation, he sheds away from the guy  
6 and starts kind of backing up and retreating back into  
7 this -- if you're looking into the -- into the -- the  
8 room, he starts going off to the looker's right.

9 There's some chairs scattered about. He's  
10 fumbling with the chairs. And I yell immediately,  
11 'cause, you know, it's -- it's one thing if he's in  
12 here alone, you know, if it's just him with a knife;  
13 but now it's something else, 'cause there's people  
14 that are trapped to me.

15 And it -- and I just think, in recollection,  
16 I'm like, why couldn't they get out, why couldn't they  
17 get out? Well, there was no way out for them. They  
18 were stuck in this room with this guy in this closed  
19 thing with this -- it's just like this -- this  
20 stinking TriMet incident, right?

21 You know, there's people trapped on a train  
22 and a guy with a knife can do so much damage and  
23 they're just stuck in a corner. And these people are  
24 panicking. It's -- it's chaos. It's -- it's easy to  
25 talk about it now in this room where it's -- it's

1 nice, air conditioned, it's quiet. In there, it  
2 was not.

3 It was screaming. It was pandemonium.  
4 People are yelling. They just saw a guy gut himself  
5 in the neck with a knife, you know. And he's huge.  
6 He's a big, intimidating guy and he's in control. And  
7 all these people have to defend themselves with are  
8 wood chairs.

9 And we're -- we're stuck in this doorway  
10 trying to figure out what we're going to do with this  
11 guy because we have some immediacy going on here and a  
12 whole lot of moving parts that are rapidly evolving  
13 right in front of our eyes with limited options. I  
14 yell out, "Everyone get out of the room."

15 And I think that kind of clicked for a lot  
16 of people. "Yes, police are here. We can move." And  
17 some people were able to immediately run and we were  
18 able to get them out of the doors. But some people  
19 were really focused on the terror that was going on  
20 inside of this -- this room and they -- and they kind  
21 of, like, sheltered in that location.

22 I know there's bathrooms back in there. I'm  
23 sure they had people in the bathrooms, probably, like,  
24 15 to 25 people. And he comes in. We get less lethal  
25 -- we call them operators, but they're just people who

1 have beanbag guns. We get them up front because he  
2 has a knife.

3 And we're like, hey, we're going to be able  
4 to beanbag him. You're thinking, okay, now we're  
5 going to -- we're in control of the situation. We  
6 have some things that are not going for us here, but  
7 it's something we definitely can't walk away from.  
8 Why can't we walk away from it?

9 Can't walk away from it 'cause this guy's  
10 actively bleeding from his neck, he's going to die.  
11 And we have potential hostages in here. One guy who  
12 was already taken hostage for -- if it was just  
13 moments, it doesn't matter to me.

14 Obviously, this guy's definitely  
15 demonstrated his -- his willingness and his ability to  
16 use this knife and to threaten other people with it.  
17 He's done a carjacking. You know, he's had the  
18 standoff with the police out in Lents Park.

19 He was driving erratically across all of  
20 Portland. We can't walk away from it. We got people  
21 in here. If we walk away from it and he goes and  
22 attacks these people, I can't live with it.

23 And if he just bleeds and just dies there  
24 because we walked away from him -- his throat, I can't  
25 live with that either. You got to do your job as a

1 cop at that point and -- and deal with the situation  
2 and hopefully we're able to get him to come to his  
3 senses and drop this knife and surrender peacefully to  
4 us and have a great outcome for it. But that's not  
5 what happened.

6 Q Okay. So, at some point, do you guys move  
7 into the room?

8 A We did. It wasn't -- we didn't move in  
9 until after we'd beanbagged him with this 40 -- 40  
10 millimeter impact round. It's kind of like a Nerf-tip  
11 thing, but it hits hard. It's like a potato gun.  
12 That's kind of the way I explain it to my wife.

13 What is this, you know? You ever been hit  
14 by a spud gun? Well, my wife's not. I grew up in --  
15 in the country. She doesn't know what that is. She  
16 grew up in a nice place. And it hurts. It really --  
17 it -- it really does. And I'm trained to use the  
18 thing, so I've hit targets with it. I've seen what it  
19 does to the targets.

20 It's -- it's a -- it's -- you know when you  
21 get hit with the thing, but the weird thing was in  
22 this case is he's just staring. He's not reacting.  
23 We're just pleading with him to drop the knife and he  
24 gets hit with these things.

25 And I remember just, like, mentally saying,

1 he's getting hit and he's not even flinching. These  
2 rounds that would knock me to the ground in the fetal  
3 position. You'd need to haul me off, man, and I'd be,  
4 like, limping for a few days, not even phasing him.  
5 He's upright. He's moving around.

6 He's in this athletic stance with this knife  
7 still locked in his hands, staring intently at us.  
8 It's a showdown. And we're hitting him with, I -- I  
9 think, in terms of less-lethal options, probably,  
10 like, the most -- the greatest deterrent to using  
11 something other than lethal force is this  
12 40 millimeter thing and -- and it's not even working.

13 We hit him more than once. We hit him  
14 twice. We're like, hey, we have people in the back  
15 running back and forth, you know, crazily trying to --  
16 frantically trying to get out of this -- this cage  
17 that they're trapped in.

18 And I'm like, hey, we need to take this room  
19 and we need to make a fence, a protective fence  
20 between us and this guy, because if he runs into this  
21 crowd of people, there's no way we're going to be able  
22 to stop him. I'm serious. We're going to have to run  
23 directly up onto him and do something, you know,  
24 really drastic. And we didn't want it to get to that.

25 In the meanwhile, he's just shuffling back



1 and forth, not responding, getting hit with this --  
2 with these impact rounds. So we come in, we fan out.  
3 I have Officer Nutting with me. He's got an AR15, so  
4 he's a little bit more accurate than my handgun. So  
5 he takes in --

6 Q Was your handgun drawn at that point?

7 A Yes, it was.

8 Q Okay.

9 A You know, the funny thing is, I couldn't  
10 tell you when I pulled my handgun out. I -- I don't  
11 know why, but I -- I had my gun in my hand when we  
12 were dealing with the situation.

13 I just -- it's almost, like, it's magic. It  
14 happened, but it's just -- you're thinking so --  
15 you're so intent on what's happening in front of you,  
16 it's so -- it's such a critical situation, you just --  
17 anyway, I fan out to the -- the left.

18 If you're looking in this room, I fan out to  
19 the left, which is orientation-wise, the north side of  
20 this thing. And my thought was, if he runs to this  
21 crowd of people that are kind of trapped in the  
22 corner, I'm going to run and put myself between him  
23 and them. I'm going to deal with it with my firearm.

24 And he stays over on this right side of the  
25 room. We're giving lots of commands. We have a bunch

1 of force. We had this -- this huge show of force. We  
2 had lots and lots of cops here, right? It's obvious  
3 we want you to drop the knife, you know.

4 I couldn't tell you how many times "drop the  
5 knife" was said in all manners and tones. He  
6 wasn't -- he wasn't going to drop the knife. There's  
7 no doubt in my mind he's going to drop the knife and  
8 he didn't. And he shuffles back and forth and he  
9 starts getting closer to the -- where we're kind of  
10 lined up.

11 And I -- I have, like, this banister thing  
12 between me and -- and him. I'm not worried, really,  
13 directly about me. I'm worried about these people and  
14 my Portland friends over here on my right. And he --  
15 as he's shuffling forward, he gets in this, like,  
16 hunched down kind of athletic position.

17 And he's close. I -- you know, I'm worried  
18 now because he's now really close to these officers  
19 and he's in a position where he can move quickly  
20 forward. And it's almost like in my mind -- I'm sure  
21 he paused for maybe nanoseconds; but, in my mind, it  
22 was a clear and defining moment for me.

23 If he gets any closer, he's going to be in  
24 that -- in a -- in a lethal range where he can get up  
25 on these people before they have a chance to react to

1 what he's doing. I've been trained in reaction gap  
2 stuff. It's real.

3 The ability to see something -- if someone's  
4 initiating an action upon you -- I'm not sure you guys  
5 have heard about it -- but you're behind the ball.  
6 We're reacting to what this guy's doing.

7 And we didn't just walk in and -- and shoot  
8 him immediately because he hadn't presented himself in  
9 a situation that was this direct, imminent threat.  
10 But now he was on the threshold of that where if he  
11 had started charging forward, he was going to be able  
12 to get to the officers before we're able to react to  
13 see what he was doing.

14 But if he was going to go back and react  
15 and -- and go backwards, we're going to reassess.  
16 Reassess, you know, we're fine, just continue what  
17 we're doing. Hopefully something changes in his mind  
18 or he just drops the knife and we all go home.

19 And he didn't. He lunged and he started  
20 propelling his feet under him and he started charging  
21 directly at those officers. And I knew in that moment  
22 of time that if I had -- I had great -- great sight on  
23 him and everything.

24 And it's -- it's crazy to talk about, so if  
25 I talk too fast, slow me down. I knew that, like, he

1 was moving at them. He was charging at them. And I  
2 knew in my mind that he was going wade into those  
3 officers with that knife.

4 And your ballistic vest counts for nothing  
5 against a knife. Your throat counts for nothing  
6 against a knife. And I took the shot. I saw him  
7 moving forward, saw him charging and I knew he was  
8 going at those officers and I shot him. And I -- I'm  
9 sure I shot him once.

10 I can't be a hundred-percent certain,  
11 because, man, I -- I don't even -- I couldn't even  
12 tell you what it sounded like. I thought I was the  
13 only one that shot when I did. And it was almost,  
14 like, as soon as I started tracking with my pistol and  
15 I shot him, he hit the ground. That was it.

16 He hits the ground and -- and I -- I'd never  
17 forget, like, the sound that he made when he hit the  
18 ground. It was -- it was just gut wrenching to me,  
19 and I'm sure to everyone else in that room. He was  
20 done immediately.

21 I turned to make sure that everyone is  
22 starting to get out of his room because he's not  
23 moving. And I hear on the radio that we're getting --  
24 we're getting him medical aid immediately. And I  
25 knew -- I knew that they were -- that they had been

1 staging on that location, so it was going to be  
2 relatively quick to where we could get him help.

3 Q So you fired one time?

4 A Yes, I believe so.

5 Q Okay. As -- as far as you recall?

6 A Yes.

7 Q And did you feel like in making that  
8 decision, you were operating within the Sheriff's  
9 Office policy on use of force?

10 A Absolutely.

11 Q And deadly use of force?

12 A Yes.

13 Q Okay. Why did you -- as you recall only  
14 shooting once, why did you only shoot once?

15 A Because when I fired and to me, I recall,  
16 like, seeing -- I don't recall, like, pulling the  
17 trigger, but I recall seeing what I believe my round  
18 impacting, like, his side.

19 Like, this -- he had a poncho on at this  
20 point, some kind of -- some kind of coat. I remember  
21 it pushing in. I'm like, that's -- that's a hit. But  
22 it was, like, as soon as it happened, he went down.  
23 And he wasn't a threat anymore.

24 He was down on the ground, proned. He  
25 wasn't going to -- you know, he -- he didn't have his

1 feet under him anymore. He wasn't charging forward  
2 anymore. No need to keep shooting. That was my -- my  
3 thought process.

4 MR. JACKSON: Okay. Questions?

5 BY MR. REES:

6 Q Do you just -- so is your training at the  
7 Sheriff's Office that you stop shooting when the  
8 threat stops?

9 A Yes.

10 Q Okay. You have a college degree?

11 A I do.

12 Q Right. You went to University of Nevada and  
13 Reno?

14 A Correct.

15 Q What did you major in?

16 A Criminal justice. I was going -- going for  
17 a dual degree in psychology and criminal justice.  
18 There was just so many credits to -- ten more credits  
19 to -- it would have cost me another semester to do the  
20 dual degree, so -- and I was out of money. I was a  
21 poor college student.

22 Q Okay. But you studied some psychology  
23 and --

24 A No. No, because it'd change everything I  
25 could get. I -- I'd have a double major in

1 psychology. But I taught psychology at the -- at the  
2 college.

3 Q Oh. So I just wanted to -- you had that  
4 background prior to being a police officer. You --  
5 you obviously -- I -- I think from your presentation  
6 it's clear, you've thought a lot about this -- this  
7 incident.

8 A Yeah. I mean, it's just dominated. How  
9 could you not? It's -- it's, like, as bad as it gets  
10 for being a cop, you know, just taking someone else's  
11 life.

12 Q So -- so when thinking about it over the  
13 last 30 days or so, do you -- do you see any other  
14 option to using deadly force in this case?

15 A No. No. There was no other way. I --  
16 again, we couldn't walk away from him. We just  
17 couldn't walk away from him. It was just -- the  
18 amount of people that were trapped inside that place  
19 and him bleeding profusing from his neck and the  
20 felonies, the multiple felonies he committed  
21 throughout the course of the day.

22 His behavior was not going to stop. If we  
23 left and someone was going to -- I, in my mind,  
24 someone else was going to die if we left. There's a  
25 point where you have an obligation to deal with it and

1 we were at that. And that continued when we  
2 entered in.

3 And we used the tools that we -- people  
4 think that the Taser's this amazing tool. It's not.  
5 And maybe he was tased. I don't recall someone  
6 shooting a Taser at that thing, but, to me, I don't  
7 even use a taser when I'm dealing -- it would be such  
8 a small thing, but it doesn't -- it doesn't -- it  
9 doesn't work on a -- it hardly ever works on people.

10 And that wouldn't -- he wasn't feeling  
11 anything. It was -- he's staring through us and these  
12 impact rounds are hitting him with no effect. And  
13 I -- for me, the -- the 40 millimeter is a bigger  
14 use-of-force option than the Taser.

15 And it -- that had no effect. We were at  
16 the ceiling of what we could do in terms of taking  
17 him. And we just needed an ounce of cooperation of  
18 from him, you know. So it was just dropping the  
19 damn thing -- excuse my language -- just dropping the  
20 knife would be -- would have changed everything about  
21 the scenario.

22 And when he started charging at my fellow  
23 officers, I knew in my mind that he was intent on  
24 killing them and ending everything violently. And I  
25 believe that he was -- he was an imminent danger to



1 their lives and that's why I fired my weapon.

2 And I've thought about this a million times.  
3 And there's no other way that we would have been able  
4 to do it. Not with people in there. Not with him  
5 bleeding out of his neck. Not with him still armed  
6 with a knife.

7 MR. JACKSON: Do you folks have any  
8 questions?

9 All right. Thank you, Deputy. Thanks for  
10 your time.

11 THE WITNESS: Thanks.

12 MR. JACKSON: Okay. So that's our final  
13 witness before the noon lunch break. So why don't we  
14 go off the record.

15 \* \* \*

16 (Noon Recess taken at 11:39 a.m.)

17

18 ***AFTERNOON SESSION***

19 (Grand Jury No. 1, 1:07 p.m.):

20 MR. JACKSON: All right. We're back on the  
21 record following our lunch break. The next witness is  
22 Eleizar Hernandez Ramirez.

23 Come on in. Stand right here.

24 And could you please put your name on the  
25 record, ma'am?

1 THE INTERPRETER: Good afternoon. My name  
2 is Courtney Acostagrates, A-c-o-s-t-a-g-r-a-t-e-s.  
3 I'm Oregon court certified for the Spanish language.

4 MR. JACKSON: Okay. And could you please  
5 raise your right hand, sir?

6 THE WITNESS: This one, right?

7 MR. JACKSON: Yeah.

8 **ELEIZAR HERNANDEZ**

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

11 MR. JACKSON: Okay. You can have a seat.

12 Will you please state and spell your name.

13 THE WITNESS: My name is Eleizar Hernandez,  
14 E-l-e-i-z-a-r.

15 MR. JACKSON: Okay. And your last name.

16 THE WITNESS: H-e-r-n-a-n-d-e-z.

17 **EXAMINATION**

18 BY MR. JACKSON:

19 Q Okay. I want to take you back to April 7th  
20 of 2018. At around 7:25 that evening, were you  
21 shopping with your family?

22 A Yes.

23 Q Where were you?

24 A We were at the Walmart in Delta Park.

25 Q Okay. And who was with you?

1           A     My wife and three children.

2           Q     How old are you kids?

3           A     14, 11 and 8.

4           Q     Okay.  When you left the Walmart, how did  
5     you leave?

6           A     Normally.  We were driving the car.

7           Q     Okay.  And what did you notice as you were  
8     leaving in your car?

9           A     I noticed that a car was following me very  
10    closely.  And when we got to the stoplight, he pulled  
11    up next to me and he started to say bad words to me.  
12    But even when that happened, I continued driving  
13    forward.

14                 I ignored him.  But when I took another  
15    right, I noticed that he continued driving very  
16    closely to me.  And that was when I started to  
17    record him.

18           Q     Okay.  And did you record him or did one of  
19    your kids record him?

20           A     It was one of my children.  I took my cell  
21    phone out.  I put it to record and then I passed it to  
22    her so that she could start recording.

23           Q     Okay.  At some point, did this individual  
24    actually try to hit your car with the car he was  
25    driving?

1           A     Yes.  He tried to do it three times.

2           Q     Where -- was that before you started  
3 recording or during the recording or after?

4           A     Well, the first time was when, as I  
5 mentioned, we got up to the first traffic signal.  He  
6 pulled up very close behind me and he almost hit me.  
7 There's a -- there's a street and I'm not sure which  
8 one it was, but it's off Columbia Boulevard and he  
9 tried to do it again there.

10                     And the third time around, he was even  
11 closer and that time we were able to record him when  
12 he was trying to hit us.

13           Q     Okay.  Why did you decide to start recording  
14 this person?

15           A     So that I could call the police and let them  
16 know that I was being followed.

17           Q     Okay.  Did you get the license plate of the  
18 vehicle?

19           A     Yes.

20           Q     And did you provide that license plate  
21 number to the police?

22           A     Yes.  It seems to me they told me that he  
23 had stolen that license plate as well, that it wasn't  
24 the original plate on the car.

25           Q     Okay.  And at any point, did you or any of

1 your family members see him with a weapon in the car?

2 A My daughter saw that he was holding  
3 something in his hand. He was using it to hit against  
4 the window to try to get us to stop. And because it  
5 was so windy and rainy, I wasn't able to see what it  
6 was that he had in his hand, but he was hitting it  
7 against the window to try to get us to stop.

8 Q Okay. Did you tell the police about that?

9 A Yes.

10 Q And did you have a guess about what that  
11 item was?

12 A It seems that perhaps it was a knife.

13 Q Okay. Do you or any of your family  
14 members -- well, do you recall you or any of your  
15 family members saying anything about a gun to the  
16 police?

17 A My daughter was the one who was recording  
18 and because she was nervous and out of fear, she  
19 lowered the phone and wasn't able to record what it  
20 was, but she saw something and she said it looked like  
21 a weapon.

22 Q Okay. But not a gun?

23 A My daughter mentioned that it may have been  
24 a gun, but she wasn't certain that that was what it  
25 was.

1 Q Okay. And was that information provided to  
2 the police?

3 A Yes.

4 Q Okay. The video that your daughter took of  
5 the individual, was that provided to the police as  
6 well?

7 A Yes.

8 MR. JACKSON: Okay. Do you folks have any  
9 questions?

10 Okay. That's it. Thank you very much.

11 THE WITNESS: Thank you.

12 MR. JACKSON: Thank you.

13 Our next witness is going to be Officer  
14 Martiniuc.

15 Officer.

16 THE WITNESS: Hello.

17 MR. REES: Hi. Can you please raise  
18 your hand?

19 **ALEXANDRU MARTINIUC**

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

22 MR. REES: And, sir, please be seated.

23 And when you're ready, if you could state  
24 and spell your first and last names.

25 THE WITNESS: My first name is Alexandru.

1 You spell that A -- sorry -- A-l-e-x-a-n-d-r-u. Last  
2 name of Martiniuc, M-a-r-t-i-n-i-u-c.

3 EXAMINATION

4 BY MR. REES:

5 Q All right. And are you a Portland police  
6 officer?

7 A Yes, I am.

8 Q How long have you been a police officer?

9 A I was employed February 2nd of 2012.

10 Q And prior to that, I understand you had a  
11 background in construction and --

12 A Yes. I worked 12 --

13 Q -- tending --

14 A -- years of construction --

15 Q 12 years.

16 A -- and I was a bartender for 12 or 13 years.

17 Q Okay.

18 A Customer service.

19 Q And you and your -- your family came to the  
20 United States when you were in high school?

21 A After I finished high school.

22 Q After high --

23 A We moved to the United States when I was 20.

24 Q Oh, okay.

25 A And worked for Carnival Cruise Lines for

1 about two years as a waiter.

2 Q And what -- what country did you come from?

3 A Romania.

4 Q From Romania. Okay. And -- and then you  
5 became a United States citizen?

6 A Yes, sir.

7 Q All right. And so I assume English is a  
8 second language for you?

9 A Second language, yeah.

10 Q All right. What -- what made you want to  
11 become a police officer?

12 A It's a -- it's a great job. You get to help  
13 people. And it's -- it's still customer service. And  
14 you -- it's just a great career and it's one step  
15 further I could embark on, you know, my whole life.  
16 So I wanted to move on and do something that matters,  
17 make a difference, so -- so, I guess.

18 Q All right. And you've been through the CIT  
19 training, I believe?

20 A Yes, sir.

21 Q Have you also worked as a field training  
22 officer?

23 A Yes.

24 Q Where you train other new police officers?

25 A Yeah.



1 Q Okay. And are you assigned to Central  
2 Precinct?

3 A Yes, I am.

4 Q And what shift do you work?

5 A I work afternoon, which starts at 4:00 p.m.  
6 and ends at 2:00 a.m.

7 Q On April 7th, 2018 when this incident  
8 occurred, was that a regular shift for you?

9 A Yes. It was (indiscernible) my Monday.

10 Q And were you assigned a recruit that day?

11 A Officer Scott Kyle.

12 Q All right. And so were you working as -- as  
13 a field training officer with Officer Kyle?

14 A Yes, sir.

15 Q Okay. Prior to beginning that shift, had  
16 you consumed any drugs or alcohol that would affect  
17 your -- your abilities to perform your job?

18 A Absolutely not.

19 Q And prior to your shift, was anything  
20 unusual about -- going on in your -- in your life or  
21 anything?

22 A No.

23 Q No. Okay. The grand jurors have already  
24 heard quite a bit about the various calls on April 7th  
25 regarding the suspect, John Elifritz, so I'm not going

1 ask you to repeat everything you did unless the grand  
2 jury wants me to, which I don't think they do at this  
3 point.

4 But can you just very briefly tell the grand  
5 jury what your understanding was that day of events  
6 that you heard about regarding John Elifritz?

7 A Absolutely. The first piece of information  
8 that -- when I tuned in to the call was officer was  
9 being dispatched to MLK and Stark area for a silver  
10 Honda CRV that had crashed. Out of that call, the  
11 caller reported that a male running out who was  
12 wearing no T-shirt.

13 He described as a white male, six -- 275,  
14 285 pounds, someone six-foot tall covered in tattoos  
15 who was wearing a light -- light-colored jeans or  
16 light-colored pants.

17 It was later relayed to us via dispatch,  
18 via radio that the car -- the plate of the car was  
19 the same plate that was reported to -- to have been  
20 carjacked in East Portland by -- by a -- a similar  
21 suspect.

22 And then we later learned that East Precinct  
23 had some other run-ins with a same individual who was  
24 threatening to cut himself with a knife, made  
25 statements about his wife and daughter being dead,

1 being murdered.

2 Over the entire incident, I think, if I  
3 recall correctly right now, through the entire  
4 accumulation of information, it was six incidents all  
5 throughout the day involving the same -- the same  
6 male; the same male, Mr. Elifritz.

7 Q All right.

8 A Yeah.

9 Q And when did you become involved directly in  
10 the calls related to John Elifritz?

11 A Myself and Officer Scott were just finishing  
12 a call when the -- this -- the call came out over the  
13 radio of the crashed CRV. And then once additional  
14 information was relayed, we had already started  
15 towards the area of Grand and Stark to try to do an  
16 area -- an area search for the suspect.

17 We learned that the carjacking was done by  
18 force, which, to me, implies either words, some sort  
19 of a conduct, weapon, something typically to force a  
20 person out of a car. And on that note, we started to  
21 build up more and more interest in this person who was  
22 victimizing people, citizens throughout the city.

23 So we attached to the call. We kept quiet  
24 over the radio. We tried to maintain that radio  
25 discipline, so we get as much information as possible.

1 And then we drove from, if I recall correctly, 21st  
2 and Division. We went to Southeast 12. We drove  
3 northbound on Southeast 12 until we got to Belmont.

4 Based on the time that had elapsed since the  
5 CRV had crashed and the time that we got to the area,  
6 myself and Officer Scott were discussing how far could  
7 the suspect had -- had went, had gone. And we checked  
8 the area of 12 and Belmont.

9 I'm -- I estimate more than two minutes  
10 until we got there, so he could have covered quite  
11 some ground. He had been reported going eastbound on  
12 Stark, leaving the crash of the scene. And we did an  
13 area search for -- for the suspect.

14 Q Any -- any sign of the suspect?

15 A No.

16 Q No?

17 A No, we couldn't find him.

18 Q Okay. So what did you do after that?

19 A We started to cue on -- or we had been cued  
20 in, you know, to the call. We listened to the  
21 information that was relayed to us over the radio and  
22 we started to puzzle in the fact that the same -- the  
23 same suspect with the knife was reported at Jacksons  
24 in front of the store wielding a knife, menacing,  
25 threatening.

1           So then we -- we started to realize that all  
2 these calls coming in are referring to the same -- the  
3 same individual. Six feet tall, 285, white male  
4 covered in tattoos. At some point, someone said that  
5 he had, like, a clear poncho on him. Maybe, maybe  
6 not. It was -- it was 8:00 p.m.

7           It was kind of, you know, getting a little  
8 dark outside, too, so I could see how the information  
9 that we were getting maybe was a little unclear on,  
10 you know, him being white or Hispanic, yet I knew that  
11 if we were going go to the area to search for a  
12 suspect that doesn't wear a T-shirt in that kind of  
13 weather -- it was pretty cold -- I mean, he would  
14 stick out like a sore thumb, so we should have been  
15 able to see if he was in the area still.

16           The Jacksons call got two other cars  
17 dispatched thinking, I'm assuming that dispatch  
18 believed that there was another incident. So they  
19 just wanted to maybe sure that we still had adequate  
20 cops for the crash.

21           And then the Jacksons call, which later  
22 officer, I heard over the radio that Officer Mel  
23 somehow obtained a picture from somebody who  
24 substantiated that it was the same suspect that ran  
25 out of car that was in front of Jacksons with --

1 wielding a knife and yelling and menacing.

2 Q All right. You, ultimately, got information  
3 that the suspect was inside Cityteam Ministries on  
4 Grand Avenue, correct?

5 A Yes.

6 Q And how -- how did you receive that  
7 information? Was that via radio or --

8 A The information came over the radio, yet it  
9 was -- it was still unclear to me where -- where the  
10 suspect was.

11 Q Okay.

12 A I'm pretty familiar with -- with Grand  
13 Avenue, with the fact that there's two shelters on  
14 Grand Avenue because I went inside the both of them on  
15 previous calls.

16 So there's one on the east side of Grand  
17 Avenue, which is kind of mid-block, in between Stark  
18 and Washington. And then there's one more right on  
19 the northwest corner of Grand and Stark. I'm sorry.  
20 It would make it -- Grand and Stark, it would be  
21 the -- the southwest corner.

22 So we drove to that. I asked Officer Scott  
23 to drive through the Jacksons parking lot as soon as  
24 the information came from -- medical personnel was  
25 reporting seeing -- again, seeing a male with a knife.

1           I recall -- if I recall correctly at this --  
2           at this point, they said that he -- he's cut --  
3           cutting himself, covered in blood. So as soon as  
4           Officer Scott drove through the parking lot of  
5           Jackson, I had him stop mid-block on Washington, left  
6           the lights on.

7           I always carry a shotgun with me and I  
8           grabbed the shotgun and we started to run towards  
9           where all the officers seemed to have been  
10          focusing on.

11          Q       And why did you grab your -- your shotgun?  
12          I -- you also carry a sidearm pistol, right?

13          A       We -- on -- on situations that are rapidly  
14          evolving, we try to bring everything that we can.  
15          Every officer that carries either a less lethal or a  
16          shotgun or any other tool given to us by the Bureau,  
17          we typically bring them. More resources. You never  
18          know exactly what you're looking at.

19          At some point, the suspect was reported,  
20          verified or not, having a handgun; that handgun being  
21          seen on video. Later on, the handgun was taken away.  
22          It was just perceived. So I was definitely thinking  
23          he's armed.

24          Q       Yeah.

25          A       Up until we get the verify that he's not,

1 he's -- he's armed.

2 Q All right. And so sounds like you are  
3 moving towards this location where you see a number of  
4 other police officers also, you said, sort of --

5 A Focusing on --

6 Q -- focusing. Yeah. What do you see  
7 happening?

8 A At that point, we had a lot of police  
9 vehicles coming in, information that you're perceiving  
10 and understanding over the radio, still -- still  
11 coming in.

12 At that point, it had been verified that it  
13 was the same -- the same suspect that East Precinct  
14 had disengaged with at the park on some similar  
15 situation that had him threatening to kill himself,  
16 making statements that his wife and daughter were  
17 dead, had been murdered.

18 So as I -- as I jumped out of the car, I  
19 started running towards the door, I could not tell you  
20 exactly how -- if it was radio information that was  
21 being said or I was so close to the police officers at  
22 the door, I could hear the commotion inside.

23 I'd been inside the Cityteam Ministries a  
24 few times on different calls. I have somewhat of an  
25 understanding of -- of how the inside is. As I'm



1 running towards the door, one officer yells, "This is  
2 a hostage situation now."

3 As I peek through the door and start to  
4 assess who was creating all that commotion, I started  
5 to pick up on the six-foot male, who, at the first  
6 glimpse I got of him, he was wearing a jacket.

7 He had some sort of a puffy jacket on. Yet  
8 I could tell that it was -- it was him that was  
9 creating all the commotion because he was covered  
10 in -- he was covered in blood.

11 As I -- as I approached the door, I get to  
12 see a whole -- a few -- I'm seeing two or three  
13 officers were already tucked in, coming inside the  
14 door towards the northeast corner of the entire  
15 hallway, of the entire room, right?

16 Then I cue in on the suspect for a split  
17 second and he does one of these numbers, motioning  
18 with his knife across his chest. He was already  
19 covered in blood, so I couldn't tell if he, like, did  
20 a new cut on himself or not.

21 But, at that point, you are realizing  
22 exactly who everyone's afraid of because you have  
23 20 or so people trying to grab their stuff, run  
24 around.

25 There's the gentleman, as I peeked right

1 through the door that, in all honesty, seemed like he  
2 was diving into a swimming pool away from him, trying  
3 to get himself to a -- in a safe spot. My mind made  
4 that connection right there.

5 I'm like, that's probably the guy that was  
6 being held at knifepoint, since the officer at the  
7 door said, "This is a hostage situation right now."  
8 And just the scene was -- was very, very chaotic, a  
9 lot -- a lot of officers arriving, a lot of officers  
10 that were already inside were yelling, "Drop the  
11 knife, nobody needs to get hurt. Drop the knife."

12 Beanbag rounds started to be fired at the --  
13 at the suspect. The officers that were ahead of me  
14 and officers pouring in behind us started to create  
15 this barrier, this -- this officer barrier that was  
16 funneling northeast-ish through the room to allow  
17 people to funnel out who were yelling and -- and  
18 screaming and trying to gather their -- their property  
19 and just run away from Mr. Elifritz, who was in the  
20 south -- in the southeast corner of the room pacing up  
21 and down right in the corner, trying to do something  
22 with that knife.

23 A GRAND JUROR: Did he seem mad?

24 THE WITNESS: To me, he seemed like he was  
25 on some form of a stimulant. He was just -- his body

1 language. He -- scary, scary individual.

2 BY MR. REES:

3 Q Did you think at that time that  
4 disengagement was an option? In other words, for you  
5 to walk away, get out of the situation and just leave  
6 this person alone?

7 A Absolutely not. There was no way we -- we  
8 were going to leave all the -- all the people inside  
9 the shelter with -- with an individual with a knife  
10 who is cutting himself, attempting to take hostages.

11 Q How -- so if you could explain what -- why  
12 did you think someone who's holding a knife to their  
13 throat, how is he a danger to the other people in the  
14 shelter?

15 A I mean, he's showing that he has no problem  
16 whatsoever using that knife. He's using that knife  
17 on him -- on himself.

18 My perception of -- my perception of the  
19 officer at the door who yelled, "This is a hostage  
20 situation now," and seeing people diving away from  
21 him, my mind made that connection to where, at some  
22 point, the -- the suspect, Mr. -- Mr. Elifritz, must  
23 have done something to someone.

24 Otherwise, I've -- I've observed humans my  
25 entire life. No one runs away from one individual

1 unless there's a perceived threat of -- of -- you  
2 know, nobody wants to get hurt. I know that. I know  
3 that much. I don't want to get hurt. I know that  
4 much.

5 Q So was -- so based on what you're seeing,  
6 what is your perception that the homeless people in  
7 the shelter were running away from this person --

8 A Absolutely.

9 Q -- and diving away?

10 A They were terrified. They were -- people  
11 were yelling, "Grab your stuff. Don't go behind him,"  
12 you -- you name it.

13 Q You mentioned you heard commands, officers  
14 yelling, "Drop the knife, drop the knife;" is that  
15 correct?

16 A Yes, sir.

17 Q Were you yelling commands?

18 A At -- at first, I was not. I was pretty far  
19 away. There was a lot of yelling inside the room and  
20 I heard a whole lot of officers giving a lot of  
21 commands. "Drop the knife. Nobody needs to get  
22 hurt."

23 There's -- I didn't feel like, at that  
24 point, myself yelling would have made a difference.  
25 We typically try to assign one person to attempt

1 communication because you're confusing people when you  
2 have a million officers yelling at them. So I think  
3 enough was being said for me to not necessarily yell  
4 anything anymore.

5 Q Okay. Did -- did you ever yell commands?

6 A I think so. I had, yeah.

7 Q Okay. Could you see whether the suspect was  
8 responding to any of the commands?

9 A No, he was -- he was -- he was not. I  
10 couldn't -- there was so many people yelling and  
11 running that I couldn't really tell you if the suspect  
12 said something at some point, but just his -- his body  
13 language and the way I perceived them, I heard nothing  
14 out of his -- out of his mouth.

15 Maybe at some point, I was too far away to  
16 even hear it with everyone else around yelling and the  
17 radio going at the same time. But, no, I don't  
18 remember him saying anything to us.

19 Q Did you hear any officers warning the  
20 suspect that he would be hit with a beanbag or a  
21 less-lethal round --

22 A Yes.

23 Q -- if he did not drop the knife?

24 A Yes.

25 Q And did you -- did you see beanbags or

1 less-lethal rounds being used?

2 A Yes. Yes, I seen them. I'm -- I'm not  
3 exactly sure where they hit, but he wasn't responding  
4 to any of the beanbags. I could distinguish the  
5 sound. The sound of a beanbag is different than the  
6 sound of a firearm.

7 There's that muffled -- how would I describe  
8 it? If you -- if you recall the World War II movies,  
9 when they dropped the -- the little thing in the -- in  
10 the little short cannons and it goes (descriptive  
11 sound), almost like there's a suction sound to it.

12 And you could tell that those were beanbag  
13 rounds and he wasn't responding to any of the beanbag  
14 rounds that he was -- that he was taking. My mind  
15 made that connection with him being on drugs. I've  
16 seen people being beanbagged in the past.

17 And regardless of how amped up they are,  
18 regardless if they are mental, regardless if whatever  
19 the situation is, the majority of the people I've  
20 seen, you can tell the pain on their face.

21 You can tell their body gets hit and they  
22 just go. They just slouch to the side. And they'll  
23 typically guard that area that -- that gets hurt.

24 Well, Mr. Elifritz wasn't -- he was still up  
25 and standing and getting ready to do something with --

1 with his knife and nothing -- the beanbag rounds were  
2 not doing anything, so --

3 Q Now. At this time, was anyone using lethal  
4 force?

5 A No.

6 Q No. And -- and including yourself?

7 A Including myself, yeah.

8 Q And why -- why not?

9 A Because Mr. Elifritz was all the way in the  
10 southeast corner and then we seemed to understand that  
11 everyone was kind of running away from him, yet he was  
12 still isolated 20-plus feet away --

13 Q All right.

14 A -- from -- from all the officers that were  
15 lining up coming into the room still.

16 Q And so what did you -- what did you think  
17 was going to happen at that point? You're -- 'cause  
18 you're inside now. You're inside the Cityteam  
19 Ministries --

20 A Yes.

21 Q -- right?

22 A Yeah.

23 Q And you're -- you're seeing the suspects?

24 A I'm seeing the suspect. At -- at -- once I  
25 observed the entire room up until the moment that I've

1       tried to explain to you so far, everything was about  
2       absorbing as much information as possible. At some  
3       point, my body, my physiology did -- I don't know what  
4       it is, it's psychology or whatever, whatever happens.

5               My mind went from seeing everything to  
6       seeing him. Like, he got singled out in my -- in my  
7       head. And I think -- I'm -- I'm assuming it's his  
8       body language and that knife that was being pumped up  
9       and down that I -- just kind of losing ground being in  
10      the corner by -- by himself trying to -- I'm not sure  
11      if he was looking for people, avenues out or -- I  
12      couldn't really tell what his intentions were.

13             Q       And so what -- what happened?

14             A       So I advanced up into the room and I found  
15      the pillar that was about, I'm assuming 12 by 12 that  
16      kind of sits right in the middle of the room. It's --  
17      it's further -- it's further west of the little  
18      stairway that goes downstairs if -- have you seen  
19      pictures of the inside yet?

20             Q       Uh-huh.

21             A       Yeah. And so I posted by that pillar with  
22      my -- with my shotgun at low ready. And we were still  
23      trying to assess what he was -- what Mr. Elifritz was  
24      about to -- was about to do.

25             Q       Can you explain what that means? You said



1 your shotgun was at "low ready"?

2 A Oh, I'm -- I'm sorry. Yeah. So when --  
3 when we bring a weapon and we think that we happen  
4 going to absolutely use it, it's right up on what  
5 we're firing at.

6 Q Pointing --

7 A Pointing --

8 Q Pointing at the person.

9 A -- at -- at the person, at the -- yeah,  
10 subject, right?

11 Q Yeah.

12 A And when we hold it down at low ready, it's  
13 a precautionary safety. It's a safe -- it's a safe  
14 way of holding that shotgun, you know, like that. You  
15 know, but if by mistake, it discharges the round will  
16 hit the ground, so -- 'cause you're not trying to hurt  
17 anybody with that, so --

18 Q All right. And so, for the record, you --  
19 you were gesturing with your hands, pointing down. So  
20 you have the barrel of --

21 A Yes.

22 Q -- the shotgun pointing down at that  
23 point --

24 A Yeah.

25 Q -- just in case, but not pointed at

1 Mr. Elifritz; is that correct?

2 A Yes. Yeah.

3 Q Okay. And so I just wanted to make sure we  
4 understood that.

5 And so then what -- what happens?

6 A So the line of officers that were advancing  
7 into the room allowing people -- citizens to run out,  
8 the -- the officers that were bridging up  
9 northeast-ish into the room were just as focused as I  
10 was on Mr. Elifritz.

11 I brought my shotgun up as I came up around  
12 the -- the pillar since Mr. Elifritz was still in the  
13 northeast corner, not doing -- not responding to any  
14 of -- any of our commands.

15 He -- officers were yelling, "Drop the  
16 knife. Nobody needs to get hurt. You're going to get  
17 beanbagged if you don't drop the knife" and -- and so  
18 forth. And I just stood by the pillar and brought my  
19 shotgun up.

20 Q All right. And go ahead, if you would,  
21 please, and describe what -- what yeah saw after that.

22 A Mr. Elifritz was in the -- in the southeast  
23 corner by himself. There was, if I recall correctly,  
24 he had some obstacles in front of him. He must have  
25 had either chairs or tables, something, 'cause he was

1       trying -- you could tell he was serpentine to objects  
2       in -- in the northeast corner.

3               At some point, as we -- as the officers  
4       advanced in the room, he started to tune in towards  
5       the -- the front door and the line of officers that  
6       were formed next to me, to my left and my right. And  
7       right behind me, the -- I'm assuming the door was  
8       there.

9               Now, I couldn't tell you what his frame of  
10       mind was. All I could tell you is that my psychology  
11       just got fixated on him. And his shoulders slouched  
12       forward. He's got the knife the way he's holding it,  
13       he's got that (indiscernible) on the blade, you could  
14       tell. He's just pumping his arm up and down,  
15       motioning -- motioning like something was about to  
16       happen.

17              He starts moving chairs and tables out of  
18       his -- out of his way with his -- with his left hand  
19       and starts charging towards the line of officers that  
20       were formed by the pillar around me and -- and the  
21       front door.

22              And, at that point, I remember someone right  
23       over my shoulder cuing in to the same fact that he's  
24       advancing on us, and then I heard somebody yell, "No,  
25       no, no," towards him. And I could hear the lethal

1 rounds starting to go off on my left side.

2 And Mr. Elifritz must have taken six, seven  
3 steps through objects to get to us and then when he  
4 moved on the southeast wall coming charging towards us  
5 with his knife, I discharged three rounds out of my --  
6 out of my shotgun.

7 Q And why did you -- you said you heard other  
8 firearms going off --

9 A Yeah.

10 Q -- immediately before that. And I guess it  
11 would be just split --

12 A It was milliseconds, yeah.

13 Q -- milliseconds before. Why did you decide  
14 to also use your shotgun?

15 A I did not want to get stabbed. The --  
16 Mr. Elifritz is a big individual. He's a big  
17 individual. And that knife, the way he was holding  
18 it, I -- I can't -- how do I explain this?

19 I'm not going to underestimate what a knife  
20 does. I know what a knife does. I know that, you  
21 know, the only way to survive that is to get lucky.  
22 If someone knows what to do with that knife, you are  
23 going to get split open.

24 So, yeah, I figured either myself or an  
25 officer next to me or whoever next was going to get --

1 was going to get stabbed, was going to get cut open.

2 Q And why did you stop shooting?

3 A The suspect fell, went down.

4 Q How -- how close, if you know -- if you have  
5 an estimate, how close was he, do you think, when he  
6 fell to ground, from you?

7 A I'm going to say about six to eight feet.  
8 He was very far away at first, but then when, "No, no,  
9 no," started over my shoulder and then officers  
10 started firing, including myself, he must have had --  
11 you know, he must have been, like, six, eight feet  
12 from me, from the (indiscernible) with his body.

13 A GRAND JUROR: So, like, from there to this  
14 table?

15 THE WITNESS: I'm going to say --

16 A GRAND JUROR: It was, like, that close?

17 THE WITNESS: -- from here to you.

18 A GRAND JUROR: Yeah.

19 THE WITNESS: From myself to where you're --  
20 to where you're sitting.

21 A GRAND JUROR: Is that shotgun an automatic  
22 weapon?

23 THE WITNESS: It is not, no.

24 A GRAND JUROR: So it's -- it's a pump.

25 A GRAND JUROR: 12-gauge shotgun? 12 gauge?

1 THE WITNESS: Yes.

2 BY MR. REES:

3 Q Officer, I've got two --

4 A You want me to stand up?

5 Q You -- probably so, to get a look at this.

6 But there are two exhibits and they're frames grabbed

7 from surveillance video --

8 A Okay.

9 Q -- inside the shelter. So this -- and  
10 they're from different perspectives. And according to  
11 the time stamp, they're one second apart. Although  
12 I'm sure there's some variance in the timing, but at  
13 least we know there's a sequence. So this is the  
14 first in the sequence at 02.

15 And you can see here in the lower-right  
16 corner, Mr. Elifritz -- I guess this is his hand --  
17 coming forward around the table. Do you see where you  
18 are in the -- in the lineup of officers at the top of  
19 that frame?

20 A Right here (indicating).

21 Q So you're indicating next to the pillar as  
22 described.

23 A (No audible response.)

24 MR. REES: Okay. Did everyone see that?

25 A GRAND JUROR: Mm-hmm. What is that light?

1 A GRAND JUROR: The one on the left there.

2 A GRAND JUROR: By the Saturday.

3 A GRAND JUROR: No, that's a --

4 A GRAND JUROR: What is that?

5 MR. REES: You mean these -- these lights  
6 here?

7 A GRAND JUROR: Yeah. What's that?

8 THE WITNESS: Flashlights. Flashlights,  
9 lights on the handguns.

10 A GRAND JUROR: Are you -- is that -- so  
11 you're to the left of that?

12 THE WITNESS: I -- I would be -- if you --  
13 right at the tip of my finger, those are -- those  
14 would be my legs. I remember wearing a beanie that  
15 day.

16 A GRAND JUROR: Okay.

17 THE WITNESS: So that's -- yeah, that's me  
18 right there.

19 BY MR. REES:

20 Q Okay. And in the second photo -- and -- or  
21 I'm sorry.

22 BY MR. JACKSON:

23 Q Are those handguns and rifles equipped with  
24 flashlights?

25 A Yes, they are.

1 MR. JACKSON: Okay.

2 BY MR. REES:

3 Q This is from a different camera, obviously,  
4 behind the officers. And this shows 03 as the time.  
5 And so this is later. This is obviously -- I'm sorry.  
6 So then can you point out where you are in this photo?

7 A Yeah, I'm right here.

8 Q You're pointing to --

9 A Still to the left of the pillar if you're  
10 looking at it --

11 Q Okay.

12 A -- from behind.

13 Q Now, this is you --

14 A Yes.

15 Q -- and looks like you're really kind of  
16 squeezed right up against that -- that pillar?

17 A Yeah.

18 Q And, in this perspective, do you see  
19 Mr. Elifritz in the upper-left corner --

20 A Yes.

21 Q -- facing the officers now. And is that at  
22 the moment when he's coming towards you, in that -- in  
23 that picture?

24 A Yes.

25 Q And have you -- you -- have you seen this



1 surveillance video previously?

2 A I've seen the video that was posted on -- on  
3 Twitter.

4 Q Okay. Which is not this video, so you --  
5 you have not been shown this surveillance video?

6 A I have never seen any surveillance or video  
7 footage or pictures of that. That shows -- that shows  
8 me right here.

9 Q Okay. And is this the moment when you begin  
10 firing, do you -- do you think?

11 A I'm going to -- I'm going to say so, yes.

12 MR. REES: Okay. All right. Before he sits  
13 down for additional questions, any -- any questions  
14 about the -- the photo?

15 All right. So go ahead, please, and you can  
16 resume your seat.

17 Did you have any questions?

18 Are there any questions from the grand jury  
19 for Officer Martiniuc?

20 A GRAND JUROR: Hmm-mm.

21 MR. REES: All right. In that case, I'm  
22 seeing no response from the grand jury, so we'll  
23 excuse Officer Martiniuc. Thank you very much for  
24 coming in today.

25 (Pause in proceedings, 1:52 p.m. -

1 1:53 p.m.)

2 MR. REES: Okay. All right. Good  
3 afternoon.

4 THE WITNESS: Good afternoon.

5 MR. REES: Officer, if you'd please raise  
6 your right hand.

7 **KAMERON FENDER**

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

10 **EXAMINATION**

11 BY MR. REES:

12 Q And then when you're situated there, if you  
13 would please state your name and spell your first and  
14 last names.

15 A Sure. My name is Kameron Fender. That's  
16 spelled K-a-m-e-r-o-n. And my last name is  
17 F-e-n-d-e-r.

18 Q All right. And are you a Portland police  
19 officer?

20 A Yes, I am.

21 Q How long have you been a police officer?

22 A I've been a police officer for 12-and-a-half  
23 years, eight-and-a-half years here in Portland. And  
24 prior to that, I was a police officer in Las Vegas,  
25 Nevada.

1           Q     We're here talking about an officer-involved  
2 shooting that occurred on April the 7th, 2018.  And  
3 the grand jury has already heard quite a bit of detail  
4 about the series of calls regarding John Elifritz on  
5 that day, so I'm not going to ask you to -- to repeat  
6 all of that --

7           A     Okay.

8           Q     -- at the request at this point of the grand  
9 jurors.  But having said that, if I could just -- just  
10 very, very briefly, very briefly, if you're able to,  
11 just summarize what was your understanding of what was  
12 going on in terms of the actions of John Elifritz  
13 prior to your arrival at the Cityteam Ministries?

14          A     Sure.  So without going too in detail,  
15 'cause I'm sure you got that, I was aware of a series  
16 of events that spanned almost every corner of the city  
17 over the course of a couple hours.  I was aware of  
18 the -- the carjacking incident in East Precinct.

19                 Just prior to my arrival at the Cityteam  
20 Ministries, I was -- I became aware of the -- the call  
21 earlier in the day where police had encountered him  
22 where he had put a knife to his throat.

23                 I was aware of the -- the call in North  
24 Portland-- or North Precinct, rather, of a road rage  
25 incident possibly involving a gun, as well as then the

1 car crash that happened at MLK and Stark, which is  
2 what -- the incident that I initially responded to.

3 And then during -- while responding to that,  
4 there was a couple of incidents at the Jacksons market  
5 and then the shelter that's right across the street.  
6 So I guess -- and, at that point, I was on the call  
7 and responding to that call.

8 Q Okay. And so -- and does that -- can you  
9 explain, does that make a difference to you as a  
10 police officer, having that kind of information versus  
11 coming up on a situation where you really don't have  
12 any idea of what's happening or any background on a  
13 subject?

14 A Sure. And, certainly, it -- it is  
15 significant. We are aware of just a series of events,  
16 some of those involving violent crimes, incidents that  
17 are giving us information that this person is armed,  
18 both with a knife and then there's a call about a gun.

19 So those are various and significant. Also  
20 just as it -- as it seems to be just escalating, if  
21 you were, to a point where it was -- it was certainly  
22 of concern that -- that more people would be  
23 victimized, I guess.

24 Q And so unless there's a request for more  
25 information on the background, we'll -- okay. Shaking

1 their head no.

2 What immediately brought you to Cityteam  
3 Ministries?

4 A It was -- I was in the area doing an area  
5 check for Mr. Elifritz from the car crash. And so  
6 what brought us right up to Cityteam Ministries was  
7 the call across the street where somebody had called  
8 in -- called 9-1-1 saying that he was there with a  
9 knife to his throat.

10 And so right as I arrived there, officers  
11 were saying -- officers that had arrived before me  
12 informed us that he was no longer there. And it was  
13 within just a short few seconds of my -- me and my  
14 partner that night, our arrival, we learned that he  
15 had crossed the street and officers could see him now  
16 inside the Cityteam Ministries.

17 And so that information was broadcast over  
18 the radio, at which point, we got out of our car and  
19 walked over there.

20 Q And who's your partner?

21 A My partner is Officer Andy Polas.

22 Q Okay. And when you got out of your car, did  
23 you take any special weapons with you?

24 A Yes. I am trained and equipped with an AR15  
25 patrol rifle. And so as I exited my car, I brought

1 along with me that rifle.

2 Q Why did you do that?

3 A The rifle is a -- a unique tool that offers  
4 law enforcement some -- some advantages in -- I guess  
5 in dealing with a -- a threat. It allows us to kind  
6 of keep more distance, if possible.

7 It -- the specific round that -- that is in  
8 the AR15 is more effective at -- at stopping a threat  
9 if you were to use it. And so with the information  
10 that this person was -- was armed with a weapon,  
11 that's why I decided to deploy the -- the AR15.

12 Q And so can you describe approaching Cityteam  
13 Ministries and -- and whether it was -- was that kind  
14 of with your partner or independently of  
15 Officer Polas?

16 A Yeah. We both exited at the same time. I  
17 just remember -- I think he was a little ahead of me.  
18 But we both just kind of walked up right at the -- the  
19 same point.

20 Q Right. And what was happening in terms of  
21 what you could see or hear at Cityteam Ministries?

22 A Sure. So what initially I guess brought my  
23 attention to Cityteam Ministries was the radio  
24 broadcast. And I -- I don't know what officer it was  
25 that broadcast it. I just remember hearing

1 information being relayed that he had crossed the  
2 street, he was inside this shelter.

3 And in that same radio transmission, I  
4 believe it said something to the effect of, "He has a  
5 knife," that he has cut his throat and -- and  
6 mentioned something about hostages.

7 Q Okay. And so what did you do?

8 A So that -- I mean, that's -- I'm hearing  
9 that right as we're kind of getting out of the car.  
10 And so I -- I hustled.

11 I mean, it wasn't a full run, but, I mean,  
12 I -- I moved quickly just across the street, across  
13 Grand Avenue, and approached the front of the building  
14 where I -- I saw there was already maybe four or five  
15 other police officers at the doorway to the shelter.

16 Q And from that location, could you -- could  
17 you see into the shelter or could you hear what was  
18 happening?

19 A I -- I could see and -- and hear. The -- as  
20 I approached, I was -- I was behind a few police  
21 officers. I saw there was officers equipped with --  
22 there was one officer with a less-lethal launcher, one  
23 officer with an AR15 and maybe two other police  
24 officers at that doorway.

25 And as I approached, I'm basically standing

1 in the middle of the doorway, but I'm -- I'm three  
2 police officers back, I guess. But I could still see  
3 what was through the open doorway.

4 And I -- that -- that was the first time I  
5 saw Mr. Elifritz. He was -- he was maybe 20, 25 feet  
6 into the room, standing kind of squared off, looking  
7 directly at our grouping of police officers.

8 Q And you were in uniform, correct?

9 A Yes, I am.

10 Q At this point, is anyone yelling any  
11 commands to Mr. Elifritz?

12 A Yes. I -- I could hear numerous commands.  
13 It was the officers that I -- I believe were kind of  
14 on the right-hand side of the doorway were, you know,  
15 shouting at -- to drop the knife. I heard -- I heard  
16 numerous requests for him to drop the knife, warnings  
17 that if he didn't, he could be shot.

18 I heard -- I don't remember the exact  
19 phrasing, but something to the effect of he -- you  
20 know, they would use the -- the less-lethal launcher.  
21 That was kind of continuous from even before I walked  
22 up until, you know, throughout, I guess, the duration.

23 Q And so, obviously, this is -- this is  
24 happening much more quickly than it's taking to  
25 describe it. This is happening --



1           A     Yes.

2           Q     -- in a matter of seconds.  It's a very  
3 dynamic situation, so I don't know whether you had any  
4 thought or not, but if you did have a thought at this  
5 point or did you -- did you have any thought as far as  
6 is this going to resolve peacefully or is this going  
7 to end, you know, in a fatal shooting at this point?  
8 Or did you have a thought about, like, what was  
9 happening?

10          A     Well, so, in seeing him, I immediately saw  
11 the knife.  It was in his right hand.  And what I  
12 immediately also saw was a group of people inside that  
13 shelter, many of whom were just, like, huddled in a  
14 corner.

15                 To me, they -- and as this kind of was  
16 happening and it was just -- it all happened really  
17 quickly; but, like, I got the impression they were all  
18 scared for their life.

19                 And so I absolutely thought, like, from the  
20 moment I walked up and saw his -- his posture with the  
21 knife in relatively close proximity to us, but also  
22 with -- with access to all these people inside there,  
23 I did think from the moment I walked up, like, oh, my  
24 God, this guy's going to do something crazy, do  
25 something horrible and we're going to have to

1 shoot him.

2 That was my -- one of my first thoughts,  
3 just in -- in -- in seeing his -- I guess, his  
4 demeanor and -- yeah, I mean, and seeing him armed  
5 with that knife, that was like -- that was one of my  
6 first thoughts.

7 And that's -- not that that's what happened  
8 right then, 'cause obviously more transpires, but --  
9 but that was one of my first thoughts was, oh, my God,  
10 this guy's going to -- going to maybe kill somebody  
11 in there.

12 Q Did you see or hear the less-lethal rounds  
13 that were used from outside of the Cityteam  
14 Ministries?

15 A I did. I -- I saw a few of them.

16 Q And could you see whether they had any  
17 effect on Mr. Elifritz?

18 A I know at least the -- the first -- I saw  
19 the first one and I saw the second one make contact  
20 with him. At least the first one, I remember it  
21 hitting him, like, maybe in the leg or, like, just the  
22 waistband area. And it had absolutely no effect,  
23 which was -- I have seen, in the past, a beanbag  
24 shotgun used and I am trained on that tool as well.

25 That was the first time it, I guess, in real

1 life I had seen, I mean, other than on video, I had  
2 seen the 40-millimeter less-lethal launcher be used.  
3 And I was -- I -- to be completely honest, I was  
4 floored at how it didn't do a thing.

5 Q So what would you expect would happen?

6 A I -- I would expect -- I mean, they are --  
7 they are designed to be, like, a less-lethal tool, but  
8 they absolutely would hurt. There would be -- I mean,  
9 that thing -- it would be like getting hit with a -- I  
10 mean, I'm just giving my own approximation here, like  
11 getting hit with a hundred-mile-an-hour fast ball.  
12 Like, it is not going to feel good.

13 And that's the design of it is to -- to  
14 inflict some -- some pain to elicit some cooperation,  
15 right, so that higher degrees of force don't have to  
16 be used. And it did -- it did nothing.

17 Q At some point, did you push up the sidewalk,  
18 through the door and inside of the building?

19 A We did, yeah. And, I mean, that -- so  
20 when -- when the launcher was used, it kind of -- it  
21 kind of moved Mr. Elifritz's position. So he was --  
22 he was 20, 25 feet, kind of almost, like, directly in  
23 front of us when that was used.

24 I guess the only -- the only reaction that  
25 I -- that I noticed or remembered was it wasn't any

1       like, oh, that hurt. It was more of just him -- his  
2       position moving.

3                 And so there was a moment where he moves  
4       towards where this crowd of people are, which, again,  
5       I -- I mean, pardon my language, the only thing I  
6       could think of was like, oh, fuck, he's going to kill  
7       somebody because he -- he moves towards all these  
8       people.

9                 And, like, me being in my position, I -- I  
10      wasn't trying to give commands or -- or warnings, just  
11      'cause that was already being done and it would have  
12      just added to chaos rather than, I guess, help.

13                But as I'm in the doorway, I -- I remember  
14      shouting to one of the officers on the left-hand said  
15      that we need to get all these people out. It wasn't  
16      an ideal situation, nor would we normally just go  
17      storming into that room, but -- but it was a  
18      100 percent what we needed to do given the  
19      circumstances of all these people that were -- that  
20      were definitely at risk.

21                And so once his -- and -- and I should say  
22      the officers are -- on the left-hand side are yelling  
23      at all these people with no kind of -- they're just,  
24      like, frozen.

25                There was maybe one or two or three that

1 kind of started moving towards us, but there's still  
2 10 or 15 back there not moving. So once Mr. Elifritz  
3 moves kind of from where those -- pretty close to  
4 where those people are standing, he moves to the back,  
5 far right-hand corner of the room.

6 And that's when kind of it -- it presented,  
7 like, an opportunity to -- to isolate him from these  
8 people, to kind of contain him, I guess. And so  
9 that's when an officer made a decision to move in and  
10 -- and I kind of followed suit, just kind of forming a  
11 single-file line pushing into the room, basically  
12 putting us between this group of people and  
13 Mr. Elifritz.

14 Q So when -- so were you thinking that --  
15 that, potentially, you could separate out the people  
16 in the shelter, either -- either physically separated  
17 or even out of the building away from the suspect?

18 A I think -- and, again, this -- we were only  
19 in there for mere seconds, but I remember thinking as  
20 kind of like my back is to where these people are, at  
21 least that wall.

22 Like, I remember thinking if we push in and  
23 are just kind of in between and then -- and there was  
24 a lot of police officers that were -- that were there  
25 and then kind of shuffling in behind where myself and

1 maybe -- there was four or five police officers ahead  
2 of me that -- that went in.

3 I remember, kind of my first thought was we  
4 got to get these people out and then we got to get  
5 out. And that was my -- and that -- that never  
6 happens 'cause -- because we -- we just didn't have  
7 enough time.

8 But that was at least my -- my thinking as  
9 far as going in, putting -- you know, basically  
10 isolating him, being in the middle of the room to kind  
11 of protect those people. And then my thought was we  
12 would -- once we get them out, we get out. If that  
13 makes sense.

14 Q I think so. But what happened?

15 A Within a very -- I don't know, five, ten  
16 seconds maybe when -- when we moved into the room,  
17 I -- I eventually came to a stop, maybe 15, 20 feet  
18 into the doorway and I had a direct line of sight of  
19 Mr. Elifritz. He had moved to the southeast corner of  
20 that room.

21 And there's -- there's kind of, like, an  
22 alcove there and he is -- he's kind of just, like --  
23 almost, like, kind of, maybe not hiding, but he's just  
24 like -- he's moved into that corner.

25 And it was -- so it was within five or ten

1 seconds that he just turns that corner and just heads  
2 directly towards us, still holding the knife. And the  
3 way he turned, it was, like, very intentional and  
4 motivated that he was -- he was coming right for us.

5 There was -- there was a chair that was kind  
6 of near where that -- I guess, where he turned. And  
7 I -- I think I remember seeing his hand like on it or  
8 just like as he goes around that -- that chair, seeing  
9 that, I guess, just very intentional, like -- like,  
10 it's an obstacle in his way, kind of.

11 So to, like, to make that corner and then  
12 he's just taking -- I think he took maybe -- maybe  
13 five or six just steps, not running, but, like --  
14 like, very quick steps directly towards us. From  
15 where I was standing and he's -- when he's in that  
16 alcove, he was probably 30, 35 feet from me.

17 And I'm kind of just guessing. I've never,  
18 like, seen the actual dimensions. But I would guess  
19 he was probably 30 feet. In just a matter of a second  
20 and a half, two seconds, he -- he makes it probably  
21 half -- he closes half the distance between us, I  
22 would say.

23 Q And when he's closing distance, you --  
24 'cause you haven't really mentioned this -- do you  
25 have your rifle pointed at him or -- or not at that

1 point?

2 A I -- I do. From the moment I moved into the  
3 room, once I kind of came to a stop, I had pointed --  
4 I -- I had my rifle up, pointed at Mr. Elifritz.

5 Q Okay. Did you have the safety on or off?

6 A As I -- as I entered into the room, it  
7 was -- it was on, meaning it's -- the weapon is safe.

8 Q Yeah.

9 A I actually -- I never have any recollection  
10 of turning the safety off.

11 Q But, obviously, you did at some point, but  
12 you don't remember?

13 A I don't remember.

14 Q Okay. And so -- but -- and so before I  
15 interrupted you, you said that he and -- and whatever  
16 it would be, a split second, he's closing the distance  
17 towards you. You remember that happening?

18 A Yes, I do.

19 Q And what -- what are you thinking then?

20 A I -- I knew he was coming -- coming for us.  
21 Like, it was just such a -- the way he made that  
22 corner, like, he was -- he was charging right towards  
23 us. And I -- I believed if he got to us, he would --  
24 he would have stabbed one of us.

25 Q And so what did you do?



1           A     I -- I -- like I said, he was probably  
2     15 feet, 20 feet from me, still moving.  And that's  
3     when I made the conscious decision to fire.  I -- I  
4     remember pulling the trigger, I think two times.

5                     And, I mean, immediately -- I remember  
6     hearing other gunshots happening, like, it seemed to  
7     me like it all happened in maybe a matter of, like,  
8     one second.  And as soon as I remember firing, I -- I  
9     don't think he took another step.  He -- he fell  
10    directly to the ground.

11           Q     All right.  And why did you stop shooting?

12           A     Like I said, I -- I think I fired twice.  
13    And in seeing just -- I mean, I -- I was shoot -- I  
14    fired because we had to stop his advancement.  And --  
15    and like I said, as soon as I fired my rifle, he -- he  
16    kind of just did a face plant.  And so I -- I -- he  
17    wasn't -- he was no longer a threat at that point, so  
18    I --

19           Q     Is that pursuant to your -- the training and  
20    Bureau policy?

21           A     That's correct, yes.

22           Q     To stop when the threat ends?

23           A     Certainly.  Like, if any -- any use of force  
24    that we use, we are -- we are trained to constantly  
25    reassess the need for it or if it can be -- you know,

1 can be lowered.

2 So, I mean, at that point, it's, like --  
3 I -- I 100 -- 100 percent believe he was -- he was  
4 charging at us to -- to stab us; but the moment that  
5 he's falling to the ground, I -- I no longer thought  
6 he was a threat.

7 Q I imagine you have sort of run this over in  
8 your mind since it happened?

9 A Pretty much nonstop.

10 Q Nonstop.

11 A Yeah.

12 Q Have you thought that there was some other  
13 option other than what you did in this situation?

14 A You know, I -- I guess -- like I said,  
15 I've -- I've thought about it. It's been a month.  
16 And, honestly, no. I -- I can't help but replay it  
17 and think, well, what if -- what if we had done this  
18 different.

19 And, honestly, I don't know that that  
20 wouldn't have led to somebody else in that room  
21 getting stabbed or dying and I know that didn't  
22 happen. So I don't think there is anything that we  
23 could have done that would have protected those  
24 citizens and -- and really preserved life. I don't.  
25 Any -- any better, I guess.

1 MR. REES: Any questions from the  
2 grand jury?

3 A GRAND JUROR: I'm curious, how does the  
4 AR15 work when you -- when you pull the trigger?

5 THE WITNESS: It's --

6 A GRAND JUROR: How many bullets come out?

7 THE WITNESS: Just one.

8 A GRAND JUROR: Just one?

9 THE WITNESS: Yeah, it's just like the  
10 handguns we carry.

11 A GRAND JUROR: It's a semiautomatic?

12 THE WITNESS: It's a semiautomatic, so,  
13 yeah, it's not a fully --

14 A GRAND JUROR: Okay.

15 THE WITNESS: -- automatic weapon, so just  
16 one. Each time you pull the trigger, one round  
17 comes out.

18 A GRAND JUROR: Okay. And it's probably the  
19 most accurate gun you think --

20 THE WITNESS: Yeah, that -- that we --

21 A GRAND JUROR: -- that you guys carry?

22 THE WITNESS: -- carry on -- on patrol,  
23 certainly. Yes.

24 A GRAND JUROR: Well, how many do you think  
25 is necessary to stop a threatening person? I mean --

1 THE WITNESS: Well, I guess you don't.

2 A GRAND JUROR: -- it seems one would do.

3 THE WITNESS: Well, I guess every -- I don't  
4 know the answer to that because I -- I guess I -- I'm  
5 not God. You know, like, one -- one round may do  
6 something to a person where -- where another person  
7 could just continue on.

8 You know, we -- the -- it's not like the  
9 movies where somebody just immediately is  
10 incapacitated. I think, you know, you don't truly  
11 know if --

12 A GRAND JUROR: I imagine most of the police  
13 are pretty skilled at shooting. They're --

14 THE WITNESS: Some --

15 A GRAND JUROR: -- pretty practiced --

16 THE WITNESS: Some are.

17 A GRAND JUROR: -- I would imagine, yeah.

18 MR. REES: Now, are you -- are you asking --

19 A GRAND JUROR: I'm just wondering why there  
20 were so many.

21 BY MR. REES:

22 Q Right. Was there -- was there a way -- if  
23 she's asking the question, you know, where somebody  
24 would just say, "Hey, Officer Fender, you know, why  
25 don't you by the guy with the gun" -- and then

1 everybody else kind of stands down, right?

2 A GRAND JUROR: Two or -- not --

3 BY MR. REES:

4 Q Or whatever. Two, three, whatever. Okay.  
5 So is -- is it possible to answer that?

6 A Absolutely. Certainly. In 12-and-a-half  
7 years, I've been on a lot of really high-risk calls,  
8 really dynamic calls. I-- I don't think I've ever  
9 been on a call like this that was -- was kind of  
10 happening so fast and dealing with an armed person  
11 where I believed, like, lives were at risk.

12 And we didn't have the luxury of time and  
13 planning, which -- which, I mean, is always to our  
14 benefit and to everybody's benefit that we can have a  
15 coordinated approach to -- to resolve a situation the  
16 best way possible. That -- that wasn't possible in  
17 this.

18 And so we certainly, as we are responding  
19 to -- to an incident, we will -- we're constantly  
20 adapting and -- and looking at how we can, I guess, be  
21 effective utilizing tools and not -- and not overdoing  
22 it, right?

23 In this case, with the threat that was  
24 happening and the immediacy of -- of -- of a person in  
25 that room being stabbed to death, it required just

1 action. Not -- not a lot of dialogue happened between  
2 us in that doorway.

3 And -- and I wish we had that time, but it  
4 just -- it just wasn't possible. So what we had was a  
5 bunch of police officers that were going into that  
6 room to try to isolate him.

7 And we were -- most of us were all armed  
8 with guns because what we were facing in that moment  
9 was somebody that was -- was armed with a weapon that  
10 could -- I mean, one stab can -- can also kill you  
11 just like a gunshot.

12 And so we never had enough time to really, I  
13 guess, decide roles or a custody team or any --  
14 even -- any other less-lethal option other than the  
15 less-lethal launcher that gave us the ability to -- to  
16 use it from a distance, which was completely  
17 ineffective.

18 So -- and those were in the room as well  
19 with us when the shooting happened, but, again, it --  
20 we -- we had seen nothing, no -- no sign that that was  
21 going to work. And so there was nothing -- I guess  
22 there was no other tool I really would have banked my  
23 own life on in that moment.

24 A GRAND JUROR: All hands on deck.

25 THE WITNESS: Yeah.

1 MR. REES: Okay. Were there any other  
2 questions, folks?

3 A GRAND JUROR: No.

4 MR. REES: All right. I see no further  
5 questions. We will end the testimony of Officer  
6 Fender.

7 Thank you for coming in this afternoon.

8 And, ladies and gentlemen, let's go off the  
9 record for our afternoon break.

10 (Recess taken, 2:21 p.m. - 2:48 p.m.)

11 MR. JACKSON: All right. We're back on the  
12 record following our afternoon break. Ready for our  
13 next witness.

14 Would you raise your right hand, sir?

15 **LELAND SAMUELSON**

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

18 MR. JACKSON: All right. You can have a  
19 seat.

20 And would you please state and spell your  
21 name.

22 THE WITNESS: It's Leland Samuelson,  
23 L-e-l-a-n-d, S-a-m-u-e-l-s-o-n.

24 ////

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EXAMINATION

BY MR. JACKSON:

Q All right. Where are you employed?

A I'm a forensic scientist with the Oregon State Police. I work at the Portland Metro Forensic Laboratory. And within our laboratory, my primary duties are as a firearms examiner.

Q Okay. And what education and training do you have for that position?

A In general, I have a bachelor of science degree in chemistry with a minor in physics from the University of Portland. So that's kind of the -- the minimum degree requirement to be a forensic scientist is you have to have a degree in one of the -- the physical or life sciences.

And then within our different specialized areas we work in, whether it's as a chemist or a DNA analyst or a latent print or in the case of a firearm examiner, we all have specific training related to that discipline we work in.

And so that's usually as a firearms examiner, it's about a year-long training program. It's where you're assigned a journeyman that works kind of as an apprentice for that year.

And the training is a combination of



1 training by the Oregon State Police, different firearm  
2 manufactures, ammunition manufacturers. And we also  
3 attend specialized courses by the -- the FBI, Alcohol,  
4 Tobacco and Firearms Bureau.

5 And then I'm also a member of the  
6 Association of Firearm Tool Mark Examiners. That's  
7 kind of the international association that publishes a  
8 journal and promotes annual training seminars, which I  
9 regularly attend.

10 Q Okay. And were you assigned to examine the  
11 firearms and casings used in the officer-involved  
12 shooting from April 7th of 2018?

13 A I was.

14 Q All right. And so what were the types of  
15 guns that were submitted to you for review?

16 A There was several guns submitted, but, in  
17 general, there was -- there was some rifles, a shotgun  
18 and two handguns that were submitted to me to test.

19 Q Okay. So starting with the handguns, could  
20 you briefly explain how those guns operate?

21 A Yeah. Both -- both of the firearms I  
22 received were Glock, semiautomatic pistols. And I  
23 have an example of just one here that I can just show  
24 up or hold and then pass around as well. But a  
25 semiautomatic pistol is a -- a hand-held firearm, so

1 it's a handgun.

2 Pass that around.

3 So a semiautomatic handgun is designed to  
4 be -- the ammunition is loaded into a magazine, which  
5 is -- it usually is then fed into the grip of the  
6 firearm. The top of the firearm has a -- a mechanism  
7 that slides back and forth.

8 So the way the firearm works is -- is  
9 physically, you will pull the slide to the rear and it  
10 has a serrated top, meant to -- meant to be grabbed.  
11 You pull that to the rear and release it and that's  
12 going to chamber the first cartridge ready to be fired  
13 in the gun.

14 So a cartridge is an individual unit of  
15 ammunition that's loaded. And I have an example of  
16 what -- what we talk about when we're talking about  
17 cartridges. So this would be a blowup of a cartridge.  
18 It has a cartridge case with a bullet on top of it and  
19 inside would be gunpowder.

20 So -- so a magazine holding, in this case of  
21 this Glock pistol, 17 cartridges would be loaded into  
22 it. So the first time the gun is fired, the bullet is  
23 going to come out the barrel.

24 And then the gun will automatically operate  
25 itself and then it will actually extract this

1 cartridge case out, eject it from the gun and that  
2 slide is going to come backwards under recoil and as  
3 it comes forward, it's going to pick up the next  
4 cartridge out of the magazine and it's going to have  
5 the gun ready to fire.

6 So, at that point, you would release the  
7 trigger, squeeze it again to fire the next trigger.  
8 And that cycle will continue to operate each time the  
9 trigger is pulled. Only one bullet is fired each pull  
10 of the trigger, but -- and each time it'll reload  
11 itself automatically.

12 Q Okay. And each time a bullet comes out the  
13 end, the cartridge is ejected before the next one is  
14 loaded in?

15 A That's correct.

16 Q Okay.

17 A Mm-hmm.

18 Q And in this case, you said there were two  
19 Glock pistols like this. One was a 9-millimeter Luger  
20 and one was a Smith & Wesson 40 caliber; is that  
21 right?

22 A That's correct.

23 Q And so what's the difference there?

24 A So when we talk about caliber, there's a  
25 couple things that kind of -- they kind of relate to

1 the size of the ammunition. So the first number,  
2 9-millimeter, sometimes it's referred to in the metric  
3 system. Sometimes it's referred to in the English  
4 system, which is generally in inches.

5 So a 9-millimeter Luger caliber is going to  
6 be 9-millimeters in diameter of the bullet. And then  
7 that Luger portion gives us the description of the  
8 size of the cartridge case. So this kind of gives us  
9 a size of the bullet and then the cartridge and how  
10 much gunpowder it would hold.

11 The 40 Smith & Wesson is going to be a  
12 little bit larger bullet, so it's going to be  
13 .40 inches and it's going to have a slightly larger  
14 cartridges than that. So -- so you get information on  
15 the size of the cartridge and then the diameter of the  
16 bullet that it fires.

17 Q And can a 9-millimeter Glock fire a  
18 40-caliber bullet out of it?

19 A A 9-millimeter fire a 40?

20 Q Mm-hmm.

21 A No.

22 Q Okay.

23 A It physically would not fit in the gun.

24 Q Okay. And so how do the rifles that you  
25 examined operate differently than these handguns?

1           A     Sure. The rifle is meant to be fired. It's  
2     a -- it's a little bit larger gun. It's meant to be  
3     fired from the shoulder.

4           So, typically, a rifle is going to have a  
5     couple features that are -- well, one, they're  
6     physically bigger, so in this case, this barrel is  
7     16 inches long. It has a -- a butt stock and a grip  
8     here, so it's meant to be fired from the shoulder.  
9     So -- but it works in a similar fashion in which a  
10    magazine is loaded into the bottom of the frame.

11          Q     Yeah.

12          A     Okay. Pass it around. So a magazine is  
13    inserted into the bottom of the frame. In this case,  
14    there's a handle. This actually is pulled and  
15    released.

16          So, now, the gun has -- has physically,  
17    manually been loaded the first round into the chamber.  
18    So as I pull the trigger, the bullet is going to come  
19    out. In this case, it uses some of the gas from the  
20    burning gunpowder is going to cause the action to  
21    cycle, extract the cartridge case and then come back  
22    forward, loading the next one.

23          In this case, it would again be repeated  
24    each time I pull the trigger. One shot gets fired,  
25    but it automatically ejects the cartridge and it's

1 going to load the next one into it.

2 Q Okay.

3 A So rifles typically are going to be -- they  
4 have a larger cartridge case, so they're going to have  
5 more gunpowder and they typically will have a higher  
6 velocity of a projectile.

7 Q And what was the caliber of the rifles that  
8 you examined in this case?

9 A These are all 223-Remington caliber. So  
10 again, it's the -- 223 is approximately .22 inches in  
11 diameter, so it's pretty small bullet in diameter.  
12 And then the Remington, it's approximately a  
13 45-millimeter long cartridge casing, a longer  
14 cartridge case.

15 Q Okay. And then what about the shotgun?

16 A And then the shotgun's a slightly different  
17 action. Again, it's meant to be fired from the  
18 shoulder. In this case, we have a barrel about  
19 18 inches long. The magazine is actually a tube along  
20 the bottom of it.

21 So a shot shell, if you think of it as a  
22 large cartridge, much larger, they're -- they're  
23 approximately three-quarters of an inch in diameter.  
24 And they're designed to fire multiple projectiles out  
25 of each shot shell. So they can be as small as small

1 little BBs.

2 It could be sometimes a little larger balls,  
3 but each shot shell will fire, you know, anywhere from  
4 9 to maybe 20 individual projectiles. And they come  
5 out in a pattern. So, in this --

6 Q Is that -- is that commonly referred to as,  
7 like, buckshot?

8 A Yeah. Buckshot would be one example of  
9 that, yeah.

10 Q Okay.

11 A Yep. And then so in this case it would  
12 hold -- in this case, it would hold six shot shells in  
13 this tube. And then this is called the fore-end. And  
14 it slides back and forth.

15 So each time I want to fire the gun again, I  
16 would actually pull the fore-end back and then push it  
17 forward. And that does that cocking, loading,  
18 extracting, ejecting operation. So it -- it doesn't  
19 do it automatically. I actually have to cycle it,  
20 like, manually each time.

21 Q Okay. And I think you may have mentioned  
22 this already, but going back to the -- the rifle, each  
23 trigger pull is going to eject one round; is that  
24 right?

25 A That's correct.

1 Q Okay. And same for the shotgun? Each time  
2 you perform that function you just described, pull the  
3 trigger, one round is going to come out?

4 A That's correct.

5 MR. JACKSON: Okay. Are there any questions  
6 about that?

7 A GRAND JUROR: How long would it take to  
8 fire off three rounds in a shotgun?

9 THE WITNESS: Oh, probably -- maybe two  
10 seconds, probably. Very, very fast.

11 A GRAND JUROR: So I have a question. So  
12 the medical examiner, if he said there was three  
13 shotgun wounds, would that just relate to one of those  
14 little, like, balls that are inside the shell or three  
15 separate? Does that make sense?

16 THE WITNESS: In my experience, when they  
17 describe wounds like that, they're going to talk about  
18 three separate projectiles, so it could be from one  
19 shot. He might have been struck with three pellets  
20 from one shotgun shell.

21 A GRAND JUROR: Okay. Thank you.

22 BY MR. JACKSON:

23 Q Let me just ask you another question about  
24 the shotgun round itself. You said it's -- it has a  
25 cartridge that holds multiple smaller projectiles.



1 How does that actually function to hit a target or  
2 does it just spray all over the place?

3 A Yeah. So the-- the manufacturers, they all  
4 have different -- shot shells will have different  
5 usages. So if it's, for example, for bird hunting or  
6 duck hunting or something you can think of, they want  
7 to control how far that -- those pellets spread.

8 If they want to -- sometimes they want a  
9 tight group, 'cause that's going to travel farther  
10 with fewer pellets. Say, buckshot pellets have maybe  
11 only nine. They want that to be kind of controlled,  
12 that -- that spread.

13 So inside the shot shell is -- is a wad.  
14 Typically, it's made out of plastic. And it's kind of  
15 a little cup that holds those shot pellets together in  
16 this little cup.

17 And so once they -- the wad that contains  
18 the pellets exits out of the barrel, it's going to  
19 hold it together for a little while. It depends on  
20 the shot shell. I can't give an estimate, but maybe  
21 10, 20 yards.

22 And then that pellet -- that -- that wad,  
23 plastic wad will separate from the pellets. It'll  
24 fall away and the pellets will continue on and then  
25 they'll start their spread.

1 Q Okay. And the rounds that you examined in  
2 this case, shotgun rounds, were they of that type with  
3 the wad?

4 A Well, I did not -- I did not have a wad  
5 submitted, but they would have -- typically would have  
6 been loaded with a plastic wad in them --

7 Q Okay.

8 A -- originally.

9 Q Okay. And you said that it's 20 yards or so  
10 before that wadding would kind of fall away and the --  
11 the projectiles would go on downrange to a target?

12 A It can get to that far, yeah, depending on  
13 the -- the wad -- type of wad that was used.

14 Q So if you can answer this, what kind of  
15 spread would you expect for a target that's ten feet  
16 away from you?

17 A At that point, I wouldn't expect any spread  
18 that close. I would expect most of the -- especially  
19 a buckshot wad, typical of the ones I -- I had  
20 submitted to us, they will stay together for that  
21 first ten -- ten feet. I would expect it to create  
22 one -- one hole, large hole.

23 MR. JACKSON: Okay. Okay. All right. So  
24 are there any other questions about how the firearms  
25 work?

1 BY MR. JACKSON:

2 Q All right. So did you -- so did you perform  
3 a function check on the firearms that were submitted  
4 to you?

5 A Yes, I did.

6 Q Could you describe what that is.

7 A Yeah. So we, basically, when we -- when we  
8 receive a gun, any gun, any case, we go through a --  
9 kind of a -- a detailed examination of that. We want  
10 to make sure that the gun is safe to fire for our --  
11 for our own safety and that it's going to function in  
12 a, you know, a reliable manner.

13 Was -- are there any known defects or issues  
14 with the gun. So we -- we document the -- the make,  
15 the manufacture, the model, the serial number of the  
16 firearm. We examine any safeties, internal or  
17 external, to verify that they're working.

18 And we have a -- what we call a recall list,  
19 where we actually look up the firearms in a database  
20 to see if there's any known defects we should be aware  
21 of or the manufacturer said, "Hey, this is a broken  
22 part that you should be aware of that should be  
23 swapped out."

24 At that point then, we -- we take them to  
25 our range and we test fire them multiple times, either

1 into a water tank, if we want to capture the bullets,  
2 or we will shoot them on a range where we just test  
3 them multiple times.

4 Another thing we'll do is we'll -- we'll  
5 test the trigger pulls of the firearm, which just  
6 gives us an indication of how much force it takes to  
7 squeeze the trigger to get the gun to fire as well.

8 Q Okay. And you performed those function  
9 checks on all these firearms?

10 A Yes, I did.

11 Q And what was the result of your check?

12 A I found that all of them functioned as  
13 designed by the manufacturer, so there was no  
14 operating issues or concerns I found with any of them.  
15 They all functioned in a normal manner.

16 Q Okay. And we're talking about the two Glock  
17 pistols, one shotgun and three rifles?

18 A That's correct.

19 Q Okay. So, now, if you're going to try to  
20 match cartridges that are found at a scene to the gun  
21 that actually fired them, how do you go about doing  
22 that?

23 A Yeah. So the basic premise is that when  
24 firearms are manufactured, whether it's a shotgun or  
25 handgun or -- or rifle or, actually, any tool-type of

1 object that goes through a machining process, the --  
2 the steps that go into making that object are going to  
3 leave unique marks on that.

4 So, for example, in the case of a -- of a  
5 semiautomatic pistol like this one, the firearm  
6 manufacturer is going to -- when they -- they're going  
7 to make a barrel, they're going to drill that barrel,  
8 drill a hole through the barrel. There's going to  
9 be -- they're going to carve the rifling in it, which  
10 is -- would cause the bullet to spin.

11 The back of the firearm, the slide, is  
12 called the -- the breech. So that's -- that's a part  
13 that has a machine cutter that cuts this flat steel  
14 surface on it that's going to hold all that pressure  
15 in the gun at a safe level until the -- the bullet  
16 exits.

17 The firing pin that actually would strike  
18 the base of the primer, so that's going to have  
19 machining steps on that. So when all these parts are  
20 made and machined, they're all unique to that  
21 particular firearm.

22 And we've -- we've done studies where we've  
23 looked at consecutive manufactured tools, firing pins,  
24 breechfaces that have -- one right after another and  
25 each one of those, under a microscope, are going to be

1 unique to each other.

2 So they -- they all look alike, but the --  
3 the premise of a uniqueness is that it's those steps  
4 that go into making that are unique. It's kind of  
5 like if you think about it, if you and your friend  
6 bought the exact Toyota Camry car, all red, the exact  
7 same interiors.

8 And then you started looking (indiscernible)  
9 you'd see there's maybe some scratches or defects in  
10 this one that was made in the paint or this one has  
11 some tears in the seat that you looked at. Then you  
12 took the cars and used them for a year and you brought  
13 them back.

14 Just the wear and the abuse on those,  
15 similar to a wear and abuse of guns, are going to  
16 cause those to have their own unique marks to that.  
17 And so what we do in the case of a firearm comparison  
18 is that we will take our known cartridges, load in the  
19 gun, shoot those in a range and then we're going to  
20 look at all the marks that are left behind.

21 So some of them are going to be the base,  
22 the primer, the machining marks of the breechface.  
23 And we're going to look at those unknowns under a  
24 microscope compared to our knowns that we see. And  
25 we're looking at -- at patterns of striations and

1 unique marks from that gun under a comparison  
2 microscope.

3 So the microscope lets us look at, you know,  
4 two cartridges at the same time, side by side with a  
5 dividing line, about anywhere from 10 to 80X  
6 magnification.

7 So once we render an opinion that two  
8 cartridges came from the same firearm, we will give  
9 the evidence to another firearm examiner that then  
10 will do their own comparison to confirm the -- or --  
11 or refute the opinion at that point.

12 Q Okay. Do you have an example of what that  
13 looks like, that comparison?

14 A Sure. So this would be a photograph -- and  
15 here's a little bit larger one -- would be of two  
16 cartridge cases looking at under the microscope. So  
17 what we're looking at is actually on this markup would  
18 be -- so these striations -- if you think about kind  
19 of like, you ever played with Silly Putty?

20 You remember how you would stick that on an  
21 object and you'd peel it away and it would actually  
22 take up the surface of the object that you pulled it  
23 away from? Well, that's kind of how these firearms  
24 are made out of hard steel surfaces that have been  
25 machined.

1           The cartridge cases are typically a lot  
2 softer metal, so they're made out of a brass or a lead  
3 alloy that's going to be a lot softer metal. So when  
4 that gets pressed into the firearm and then ejected,  
5 it's going to leave these machining marks on the  
6 cartridge cases themselves.

7           Q     Okay. And so does this actually contain two  
8 different cartridges that you're comparing?

9           A     Yes. In this case, it's the 40 caliber  
10 unknown cartridge case on the left and this would be  
11 my known test fire cartridge cases on the right.

12          Q     And this line down the middle here and then  
13 over on this side, that's where the -- the two are  
14 lining up?

15          A     Right. That's correct.

16          Q     And so what is it that you're looking for?

17          A     Well, in this case, these are markings from  
18 the breechface, so these are striated marks. So as  
19 the cartridge is ejected out of the gun, that is going  
20 to go through a shearing process. It's going to leave  
21 these markings on here.

22                 So, in this case, we're looking for a  
23 pattern of striated marks that are -- that are going  
24 to line up. In this case, they line up almost like a  
25 barcode here, so --



1 Q Okay. And is this from an unrelated case or  
2 is this from this case?

3 A This is from this case.

4 Q Okay. And do you know which -- which round  
5 we're actually looking at?

6 A That would be my Exhibit 30 and I can cross  
7 reference to the -- the (indiscernible), but this  
8 would be the unknown 40-caliber cartridge case that  
9 was found at the scene.

10 Q Okay.

11 A To the 40-caliber Glock.

12 Q And is this another series of examples of  
13 what -- what it looks like when you were are doing  
14 your comparison?

15 A Yeah. These are examples of the  
16 9-millimeter Glock pistol compared to 9-millimeter  
17 cartridge cases found at the scene.

18 Q Okay. Is it all right if I pass this  
19 around?

20 A Sure. Yeah.

21 Q So while that photograph is being passed  
22 around, could you describe for us what evidence was  
23 actually submitted to you for review, what you did  
24 with it and what your conclusions were.

25 A Sure. So I can give a cross reference to

1 the agency case number if it's needed as detailed,  
2 but, in general, there was two Glock pistols that were  
3 submitted to us. One was a 9-millimeter caliber and  
4 the other -- Luger. And the other one is the 40 Smith  
5 & Wesson caliber.

6 So from that, I identified the one 40 Smith  
7 & Wesson cartridge case at the scene was fired in the  
8 submitted Glock pistol. There was six 9-millimeter  
9 Luger cartridge cases that were at the scene that were  
10 collected and submitted and those were all identified  
11 as being fired in the submitted 9-millimeter Luger  
12 Glock pistol.

13 Q Okay. What else did you examine?

14 A I received the Remington pump-action shotgun  
15 that was -- belonged to one of the officers. At the  
16 scene was three fired shot shells that were collected  
17 and submitted to me. And I identified all three of  
18 those shot shells were fired in the Remington shotgun.

19 Q Okay. And what-- what did you get submitted  
20 with regard to the rifles?

21 A And so we actually received three Colt AR15  
22 A2 -- model A2 rifles. And then with that, we  
23 received a total of -- let me just quick count --  
24 seven, 223-Remington caliber-fired cartage cases.

25 So in this case, we had seven cartridge

1 cases as unknowns, but we had three rifles all of the  
2 same caliber submitted to those. So from that, we was  
3 able to microscopically do a comparison similar to  
4 what's shown here as I described and identify: One of  
5 the rifles fired four of the cartridge cases. One of  
6 the rifles fired one cartridge case. And then another  
7 rifle fired two cartridge cases.

8 Q Okay. And did that account for all of the  
9 case -- the cartridge casings that were submitted  
10 to you?

11 A Yes, it did.

12 Q Okay. So there were no unknown casings  
13 found at the scene?

14 A That's correct. And so when we have  
15 cartridge cases and we do the comparison, we have  
16 three conclusions we can come to. We can form an  
17 identity, which we believe that that evidence was  
18 fired from that gun.

19 We can do an exclusion, where we say these  
20 were not fired from any of these firearms. Or we have  
21 just an inconclusive, where we say, you know, these --  
22 the caliber's the same. It has a lot of the same  
23 features that it could be from a Glock or it may be  
24 another type of firearm.

25 But it doesn't have enough of those

1 individual characteristics that are unique to that gun  
2 to say that it matches this evidence to the exclusion  
3 of the evidence.

4 Q And just to be clear, what were the  
5 conclusions you reached with regard to the casings and  
6 firearms you just described?

7 A Yeah. I -- I matched the evidence submitted  
8 to me to all of -- well, of the evidence that was  
9 submitted to me, I was able to match those to the  
10 firearms. I did not have any inconclusives or  
11 exclusions.

12 MR. JACKSON: Okay. Do you folks have any  
13 questions about that? Okay. I see no questions.

14 That's it. Thank you very much. And that  
15 concludes our testimony for today.

16 \* \* \*

17 (Court adjourned, Volume 3, 5-8-18 at 3:13 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.

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