

MULTNOMAH COUNTY GRAND JURY
DEATH INVESTIGATION

Deceased:)
Christopher Ryan Healy) DA No. 2317948-1
Date of Incident:)
March 22, 2015) PPB No. 15-022632
Location: SE 130th Ave./ SE)
Sherman Street,)
Portland, Oregon)

**CERTIFIED
ORIGINAL**

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled transcript of GRAND JURY proceedings was heard, commencing at the hour of 8:30 a.m., on Wednesday, April 22, 2015, at the Multnomah County Courthouse, Portland, Oregon.

APPEARANCES

Mr. Donald Rees
Deputy District Attorney
On Behalf of the State of Oregon.

DEBORAH L. COOK, RPR, CSR
Certified Shorthand Reporter
Portland, Oregon

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10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

Page/Line

KEN JONES	3	3
KRISTINA COFFEY	14	6
ROYCE CURTISS	27	17
JEAN-PAUL KODEGUI	46	5
ALEXIS BARRERA	71	14
JOEL ELENA	79	4
RAUL MERAZ	87	12
CHRISTIAN O'BRIEN	96	5
MIGUEL MARTINEZ	105	2
MATTHEW BIGONI	118	21
AARON SCHMAUTZ	131	5
JOHN ANDERSON	141	13
PETER TAYLOR	148	1
TERA HARRIS	162	25
THOMAS Clarke	165	16
MARK JOHNSON	190	24
KRISTINA COFFEY	200	9

I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
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PROCEEDINGS

Wednesday, April 22, 2015, at 8:56 a.m.

KEN JONES,

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

THE WITNESS: Ken Jones, K-E-N, J-O-N-E-S.

I am a criminalist with the Portland Police bureau.

EXAMINATION

BY MR. REES:

Q. Just by way of orientation, then, did you
respond to the scene of the reported officer-involved
shooting in Southeast Portland on March 22nd, 2015?

A. No, I did not respond directly to the scene.
My job was different, involving the autopsy and the
processing of evidence at the forensic laboratory.

Q. But you have been called here today to help
explain the images that were recorded at the scene, using
the Leica Digital Imaging System?

A. Correct, I received from criminalist Jane
Powell, a model space in Cyclone, a software. And from
that, we created TrueView, which is the product that will
be displayed that will show and demonstrate the positional
relationship of items of evidence that were found in that

1 scene.

2 Q. And if you could just back up a little bit,
3 because you said a lot of things that really don't make any
4 sense without some context.

5 So if you could just really, in plain terms,
6 explain to the Grand Jury what the Leica 3-D Imaging
7 System is.

8 A. A Leica 3-D Imaging System --

9 MR. REES: I'm sorry. Do you have a
10 question?

11 GRAND JUROR: Are we not going to swear him
12 in?

13 GRAND JUROR: She did.

14 GRAND JUROR: Forgive me.

15 MR. REES: That's okay.

16 BY MR. REES:

17 Q. First, if you could, in plain language explain
18 what this imaging system is.

19 A. A 3-D Imaging System, we call it the Leica 3-D
20 Imaging System, is a device that surveyors use to measure
21 distances from a known point. So a scanner may be placed
22 inside the room -- pretend this is a scanner, this bottle.

23 It will send out a light signal, and strike
24 the wall, and it measures how long it took to fly to
25 that location. It measures the time it comes back to

1 the scanner, and the angle that it measured. Using
2 math, it creates a known location point at that spot,
3 and it does this for an entire bubble, 50,000 times per
4 second. And it creates known data points over this
5 whole big sphere that it can reach out and touch.

6 By doing that, you now know the distance
7 from this point to anything that scanner caught. You
8 can now move that scanner to another location, and scan
9 what was behind or in the shadow area, and you combine
10 them to create a model space which is a digital
11 representation of items within a scene; a bridge, crime
12 scene, house, anything can be scanned.

13 People are pretty used to seeing this
14 imaging done for movie-making, modeled faces, tools, car
15 parts, and this technology is now being applied to crime
16 scenes.

17 Q. And so rather than a hand-drawn sketch of a
18 crime scene, or photographic images, you are able to create
19 a 3-D digital recreation of the scene, and that can be
20 viewed from all different angles; is that correct?

21 A. That is correct.

22 Q. And this device was used, then, following the
23 officer-involved shooting at 2305 Southeast Sherman Street
24 on March 22nd, 2015?

25 A. That's correct.

1 Q. All right. So of course, it will help us
2 understand this device when we see the product. So if you
3 would, why don't you walk us through the images of the
4 scene that you have prepared for this testimony.

5 A. On the monitor is a picture that is the front
6 page of this software called TrueView. And TrueView is the
7 ability to take that point cloud and put an image on top of
8 all of these measured points. So you will be able to, when
9 we open an image, measure between points within the
10 photograph.

11 And so that's just the technical name. We
12 have three scan locations in this scene. This street is
13 Southeast Sherman, this is the patrol car in question
14 that is closest to the evidence that is located on the
15 ground. To access into a location, you can double click
16 onto the yellow triangle. If you are ever lost and
17 people are navigating here, the house will bring up that
18 picture.

19 Within this scene, it's gray. The scan data
20 goes out, hits the house, comes back to the scanner, and
21 an image is created of the reflected area of that part
22 of the scene. The sky had nothing to reflect on, so
23 there's no data behind it.

24 Within this scene we have a patrol car, and
25 items of evidence were located on the ground around it

1 from placard 1, 2, 3, 4, 5 -- and a large gate, 6, and
2 placard 7. So this panoramic image can be measured, any
3 item distance between those locations, if necessary.

4 To place where we are in the location, in
5 the City of Portland, I have prepared a couple of
6 images.

7 Would you like me to move to those?

8 Q. Yes.

9 A. An overview of the scene. This is 122nd
10 Avenue, north is oriented to the top. Southeast Division
11 Street is cross the bottom of the map. Three streets to
12 the east of 122nd, you reach 130th, and you proceed up, and
13 you end up with the intersection of Southeast Sherman
14 Street and Southeast 130th Avenue.

15 As you move into a satellite view, Southeast
16 Sherman Street can be seen at 130th Avenue. We end up
17 with a building, a fence, properties, another aerial
18 view.

19 The green arrow is pointing towards a gated
20 fence area on the north side of Southeast Sherman
21 Street, west of Southeast 130th Avenue.

22 Q. That would be the same gated fence that we saw
23 from the street-level view, correct?

24 A. That is correct. Located right here
25 (indicating).

1 Do we want to orient others to the scene
2 more, or shall we proceed with evidence?

3 Q. Did you have another view of the scene for
4 orientation?

5 A. Just those three.

6 Q. Okay. Then Detective Coffey will probably go
7 through the placard items, but if you wanted to do that
8 right now for orientation, would you do that?

9 A. Very simply, we end up with, starting with the
10 numbers, placard 1 is a knife located near the patrol car.
11 Placard 2 is a nine-millimeter casing located near the
12 patrol car. Placard 3 is a casing, nine-millimeter.
13 Placard 4 is a taser cartridge and wires.

14 Placard 5 in the approximate center of the
15 street is what appears to be a shirt and gloves. Near
16 the gated fence we have placard 6, which is a cellular
17 phone. Placard 7 is a sweatshirt. The other placards
18 of 8, 9, and 10 were small objects that were just
19 located on the ground. That covered the listing of
20 evidence.

21 GRAND JUROR: Most of those placarded items
22 could be described as small items on the ground. Why
23 were 8, 9, and 10 not photographed?

24 THE WITNESS: They were photographed. And
25 in this presentation the more red dots that we display

1 can crowd the view of what you are observing, as we keep
2 adding many of them on. And relevance to use of force,
3 actions in the event, these appear to be small little
4 plastic disks. I did not actually open them up.

5 But we may collect a whole bunch of items in
6 an area as a standard crime scene processing tool,
7 because we don't know if they are relevant. And at this
8 point, working with Detective Coffey, those items
9 weren't as relevant as the main primary evidence that we
10 collected. So that bottle may be found on the ground,
11 but that might have been garbage laying in the street.
12 That can be later determined.

13 MR. REES: And so we can tell you what they
14 are by a placard number. They just weren't included in
15 this presentation, because they were deemed to be
16 inconsequential.

17 THE WITNESS: We have photographs of them.
18 They were collected, and they are physically at the
19 property room.

20 BY MR. REES:

21 Q. And then did you have a perspective from some
22 of the nearby residences where some of the witnesses in
23 this case were identified?

24 A. Yes. In Scan World 2 I placed perspective
25 views, including images of the crime scene. There were

1 four views prepared from the apartment complex at 2305.
2 There were three apartments in that location: A, the large
3 main structure of the house; there's apartment B, which no
4 views were taken from, the lower unit in the second
5 building; and apartment C, there was stated that a witness
6 was located in the upstairs window.

7 Perspective views were prepared from that
8 model space, which is the creation of all the points and
9 data measurements, and from this window a perspective
10 view is created utilizing the data of known data points,
11 showing the patrol car, the gate, the street, and what
12 can be seen from that location at that elevation.

13 Q. And for clarity, when we see in the upper
14 left-hand corner the image with the yellow arrow, that is
15 indicating, then, the window from which the view below
16 would be seen?

17 A. That is correct. Each of those four views has
18 a reference pane window inserted into it, so you can keep
19 them straight as you are reviewing each image, from what
20 perspective view of 2305 Southeast Sherman you are
21 viewing --

22 GRAND JUROR: I am sorry. Can you repeat
23 that? I didn't follow that last point.

24 THE WITNESS: In the far corner, I will open
25 it up bigger -- is a small image of the house. And a

1 window where that view was taken from is white, and
2 additionally pointed an arrow at it. So in this model
3 space, I'm able to navigate to any known location to
4 view the crime scene. I have placed a camera view from
5 that window, viewing the patrol car and the incident
6 location.

7 GRAND JUROR: It was hard to see the
8 difference between the window and the larger -- thank
9 you.

10 BY MR. REES:

11 Q. So you are seeing both where the viewer would
12 be, and then what they would be seeing from that
13 perspective?

14 GRAND JUROR: This is the view you get from
15 that little window; is that right?

16 THE WITNESS: That is correct. And the hot
17 link, the red dot, is the same window you would be
18 viewing from.

19 GRAND JUROR: And the view you just showed
20 us was the view from apartment A?

21 THE WITNESS: Correct, at that window. I
22 have placed the red dot in -- I have to say approximate,
23 because we are dealing with millimeter accuracy with the
24 scanner. So for me to say exactly, it could alter
25 things. It's within that window pane that I selected a

1 dot, and took a view from that location.

2 GRAND JUROR: Thank you.

3 THE WITNESS: Four views are available,
4 again, with a reference pane window in the corner. The
5 upstairs window at apartment C.

6 BY MR. REES:

7 Q. In this particular image you can see at least
8 one, I think, two, black circles that appear. What is that
9 circle?

10 A. That is the scanner location. You will see
11 the colored reference dots that show X, Y, Z. Those
12 represent the coordinate system, the horizontal X-Y,
13 coordinates, and that's the head where the scanner was
14 located. The scanner has the ability to scan a 270-degree
15 bubble by 360. So it cannot capture what is below it.

16 So when we combine all of these model
17 spaces, one bubble over the other will be missing some
18 data from where that scanner is located, and those show
19 up as round spheres. Those are those four views.

20 There's crime scene images that were taken
21 the night of the event.

22 Q. And we will refer back to these, but this is
23 really for your orientation. And did you want to mention,
24 finally, the verification of the scanner?

25 A. Yes. We ensure, after we unify all of these

1 point clouds together, that the machine is accurate by
2 taking this pole. And I have gone through and selected a
3 millimeter dot location at the top, and exact location at
4 the bottom. The pole is measured from National Institute
5 of Standards, NIS, that it's accurate to 1.7 meters in
6 distance.

7 So after we scan a scene, we want to capture
8 that with the scanner. We go back into the software and
9 we validate that we're accurate by measuring those two
10 points. And we have included an image that shows that
11 that is the 1.7 meter distance between that standard
12 pole that we have for quality assurance.

13 MR. REES: Thank you for the presentation.

14 Are there any questions about any of those
15 images, or how they were created before Criminalist
16 Jones leaves?

17 (No response.)

18 MR. REES: Seeing no questions, thank you
19 very much.

20 THE WITNESS: Some navigation helpful hints,
21 if you get lost, this little tab on the left-hand
22 side -- this is fairly new technology. It's been used
23 since 2012. So as each witness is new to this, they
24 might have some navigation issues. The house gets you
25 back to this and you can go from there.

1 MR. REES: We will also call you, if
2 necessary.

3 THE WITNESS: I will be on my cell phone.
4 Have a good day.

5
6 KRISTINA COFFEY,
7 a witness called on behalf of the State, having been first
8 duly sworn, was examined and testified as follows:

9 EXAMINATION

10 BY MR. REES:

11 Q. When you are ready, please identify yourself
12 for the record.

13 A. My name is Kristina Coffey, K-R-I-S-T-I-N-A,
14 C-O-F-F-E-Y, and I am a detective with the Portland Police
15 Bureau.

16 Q. What is your educational background?

17 A. I graduated from Portland State University
18 with a degree in social science.

19 Q. And how long have you been a police officer?

20 A. For 16 years.

21 Q. How long during the time have you been a
22 detective?

23 A. Eight years. The last four in Homicide.

24 Q. And do you know how many homicide cases you
25 have worked on, either as the lead detective or one of the

1 assistant detectives?

2 A. Approximately 30.

3 Q. And have you ever been assigned, prior to this
4 particular case, to the investigation of an
5 officer-involved shooting?

6 A. Yes, I have.

7 Q. On March 22nd, 2015, were you called to
8 respond to the scene of an officer-involved shooting in the
9 City of Portland?

10 A. Yes, I was.

11 Q. And do you know what time you received the
12 call?

13 A. I received the page at -- 1824 -- I am sorry,
14 1554 hours.

15 Q. Which is -- what time is that?

16 A. I am sorry. It's 5:54, and then I arrived at
17 the scene at 6:24.

18 Q. Were you at home when you received that call?
19 Do you remember?

20 A. Yes, I was.

21 Q. So who called you to the scene?

22 A. I was paged by Sergeant Ken Whattam.

23 Q. And is he the supervisory sergeant in the
24 Homicide Division?

25 A. Yes, he is.

1 Q. And when you received that initial page, did
2 you receive any information at all about the nature of this
3 investigation?

4 A. Only that it was an officer-involved shooting.

5 Q. And in addition to yourself, who else
6 responded to the scene at that time?

7 A. There were approximately seven detectives,
8 maybe six criminalists, Mr. Don Rees, from the DA's office.
9 There were several attorneys for the officers involved. We
10 also had union representatives, and additional officers
11 with EAP, or tag team members, that type of stuff.

12 Q. In addition to the Portland Police Bureau, did
13 any outside police agencies participate in this
14 investigation?

15 A. Yeah, there were several representatives from
16 the Clackamas County Major Crimes Team that responded.

17 Q. And I think there was a police officer from
18 the city of Molalla was there?

19 A. Correct.

20 Q. And also did an officer or two respond from
21 the East County -- the Multnomah East County Major Crimes
22 Team?

23 A. Yes.

24 Q. Now, is it correct that in terms of the
25 investigation, this was handled in a very similar fashion

1 to any homicide scene that the Portland Police Bureau
2 investigates?

3 A. Yes, it is.

4 Q. And but in addition, are there also special
5 protocols that are followed because this was an
6 officer-involved shooting?

7 A. Yes, there were.

8 Q. And what were some of the special protocols
9 that were followed?

10 A. When I arrived on scene, I made sure that the
11 scene was secure, it was taped off, we had a crime scene;
12 that all of the witness officers and witness -- civilian
13 witnesses were separated. The officers were left with a
14 representative, whether it be their attorney, or somebody
15 from our EAP. When we interviewed --

16 GRAND JUROR: Could you say what EAP stands
17 for?

18 THE WITNESS: Employee Assistance Program.

19 GRAND JUROR: Okay. Thank you.

20 THE WITNESS: When we interviewed any of the
21 witnesses, including witness officers, all of those
22 interviews are recorded. We had the criminalists on
23 scene with Leica. My understanding, he gave you -- you
24 have seen images from the Leica from criminalist Ken
25 Jones, they are able to measure and placard each of the

1 items of evidentiary value at the scene.

2 Before any of the witness officers are
3 released from the scene, they are given a communication
4 restriction order, so that they are unable to talk to
5 anybody about what had happened until after the Grand
6 Jury process.

7 GRAND JUROR: Have you ever been to the
8 scene of a homicide, or suspected homicide of a
9 nonofficer-involved event where there was an attorney
10 representing the suspect first?

11 THE WITNESS: Not at the scene. Immediately
12 after the scene I have had attorneys present for
13 interviews.

14 GRAND JUROR: How long was it between the
15 events and when you arrived?

16 THE WITNESS: How long was it between --

17 GRAND JUROR: We heard the time that you
18 were called, the time that you arrived. I am just
19 wondering how long was it between the actual shooting,
20 and when you were called.

21 THE WITNESS: The actual shooting occurred
22 at approximately 1731 hours, so 5:31 time, and then I
23 was paged approximately 20 minutes later, and I
24 responded to the scene less than an hour after the
25 shooting.

1 GRAND JUROR: Thank you.

2 BY MR. REES:

3 Q. What was the name of the person who had been
4 shot by the police at the scene?

5 A. His name is Christopher Ryan Healy, H-E-A-L-Y.

6 Q. And do you know how that identification was
7 made?

8 A. He had a driver's license in his wallet that
9 was -- the driver's license was left at the scene. So
10 initially we had his name. We did not -- we wanted to
11 confirm that with fingerprints, so the next day it was
12 confirmed via fingerprints.

13 Q. And that was a Pennsylvania driver's license?

14 A. Yes, it was.

15 Q. How old was Christopher Healy?

16 A. 36 years old.

17 Q. And what was his last known address?

18 A. It was in Erie, Pennsylvania.

19 Q. And other than the fact that he was in
20 Portland on that date, were you able to determine whether
21 he had any prior contacts with the state of Oregon?

22 A. I do not believe he had any prior contacts
23 with the state of Oregon.

24 Q. And did you attend the autopsy of Christopher
25 Healy?

1 A. Yes, I did.

2 Q. When was that conducted?

3 A. It was the next day, on March 23rd, 2015.

4 Q. Who was in attendance at the autopsy?

5 A. My partner, Detective Mark Sponhauer, Don
6 Rees, and Lieutenant Craig McGlathery with the Portland
7 Training Division.

8 Q. And who performed the autopsy?

9 A. Dr. Cliff Nelson.

10 Q. And that was conducted at the Medical
11 Examiner's Office in Clackamas, Oregon?

12 A. Correct.

13 Q. Through the course of this investigation, did
14 you determine the number of officers that used deadly force
15 in this case?

16 A. Yes, I did.

17 Q. How many is that?

18 A. One.

19 Q. And who is that officer?

20 A. Officer Thomas Clark.

21 Q. And did you determine whether there were any
22 witness officers to the shooting?

23 A. Yes, we did.

24 Q. And how many witness officers are there?

25 A. There was one witness officer to the shooting,

1 and that was officer Royce Curtiss, and two additional
2 officers who handcuffed Mr. Healy immediately after the
3 incident.

4 Q. Did you identify any civilian, that is,
5 nonpolice witnesses to the shooting?

6 A. Yes, we did.

7 Q. And were all of those individuals interviewed
8 through the course of the investigation?

9 A. Yes, they were.

10 Q. Just by way of background, what was the
11 original call that brought Officers Clark and Curtiss to
12 2305 Southeast 130th Avenue?

13 A. The original call was a burglary in progress.
14 The homeowner stated on the 911 call he caught somebody
15 inside his home, and he was holding onto that person.

16 Q. And who was that caller to 911?

17 A. It was Jean-Paul, and his last name is
18 K-O-D-E-G-U-I.

19 Q. And maybe you already said, but do you know
20 the time of that call to 911?

21 A. The call was dispatched to officers at
22 5:27 p.m.

23 Q. And then -- in reviewing the records of the
24 radio transmissions in the case, are you able to tell the
25 Grand Jury when the report was made that shots had been

1 fired at the scene?

2 A. Approximately at 5:31. I say approximately,
3 as the officers were arriving, there's some overlap. So
4 for the exact time coming out -- so it's approximately
5 5:31.

6 Q. And were you able to determine, based on the
7 interviews and viewing the physical evidence at the scene,
8 examination of the officer's firearm, how many shots were
9 fired in the case?

10 A. Yes, we were able to determine.

11 Q. How many shots?

12 A. Two.

13 Q. And was a weapon found at the scene?

14 A. Yes.

15 Q. And why don't you show us the weapon that you
16 observed by placard number.

17 A. (Indicating), placard No. 1.

18 Q. And what are we looking at?

19 A. This is a double-bladed knife.

20 Q. All right. Did you view that knife at the
21 scene?

22 A. Yes, I did.

23 Q. And did you receive any indication from
24 witnesses that that was the knife that was possessed and
25 brandished by Christopher Healy?

1 A. Yes, it is.

2 Q. And if you would, why don't you show the Grand
3 Jury the other items with the placard, and describe what
4 they are. And you can move, too.

5 GRAND JUROR: Quick question. The graduated
6 markings on the adjacent placard, those are centimeters,
7 not inches; is that correct?

8 THE WITNESS: We have additional photographs
9 that have measurements of the knife. Is that what
10 you're referring to?

11 GRAND JUROR: There's a standard measurement
12 here.

13 THE WITNESS: I think those are centimeters,
14 correct.

15 GRAND JUROR: Thank you.

16 THE WITNESS: Placard 2 is one shell casing.
17 Placard 3 is one shell casing.

18 BY MR. REES:

19 Q. And based on the interviews conducted, and the
20 examination of the scene and the other physical evidence,
21 where do you conclude those two casings came from?

22 A. Officer Thomas Clark's firearm. Placard 4 is
23 a taser cartridge.

24 Q. Can you explain where that comes from?

25 A. That cartridge came from Officer Royce

1 Curtiss' taser.

2 Q. And it's connected to two fine metallic wires,
3 it looks like, in the picture; is that correct?

4 A. Correct.

5 Q. And do you know, was that physically removed
6 from a taser, or do you know how it ended up on the ground?

7 A. It was removed from the taser.

8 Q. What was the indication of why that was
9 removed from the taser, if you know?

10 A. The officer had fired his taser at Mr. Healy,
11 so the probes were attached to Mr. Healy's clothing. And
12 the cartridge was removed as evidence to leave at the
13 scene, and the wires and probes were still attached to
14 Mr. Healy.

15 No. 5 is a T-shirt.

16 Q. And do you believe you know whose T-shirt that
17 is?

18 A. Yes. That's Mr. Healy's T-shirt.

19 Q. And do you believe you know why that's on the
20 pavement?

21 A. Yes. It was removed by paramedics at the
22 scene.

23 Q. And one thing, of course, that we're not
24 seeing here at the scene is the body of the deceased. And
25 why is that?

1 A. He was transported by AMR to OHSU.

2 Q. And so, obviously, when you arrived at the
3 scene, Mr. Healy was already removed from the scene and at
4 the hospital at that time; is that correct?

5 A. Correct.

6 Placard 6 is a cell phone.

7 Q. And do you believe you identified whose cell
8 phone that is?

9 A. Yes, that's Mr. Healy's cell phone.

10 Placard 7 is a sweatshirt.

11 Q. And that's immediately next to Mr. Healy's
12 cell phone. Do you believe that's also Mr. Healy's
13 sweatshirt?

14 A. Yes, I do.

15 Q. All right. Did Officer Clark agree to give a
16 voluntary interview in this case?

17 A. Yes, he did.

18 Q. And where did that interview take place?

19 A. At the Detective Division.

20 Q. Who conducted the interview?

21 A. Detective Mark Sponhauer and I did.

22 Q. Is Detective Sponhauer the co-lead
23 investigator on the case?

24 A. Yes, he is.

25 Q. Was that interview recorded?

1 A. Yes, it was.

2 MR. REES: Thanks, Detective.

3 Are there any questions from the Grand Jury?

4 GRAND JUROR: As I understand it, the two
5 cartridges and the taser cartridge did not come from the
6 same officer?

7 THE WITNESS: Correct.

8 MR. REES: Any other questions?

9 (No response.)

10 MR. REES: Thank you, Detective. In the
11 event any questions do arise during the course of this
12 hearing, we can always call Detective Coffey back to
13 join us, but for now, thank you very much.

14 I'm sorry. I neglected to ask a question,
15 so Detective Coffey is still in the room.

16 BY MR. REES:

17 Q. During the course of the investigation, did
18 you develop information regarding Mr. Healy's conduct with
19 the police in Pennsylvania that may have led him to
20 Portland, Oregon?

21 A. Yes, I did.

22 Q. And what was that circumstance?

23 A. Mr. Healy had a methamphetamine lab inside of
24 his mother's residence that was reported on March 14th of
25 2015. Mr. Healy's family was cooperative, and the police

1 dismantled the lab within the residence.

2 Mr. Healy, Mr. Christopher Healy, at that
3 point said goodbye to his family, and purchased a
4 Greyhound bus ticket to Seattle, Washington.

5 Q. And so -- and that was reported by the Erie,
6 Pennsylvania, police, I think. Was that eight days or so
7 prior to this police contact in Portland?

8 A. Correct.

9 Q. And so although, of course, it's not known
10 with certainty, is it your working theory or belief that
11 Mr. Healy may have believed that he was wanted by the
12 police for the methamphetamine activity in Erie,
13 Pennsylvania?

14 A. Yes, it is.

15 MR. REES: All right. Thank you.

16

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

20

21 EXAMINATION

22 BY MR. REES:

23 Q. Good morning, Officer. For the record, please
24 state and spell your first and last name.

25 A. Royce Curtiss, R-O-Y-C-E, C-U-R-T-I-S-S.

1 Q. And are you a member of the Portland Police
2 Bureau?

3 A. I am, yes.

4 Q. How long have you been a police officer?

5 A. Over nine years.

6 Q. What is your educational background?

7 A. I have about a junior or senior level, maybe,
8 of college.

9 Q. And did you have any other prior law
10 enforcement experience before joining the Portland Police
11 Bureau?

12 A. I had four years in the Marine Corps.

13 Q. What is your current assignment with the
14 Portland Police Bureau?

15 A. I work East Uniform, afternoons, patrol.

16 Q. So East Precinct. And on the day that this
17 officer use of deadly force occurred, which is March 22nd,
18 2015, was that a regular work assignment for you?

19 A. Yes, it was.

20 Q. And what time did your shift start that day?

21 A. 4:00 p.m.

22 Q. And then the shift runs to what time?

23 A. 2:00 a.m.

24 Q. Prior to the call that brought you to 2305
25 Southeast Sherman Street, had anything unusual happened on

1 your shift?

2 A. No.

3 Q. What do you recall the nature of the call was
4 that you received that brought you to that location on
5 Southeast Sherman Street?

6 A. It came out as, I believe, a burglary call
7 where a homeowner had come home, and sounded like found
8 somebody in their home. There was some difficulty from
9 dispatch voice to us, saying they were having some
10 difficulties with the language barrier.

11 Q. Between the Bureau of Emergency Communication
12 911 call-taker and the person who was making the call?

13 A. Correct.

14 Q. That was the indication?

15 A. Yes.

16 Q. And what other information, if any, did you
17 receive while responding to the call?

18 A. We got an update that the victim, or the
19 caller, was restraining the person they found in their
20 home.

21 Q. And was it clear to you where that was taking
22 place, meaning inside the residence, or out on the street?

23 A. I was under the impression that it was inside
24 the house, that this was going on.

25 Q. And how are you receiving that information?

1 Is it over the radio, or on the computer, in your patrol
2 car?

3 A. Both. But mostly important updates voiced
4 over the air first.

5 Q. And do you recall about how long it took you
6 to arrive at 2305 Southeast Sherman Street?

7 A. It wasn't real long. I was coming, I believe,
8 from the area of 174th and Powell, but we got the updates
9 that he was restraining the guy, and obviously, driving
10 more aggressively to get there.

11 Q. In terms of your response, was this a lights
12 and sirens type of response, or just driving there?

13 A. Yes, Code 3, Code 3 response, lights and
14 sirens.

15 Q. So it's considered a high priority or
16 emergency type call?

17 A. Correct.

18 Q. And you are under a communication restriction
19 order because this did involve the use of deadly force, so
20 you haven't had the opportunity to speak with other
21 officers about what occurred; is that correct?

22 A. That is correct.

23 Q. Did you have an awareness, as you were
24 responding to the scene, of whether any other officers were
25 also going to that same location?

1 A. Yes. I was with Officer Bigoni earlier, so he
2 was going to the call, as well, and Officer Clark was the
3 first officer that was dispatched to the call.

4 Q. Now, are all of -- you and the two officers
5 you just mentioned all in separate patrol cars?

6 A. Right. And I wasn't with Officer Clark, but
7 he was in the general area, I believe. So --

8 Q. What do you recall seeing when you first
9 arrived at that location on Southeast Sherman Street? What
10 was going on?

11 A. When I was heading northbound on 130th,
12 approaching Sherman, I spotted Officer Clark's patrol car
13 kind of in the middle, I would say, of Sherman. And I
14 noticed that he was out in front of his vehicle. And as I
15 make the left onto westbound Sherman, I spot two subjects
16 that would be to my north, and the black male that appeared
17 to be restraining a smaller white guy.

18 Q. Let me stop you there, and if I am able, let's
19 look at the image that was taken at the scene.

20 First of all, do you see in this picture
21 your patrol car?

22 A. Yes.

23 Q. And is it this one, or the one behind?

24 A. Yes, that's mine.

25 Q. And is that, essentially, frozen as far as you

1 know, where you had parked the car when you arrived?

2 A. Yes.

3 Q. And then this is a gated fence along the curb
4 line. Is that the area where you saw -- you just said you
5 saw an African, or a black person, and a white person
6 struggling. Does that show the area where you saw that?

7 A. Yes.

8 GRAND JUROR: Could we, for clarification,
9 see the map of 130th and Sherman so we can see your
10 approach?

11 MR. REES: Well, that is certainly a
12 potential --

13 GRAND JUROR: If you go to the left, you can
14 go back to the three little red guys, and --

15 MR. REES: I think I can also get into it --
16 maybe not -- go to the map overall area? The map --

17 GRAND JUROR: Sure.

18 MR. REES: Do you want the officer to show
19 us on the map how he approached the area?

20 GRAND JUROR: Uh-huh.

21 MR. REES: And, Grand Jurors, you can move
22 for a better look.

23 THE WITNESS: I was coming from the east on
24 Division, coming westbound. And then I turned right,
25 which would be northbound on 130th Avenue, and the

1 incident occurred just to the -- just as I came around
2 the corner to the left here on Sherman.

3 GRAND JUROR: So we see -- we saw two patrol
4 vehicles in the picture. One behind you, so I am
5 assuming that you passed the one that was there to get
6 closer to where you saw the two people?

7 THE WITNESS: Correct. If we're coming from
8 the same direction, we will pull in behind the car. In
9 this case I saw Officer Clark already out of his car,
10 and I saw the struggle that was going on, so I thought
11 it was -- my time getting up there, I needed to speed up
12 my approach. That's why I pulled in front of his patrol
13 car.

14 GRAND JUROR: The struggle was right at that
15 gate?

16 THE WITNESS: Yes, sir.

17 BY MR. REES:

18 Q. Obviously, we can change the view if we need
19 to.

20 Do you recall, generally, where -- when you
21 first saw the two men who appeared to be struggling,
22 where they were along the fence line?

23 A. Yes.

24 Q. You do? Why don't you use this to point with
25 the cursor to show the Grand Jury.

1 A. So when I first got there, I would say they
2 were closer to this post that is right here (indicating).
3 So right in this area (indicating) when I was first
4 arriving on scene.

5 Q. And were they, then, in other words, really
6 off the road and in that weedy strip against the fence?

7 A. Correct. Yes.

8 Q. And could you -- what was your perception of
9 what was happening between those two men?

10 A. It was clear that the African American, or
11 black male, had him around the body, so it looked like
12 immediately -- I would assume that that was the call that
13 we were going to, that it wasn't now in the house. It
14 looked like somebody restraining somebody.

15 Q. And you said that Officer Thomas Clark was
16 already out of his patrol car, correct?

17 A. Correct.

18 Q. Could you see, was he doing anything or did it
19 look as if he had just got out of his patrol car?

20 A. It looked like he just got out of his patrol
21 car. He was just slightly ahead of where, I guess -- or
22 kind of right at where I ended up stopping my car. But, I
23 mean, he was waiting for a cover to get there, obviously.

24 Q. And based on what you had received via the
25 radio and your computer, and now what you are seeing, did

1 you have a belief as to which of the two men was the 911
2 caller, and which one was the reported burglar?

3 A. Well, I do remember in the call there was a
4 language barrier, so to me, the black male kind of appeared
5 to be foreign. So that stuck out in my mind. And then as
6 well as him having his arms wrapped around the body of the
7 white guy.

8 Q. So meaning, between the two, you believe that
9 the black or the African man was the 911 caller?

10 A. Correct.

11 Q. Is that correct?

12 A. Yes.

13 Q. So what did you do at that point, then?

14 A. Having now arrived and seeing these two men
15 struggling, and seeing Officer Thomas Clark out of his
16 patrol car, like I said earlier, I pulled forward, closer
17 to -- basically right next to Officer Clark so I could get
18 up to the scene quicker.

19 I exited my vehicle. We both started
20 approaching, and I didn't -- nothing seemed like it was
21 like a real intense struggle. I think Officer Clark and
22 I, without even really talking about it, we kind of made
23 eye contact. We were under the -- I think both under
24 the understanding we were going to go up and go
25 two-on-one custody, is how we generally grab somebody

1 when we're making an arrest, or detaining somebody. We
2 put them in handcuffs.

3 Q. Two-on-one is probably self-explanatory, but
4 can you describe what you mean by that and what your
5 training is?

6 A. When we handcuff somebody, we generally try to
7 have, at least, we kind of outnumber and it kind of takes
8 down the level of potentially, like force. We generally go
9 up and kind of -- technique for handcuffing people, he will
10 grab one side, and I will grab the other.

11 Q. And, obviously, there's an element of surprise
12 that would assist you in doing this, so you don't announce,
13 hey, let's arrest this guy. You make eye contact with the
14 other officer, and now you are going to approach the white
15 subject; is that correct?

16 A. Correct.

17 Q. And did you give any verbal commands to these
18 two men?

19 A. I had not, no.

20 Q. But coming up -- did you, at this time, having
21 made this decision in your mind to arrest the subject, did
22 any verbal commands issue from either yourself or from
23 Officer Thomas Clark?

24 A. None from myself, and I can't recall for sure
25 if Officer Clark gave any commands.

1 Q. So what was done to physically separate these
2 two men?

3 A. I am not exactly sure how or why the
4 separation occurred.

5 Q. Can you describe, because I understand there
6 was separation?

7 A. There was.

8 Q. So how did that occur, to the best of your
9 memory?

10 A. I am not exactly sure if he struggled free, or
11 if the male who was restraining him just let go, because he
12 saw us. I am not sure.

13 Q. So when they separated, where did they go?

14 A. Well, they were kind of closer to where the
15 two gates come together, where it says No Parking, wherever
16 that is. But the male who was retraining, the black male
17 who was restraining the guy just stays there and doesn't do
18 anything.

19 And the white guy, he just -- immediately
20 attack status. It was so unexpected, how fast he pulled
21 the knife out that -- I mean, I didn't see it coming.
22 It was -- as soon as there was kind of that break where
23 they separated, all of a sudden he's diving into his
24 pocket, or the right side of his body, and the knife was
25 out.

1 Q. About how far were you from the white man when
2 he pulled the knife out?

3 A. Well, as soon as he pulled the knife out, we
4 were still walking up approaching him, and he -- as he's
5 drawing it, he starts closing the distance at us, so we
6 were not very far away from him.

7 Q. Well, in terms of distance --

8 A. Maybe from myself to the foreperson.

9 Q. During the initial contact?

10 A. Right. Maybe ten feet, eight feet, somewhere
11 in there.

12 Q. And you said that he closed the distance,
13 moving toward you?

14 A. Right.

15 Q. How close did he get?

16 A. Extremely close, maybe a -- just out of arm's
17 reach from me.

18 Q. So arm's reach being -- meaning three to
19 four feet?

20 A. Sure. Yeah.

21 Q. Is that right?

22 A. Yeah. I would say that would be accurate.

23 Q. And what was he doing with the knife?

24 A. He was attacking. He was slashing at us.

25 Q. Meaning just -- you moved your arm, but was

1 his arm straight, outstretched?

2 A. I recall him just like this (indicating), like
3 slashing. There might have been some thrusts. I am not
4 exactly sure, but it was constant.

5 Q. And did you perceive that he was coming after
6 you or Officer Tommy Clark, or both?

7 A. Both. Initially, there was kind of some back
8 and forth, it appeared to me, slashes that were closer to
9 my direction, and then slashes closer to Officer Clark's
10 direction. But then we were -- as we approached on foot,
11 Officer Clark was slightly ahead of me, and off to my left.

12 So he, at one point, or before he used
13 deadly force, the subject focuses on him. And he was
14 even closer than I was to the subject.

15 Q. What did you think when you saw the knife?

16 A. Immediately drew my firearm. I think we -- we
17 were telling him drop the knife, drop the knife, as we're
18 trying to retreat. So we're trying to create distance.

19 I think, basically, we kind of started
20 almost -- like at almost -- we weren't online, exactly.
21 He was slightly ahead of me, and we were both trying to
22 just retreat out of there. And he was continually
23 coming forward.

24 Q. Okay. But in your mind, you said your
25 reaction to this was to draw your firearm. Why did you do

1 that? What did you think was happening?

2 A. There was no doubt in my mind at that time
3 that he was trying to stab or kill us. He was -- I mean,
4 trying to slice us, or slash us up, and it was very
5 aggressive.

6 Q. What happened then? You said that he did not
7 respond to the commands.

8 A. Correct. He continued to advance.

9 Q. And so what happened?

10 A. So I -- he was closing the distance, getting
11 closer and closer. I would have shot him, no doubt in my
12 mind, but I had kind of an angle issue. Officer Clark,
13 like I said, was slightly off to my left and forward of me.
14 The male who was restraining him, did not get out of the
15 way. He just stayed right in the incident, basically. So
16 I didn't feel I had a good back drop to take a shot at him.

17 And as I am kind of basically processing
18 that, that's when he's stabbing or slashing and reaching
19 out more toward Officer Clark. It was extremely close
20 to him. And then that's when Officer Clark fired, I
21 think, two rounds.

22 Q. And when you say extremely close to Officer
23 Clark, would the distance be all the way up, like a couple
24 feet, or touching him?

25 A. I recall his hand being in here (indicating).

1 I know the hand wasn't directly touching his body, but I am
2 not sure if the knife -- it was close.

3 Q. So within inches, you are indicating?

4 A. Right.

5 Q. And you believe Officer Clark fired his weapon
6 twice?

7 A. I think so.

8 Q. And did you see any response on the part of
9 the subject with the knife?

10 A. Yeah. Immediately after I heard the shots,
11 the knife goes down, and the subject doesn't go down but he
12 goes kind of right back toward the same location that I
13 thought the knife came from. And I wasn't sure if his hand
14 was in the pocket, because he was on his feet, kind of
15 moving around.

16 At that point, giving him commands, get on
17 the ground, get on the ground, I think. And I remember
18 I swipe the knife, because it's still between me and
19 him, and it's right at my feet, basically. So I kicked
20 it off to the left to get it out of the way.

21 Like I said, he was still on his feet and he
22 still doesn't -- he's been shot, and he's still not
23 doing anything that we have told him to do.

24 Q. Could you tell he had been gunshot, or did you
25 think possibly he wasn't?

1 A. I -- I thought that -- it appeared to me that
2 he had been, because the -- such close proximity from when
3 he was advancing on Officer Clark when he fired, I thought
4 they were probably center mass shots.

5 Like I said, he went back to the same
6 location, I believe, that the first knife came from, so
7 I was still very concerned that maybe he had an
8 additional weapon on him. I -- ended up quickly,
9 basically, reholstering, drawing, and I tased
10 him after --

11 Q. So you are indicating with your hand. Did you
12 mean to say you put your firearm back into the holster, and
13 then you took your taser out?

14 A. Right.

15 Q. And why did you do that?

16 A. I knew he didn't have the knife in his hand
17 still, the first one that he came at us with, but I was
18 still very concerned -- he's still on his feet, and he went
19 right back to where the first weapon came from.

20 So to me, he's still a threat, but I chose
21 to use a lower level of force. I tasered him. It was
22 super effective. It was a good -- with the probes, a
23 good stick. He went down. I believe I had given a
24 radio update, probably before I tased him, saying that
25 shots had been fired. And then I tased him. I think I

1 updated on the radio that the taser had now been
2 deployed.

3 Shortly after, Officer Bigoni, he arrived.
4 I think he got on scene and probably saw what he -- kind
5 of could tell what was going on. And I noticed that he
6 was wearing his gloves. I asked for the next officer to
7 come assist us quickly. He was still -- after the taser
8 stopped cycling, he was still in that same area where he
9 had reached, and he was kind of moaning.

10 But still, you know, appeared to be alive.
11 And I started giving him more commands, telling him he
12 needed to get his hands out of his pocket. If he would
13 do that, put his arms out to the sides, I would get
14 medical there as quickly as we could do, safely.

15 So I continued to give him the commands to
16 put your arms out to the side, because he was kind of
17 laying now on his side. And that hand was in the same
18 location, basically, that it had been.

19 Once we got another officer on scene, we
20 quickly advised him to put some rubber gloves on, and
21 then my taser probes are still in him. So if need be, I
22 could use the taser again. I just have to pull the
23 trigger again to give him another cycle.

24 And Officer Clark maintained cover -- lethal
25 cover on him. And then Officer Bigoni and Officer

1 Bianchini was able to get him into handcuffs. I had --
2 in between, probably the first, I think when the
3 taser -- probably somewhere early, as early as I thought
4 I could, I asked for medical to start our way, Code 3,
5 in stage. As soon as we got the handcuffs on, I asked
6 for medical to come straight in to give him medical aid.

7 Q. You said that there was a moment in this
8 encounter where you remember thinking that you were going
9 to use deadly force yourself?

10 A. Yes.

11 Q. You didn't, because you believed it would be
12 dangerous to do so because of other people in the area,
13 notably the person you believed to be the 911 caller. Why
14 did you believe that it would, otherwise, would have been,
15 in your view, necessary to use deadly force?

16 A. He was -- you know, the most immediate, like,
17 deadly threat to us, basically without -- I mean, in my
18 mind, he was trying to kill one or both of us.

19 MR. REES: Are there any questions from the
20 Grand Jury?

21 GRAND JUROR: Can you describe how the knife
22 appeared to you? Was there anything particularly
23 distinctive about it while he was using it?

24 THE WITNESS: I can tell you, like after, I
25 mean, I could recognize it was a knife immediately. It

1 was big enough that I noticed it. But then after the
2 incident, we had him in custody, and then I saw the
3 knife.

4 And it's a pretty different knife, and
5 pretty -- I mean, it had a distinct blade, a hooking
6 blade. And I believe maybe it had two blades on it. I
7 am not exactly sure, off the top of my head.

8 GRAND JUROR: When the man was coming at you
9 with the knife, how quickly was he approaching? Was he
10 walking or running?

11 THE WITNESS: As far as, I mean, it
12 wasn't -- I don't know if I would call it a sprint, but
13 it was very aggressive. I mean, I felt like I wasn't --
14 he was closing the distance as I am trying to back
15 pedal, and he was just right on top of us immediately.

16 MR. REES: Anything else?

17 GRAND JUROR: Was he saying anything? I
18 think you said he wasn't.

19 THE WITNESS: I didn't say he wasn't, I
20 can't recall what was said. I know it was aggression, I
21 could see that on his face. I mean, it was just
22 violence, but I can't recall the words.

23 MR. REES: All right. If there are no
24 further questions, we will excuse the witness.

25 Thank you, Officer.

1 (Brief recess taken from 10:21 a.m. to
2 11:06 a.m.)

3 MR. REES: Swear the witness.

4
5 JEAN-PAUL KODEGUI,
6 a witness called on behalf of the State, having been first
7 duly sworn, was examined and testified as follows:

8
9 EXAMINATION

10 BY MR. REES:

11 Q. Sir, please state your first and last name,
12 and spell them.

13 A. My first name Jean-Paul, J-E-A-N, hyphen,
14 P-A-U-L, and last name the initial K -- it's Kodegui, but
15 it's K. So last name is K-O-D-E-G-U-I.

16 Q. Sir, what is your current address?

17 A. It's 2305 Southeast 130th Avenue.

18 Q. All right. And in this photograph on the
19 large screen, can you see your residence?

20 A. Yeah.

21 Q. And can you step over to the screen and show
22 everyone where your residence is?

23 A. This is my apartment right here (indicating),
24 and this is my truck. And somebody live upstairs. I am
25 downstairs. This is the lady house.

1 Q. So you are indicating to the left, you said
2 the lady's house. Is that your neighbor Tera Harris?

3 A. Yes, Tera Harris house. It's the same house,
4 but his house right here -- and I live here (indicating).
5 So this door face to my door, from here to here.

6 Q. And does your residence and the residence of
7 Tera Harris share a common backyard area?

8 A. Yeah. She got the yard -- the front. The
9 landlord told her she doesn't have access at the back, so
10 she not supposed to come to my yard. But she, you know,
11 always try to make things happen so.

12 Q. Okay. Why don't you return to your seat,
13 please.

14 A. (Complies.)

15 Q. And by way of background, you told me that you
16 were born in Africa?

17 A. Yeah.

18 Q. In what country?

19 A. In Togo.

20 Q. In Togo. When did you come to the United
21 States?

22 A. June 6, 2002.

23 Q. And you speak both an African language and
24 French?

25 A. French and Mina.

1 Q. And English?

2 A. And English.

3 Q. Right. So today we have an interpreter
4 present, who speaks French. But you indicated to me you
5 feel comfortable proceeding in English with the possible
6 assistance of the French interpreter; is that correct?

7 A. Yeah.

8 Q. Okay. Well, if you have any difficulty
9 understanding me, or the Grand Jurors, please let us know
10 and we can certainly use the interpreter.

11 A. Okay.

12 Q. So before I ask you about the 911 call that
13 you made to the Portland Police, I think it's necessary to
14 have a little background information of what led up to the
15 call. And it appears that you have been involved in a
16 dispute with your neighbor, Tera Harris; is that correct?

17 A. Yeah.

18 Q. What is the nature of that dispute?

19 A. What happened between me and her?

20 Q. Yes.

21 A. All start from Saturday night, and the day
22 this happened was Sunday. Saturday night I was inside my
23 room, cooking, and I hear noise. It was a baby, kids
24 playground. It's really big, like this (indicating) in the
25 house. And I asked my landlord to take it, because I

1 helped them fix this house, and lived there for three
2 months before Tera come to the house.

3 And then they moved me to this side and rent
4 that to Tera. So the thing was there. It was -- whole
5 time, I don't have a place to put this. So it's in the
6 backyard, behind my apartment.

7 Q. This is a children's --

8 A. Playground.

9 Q. -- play structure?

10 A. Yeah. But it's really big.

11 Q. Like with a swing, or a slide?

12 A. Something, yeah, to climb on, and crawl
13 through. It's like a house or something like that.

14 Q. Okay.

15 A. But it's my stuff. So Tera asked me to take
16 it -- she asked me one day to take it, and I am like, no,
17 nobody can have access on that. So it's mine. It's not
18 really my yard, but I am going to have it, according to my
19 landlord.

20 That Saturday night I was inside cooking,
21 and I hear noise, you know, something is going on
22 outside. It was like 10:00, to 11:00 at night. And I
23 just -- you know, I don't want to go out at night. And
24 I hear Tera door, the back door close, boom.

25 And I opened my door, like, what she's doing

1 outside at my yard? When I opened the door, I didn't
2 see her, but I see the playground in front of my room,
3 and my door. And I asked myself, who brought this thing
4 here? And I took it back to the place where it was.

5 When I took the thing back, she opened the
6 door and said, that thing is so -- don't -- that
7 thing -- "don't touch it. It's not yours. It's not
8 yours, you don't have to touch it." She said, "No, this
9 thing, I am going to have it, and use it for my
10 grandchildren."

11 I was like, "What are you talking about?
12 It's not yours -- your things. First, you don't have
13 access at the backyard. They already told you that.
14 You don't need to come here. Stay on your front yard."

15 She say, "If you want to talk to me like
16 that, I will call my brother and come and beat you."

17 Q. This is what she said to you?

18 A. She said to me. And then she went back there,
19 and brought the thing back again. And I am like, "Tera,
20 you remember I called you police before. So this is going
21 to be the second time. You always provoke me in this
22 house, since you came here. So if you want to continue
23 this night, I will call the police."

24 "The landlord -- it's 10:00 to 11:00 now,
25 they asleep, otherwise I would call Karen for you right

1 now." She say, "Yeah, call Karen. Call Karen right
2 now. Call Karen right now."

3 And then she went to her room, and took a
4 cup, and get the water in the cup, and come throw water
5 on me. And I -- and then I was -- looked at her like
6 this (indicating). And I went to my room. I called
7 Karen and left message about what she did, what she does
8 to me that night.

9 After she threw the water on me, she said,
10 "You know what, I am going to catch you in this house.
11 You have to move out from this house. All your stuff,
12 you need to take care of," because I am doing business,
13 and it's important -- I brought things, computer, bag,
14 flat screen TV, and she paid to oversee.

15 So I got those things in my house, and she
16 bought a TV from me. She owed me \$100. See told me
17 she's not going give it to me.

18 Q. So you -- so these things happened Saturday
19 night, March 21st?

20 A. Yeah. Yeah.

21 Q. The night before you ended up calling 911?

22 A. Yeah. And Sunday, because there is the reason
23 why this happened Sunday, that's what I am coming to that.

24 So she -- after she threw the water on me,
25 she says she's going to call somebody to come and rob my

1 stuff. I am like, "Really? You are going to call
2 somebody to come and rob this stuff here?" She say,
3 "Yeah. You better move all your stuff inside your room,
4 or put in a storage somewhere. Otherwise, you go
5 somewhere, come back, you are not going for see anything
6 here."

7 I am like, "Okay, I will be ready to whoever
8 going to come and rob my stuff in the house."

9 Q. Did you take that comment seriously?

10 A. Yes. Because she can do it. And then
11 Sunday -- that Saturday night I didn't sleep. I was awake
12 until 6:00 in the morning.

13 Q. Why did you stay awake?

14 A. Because I am scared. I am worrying about
15 somebody going to come and rob my stuff at night, because
16 she said that. And I went to bed like 6:30, 7:00 in the
17 morning, and wake up at 10:00 in the morning, and then stay
18 inside. I usually stay in my room. I don't go out -- I
19 don't stay outside, because she always talk back to me. So
20 I always stay inside, because the landlord also told me
21 about that.

22 So when I was inside there's a lady always
23 come to her with a car. And then I saw the lady car
24 park the other side of the house where the guy was shot.
25 The lady park her car right there (indicating).

1 Q. And I am sorry. What lady?

2 A. Her friend.

3 Q. Oh, her friend. The friend of your neighbor,
4 Tera Harris?

5 A. Yeah. Yeah.

6 Q. Okay.

7 A. And when the lady came, when the lady walked
8 Tera from the door -- from the car -- that's the car right
9 there (indicating).

10 Q. This car here (indicating)?

11 A. Yeah. That's the lady. It sit there right
12 now. She parked the car right there now when I leave. So
13 when the lady came out from the car there was one guy
14 followed her with the black hoodie jacket. And they came
15 through the door.

16 When the lady was on the front of him, and
17 she come through the house, and went through Tera house.
18 She opened the door, and went through it.

19 Q. And was this the man that you later had the
20 confrontation with?

21 A. Yeah.

22 Q. Okay. So you saw him arrive?

23 A. Yeah, he arrive, and walked to my truck.

24 Q. And where was your truck parked?

25 A. It was the same place, right there.

1 Q. Right along the curb by the fence?

2 A. No. If you back up, you will see the truck.
3 That's my truck.

4 Q. That's the truck (indicating)?

5 A. That's the truck right there.

6 Q. Oh, I see, this white pickup truck?

7 A. Yeah. It still there since that happened, the
8 truck is still there.

9 So he went to the truck and was looking
10 inside like this (indicating), and come back. When she
11 come back, the lady left the door open for her -- or for
12 him, and then he came. And walked through the house and
13 closed the door, Tera door.

14 After that, like five -- five minutes he
15 came out, five to 15 minutes he came out, and sat down
16 at the door, and smoking cigarette with a cell phone in
17 his hand. And like five minutes later, he went to where
18 my stuff in the back of my apartment. And went there,
19 and he didn't take anything, didn't touch anything. He
20 come back, and sit down at Tera door and smoking.

21 So I was thinking, is this the guy who's
22 going to rob my stuff? That's what he's doing, or what,
23 I asked myself, because that -- I was, myself, inside,
24 nobody.

25 So I am thinking what to do. Do I have to

1 call my friend, or do I have to call the police? But he
2 didn't touch anything yet. So if the police came and
3 the police come, he say he didn't take anything, so I
4 don't know what to do. So I am just waiting, watching
5 him.

6 After he finished smoke the cigarette, he
7 went out to my truck again, the second time. There was
8 a door -- where the truck, there was a little door
9 behind the truck, or whatever. He walked through that,
10 and opened the man-door and came in through my
11 apartment. That's how the building -- it was dark
12 there, but you can't see it.

13 So he went there, and trying to open the
14 door. By the time he was opened the door, I opened the
15 inside door. So when he -- he's going to get through
16 the hallway, I am going to meet him inside the hallway.

17 When he hear me open the door, he put the
18 door back and walked across the street. And I opened
19 the door, and come back from there, and I call him and
20 say, "Hey, come here."

21 Q. What did you think he was doing?

22 A. Maybe he's going to -- he thinks -- maybe he
23 thinks nobody in the house, he's going to -- because Tera
24 told her you can walk through there. Tera know how the
25 door is over there, at the back. So you can walk through

1 that door, and get in through my apartment.

2 So when he crossed -- he walked across the
3 street from my truck, to this side, and I call him and
4 say, "Hey, man, come here. Why you open my door? Why
5 are you trying to open this door?"

6 He say, "No, I just bump it." "What do you
7 mean, you just bump it? Who told you to come open this
8 door?" He said, "No, I am sorry." "Sorry for what? Do
9 you know me?" He says, "No." "So why are you coming
10 through my door? I saw you walk-through my stuff at the
11 back when you were smoking the cigarette, right?" He
12 said, "No, I am sorry."

13 "You are sorry for what? Is that what she
14 told me last night, somebody going to come and steal my
15 stuff? Is that you? So she bring you here to come and
16 rob my stuff, or do whatever you want to do to me?"

17 He said, "No, I am sorry. I am just bumping
18 the door." "Why you bump my door? Do you know me?" He
19 said, "No." "So why are you coming through my door? I
20 am going to call the police." He saying, "No, I am
21 sorry." And he tried to run. I got the taser. I show
22 him the taser. I say, "If you run away, I am going to
23 taser you."

24 Q. You had a taser?

25 A. Taser, yeah.

1 Q. And is this the type like the police have that
2 shoots with wires, or the type you press --

3 A. No, it's electric. It's just little one like
4 this (indicating).

5 Q. And why do you have a taser?

6 A. Because I am not safe. The area I live, it's
7 not safe place. So everybody come to me and they say, no,
8 you have to not move out here. This area is not good.

9 Q. And you had the taser with you in your pocket?

10 A. Yeah. When the guy came, when I see the --
11 the time he was walking around my stuff, and then I wear my
12 steel-toed shoes, and wear my jacket because it was a
13 little bit cold outside. I wear my jacket, and take my
14 taser with my cell phone.

15 And then when I show him the taser, I call
16 the police. And the police asked me if he has a gun. I
17 am like, I don't know. And the police say, "How about a
18 knife?" I say, "I don't know, but he put his hands in
19 pocket, but I don't know if he has a knife or no, but
20 me, I got the taser."

21 And the lady asked me, "Did you tase him?"
22 I said, "No. I just tell him to not run away until the
23 police come and get him." And then me and him, we were
24 there, you know. He's trying to run away. I hold his
25 hoodie, and he took the hoodie -- he left the hoodie in

1 my hand and tried to run away. And then I got his pants
2 like this (indicating) until the police came.

3 Q. So you say he came out of his hoodie?

4 A. Yeah. When I hold the hoodie back like this,
5 he pull his head out of the hoodie and left the hoodie in
6 my hand.

7 Q. And did you have your hands on him?

8 A. No.

9 Q. No?

10 A. No. The only thing I did, I just hold his
11 pants like this (indicating).

12 Q. You are indicating that you reached inside of
13 his pants in the back, and held onto his pants?

14 A. Because he tried to run away from me.

15 Q. That's what I was trying to understand. If he
16 was standing with you, waiting for the police to arrive, or
17 if he was trying to get way from you.

18 A. He was trying to get away from me. He was
19 trying to run and, you know, to go.

20 Q. And did you move any distance in this area
21 that we see in the picture?

22 A. Yeah. Anytime he run away to here, I follow
23 him, and I say, "Stop." That time, me and police, we were
24 in the conversation, and he was screaming, "I am sorry. I
25 am sorry."

1 And the lady thought it was me. "No, it's
2 not me. The robber screaming, saying, 'I am sorry.'" I
3 say, "Why are you sorry?" He say, "I don't know." Like
4 two to five minutes the police show up.

5 Q. Could you hear the sirens of the police
6 coming?

7 A. No. They didn't siren. They just show up.

8 Q. Okay.

9 A. And when they show up, they pull out gun right
10 away. They told me to back up. The police told me, say,
11 "Hey, you, back up." And they hold the gun on him like
12 this, say, "Lay down." The police asked him to lay down.

13 Q. To lay down?

14 A. Yeah. The guy they are asking, but they told
15 me to back up. They asked me, "Are you Jean-Paul?"
16 "Yeah." "Okay, you back up." And then when the police
17 approached him --

18 Q. Why don't you go ahead and sit down.

19 And when the police said to him to lay down,
20 did he lay down?

21 A. No.

22 Q. Okay.

23 A. He tried to run away. And the police was
24 there, I was -- two police was there.

25 MR. REES: We have a question from the Grand

1 Juror.

2 GRAND JUROR: Where?

3 THE WITNESS: Oh, where the lady car at.

4 GRAND JUROR: Oh, you are out in the street?

5 THE WITNESS: It's on the street, but where
6 the car who brought him, this side.

7 BY MR. REES:

8 Q. Keep going.

9 A. No. It's where the police -- yeah. This
10 fence, see this fence between the trees and the fence right
11 there? You are going to see big sign on the fence. Right
12 there. Yeah, right there.

13 Q. This sign that says "No Parking"?

14 A. That's his hoodie right there. That's his
15 jacket.

16 Q. Is that where it came off when you were
17 struggling with him?

18 A. Yeah -- no. Oh, oh, he was standing -- he was
19 standing there, and then I stand this side when the
20 police -- both police came. So he trying to run way. You
21 see where the tree at, he want to go there, but the
22 police -- one police there, and one on my side. And when
23 the police, they both walk to him, he trying -- he punch at
24 the police. He punched the police right there.

25 Q. Are you saying he punched the police?

1 A. Yeah. I don't know if the police got the
2 punch, but he was like that (indicating).

3 Q. And could you see whether he had anything in
4 his hands?

5 A. That time I didn't see anything. But when he
6 punch the police, and the police push him first time, and
7 he got shot right away. And the police push him, and he
8 got the shot. That was the first time. When he got shot
9 and fall on the floor, he pull out knife. I saw knife. He
10 pulled -- put hands in the pocket, and pull out knife. And
11 the other police shot him with the electric gun, the yellow
12 one. That was the second shot.

13 And then they asked me to back up. And I
14 back up, and like five, six polices come -- came, and
15 then they call me, and asked me -- asking me about how
16 was the situation. And I was explaining to them, and
17 they took him to the ambulance.

18 So after that -- and the next day the news
19 people come to me, and tell me that he pass away. And I
20 wasn't feeling good.

21 GRAND JUROR: So you let go of him when you
22 saw the police come?

23 THE WITNESS: Yeah.

24 GRAND JUROR: And they told you to back
25 away?

1 THE WITNESS: Yeah.

2 GRAND JUROR: Then you saw him reaching
3 forward or punching --

4 THE WITNESS: He's not doing this
5 (indicating), like two times. It's like this one time,
6 when the police push him.

7 GRAND JUROR: They pushed him with their
8 hands?

9 THE WITNESS: Yeah. With their hand.

10 GRAND JUROR: Then the next thing that
11 happened was --

12 THE WITNESS: He got shot.

13 GRAND JUROR: Was you heard the shot go off?

14 THE WITNESS: The shot.

15 GRAND JUROR: And then he fell on the
16 ground --

17 THE WITNESS: Fell on the ground.

18 GRAND JUROR: And then you saw a knife --

19 THE WITNESS: -- and then I saw -- he pull
20 out knife.

21 GRAND JUROR: You saw him remove it from his
22 pocket after he had been shot?

23 THE WITNESS: Yeah. After he had been shot.
24 And he pull out a knife, and the other police was -- two
25 polices, and the one tall one, the tall one with the

1 yellow gun here, he shoot him with the electric gun.

2 GRAND JUROR: While he was holding the
3 knife?

4 THE WITNESS: At that time I think the knife
5 was -- fell on the floor.

6 GRAND JUROR: So he pulled it out of his
7 pocket and then --

8 THE WITNESS: They didn't give him chance --
9 when he pull out the knife, he also trying to -- he walk
10 to the police. He trying to walk close to the police.

11 GRAND JUROR: So he got up again, and moved
12 to the police again?

13 THE WITNESS: Yeah. And then when he got
14 the electric gunshot, then he fall down, and the knife
15 also fall down.

16 GRAND JUROR: I see. Okay. Thank you.

17 THE WITNESS: So that's what happened.

18 BY MR. REES:

19 Q. How close, if you remember, how close was this
20 man to the police officer when you saw him making the
21 action that you are showing? You showed him swinging his
22 arm.

23 A. We all like this. We are, like, four people,
24 like between you and me, and other police right there. I
25 am here (indicating). The two polices are on my right

1 side, and the guy was in front of me.

2 Q. So again, the question is how far was this man
3 from the police officer when you saw him making the
4 punching or swinging action?

5 A. Very close.

6 GRAND JUROR: (Inaudible.)

7 COURT REPORTER: I'm sorry, I didn't hear
8 the question.

9 MR. REES: He's asking the distance in
10 meters, but we can do feet.

11 THE WITNESS: Meter would be better. I
12 understand meter. Like not two meter, that's too long.

13 GRAND JUROR: Just one and a half?

14 THE WITNESS: Like one meter. Because the
15 police trying to catch him with their hand, and put
16 handcuffs on hands. That's why he punched them. And
17 the police push him and back up. When they push up,
18 they both back up, and he got shot.

19 BY MR. REES:

20 Q. So a meter is about three feet, or about an
21 arm's distance?

22 A. Yeah, something like that.

23 Q. Is that right?

24 A. Yeah.

25 MR. REES: Are there any other questions

1 from the Grand Jury?

2 GRAND JUROR: Yeah. I have one.

3 When did you come from the house? I don't
4 understand how you got to that fence. That's clear
5 across the street, isn't it?

6 THE WITNESS: Yeah.

7 GRAND JUROR: You did that after he messed
8 with your truck?

9 THE WITNESS: Yeah. When he was opening the
10 door, when he was opening the door back to my -- the
11 outside door. Because when you get through -- when you
12 open the door here, you have to walk the little hallway
13 to this door right here. And then open and go through
14 my apartment.

15 So when he was open the door, I opened this
16 one, because I step on my bed and watching him from my
17 window. So when I seen him opening the door, I came
18 here, and I opened mine, just leave it like that.

19 So I am waiting. If he walked through the
20 hallway, so I am going to meet him here and catch him.
21 Then I am going to call the police. That was my plan.
22 But I don't know what I did. He heard noise when I
23 opened my door, and he pulled the door back and walked
24 across the street.

25 GRAND JUROR: Oh, okay. I see.

1 GRAND JUROR: Is there anywhere else that
2 you can get to from that outside door, or is it just a
3 hallway to your inside door and nothing else?

4 THE WITNESS: Yeah. If you showed the
5 apartment, I can show exactly. See my truck, you see
6 the window face to the truck. That's where my bed at.
7 So he walked between my truck and the building, that
8 apartment building, between the truck and apartment
9 building. And there's a little door there.

10 You can't see it, because the truck blocking
11 the door. You can't see it. The other big one you see
12 at the top, that's a storage -- that's a storage door
13 for somebody. So between that window and my truck,
14 there's a little door there.

15 So that door, he opening that door. So I
16 opened my inside door, get ready if he get through the
17 hallway. Then I will meet him in the middle, so I call
18 the police so that I have proof.

19 GRAND JUROR: And those are the only two
20 doors in the hallway?

21 THE WITNESS: Yeah. So when I was open this
22 door, he hear my noise, because my key was wiggling.
23 And he pulled the door back, and walked across the
24 street to where the police car is. Then I come back,
25 like, say, "Hey, come back here. Why you opening my

1 door?" So that was the action.

2 MR. REES: Question right here.

3 GRAND JUROR: I have a few questions about
4 after the police showed up. You said once they showed
5 up and got out of their cars, they pulled out their
6 guns; is that correct?

7 THE WITNESS: Yeah, they pull out the gun
8 and say, lay down. He was screaming, say, "Lay down."
9 "Are you Jean-Paul?" I say, "Yes." They say, "Back
10 up."

11 GRAND JUROR: And then you said they tried
12 to handcuff him?

13 THE WITNESS: The way they approached him,
14 if they catch him, they are not going to shoot him at
15 that time. If he lay down, they are not going to shoot
16 him. That's what I know. So when they approached him,
17 trying to, like, fight with the police, that's why he
18 got shot.

19 GRAND JUROR: So when the officer pushed
20 him, did he push him with one hand, or was he still
21 holding his gun? How did that happen?

22 THE WITNESS: That's -- I don't know. But I
23 know the officer pushed him, and he's like this
24 (indicating), back up. And then he got the shot right
25 away, but I didn't -- still asking me to back up. And

1 when the other polices and car come from this side and
2 this side.

3 So the other police also come to me and say,
4 "Who are you?" I say, "I am Jean-Paul. I'm the
5 victim." So okay, "Come over here. I want to ask you
6 some questions." So I was talking to all the polices.

7 GRAND JUROR: You said you saw the man swing
8 once, just once?

9 THE WITNESS: Once. Yeah, I saw that. I
10 saw the action when the police came, say, "Lay down."
11 And they -- you know, the time they say, "Lay down,"
12 they want to get close to me and him. So when they get
13 close to us, he asked me, "Are you Jean-Paul?" And I
14 say, "Yes." "Back up."

15 When he's saying "back up," the guy got
16 close to him and trying to punch him, and he pushed him
17 like this, and he got shot right away.

18 GRAND JUROR: I have a question. The knife,
19 did you see the knife before the police officer pushed
20 the suspect?

21 THE WITNESS: No.

22 GRAND JUROR: The knife didn't come until
23 after?

24 THE WITNESS: After he got the shot.

25 GRAND JUROR: After he was shot?

1 THE WITNESS: And then he pulled the knife,
2 and trying to walk back to the police again. And that's
3 why he got the --

4 GRAND JUROR: Got the second shot?

5 THE WITNESS: -- the second shot.

6 BY MR. REES:

7 Q. In the call that you made to 911, you were
8 yelling and screaming. Do you remember that?

9 A. He is. He was saying, "I am sorry. I just
10 bump it."

11 Q. But do you remember that you were yelling and
12 screaming?

13 A. Me?

14 Q. Yes.

15 A. No, not me.

16 Q. You don't remember that? Did you remember the
17 911 operator telling you to stop yelling so she could --

18 A. I told him, not me. The guy who want to rob
19 me, he's the one who is screaming. I told her like that,
20 when the lady telling me don't -- "Why are you screaming?"
21 I said, "Not me."

22 Q. So you didn't understand that she was telling
23 you to stop screaming?

24 A. I understand that she asking me to stop
25 screaming, and then I answer to her on the phone, the

1 police dispatch, say, "It's not me screaming." The guy was
2 saying, "I am sorry. I am sorry. I just bump it." And
3 then I asking him, "Why you bump it? Do you know me?"

4 Q. Would you say that you were emotional or upset
5 when you called 911?

6 A. No, I just wanted -- the reason why I called
7 911 when I catch the guy, I going to tell the police who
8 send him to the house. He doesn't live there. He doesn't
9 know me. I don't know him. So why you come to open my
10 door? That's what I want the police to find out.

11 Q. I understand. But my question to you is
12 whether you felt like you were upset or angry or emotional
13 when you called 911?

14 A. Yeah. I am upset, because -- he want to rob
15 my stuff, trying to broke my door. Because she already
16 told me that that is going to happen, so I have to call the
17 police.

18 MR. REES: Any other questions from the
19 Grand Jury?

20 GRAND JUROR: I have one. Can you give us
21 the name and the position of these women? There was a
22 landlord, there was a neighbor, there was another woman
23 who came in the car; is that right?

24 THE WITNESS: Yes. The lady who came -- who
25 drove the guy to the house was Tera friend.

1 GRAND JUROR: Where was she while this was
2 happening?

3 THE WITNESS: What she was doing -- she was
4 inside with the Tera in her house, both.

5 GRAND JUROR: Nobody else was outside?

6 THE WITNESS: No, just me and the guy.

7 MR. REES: Any other questions?

8 (No response.)

9 MR. REES: Thank you for coming up.

10 THE WITNESS: Thank you, everybody.

11 (Lunch recess taken from 11:44 a.m. to
12 1:02 p.m.)

13

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

17

18 EXAMINATION

19 BY MR. REES:

20 Q. And if you would, for the record, state your
21 first and last name, and spell the names.

22 A. Alexis Barrera. A-L-E-X-I-S, last name
23 B-A-R-R-E-R-A.

24 Q. Alexis, how old are you?

25 A. 16.

1 Q. And where do you go to school?

2 A. David Douglas High School.

3 Q. And I understand that you and a group of
4 friends were heading to a soccer game on the Sunday
5 afternoon when this incident happened with the police in
6 Southeast Portland; is that correct?

7 A. It wasn't a game. We just were going to go
8 kick the ball around. We were going to go kick the ball
9 around, and that's when the incident happened between the
10 police officer and the man.

11 Q. And what did you first notice happening out on
12 the street that afternoon?

13 A. There was a black male arguing with a white
14 male, arguing back and forth about he was trying to rob
15 him. And so the black male told him he was going to call
16 the cops, and the white male kept on saying, "I am sorry,
17 sir. I am sorry."

18 Q. And you could hear this?

19 A. Yeah.

20 Q. Does this scene look familiar to you on the
21 screen in this area?

22 A. Yeah.

23 Q. And as the view circles around to this, are
24 you kind of familiar with this street?

25 A. Yeah.

1 Q. And do you see the area on here where you saw
2 these two men?

3 A. Yeah. It was behind that truck where they
4 first started arguing.

5 Q. Which truck?

6 A. Over here (indicating). The very first truck
7 on the right side, right there.

8 Q. Down here?

9 A. Yeah. There's a house on that side of the
10 truck that goes in, and they were arguing right by their
11 garage. And they came out to the other side of the street,
12 so if you go left, on that side of the truck, on that
13 truck.

14 Q. This white pickup truck here?

15 A. Yeah. They ended up there.

16 Q. And where were you and your buddies when you
17 first saw this?

18 A. By the stop sign.

19 Q. So would that be down --

20 A. No.

21 Q. -- this direction towards 130th?

22 A. Yeah.

23 Q. Were you -- were you walking towards 130th, or
24 were you walking this direction, like the cursor is, moving
25 away from 130th?

1 A. Toward 130th.

2 Q. So where were you -- just trying to see where
3 you were standing when you heard these men.

4 A. When we first --

5 Q. Yeah.

6 A. I will say we were walking --

7 Q. So there's the stop sign at 130th, right?

8 A. We were at the stop sign when we saw the
9 shooting, but when they started arguing, we were a bit
10 behind the house. So where that truck is, about ten feet
11 away from there.

12 Q. So down where the cursor is?

13 A. Yeah. Yeah.

14 Q. So when you heard the statements, were the two
15 men just standing and talking, or were they involved in
16 some kind of physical confrontation?

17 A. The white male was trying to get away, so the
18 black male put his hands up and just tried to shield him to
19 stay in the same place that he was at.

20 Q. And what happened?

21 A. Boy, like I said, they went across the street,
22 because he got away, the white male got away. So the black
23 male grabbed him, and told him not to move because he had a
24 taser. And few moments later the police showed up.

25 Q. And you said you could see that the black male

1 had a taser. Could you see whether he ever seemed to use
2 the taser against the white guy?

3 A. He said he had a taser. I never saw it,
4 personally. He said he had -- he had an object in his
5 hand, but I am not familiar what a taser looks like.

6 Q. Okay. And then sounds like the police arrived
7 fairly quickly after you saw that; is that right, or not?

8 A. I can't recall.

9 Q. Well, were you standing there waiting to see
10 what was going to happen, or do you continue to walk down
11 the street?

12 A. We continue walking down the street, and we
13 stopped at the stop sign.

14 Q. Why did you stop at the stop sign?

15 A. Because we heard the cops coming after a few
16 moments -- I think, it was a few moments. Like I said, I
17 don't recall. But we waited to see what would happen.

18 Q. You said you heard the police arriving. Did
19 you hear sirens, or just see the police cars, or do you
20 remember?

21 A. I don't recall.

22 Q. Okay. And then, if you would, describe for
23 the Grand Jury what you recall seeing when the police
24 arrived.

25 A. He showed up, opened his car. The black male

1 stepped back, the white male was by the fence where it
2 happened. And he told him to put his hands behind his
3 back, or get on the ground -- yeah. He said, "Get on the
4 ground."

5 And the white male said, "I didn't do
6 anything. I didn't do anything." And the police
7 officer told him to get on the ground again. The white
8 male refused. He reached in his back pocket, pulled out
9 a knife, and the officer told him to put it down, which
10 at the same time another officer came. They were both
11 yelling at him to put it on the ground until the white
12 male charged at them with the knife, and shots were
13 fired.

14 Q. Could you see if there was any reaction on the
15 part of the white male after the shots were fired?

16 A. He went down immediately, and I looked away as
17 soon as I heard the gunshots, so I can't tell you I saw
18 him.

19 Q. What did you think when you saw this person
20 pull out the knife during this confrontation with the
21 police?

22 A. Didn't really feel anything.

23 Q. Could you tell how close the person with the
24 knife was from the police officer?

25 A. It was a close distance, so I will say about

1 five feet, seven feet.

2 Q. Was that as close as he ever got, or was that
3 how far he was when he lunged at the police officer?

4 A. When he lunged at the police officer, I will
5 say about four feet.

6 Q. Do you remember how many times the police
7 officer told this person to lay down?

8 A. I can't recall.

9 Q. Okay. Was it more than once?

10 A. Yeah.

11 Q. And maybe you said, but did the police officer
12 ever tell this person to put the knife down?

13 A. Yeah.

14 Q. And do you remember how many times they said
15 that?

16 A. About three to four times.

17 Q. And do you remember, were they yelling in a
18 loud voice, or saying it in a quiet voice?

19 A. In a loud voice.

20 Q. Could you hear clearly from where you were
21 standing?

22 A. Yes.

23 Q. And then you stayed at the scene and you were
24 interviewed that evening by detectives, correct?

25 A. Yes.

1 MR. REES: I don't have any other questions.
2 Any questions from the Grand Jury?

3 GRAND JUROR: I have a question. The knife,
4 you said he pulled it from his back pocket; is that
5 right?

6 THE WITNESS: Yes. Yes.

7 GRAND JUROR: Could you see anything
8 distinctive about the knife?

9 THE WITNESS: I want to say it was -- I
10 wouldn't say it was a very large knife. It was a pocket
11 knife, small.

12 GRAND JUROR: And you say you saw him fall
13 down immediately after being -- after hearing the
14 gunshots. Did you see him get up again, or like any
15 other movements? You said you looked away right after
16 that, but I am assuming you looked back.

17 THE WITNESS: I said I looked away as soon
18 as he got shot, when I heard the gunshots. And when I
19 looked back, I saw him on the floor.

20 GRAND JUROR: He did not make any movement
21 after that?

22 THE WITNESS: I don't recall.

23 (No response.)

24 MR. REES: All right. If there's no other
25 questions, we will excuse this witness. Thank you?

1 //

2 //

3 //

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

7

8 EXAMINATION

9 BY MR. REES:

10 Q. Be seated, and when you are ready, state and
11 spell your first and last name.

12 A. Joel Elena, J-O-E-L, E-L-E-N-A.

13 Q. Joel, how old are you?

14 A. 15.

15 Q. And where do you go to school?

16 A. David Douglas High School.

17 Q. And were you with a group of other teenagers
18 on the Sunday afternoon or evening that this happened,
19 preparing to go kick around a soccer ball?

20 A. Yeah.

21 Q. And does this area look familiar to you,
22 that's looking towards the stop sign at Southeast 130th,
23 north of Division, and this straight -- are you familiar
24 with that area?

25 A. Yeah.

1 Q. What was the first thing that you saw that was
2 unusual, that caught your attention when you were out on
3 the street that afternoon?

4 A. There's just like this group of little kids.
5 They were down there, like, looking at something. And then
6 my friend went, and we started looking, too, and we saw
7 these two guys were arguing in the driveway. And --

8 Q. And was that where this white pickup truck is
9 parked at the house? Is that the area where you saw those
10 two men?

11 A. The first, no -- they got there, but not --

12 Q. Where did you first see them?

13 A. They were like across the street, in another
14 driveway.

15 Q. So on this side of the street?

16 A. Yeah.

17 Q. So you saw them over there, and then they
18 moved over here; is that right?

19 A. Yeah.

20 Q. Could you hear what they were saying?

21 A. Not really, no.

22 Q. Could you see what they were doing physically?
23 Were they giving any kind of physical contact with each
24 other, or what was happening?

25 A. They were like grabbing each other, and one of

1 the guys was making sure the other guy didn't go until the
2 cops got there. Was grabbing him and holding him against
3 that truck. And that guy had a taser.

4 Q. How did you know that?

5 A. Because -- he didn't use it on him, but he
6 like used it -- he like turned it on, or whatever.

7 Q. So could you hear it making like a buzzing
8 sound?

9 A. Yeah.

10 Q. Did you ever see him actually press it?

11 A. No, he didn't use it on the guy.

12 Q. And do you remember the races of the two men
13 you were talking about?

14 A. Yeah. One was African American, and the other
15 one was white.

16 Q. And did the African American man have the
17 taser, or did the white guy have the taser?

18 A. The African American had the taser.

19 Q. Could you tell who was holding on to whom?

20 A. The African American was holding onto the
21 white guy.

22 Q. And I think you said you had the impression he
23 was trying to hold onto him until the police arrived?

24 A. Because when the police got there, he let go
25 of him and let the police handle it.

1 Q. Do you remember where you were standing when
2 the police arrived?

3 A. Yeah. I was standing over there by the stop
4 sign.

5 Q. So this area right here, looks like in the
6 picture there's a person standing right there by the stop
7 sign. So that's the area you were standing at?

8 A. Yeah. Yeah.

9 Q. And, whoops, sorry.
10 So you said that the African American man
11 stepped back when the police arrived?

12 A. Yeah.

13 Q. Do you remember how many police officers you
14 saw?

15 A. In the beginning there was just two.

16 Q. Two?

17 A. Yeah.

18 Q. And go ahead and tell the Grand Jury what you
19 saw happen.

20 A. They just got out of the car, and they told
21 him to -- told him to -- I think because he had something
22 over his hand, like a sweater thing, they told him to like
23 move it. And he got out of it, and he wasn't listening.
24 And one of the cops like pulled it out, the sweater, and he
25 had a knife.

1 And they told him to drop the knife. They
2 told him like four or five times, and he didn't drop it,
3 and he started running at one of the cops, and they shot
4 him, like, twice, I think.

5 Q. Could you see the knife clearly?

6 A. Yeah.

7 Q. And when you saw that, what did you think was
8 happening?

9 A. I don't know. I just thought that -- I don't
10 know. I thought he was going to go, like, try to stab the
11 officer.

12 Q. Did the person with the knife -- this is the
13 white guy, right?

14 A. Yeah.

15 Q. Did he seem to listen or respond to the
16 officers when they were saying to drop the knife?

17 A. No. No.

18 Q. And do you recall how close he got to the
19 police officer?

20 A. He was like five feet away.

21 Q. Like five feet away?

22 A. Yeah.

23 Q. When you heard the gun fire?

24 A. Yeah.

25 Q. And then did you say how many shots you think

1 you heard?

2 A. I thought I heard two.

3 Q. And did you see what happened after that?

4 A. He just fell on the ground.

5 Q. Did you see anything else after that?

6 A. Not really. They just like handcuffed him,
7 and that was it.

8 Q. Did you see the other officer use the taser?

9 A. Yeah. I thought he used a taser. Like after
10 he got shot twice, I think he used it.

11 Q. So did you see that, or you are not sure you
12 saw it, or --

13 A. I saw him use it, but I don't know if he got
14 him with it or not.

15 Q. You saw him use it, but you are not sure if he
16 actually hit him with the taser?

17 A. Yeah.

18 Q. And then you stayed at the scene and were
19 interviewed by detectives that evening, correct?

20 A. Yeah.

21 MR. REES: Any questions from the Grand
22 Jury?

23 GRAND JUROR: Can you put the picture of the
24 big driveway with the pickup truck and so on up there?

25 MR. REES: (Complies.)

1 GRAND JUROR: And a little farther.

2 So you are saying when you first saw them,
3 they were on the right side of the road?

4 THE WITNESS: What?

5 GRAND JUROR: When you first saw them, they
6 were on the right side of the road?

7 THE WITNESS: Yeah.

8 GRAND JUROR: Then they went over by the
9 pickup, and then they came back over here for the police
10 action?

11 THE WITNESS: Uh-huh.

12 BY MR. REES:

13 Q. Just so we're all clear, you can show us the
14 route, as you recall it.

15 A. There's like a driveway in front of that
16 truck, like a little bit more. They were, like, in there
17 in the beginning, and the white guy started to run. He
18 tried running over there (indicating).

19 And the African American caught him, and
20 started holding him against the truck. And he kept
21 trying to run. He ran like this side, and the African
22 American chased him again. And that's when the police
23 showed up.

24 Q. So where did those two men end up when the
25 police arrived?

1 A. They were like around here, like by this
2 fence.

3 MR. REES: Sir, does that answer your
4 question?

5 GRAND JUROR: Yeah.

6 MR. REES: Any other questions for this
7 witness?

8 GRAND JUROR: I have a question. Did you
9 hear any sirens coming, the cops coming, or did they
10 show up silently?

11 THE WITNESS: I think they showed up
12 silently. I can't really remember.

13 GRAND JUROR: You said that the guy had
14 something wrapped around his hand, and you said one of
15 the policemen pulled it off?

16 THE WITNESS: Yeah. It was like a sweater
17 on his hands, like covering his hands. And one of the
18 police officers pulled it away.

19 GRAND JUROR: So he was right up to the guy,
20 and pulled it off?

21 THE WITNESS: Yeah. Yeah.

22 GRAND JUROR: And then how did that
23 five-foot gap --

24 THE WITNESS: He just backed up. Like,
25 after they went there to pull it off, and he backed up,

1 and he told him to drop the knife, but --

2 GRAND JUROR: What was the guy doing in that
3 interval? Was he just standing there with the knife?
4 Was he doing anything?

5 THE WITNESS: He was standing -- at the
6 beginning, and then after a couple of times, like
7 seconds, he just started running at the officer.

8 MR. REES: Anything else?

9 (No response.)

10 MR. REES: Thank you.

11

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

15

16 EXAMINATION

17 BY MR. REES:

18 Q. And if you would, for the record, please state
19 your first and last name, and spell them.

20 A. Raul, R-A-U-L. And my last name, M-E-R-A-Z.

21 Q. And I am going to -- and how old are you?

22 A. 17.

23 Q. Where do you go to school?

24 A. David Douglas.

25 Q. And were you part of this group of four

1 teenage boys who were going to kick a soccer ball around
2 that afternoon that this happened?

3 A. Yeah.

4 Q. And what do you recall first seeing that was
5 unusual out on the street where this happened?

6 A. I just saw these guys like -- this guy was
7 holding another guy back from leaving.

8 Q. And do you remember the races of these two
9 guys?

10 A. African American was holding the white guy.

11 Q. Could you hear anything that was being said
12 between those two men?

13 A. African American guy was saying, "Did you rob
14 me," or something like that.

15 Q. And did you hear the white guy say anything?

16 A. He just said, "I bumped it." I don't know
17 what he was trying to say.

18 Q. "I bumped it"?

19 A. Yeah.

20 Q. Do you know what that means?

21 A. No.

22 Q. And did you hear the African American man say
23 that he was calling the police, or that the white guy
24 should wait for the cops to arrive?

25 A. Yeah.

1 Q. What did he say?

2 A. He said, "Wait here. I called the cops."

3 Q. Did you see the police arrive?

4 A. Yeah.

5 Q. How quickly did that all happen, do you think?

6 A. I am not sure.

7 Q. Hard to estimate the time?

8 A. Yeah. Because I wasn't there the whole time
9 that -- since it started. I don't know how long they were
10 outside.

11 Q. Well, I just mean, of course, just the time
12 that you first saw these two men to the time when you saw
13 the police officer arrive?

14 A. About two minutes.

15 Q. Thanks. And you were just saying the
16 interaction between the two men had already been going on
17 when you first saw them?

18 A. Right.

19 Q. Because you had been in a house up that
20 street?

21 A. Yeah.

22 Q. But you think from the time you first saw them
23 until the time the police arrived, you think is about two
24 minutes?

25 A. Yeah.

1 Q. Do you recognize the street in this picture?

2 A. Yeah.

3 Q. And let me swing around to look in the other
4 direction.

5 Do you see the area where the two men were
6 when the police arrived?

7 A. Yeah.

8 Q. Which would be where?

9 A. It would be to the left. They were wrestling
10 down the street a little bit.

11 Q. Down the street?

12 A. And then the guy ran across the street, and
13 then they were wrestling. And the cops came, and he, like,
14 ran, like, over there.

15 Q. Along the fence?

16 A. Yeah.

17 Q. And where were you when the police arrived?

18 A. On that corner over there, right on the left
19 side.

20 Q. Now, there's -- so down at the intersection
21 here?

22 A. Yeah, the closer one.

23 Q. The closer one, you mean here?

24 A. Yeah. At the stop.

25 Q. At the stop sign?

1 A. On the other side of the street.

2 Q. Other side of the street?

3 A. Yeah, right there.

4 Q. If you could, describe what happened when the
5 police arrived.

6 A. They told him to sit down, and he didn't sit
7 down. And he had his hands in his sweater, and he pulled
8 out a knife. And they told him that, like, get rid of it.
9 And he started, like, going at the cops, and the cops shot
10 him.

11 Q. Could you hear the police officer's voices
12 clearly and loudly, or was it soft?

13 A. It was loud.

14 Q. Do you know how many times they told him to, I
15 think you said, sit down, but is that what you think they
16 said?

17 A. Yeah. They first told him to sit down, and
18 then he didn't sit down. And they told him after he pulled
19 out the knife, they told him to put it down.

20 Q. And do you remember how many times you heard
21 them say that?

22 A. No.

23 Q. Was it more than once?

24 A. Yeah.

25 Q. Do you remember how close this man was to the

1 police officer? Like as far as we are, do you think?

2 A. No. Farther.

3 Q. Farther?

4 A. Yeah.

5 Q. All the way --

6 A. Little bit farther than that.

7 Q. So all the way back to the wall?

8 A. Little bit farther than this.

9 Q. Little bit farther than that?

10 A. Yes.

11 Q. So, maybe, ten feet or something?

12 A. Eight feet, probably.

13 Q. About eight feet. Is that as close as you
14 ever saw him to the police, or did he get closer?

15 A. He tried to get closer, but he shot him.

16 Q. How did he try to get closer?

17 A. He ran at the cop.

18 Q. And could you see the knife at that time?

19 A. I saw it in his hand.

20 Q. Did you see whether the man had any reaction
21 after the shooting?

22 A. He just was, like, standing, and then they
23 tased him after that, and then he went to the ground.

24 Q. And you stayed at the scene and were
25 questioned by detectives that evening, correct?

1 A. Yeah.

2 MR. REES: Any questions from the Grand
3 Jury?

4 GRAND JUROR: I guess, can you point out for
5 us where the black male was after the guy took his knife
6 out?

7 MR. REES: I can move this, too, if you need
8 me to. In fact, why don't you go up to the screen.

9 GRAND JUROR: And maybe the direction of the
10 police officer.

11 THE WITNESS: He was across the street.

12 MR. REES: So let me move this, and stop me
13 when we get to the point.

14 And your question is, where was the black
15 man standing after the police arrived?

16 GRAND JUROR: Yes.

17 BY MR. REES:

18 Q. Do you understand the question?

19 A. Yeah. He was right by the truck.

20 Q. By the pickup truck?

21 A. Yeah.

22 GRAND JUROR: What was the orientation of
23 the -- can you point out to us the two officers and the
24 white man?

25 THE WITNESS: Where they were standing?

1 GRAND JUROR: Where were they facing.

2 THE WITNESS: I don't get the question.

3 GRAND JUROR: Where they were on the street,
4 and if they were facing towards 130th, or facing the
5 other direction.

6 THE WITNESS: When they shot him?

7 GRAND JUROR: Yeah.

8 THE WITNESS: They were facing at -- down
9 north.

10 GRAND JUROR: So the fence?

11 THE WITNESS: So they were facing the fence.

12 GRAND JUROR: So the cops were facing the
13 fence, and the white guy was facing away into the
14 street?

15 THE WITNESS: Yeah.

16 GRAND JUROR: And the black African American
17 man had crossed the street. He had gotten all the way
18 back over to the white truck?

19 THE WITNESS: Yeah.

20 GRAND JUROR: Thank you.

21 MR. REES: Does that answer your question?

22 GRAND JUROR: Yeah.

23 GRAND JUROR: After the guy pulled out the
24 knife, did he do anything with it? Did he stand still?
25 Did he wave it around?

1 THE WITNESS: He just had it in his hand
2 like that. I don't know.

3 BY MR. REES:

4 Q. Just for the record, you were gesturing with
5 your arm straight out?

6 A. Yeah.

7 MR. REES: Anything else?

8 GRAND JUROR: One more. You said he tried
9 to get closer?

10 THE WITNESS: Yeah. He, like, charged --

11 MR. REES: Go ahead and sit down. He'll ask
12 the question again, and you speak up.

13 GRAND JUROR: When he approached the police,
14 what did he do?

15 THE WITNESS: He tried to charge at the cop
16 and the cop shot him.

17 GRAND JUROR: Was he just holding his arm
18 out still, like before?

19 THE WITNESS: He was, like, charging at them
20 with the knife.

21 GRAND JUROR: He wasn't waving it around?

22 THE WITNESS: No.

23 GRAND JUROR: So when you say charging, did
24 he go running at the officers quickly with it, charging?

25 THE WITNESS: Yeah.

1 MR. REES: Anything else?

2 (No response.)

3 MR. REES: Thank you very much.

4

5 CHRISTIAN O'BRIEN,
6 a witness called on behalf of the State, having been first
7 duly sworn, was examined and testified as follows:

8 EXAMINATION

9 BY MR. REES:

10 Q. Go ahead and have a seat, and then --

11 A. Thank you.

12 Q. -- tell us your first and last name, please,
13 and spell it.

14 A. Christian O'Brien, O-B-R-I-E-N.

15 Q. Christian, I am going to ask you to speak up
16 so everybody can hear everybody, especially the lady in the
17 corner who is trying to record this.

18 A. Sorry. It's my allergies.

19 Q. That's okay. We're at the height of allergy
20 season. Would you like some water?

21 A. Yes, please.

22 Q. All right, Christian, how old are you?

23 A. I am 16.

24 Q. And where do you attend school?

25 A. David Douglas.

1 Q. All right. And so you were with the three
2 other teenagers who were here today to testify on the
3 afternoon of this police shooting, right?

4 A. Yes.

5 Q. And first, if you could tell the Grand Jury
6 what you noticed out on the street that afternoon, first,
7 that was happening out of the ordinary.

8 A. Well, we were just walking, and we can hear
9 screaming, yelling, like two males arguing. And as we look
10 ahead down the street, there was two males arguing, and
11 they were standing in front of each other. And they were
12 just raising their voices at each other.

13 Q. Could you hear what they were saying or just
14 the fact that they had raised voices?

15 A. One guy was saying, "I am sorry," and I really
16 couldn't understand what the other guy was saying.

17 Q. And did you notice the races of the two men?

18 A. Yeah. One was white, the other one was
19 African American.

20 Q. Do you recognize the street in the picture
21 over here?

22 A. Yeah.

23 Q. Does this show the area that you were at when
24 you first noticed the two men?

25 A. No. It was a little farther down.

1 Q. Farther down the street in the direction of
2 the cursor, like this?

3 A. Yeah. Yeah.

4 Q. When you first saw the two men, were they on
5 this side of the street or this side of the street?

6 A. The right side.

7 Q. Over here (indicating)?

8 A. Yeah.

9 Q. Do you remember about where they were
10 standing? Use that vehicle as a point of reference, if you
11 want.

12 A. They were like past that vehicle in the
13 driveway.

14 Q. So on the other side, is that what you mean?

15 A. Yeah, on the other side of the vehicle.

16 Q. Away from us?

17 A. Yeah.

18 Q. And then what happened after you first noticed
19 these two guys, then, down there?

20 A. The white male was just trying to run away,
21 and the African American was holding him until -- he wasn't
22 physically touching him, but he was telling him to wait for
23 the police to come.

24 Q. And were you just standing still on the street
25 as you are seeing this, or are you walking down the street?

1 A. We were walking down.

2 Q. So at some point, did you pass these two guys?

3 A. Yeah.

4 Q. And did they stay in that position, or did
5 they move?

6 A. They started moving.

7 Q. I am going to ask you, if you would, just walk
8 up to the screen, and why don't you point out to us where
9 you were, and where the two men were.

10 A. We stayed on this side of the street the whole
11 time. We were walking down this way, because my friend was
12 over there. So we were walking down, and right about here
13 he stopped because we saw the white male. He ran across
14 the street, tried to get away. And he ended up right about
15 behind this truck. And then the white male ran again, and
16 they ended up right here where this fence was. And then
17 the police came. And then -- yeah.

18 Q. When the police arrived in their patrol cars,
19 were you still standing in this area that we're looking at,
20 or were you standing on the other side of the street?

21 A. I was standing by the stop sign on the other
22 side.

23 Q. Can you point out on the screen where you were
24 standing?

25 A. I was standing behind that police car. My

1 friends were standing right there where that stop sign was,
2 and I was behind that police car.

3 Q. You are pointing to the police car in the
4 picture. Was there a police car there at the time?

5 A. Yeah.

6 Q. And you can go ahead and sit back down.

7 Given that you were behind that police
8 car -- that was one of the police cars that arrived at
9 the scene?

10 A. Yeah.

11 Q. Were you able to have a clear view, or were
12 you partly blocked by the police car?

13 A. I had a view for a little bit, but when the
14 police arrived, I started to walk down the street. So I
15 was behind the car, so I didn't really see some stuff.

16 Q. Okay. Tell us what you saw after the police
17 arrived.

18 A. He went to the white male, he told him --

19 Q. When you say, "he," do you mean the police
20 officer?

21 A. Yeah. Sorry. The police officer told the
22 white male to take his hands out of his pockets, and the
23 white male wouldn't. And when he did, he took out a knife,
24 and the police officer said, "Put it down. Put it down,"
25 or -- no. He said, "Drop the weapon, sir." He said it

1 about three times, and the white male charged at the police
2 officer.

3 Q. You mentioned when you talked to the
4 detectives noticing one of the two police officers was
5 "built." Do you mean by that he was physically a big guy?

6 A. Yeah.

7 Q. And looked like an Asian police officer?

8 A. Yeah, that was the police officer there first.

9 Q. And that first officer on the scene, that you
10 described as physically well-built, Asian, was he the
11 officer that was saying to drop the weapon?

12 A. Yes.

13 Q. He was. Okay.

14 Could you hear that in a clear loud voice?

15 A. Yeah.

16 Q. You could. Could you tell whether the white
17 guy with the knife had any response to those commands from
18 the police? In other words, did he put down the knife?

19 A. No.

20 Q. Could you tell how he was holding the knife?

21 A. No. He was behind the police car. I couldn't
22 see that part.

23 Q. And then you said he -- I believe you said he
24 charged the officer. Is that the word you used?

25 A. He started walking toward -- yeah, he charged.

1 Q. And that's what I wanted to know. What do you
2 mean by "he charged"? What physically did he do that you
3 could see? In other words, did he walk towards the police
4 officer, or run towards the police officer?

5 A. It was a fast-moving walk.

6 Q. Could you see how he was holding the knife at
7 that time?

8 A. I couldn't.

9 Q. Could not see. Okay. And then what happened
10 after that?

11 A. The police officer shot him.

12 Q. Do you remember how many shots you heard?

13 A. I think it was two or three.

14 Q. And did you see any reaction on the part of
15 the white guy with the knife? In other words, could you
16 tell he was hit?

17 A. I could tell he was hit, but I couldn't see
18 him.

19 Q. Yeah. I don't mean like his face. But how
20 could you tell that he was hit?

21 A. Oh, because he stopped moving.

22 Q. Did he fall to the ground, or did he remain
23 standing?

24 A. I looked away, but he -- well, I looked away,
25 and I looked back, and he was on the ground.

1 Q. All right. Did you see any other actions
2 taken by the police after that?

3 A. I don't recall.

4 Q. In other words, did you see the other officer
5 use his taser?

6 A. Oh, yeah.

7 Q. You did see that?

8 A. Yeah.

9 Q. What do you recall about that?

10 A. Can you clarify that, please?

11 Q. Can you describe for us what you saw, or is
12 your memory just that you saw the taser? I am really just
13 asking what you remember seeing about that.

14 A. I just saw him taser.

15 Q. Was the white guy standing when he was tased,
16 or was he on the ground, or do you remember?

17 A. I don't remember.

18 Q. And then you stayed at the scene and you
19 talked to detectives that afternoon or evening, correct?

20 A. Yes.

21 MR. REES: Any questions from the Grand
22 Jury?

23 GRAND JUROR: I have one question. When
24 they told him to get his hands out of the pockets, did
25 you see the white guy with his hands in his pockets, or

1 was it like -- did you even see it? Was he having his
2 hands in his pockets this way (indicating).

3 THE WITNESS: I believe he was wearing his
4 sweater, so he had his hands --

5 GRAND JUROR: Hands in front. Thank you.

6 GRAND JUROR: Did you see him take the
7 hoodie off?

8 THE WITNESS: I don't recall that.

9 GRAND JUROR: You don't remember seeing
10 that?

11 THE WITNESS: I don't remember.

12 GRAND JUROR: One more. Do you know where
13 the white man was standing when he was shot?

14 BY MR. REES:

15 Q. And if this doesn't show the area, if you can
16 answer the question, I will just start moving the vehicle.

17 A. It was right in front of the white fence,
18 right there.

19 GRAND JUROR: So how far did he get when he
20 started charging, as you put it?

21 THE WITNESS: He had about two steps.

22 GRAND JUROR: Okay.

23 MR. REES: Anything else?

24 (No response.)

25 MR. REES: Thank you for coming in.

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

EXAMINATION

BY MR. REES:

Q. Sir, if you could, please, take a seat and
then when you are ready, if you could state your first and
last name, and spell your name.

A. My name is Miguel Angel Martinez. And did you
need me to spell --

Q. If you would.

A. M-I-G-U-E-L, last name is Martinez,
M-A-R-T-I-N-E-Z.

Q. Mr. Martinez, you were telling me that you are
generally familiar with the area around Southeast 130th and
Southeast Division in the City of Portland; is that
correct?

A. Yes.

Q. Why are you familiar with that area?

A. My kids' mom lives not even half a block away
from where the incident happened.

Q. And were you in that neighborhood on that
street at the time of the officer-involved shooting?

1 A. Yes.

2 Q. And let me show you this photograph of the
3 scene, and you tell me if you recognize the area depicted.

4 A. Oh, yeah.

5 Q. And were you on foot, or --

6 A. No, I was in a car. I was in my vehicle, and
7 you can see my vehicle here in a second, if you keep going
8 to your right.

9 Q. Sorry.

10 A. Right down on the left-hand side.

11 Q. Why don't you go over to the screen and point
12 that out for us, your car?

13 A. Right here (indicating). That's my vehicle.

14 Q. And you can take a seat back here.

15 A. (Complies.)

16 Q. So your car got really caught inside of the
17 area that was sealed off by the police that night?

18 A. Yes.

19 Q. So that's the location where it was when you
20 made your observations; is that correct?

21 A. Yes.

22 Q. And so you were headed towards Southeast 130th
23 Avenue in your car?

24 A. Correct.

25 Q. And what was the first thing you noticed that

1 was out of the ordinary as you were driving down the
2 street?

3 A. There was a -- there was a group of kids
4 riding bikes, and they were scattering around, but they
5 kept looking back. And I was just, like, oh, they are
6 probably playing, or something is going on.

7 So I went extremely, extremely slow, that
8 way I don't hit anybody, or somebody doesn't come
9 across, a kid or something. So I slowed way, way, way
10 down.

11 And then as I proceeded exactly where I
12 stopped my vehicle, I saw two gentlemen struggling, a
13 black male and a white male. Black gentleman was tasing
14 the white gentleman.

15 Q. And when you say he was tasing him, what was
16 he doing?

17 A. Tasing him, you can hear the taser go off,
18 kept tasing him over and over and over and over. And I
19 actually stopped my car -- that's why I stopped my car, my
20 vehicle actually -- I stopped and put it in park, and I
21 honked at the black gentleman, like stop. I don't know
22 what is going on, but I mean, I don't think you should keep
23 tasing somebody when they are trying to get away.

24 Q. And was this -- when you honked your horn, was
25 there any response?

1 A. Yeah. The black gentleman actually saw me, he
2 acknowledged me, and that split second the white gentleman
3 was able to, like, break free, away from the black
4 gentleman. But the black gentleman still kept trying to --
5 was still trying to grab him, still trying to tase him.

6 At the conflict, the white gentleman's shirt
7 was, like, half off. They struggled around. As you can
8 see in the picture, there's a white van on the house on
9 the right-hand side. They struggled right in front of
10 my view.

11 Q. You said van, but do you mean --

12 A. The pickup truck, yes. Yes. Sorry. They
13 were struggling around there.

14 Q. So that would be in this area (indicating)?

15 A. Yes, that's exactly where they were
16 struggling.

17 Q. In front of your vehicle?

18 A. Yes. That's when I honked at the black
19 gentleman, just calm down, or just hold him until somebody
20 comes and figures out what is going on.

21 After that, the white gentleman, like I
22 said, got away, ran around the truck. As soon as the
23 black male saw that, he didn't have possession of the
24 black gentleman -- of the white gentleman, I am sorry --
25 they both ran towards where that -- I want to say the

1 fencing to your right. Yeah, there you go.

2 And that's where everything just basically
3 happened. The black gentleman still kept trying to tase
4 the white gentleman. They struggled, and actually hit
5 the white fence. The black gentleman still kept trying
6 to tase the white gentleman, and the white gentleman
7 kept screaming at the black gentleman, "Let me go. I
8 didn't do it. I don't know what is going on. You need
9 to let me go."

10 I honestly, like I said, I wasn't there
11 before anything happened, but the black gentleman still
12 kept trying to tase him over and over and over.

13 Q. And could you hear any words exchanged between
14 these two men?

15 A. Not really, besides "Let me go. I didn't do
16 it. It's not me. I don't know what" -- the white
17 gentleman is trying to explain to the black gentleman as
18 much as he can, while he was being tased, like, I don't
19 know what -- like your involving me in something, like I
20 have no idea what is going on.

21 Q. And then did you see the police arrive?

22 A. Yes, then the police arrived.

23 Q. And if you are able to estimate, how much time
24 passed from when you first noticed these two men to when
25 the police arrived?

1 A. Not very long. It was in -- it wasn't even
2 five minutes that cops arrived, obviously, where the
3 gentleman passed -- I don't know if he passed away. I
4 don't know.

5 Q. How many police cars did you see arrive?

6 A. First, it was one -- I want to say it was just
7 one patrol car that pulled up. I want to say an Asian male
8 and a white Caucasian male stepped out of the vehicle.

9 Q. These are the police officers?

10 A. Yes, the police officers basically were trying
11 to spread them apart, and let them know -- figure out what
12 is going on, trying to figure it out.

13 Q. And between the two officers, the Asian police
14 officer and the white police officer, do you recall which
15 arrived first, or which first interacted with these two
16 men?

17 A. The Asian officer was the one -- I want to
18 say, was the one that was driving, so stepped out as soon
19 as he pulled up. He pulled up, and automatically stepped
20 out of his vehicle -- put his vehicle in park, obviously,
21 stepped out, told them to please step back to figure out
22 what is going on.

23 Q. And did the black man and the white man seem
24 to listen to that command? Did they separate?

25 A. The white man kind of did, because he was

1 still trying to struggle to get away because the black male
2 was still trying to tase him, which I don't know why.

3 The black man, after the second time that
4 the officer told him to step back, then I think he
5 realized it was an officer. I don't know if he was in
6 the mood of whatever he was doing, but after a second or
7 two then the black gentleman actually semi kind of
8 stepped back from the altercation.

9 After that, I want to say, unfortunately,
10 the white male was -- I don't know if he wasn't in his
11 state of mind, because he was tased so much --

12 Q. Just tell us what you saw.

13 A. The white gentleman had his hand in his
14 pocket. The officer told him, "Please step back and take
15 your hand out of your pocket." And the white male wasn't
16 responding, wasn't getting his hands out of his pockets.

17 The black gentleman still was trying to move
18 forward, towards the white male that had his hand in his
19 pocket. And the white officer told him, "Please step
20 back." So he actually did.

21 The Asian officer was trying to speak to the
22 male that was getting -- that was tased. "Please put
23 your hands up. Take your hands out of your pocket.
24 Take your hands out of your pocket."

25 He wouldn't take his hands out of his

1 pocket. After the fifth or sixth time, the gentleman
2 actually took his hand out of his pocket, and he had a
3 knife in his hand. The Asian cop told him to please put
4 the knife down. The officer stepped back, drew his
5 weapon, and told him, "Please put the knife down,"
6 repeated times, over and over.

7 Q. Like how many do you think he said that?

8 A. Five, six, seven times, just repeated, "Drop
9 the knife. Drop the knife. Drop the weapon. Drop the
10 knife."

11 Q. Did he drop the weapon?

12 A. No. The officer even told him, "Please drop
13 the weapon," and he wouldn't drop it. As soon as the
14 officer took one more step back, the white gentleman that
15 was being tased actually lunged at him, towards the Asian
16 officer, like he was going to stab him. Unfortunately --
17 fortunately the officer, he was already stepping back, and
18 he had no choice, but he shot him, I want to say, twice.

19 Q. How far away do you think the police officer
20 was from the man with the knife when that happened?

21 A. He wasn't really far. I am not even sure. He
22 wasn't very far.

23 Q. If you are not sure, that's okay. But was it
24 closer than you and I are right now, which is about, I
25 think, five or six feet, or was it --

1 A. He was pretty close, yeah. He was about the
2 same length. That's why the Asian officer stepped back a
3 little bit more when the gentleman -- the officer kept
4 telling him, "Please drop the knife," and he wouldn't. So,
5 obviously, the officer stepped back a little bit more,
6 because he knew he wasn't going to --

7 Q. Increasing the distance?

8 A. Yeah. He wasn't complying.

9 Q. Could you see how this person was holding the
10 knife while this was happening? You are gesturing with
11 your hand straight out.

12 A. Yeah, straight out. I mean -- he's going to
13 stab him, I mean --

14 Q. And that's really my next question. What did
15 you think was going to happen?

16 A. He was going to stab him.

17 Q. As you were watching this from your car, what
18 did you think was going to happen?

19 A. If the officer wouldn't have stepped back or
20 did anything, he probably would have stabbed him. If the
21 officer didn't step back, he definitely would have stabbed
22 him.

23 Q. And what happened after you heard the shots?
24 Did you see whether it appeared as if the man with the
25 knife was hit?

1 A. Oh, yeah, he was definitely hit. He dropped
2 to the floor. He still had the knife on him, and he was
3 still holding the knife, and the officer told him to still
4 let go of the knife, and he wouldn't.

5 The white officer actually was telling him
6 to let go of the knife, as well, and he wouldn't -- he
7 was trying to get up with the knife. And the white
8 officer actually tased him to actually release the knife
9 out of his hand, or he probably wouldn't have let it go.

10 Q. Could you see whether that seemed to have an
11 effect on him when he used the taser?

12 A. Oh, yeah, it definitely did something, because
13 he let go of it.

14 Q. And you, as we essentially mentioned, when you
15 first began your testimony, ended up inside of the crime
16 scene with the crime tape. Your car obviously didn't move.
17 So were you contacted very shortly after this all happened
18 by a police officer to be questioned about what happened?

19 A. Yeah. They just told me to please wait in my
20 car for a while, and then some detectives came and talked
21 to me.

22 MR. REES: Are there any questions from the
23 Grand Jury?

24 GRAND JUROR: Yeah. Could you see how big
25 the knife was?

1 THE WITNESS: It wasn't like a big, huge
2 hunting knife. It was an actual -- like a few inches.
3 You can see it clearly from where I was at, so I mean,
4 it's not a small little pocket knife, but it's also not
5 a big, huge hunting knife. But you can distinctly see
6 it's a knife.

7 BY MR. REES:

8 Q. I have one additional question. And it's not
9 really important, but do you remember whether the officers
10 arrived with their sirens going? Did you hear the sirens?

11 A. I wasn't even quite coherent on that. On just
12 making sure that somebody didn't actually hit them, or they
13 get run over, because both of the males were struggling --

14 Q. Out in the street?

15 A. Yeah. Sorry.

16 GRAND JUROR: Did you happen to see at what
17 point the man's sweatshirt came off, the white man?

18 THE WITNESS: When he was struggling with
19 the black gentleman. Like I said, the black gentleman
20 was struggling to grab him, and he kept trying to push
21 him away, and that's when his sweatshirt came off.

22 GRAND JUROR: And then he was just wearing a
23 T-shirt underneath?

24 THE WITNESS: Yeah. Halfway on, because the
25 black gentleman kept trying to grab him and tase him.

1 GRAND JUROR: So he pulled the knife out of
2 his pants pocket.

3 THE WITNESS: Yeah. It was in his pants
4 pocket.

5 GRAND JUROR: And you said he was holding
6 his arm out straight?

7 THE WITNESS: He wasn't straight at it, but
8 he was ready to lunge at the officer.

9 GRAND JUROR: So more like that
10 (indicating)?

11 THE WITNESS: Yeah, it was just like at a
12 stand ready to --

13 GRAND JUROR: When he lunged, it was one
14 movement?

15 THE WITNESS: Yeah. When he actually
16 lunged, he actually lunged towards the officer while the
17 officer was trying to step back.

18 GRAND JUROR: He wasn't waving his arm
19 around?

20 THE WITNESS: No.

21 MR. REES: Anything else?

22 (No response.)

23 MR. REES: Thank you very much.

24 (Proceedings adjourned at 2:07 p.m.)

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MULTNOMAH COUNTY GRAND JURY
DEATH INVESTIGATION

Deceased:)
Christopher Ryan Healy) DA No. 2317948-1
Date of Incident:)
March 22, 2015) PPB No. 15-022632
Location: SE 130th Ave./ SE)
Sherman Street,)
Portland, Oregon)
)

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TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled transcript of GRAND JURY proceedings was heard, commencing at the hour of 8:30 a.m., on Thursday, April 23, 2015, at the Multnomah County Courthouse, Portland, Oregon.

APPEARANCES

Mr. Donald Rees
Deputy District Attorneys
On Behalf of the State of Oregon.

DEBORAH L. COOK, RPR, CSR
Certified Shorthand Reporter
Portland, Oregon

* * *

PROCEEDINGS

Wednesday, April 22, 2015, at 9:16 a.m.

MATTHEW BIGONI,

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

EXAMINATION

1 BY MR. REES:

2 Q. Thank you, Officer. And if you please, for
3 the record, state your first and last name, and spell your
4 first and last name.

5 A. Matt Bigoni, M-A-T-T, B-I-G-O-N-I.

6 Q. And are you a Portland police officer?

7 A. Yes.

8 Q. What is your current assignment?

9 A. I am assigned to East Precinct patrol,
10 afternoon shift.

11 Q. How long have you been a police officer?

12 A. Five years.

13 Q. And were you working your regular patrol on
14 Sunday, March 22nd, 2015?

15 A. Yes.

16 Q. And you said you worked afternoon shift. What
17 time does that start?

18 A. That is 4:00 p.m. to 2:00 a.m.

19 Q. Prior to the call you received that took you
20 to the area near Southeast 130th and Southeast Sherman, had
21 anything unusual happened from your shift?

22 A. No.

23 Q. Was that a relatively quiet Sunday afternoon?

24 A. Yes. I think it was fairly early in the
25 shift. I don't think we had done much that day, yes.

1 Q. What do you recall about the information you
2 received about a 911 call in the area of Southeast 130th
3 and Sherman?

4 A. The 911 call came out, and the person that
5 called 911 said there was a burglar in his home and he was
6 holding that person down and waiting for the police.

7 Q. And were you dispatched to the call?

8 A. I was not. I attached to the call over the
9 air. They sent Officer Curtiss and Officer Clarke, but the
10 call was actually in my district. And I don't know why
11 they didn't send me, but I recognized that, and so I got on
12 the air and said I would go as primary officer.

13 Q. And did you have an awareness of where either
14 Officer Curtiss or Officer Clarke were in relationship to
15 where you were, geographically, when you were responding to
16 the call?

17 A. Yes. Officer Clarke and Curtiss and I were
18 all on a call prior to this call. We were at 174th and
19 Powell. Officer Clarke had cleared that call, and he left.
20 And then about a minute later is when this call came out.
21 Officer Curtiss and I left that location at the same time,
22 but we exited the parking lot in different areas. So
23 Officer Curtiss was probably five blocks ahead of me or so,
24 and then we both went to the 130th and Sherman call.

25 Q. While you were responding, did you receive any

1 updates about the situation that had led to the 911 call
2 that you recall?

3 A. I don't recall any updates regarding the call
4 itself, as far as what was being relayed from the 911
5 caller to dispatch to us. It was still just somebody --
6 and burglar being held down in the apartment. That's the
7 impression I was under.

8 Q. What was the level of priority in terms of
9 your response?

10 A. It was a high priority, lights and siren.
11 That doesn't happen all the time. That's a pretty big deal
12 if somebody were to catch a burglar in their own house, so
13 we wanted to get there quickly.

14 Q. And when you arrived, had any other police
15 officer arrived ahead of you that you could see?

16 A. Yes. Officer Curtiss and Officer Clarke had
17 already arrived. Officer Clarke arrived first.

18 Q. And did you have an impression that if you
19 were the third police officer on scene, how far behind
20 those two officers you were, if you know?

21 A. I remember Officer Clarke on the air saying he
22 had arrived, and then I remember Officer Curtiss also
23 saying he had arrived a short time after Officer Clarke
24 arrived, I want to say, 30 seconds or less.

25 And then I arrived shortly after Officer

1 Curtiss, we were just a few blocks apart from each other
2 as we were going to the call.

3 Q. Where did you park your police car when you
4 arrived?

5 A. I was parked right in the intersection of
6 130th and Sherman. If we're looking at this, I believe I
7 am parked directly behind the car that you have the -- just
8 to the left the car right there. I think I am directly
9 behind that. We can see one behind that. I am not sure if
10 that's my car or not. I think it is, but it's hard to say
11 once more people arrive, because this 3-D imaging wasn't
12 done until after. But I believe that's my car that is
13 parked.

14 Q. But at any rate, that would be the
15 intersection?

16 A. At any rate, I was the third car behind, and I
17 was right in the intersection.

18 Q. Of Southeast 130th and Southeast Sherman?

19 A. Correct.

20 Q. And when you parked your car at that
21 intersection, could you see what was happening, then,
22 towards the west of your location on the street?

23 A. Not until I got out of my car and got closer,
24 because there were two cars in front of me, blocking my
25 view.

1 Q. What did you see then?

2 A. As I went to the west, towards that first car
3 we see there, I saw Officer Curtiss standing in front of
4 that police car, and then Officer Clarke was just to the
5 west of Officer Curtiss. I could see, I believe it's
6 Mr. Healy, was standing up, I would say, in the lower left
7 corner of this photo. He was standing up along that north
8 curb line.

9 Q. And you became aware -- and I am not sure if
10 this was simultaneous with your arrival, or if it's clear
11 in your mind -- but did you become aware that a radio call
12 goes out that shots had been fired; is that right?

13 A. Correct. Probably, I was just a few blocks
14 away, maybe ten seconds away, I heard Officer Curtiss say,
15 "Shots fired" over the air, and then I arrived shortly
16 after.

17 Q. So did you hear the shots yourself?

18 A. I did not.

19 Q. So what is your thought process, then, when
20 you do arrive, having heard that over the air?

21 A. I didn't know what had happened. We heard,
22 "Shots fired." If I hear that, my assumption is typically
23 that they are in a gun fight, because somebody is shooting
24 at them. I didn't hear anything like that. They didn't
25 say anything on the radio that would indicate that, and I

1 didn't hear it myself as I was getting there.

2 My second thought is somebody with a knife.

3 Those would be the two most likely scenarios where shots
4 would be fired. So as I arrived, and I didn't hear any
5 other gunshots, it was my assumption that maybe he had a
6 knife.

7 Q. And when you get out of your car, what do you
8 do then?

9 A. I unholstered my gun, and I ran towards the
10 back of this police car, towards the trunk. This car is
11 the one furthest to the west out of all the cars on scene
12 at this point. Officer Curtiss and Clark were at the front
13 of the car.

14 Q. Just to clarify, are you standing at the back
15 of the police car that is closest to you here?

16 A. Yes, by the trunk.

17 I pointed my gun at Mr. Healy, and I told
18 him -- yelled at him several times to get on the ground.
19 He was still up and walking around at that point.

20 Q. And could you tell, then, as he's standing
21 whether he was gunshot or not?

22 A. No.

23 Q. And at that time, did you see whether he had
24 any weapons?

25 A. No.

1 Q. And did he comply with your command?

2 A. No.

3 Q. And so what happened next?

4 A. I am yelling at him to get on the ground.

5 He's standing up, walking around, and then he starts moving
6 towards the west, southwest in Officer Clarke's direction.
7 Officer Curtiss tased him at that point, and he fell to the
8 ground.

9 Q. So when you saw that, did that indicate to you
10 that the taser had effectively discharged, and did have an
11 effect on this subject?

12 A. Yes.

13 Q. So what did you do at that point?

14 A. At that point I holstered my weapon. I asked
15 Officer Clarke to keep lethal cover on Mr. Healy, meaning
16 keep your gun on him. He's still a threat at this point.
17 I started to put gloves on in anticipation for handcuffing
18 him. I waited for another officer to arrive before I did
19 that.

20 Q. And I am sorry. At this point were you clear
21 whether there was a weapon involved or not?

22 A. At that point that he fell on the ground, I
23 then felt comfortable talking with Officers Clarke and
24 Curtiss, because we hadn't had any conversation up to that
25 point.

1 I didn't know what had happened. And I
2 said, "Did he have a knife?" Because that was my
3 assumption of the most likely scenario that would happen
4 with shots fired. There's no gun fight, that's what I
5 assume happened.

6 Officer Clarke said, "He came at me. He
7 tried to stab me," and then pointed out the knife that
8 was laying on the ground in front of -- well, where
9 placard 1 is, right there, I think that's where the
10 knife would have been. I didn't see it until that point
11 because I was focused on Mr. Healy. And that's the
12 knife I saw.

13 I looked at it. It was in that position,
14 two blades on either end, curved opposite each other. I
15 thought it was a pretty menacing-looking knife. I had
16 never really seen anything like that before. So they
17 pointed out to me that the knife was there, I saw it, I
18 also noticed two shell casings on the ground at that
19 point.

20 Q. What did you do?

21 A. I put my gloves on, I waited for cover to
22 arrive, Officer Bianchini arrived. Told him to put gloves
23 on. He did. We were able to handcuff Mr. Healy. He was
24 laying on his left side.

25 I started to search for injuries. I saw

1 that he had -- I didn't realize it at the time but he
2 had a gunshot wound in his -- around his right elbow.
3 There was a little bit of blood on his arm. The hole
4 was so small I didn't realize that that was a gunshot
5 until the paramedics told me, or maybe it was the
6 firefighters saying that is where he was hit. So I saw
7 that on his arm.

8 I started pulling his T-shirt up and I saw
9 that he had a gunshot wound in the center of his chest.
10 And there was no blood, or maybe very little blood. It
11 was just a hole, and you wouldn't even know it was there
12 unless you were looking for it. I mean, it's not
13 something I have seen very often, so that was unexpected
14 that that's what it looked like.

15 I pulled his shirt up. I didn't see
16 anything on his back, so I believed that was an entry
17 wound, and the bullet was still inside of him. It had
18 not come out.

19 Q. And was this subject, Mr. Healy, still at this
20 point, was he still conscious?

21 A. He was still conscious. He was groaning. I
22 told him that he was going to be okay, and that we were
23 getting help for him. And I was asking him his name, and
24 he wouldn't answer me. He was just groaning.

25 Q. And did you place him in a physical position,

1 or was he already in a physical position per your training
2 that is intended to assist a person so wounded in
3 breathing?

4 A. I did. When he was tased he fell onto his
5 left side, and was almost already in what we call the
6 post-shooting position, where we place them on their side
7 and bring their knee up, and it helps them -- aids them in
8 breathing, so they are not -- it helps their breathing.

9 So after we handcuffed him we had to roll
10 him -- as we were handcuffing him his left arm was under
11 his body, so we had to roll him towards his stomach to
12 get that arm out. And once we handcuffed him, we moved
13 him right back onto his side, and pulled his right knee
14 up. And the whole process took a couple of seconds.

15 Q. After you secured Mr. Healy and made sure he
16 was in that position and knew that emergency medical were
17 responding, did you do anything to secure the evidence at
18 the scene, to make sure that nothing was moved?

19 A. Yes. I noticed the knife and the two shell
20 casings on the ground. As Officer Bianchini arrived, I
21 made sure to tell him, be aware of that on the ground,
22 don't step on it. He didn't. It was never moved from the
23 time I got there until the time I left. Everything stayed
24 in place.

25 I put my business card -- I folded it in

1 half and placed it on the ground on top of the two shell
2 casings so people would see that, and wouldn't step on
3 it. And that way when the forensic people got there,
4 they would know exactly where it was.

5 Q. And then as additional police officers
6 arrived, supervisory sergeants arrived, and ultimately
7 detectives arrived at the scene, were you separated from
8 other witnesses to be questioned?

9 A. Yes.

10 Q. All right. Well, as we have gone through your
11 testimony and carefully gone step-by-step through the
12 events that occurred that afternoon, obviously it's taken a
13 bit of time to do so, but this actual event from the time
14 you arrived in your police car until the time that you saw
15 Mr. Healy tased by Officer Curtiss, I am guessing that took
16 quite a bit less time than it's taking you to describe.

17 What would be your estimate, if you could
18 estimate, how much time it took?

19 A. My estimate from the time I arrived until the
20 time Mr. Healy was tased was probably 10 to 20 seconds. It
21 was very quick.

22 Q. And was your having responded lights and
23 sirens, hearing shots fired, seeing the situation unfold in
24 front of you, was this a situation where your adrenalin is
25 flowing, and your heart is pumping, and you are in an

1 excited state, would you say, or are you completely calm?

2 A. I was -- I was fairly calm at that point. I
3 knew that Officers Clarke and Curtiss had just been through
4 something traumatic. I didn't know what it was at that
5 point that I arrived. But I felt the need to be as calm as
6 I could, knowing they had just gone through whatever it was
7 that they had gone through. So I was trying to help
8 facilitate, what are we going to do next. Handcuffing, I
9 looked at his ID, cards on the shell casings, telling
10 people where to block traffic, things like that.

11 MR. REES: Any questions from the Grand
12 Jury?

13 GRAND JUROR: After Healy was tased, did you
14 see the knife near Healy at that point and get moved, or
15 did you see anything with the knife -- until you saw it
16 lying where it ultimately was?

17 THE WITNESS: The knife was in the same spot
18 the entire time that I was there. I didn't see it until
19 the other officers told me there it is, and then I
20 looked and saw it, because I was focused on Mr. Healy.
21 I wasn't looking on the ground. I didn't see it there.
22 But it was where placard 1 is there. It was there the
23 entire time.

24 GRAND JUROR: Thank you.

25 MR. REES: Anything else?

1 (No response.)

2 MR. REES: All right. Seeing no further
3 questions, we will end your testimony. Thank you.

4

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

8

9 EXAMINATION

10 BY MR. REES:

11 Q. All right. For the record, please, if you
12 would, state your first and last name, and spell your first
13 and last name.

14 A. Aaron Schmautz, A-A-R-O-N, S-C-H-M-A-U-T-Z.

15 Q. Are you a Portland police officer?

16 A. I am.

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

18 A. Ten years now, just over.

19 Q. And you mentioned, I think, that you went
20 through the Police Corps to become a police officer?

21 A. Yes.

22 Q. What did that entail?

23 A. So up until -- I was the last class, there
24 used to be a program called Police Corp. It was kind of an
25 ROTC type deal. It was a Clinton-era Homeland Security

1 type thing to provide funding for police officers to get
2 more education.

3 So basically if you committed four years to
4 a law enforcement agency, it gave you a scholarship.
5 And an agency would have to sponsor you, and then you
6 would go to a longer -- technically, more intensive was
7 the idea -- academy. So the idea was to get police
8 officers with bachelor's degrees, and people with
9 degrees to go into that field, as opposed to other
10 fields.

11 So went to that. And so in lieu of going to
12 the basic academy in Oregon, I went to a 24-ish week
13 academy, and was hired by Portland, and then went to
14 Portland Advanced Academy.

15 Q. Where did you attend school?

16 A. George Fox University down in Newberg.

17 Q. So you got your degree there in addition to
18 your police training?

19 A. Correct.

20 Q. What is your current assignment?

21 A. I am currently assigned as an acting sergeant
22 at East Precinct. I'm on the promotional list and so often
23 when you are sitting and waiting to get promoted, they will
24 have you act to get some experience.

25 Q. So was that -- meaning, when you say acting

1 sergeant, supervising the officers on patrol on a
2 particular shift?

3 A. Yeah. So I am effectively a sergeant. My job
4 role is the same as a sergeant, and I have a detail, and
5 basically it's the same job. I just haven't been promoted
6 yet, so they call it acting.

7 Q. Were you working the afternoon shift on Sunday
8 March 22nd, 2015?

9 A. Yes.

10 Q. And when did you become aware of the situation
11 that was unfolding in the area of Southeast 130th and
12 Southeast Sherman?

13 A. We were pretty busy at this point in time.
14 There weren't a lot of officers free. So sergeants will go
15 and cover officers on call -- help take calls if we're
16 busy. And I was just pulling up to 103rd and Weidler -- I
17 think Weidler? Wasco? Wasco -- anyway, I was pulling up.
18 The officer had asked for a cover car in an unrelated
19 event, and then I heard Officer Curtiss come over the air
20 and say, "Shots fired."

21 And it was -- he was very calm about it,
22 so -- and there's a lot of radio traffic. So it's one
23 of those things, like normal police radio traffic. And
24 you hear "shots fired," and you -- I think I just heard
25 him say, "shots fired," and then more. And so then I

1 realized what was going on.

2 Q. So what did you do when you heard that?

3 A. So the officer I had been pulling up to cover,
4 someone was being combative. So it was in this uh-oh
5 moment of, I can't just not go cover this guy, but this is
6 obviously a big event. So I pulled up, and that officer
7 waved me off and said, "I am good." So I turned around and
8 drove to the scene.

9 Q. All right. And did you drive there with
10 lights and sirens?

11 A. Yeah.

12 Q. About how long did it take you to get to the
13 scene, do you think?

14 A. Not long. It was pretty fast. It's kind of
15 one of those events you drive as fast as you can to get
16 there as quickly as possible. So I drove down 102nd, down
17 to Stark, up to 130th, and then south on 130th to the
18 scene, so a couple of minutes.

19 Q. That image is looking east from Southeast
20 Sherman to 130th. Does that show the area where you would
21 have arrived from?

22 A. Yes.

23 Q. Where did you park your car, generally
24 speaking?

25 A. Right where Sherman and 130th intersect, just

1 west of there where everything was. I pulled up from the
2 north on 130th. I parked my car kind of far back from
3 130th.

4 With these -- any time you are driving into
5 a crime scene, it's good not to drive through the crime
6 scene. And I didn't know where it was exactly, because
7 we don't get on the air and start dictating everything,
8 because it's not important at that point. Like the
9 tactical stuff is important.

10 So I parked maybe 50 or so yards north of
11 Sherman on 130th, and then ran up to see what I could
12 do. I was -- we were really busy, so there weren't a
13 lot of officers free. Like all four sergeants who were
14 working landed at the same time. And there were only a
15 few officers there at that point.

16 Q. And so what was happening when you ran up
17 to -- when you heard this person had been shot?

18 A. And, obviously, these situations are pretty
19 dynamic, so I ran up to get a quick assessment of what
20 needed to be done.

21 I could see a male subject on the ground,
22 clearly had been shot. He was making noises consistent
23 with someone who had been shot. His breathing was kind
24 of altered, and was making noises like someone who was
25 injured. He was lying on the ground.

1 I could see a couple officers, and I can't
2 remember which ones, to be honest, were over by him. I
3 saw Officer Clarke standing to the west of him. And
4 immediately I knew that he was the one involved
5 because -- I mean, our policy, when we have an
6 officer-involved shooting, the involved officer will be
7 kind of pulled out of the situation as quickly as
8 possible, because once you have been involved in a
9 critical incident like this, it's good to not be in
10 charge of making important decisions anymore, because
11 obviously it can be a stressful deal.

12 So if it's safe to do so and there's no
13 immediacy as to what needs to be done, we will pull them
14 out. And he was standing off to the side, standing
15 there, so it was pretty clear.

16 I saw a knife on the ground, and took note
17 of it because I have never seen a knife that looked like
18 that before. It looked like something from a Star Trek
19 movie. That was the first thing I thought of, because
20 it was kind of a weird, kind of curved S-looking, odd
21 knife that was lying on the ground. Both of its blades
22 were out, next to a police car, maybe 10, 15 feet from
23 where the subject was laying.

24 And so another sergeant had just gotten
25 there, and said, "Hey, can you get Clark away from here,

1 farther." It was -- there was -- there were more people
2 than police officers there, and people were -- people
3 heard gunshots and were coming out.

4 And there was a home just to the south. The
5 occupants were coming out and screaming a bunch of
6 profanities at us, so we wanted to get Officer Clarke
7 away from that.

8 Q. Were you able to tell, generally, which house
9 that the people seemed to be coming out of?

10 A. So the house where the power lines are going
11 into. So the person who called the police called from the
12 home with the truck in front of it, where it -- Station 02,
13 whatever there. That's the house that the guy called the
14 police from.

15 The house with the little thing jutting out
16 of it -- that's a taser cartridge.

17 Q. I didn't mean to do that.

18 A. So the house, the two power lines going into
19 the home there, the little juttied out -- looks like a sun
20 room or something, that deal -- that house, a gal named
21 Tera Harris had come out. And she was just screaming --

22 Q. You can say what she said.

23 A. She was saying, "Fuck you, pig. Fuck you pig.
24 Fuck the police," in some iterations of those words, over
25 and over again. She was just screaming.

1 And it was hard to tell -- again, when I got
2 there it's just -- most of it is trying to contain it.
3 And when we have these incidents, the biggest thing is
4 we want to freeze in time everything that is there so we
5 can hand it off to the detectives so nothing changes.

6 So there was a fence there, and there were
7 some kids. And by kids, like, teenager-age kids that
8 were coming and going from the house.

9 And Ms. Harris was making it very clear that
10 the subject who had been shot had come from her home.
11 He was a visitor there. And one of my officers was
12 trying to talk to her, and calm her down. And it was
13 frustrating because she was saying she was a witness,
14 but she wasn't saying anything.

15 So I walked over to see if I could help, and
16 one of our ECIT officers, our Enhanced Crisis
17 Intervention. I deal with the crisis type stuff a lot.
18 And sometimes when one police officer gets into that
19 kind of -- you are trying to talk to somebody, and it's
20 just not working, changing faces helps.

21 And also a lot of people respond to it being
22 a supervisor, and just say, "Hey, I'm the supervisor.
23 This person is gone." And they are not getting along
24 with them, they are gone, let's start over. Because my
25 goal -- she was saying, initially, that she was a

1 witness. If I you think you are a witness and you think
2 we did something wrong, let's know. Let's talk about
3 it. I want to get your information from you.

4 Ultimately, she said she hadn't seen
5 anything. Down the road, she kinda said, "Well, I was
6 inside. But I know this guy came from my house." So
7 that was as much as she had to offer.

8 Q. Did you remain on scene -- remain on scene
9 until detectives came and took control?

10 A. Yes. Yes.

11 MR. REES: Any questions from the Grand
12 Jury?

13 (No response.)

14 GRAND JUROR: I mean, I don't know if this
15 is appropriate. I am tempted to ask a general question
16 about training, and I don't know if that is a
17 question --

18 MR. REES: Go ahead and ask the question,
19 and we will see.

20 GRAND JUROR: For you, Officer Schmautz
21 or -- I mean, and it's a question about the behavior
22 before you arrived on the scene.

23 THE WITNESS: Sure.

24 MR. REES: Why don't you ask the question,
25 and we will see if the witness can answer the question.

1 And if he can, he will answer; and if can't, he won't.

2 GRAND JUROR: According to police
3 training -- I don't know how to even ask the question.
4 But when a suspect is pulling a knife -- and this is not
5 a question you can answer in five minutes, right. We
6 are not all going to become police officers.

7 But was his behavior -- was Clark's behavior
8 consistent with the training, as far as you know, from
9 the incident?

10 MR. REES: That's a good question. Before
11 you answer, we are calling Pete Taylor from the Training
12 Division who trains police officers in that area.

13 So I suspect he may be a better witness to
14 answer the question. Not that you couldn't, but you
15 really are here as a witness, so I --

16 THE WITNESS: So I didn't observe any of the
17 events, and all the officers who were involved are
18 prohibited from speaking about what occurred. So I
19 don't know much at all about anything that occurred in
20 the actual events leading up to, or involving the
21 shooting.

22 Obviously, you get bits and pieces. But as
23 far as -- I have not spoken to Clark about what
24 occurred. He's prohibited to speaking to us about what
25 occurred. He can only speak to investigators, and a

1 very slim -- it's called a gag order to prevent people
2 from helping people change the story and everything. So
3 I honestly can't speak to that, just because I don't
4 know what the events were.

5 GRAND JUROR: I was unaware that we were
6 going to receive a training -- yeah.

7 MR. REES: So I think that question will be
8 answered later today. So anything else?

9 (No response.)

10 MR. REES: Thank you.

11 THE WITNESS: Thank you.

12
13 JOHN ANDERSON,
14 a witness called on behalf of the State, having been first
15 duly sworn, was examined and testified as follows:

16
17 EXAMINATION

18 BY MR. REES:

19 Q. Sir, when you're ready, if you could state
20 your first and last name.

21 A. John Anderson, J-O-H-N, A-N-D-E-R-S-O-N.

22 Q. And you are a member of the Portland Police
23 Bureau?

24 A. Yes, sir.

25 Q. What is your current rank and assignment?

1 A. Current rank is a patrol supervisor, sergeant
2 for East Precinct, afternoon shift.

3 Q. How long have you been with the Portland
4 Police Bureau?

5 A. 24 years, 11 months.

6 Q. And on Sunday afternoon, March 22nd, 2015, you
7 were the acting lieutenant at East Precinct; is that
8 correct?

9 A. Yes, I was.

10 Q. Previous witness, Officer Schmautz, said he
11 was the acting sergeant, so in the chain of command, you
12 would be above him during that particular shift; is that
13 correct?

14 A. Correct.

15 Q. And when did you become aware of the situation
16 that occurred at Southeast 130th and Southeast Sherman?

17 A. I was in the sergeant's office on the computer
18 checking e-mails, and signing overtime slips. Sergeant
19 MacMillan was in the office with me. And we heard -- or I
20 heard what sounded like a "shots fired" call. And I looked
21 at her and said, "Did I just hear what I thought I just
22 heard?" And she said, "Yes, sounds like we have had a
23 shooting."

24 So I started paying attention, and heard
25 Officer Curtiss saying he needed medics to respond, and

1 as we were leaving the Precinct, I heard him say the
2 subject was in custody, and to bring medical in.

3 Q. So to clarify, unlike some of the other
4 witnesses who have testified who were out on the road in
5 their patrol cars, you were actually in an office at East
6 Precinct?

7 A. Yes.

8 Q. When you heard this over the radio -- and
9 where is East Precinct located?

10 A. 737 Southeast 106th, which is behind Mall 205.

11 Q. So when you drove from the Precinct to the
12 scene, did you go lights and sirens?

13 A. Yeah, I did, to get through the intersections,
14 and with the red lights. But the surface streets are
15 pretty empty at that point, and I was logging on my car
16 computer at the same time.

17 Q. And about how long did it take you to get to
18 the scene?

19 A. Five minutes, maximum.

20 Q. And when you arrived, what did you see
21 happening?

22 A. One of the things, on the way to these scenes,
23 as a supervisor, you listen to what is going on and what is
24 not going on. And I was hearing all the proper things
25 going on, as far as requesting medical, additional units.

1 And as I got there, it was still an ongoing
2 scene, medical was there. I used my car to block 130th
3 and Sherman on the east side, because people were
4 walking in, and people were trying to get around patrol
5 cars. The crime scene wasn't established yet, so you
6 start -- putting on your policy and procedure kind of
7 things, as far as the incident itself was done, but now
8 you have to do the administrative/supervisor duties at
9 that point.

10 Q. And did you walk up to the area where Officers
11 Curtiss and Clark were?

12 A. Yes.

13 Q. And what was happening at that time?

14 A. I walked in, and first I spoke to Sergeant
15 Robinson. She pointed to where the scene was, and said
16 that Sergeant Schmautz had Officer Tommy Clark with him,
17 and were at Officer Clarke's car. And so then I went in
18 and spoke to Officer Curtiss, and was watching what was
19 going on. And the medics were treating the subject on the
20 gurney.

21 And I asked Royce real quick, because you
22 kind of have to play the supervisory versus
23 investigative versus officer rights at that point. But
24 you are allowed to ask tactical questions, as far as
25 where was the scene, what happened, is there any

1 outstanding suspects, how many shots fired, what
2 direction. Anything we need to do as far as officer
3 safety, searching for people, or that kind of thing.

4 And he pointed to another guy that was
5 involved. There was two shots, here's the shell casings
6 and the taser. He said he deployed his taser, and he
7 had kicked the knife away, and he showed me where he
8 kicked it to, because the medics were all around the
9 gentleman.

10 Q. And did you see the knife?

11 A. Yes.

12 Q. What did you note about the appearance?

13 A. I noticed it was off to the side, and looked
14 unfolded. And so I noticed where that was, and I noticed
15 there was two shell casings, taser wire attached to a spent
16 cartridge that was on the ground leading up to the person
17 on the gurney.

18 And I wanted to make sure the Fire
19 Department wasn't going to be stepping on the shell
20 casings and things, so I made sure they stayed on the
21 opposite side of the gurney, because that's where it
22 was -- a natural position for them. Anyway, just make
23 sure you don't step on the casings, and what not.

24 And then I pulled the taser wires apart so
25 they wouldn't drag the cartridge down the street with

1 them, because they were in a hurry to get the guy loaded
2 on the gurney and get going.

3 Q. You say "they," you mean the medics?

4 A. Yeah, AMR ambulance drivers, and the Fire
5 Department. And they had come in on the west side of the
6 scene, on Sherman, from 122nd. And most of the officers
7 and us that responded were on 130th and Sherman, so we were
8 on this side and they had been on the other side. So
9 that's the direction that they went, opposite of everybody
10 else, just to hurry up and get him going.

11 Q. You said that the knife was unfolded. By
12 that, do you know -- do you mean it was open with the
13 blades exposed?

14 A. Yeah. I saw at least one blade, but I quickly
15 glanced at it, because I wasn't there to investigate the
16 scene per se. But ensure scene integrity, and that the
17 evidence was in a certain area, and setting up the crime
18 scene tape, and separate the officers.

19 Q. And what did you do in terms of notification
20 of the investigators, and other appropriate people?

21 A. Once we started identifying the crime scene
22 location, and delegating officers assigned to the officers
23 that were involved, and getting the scene protected and
24 secured, then I notified the homicide detective, Sergeant
25 Whattam.

1 Q. And then at some point, were you relieved of
2 your duties in command of the scene?

3 A. Yeah, later that evening when my captain
4 showed up, he was the acting commander because my commander
5 was out of town. And I was requested to go back to the
6 Precinct, and write my report after I gave a briefing to
7 detectives. So I told the captain I was leaving, and he
8 would be in charge of the scene, as a figurehead kind of
9 thing. So I went back to the Precinct and wrote my report,
10 and came back to the scene after that.

11 MR. REES: Any additional questions from the
12 Grand Jury?

13 GRAND JUROR: I have one. You said you
14 got -- contacted the homicide detective. Was that
15 because you had found out he had -- the victim had
16 passed away?

17 THE WITNESS: No. They are always in charge
18 of officer-involved shooting investigations.

19 GRAND JUROR: Okay. Thank you.

20 MR. REES: Anything else?

21 (No response.)

22 MR. REES: Thank you, Sergeant.

23 THE WITNESS: All right. Thanks.

24 (Brief recess taken from 10:05 a.m. to
25 10:26 a.m.)

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

4
5 EXAMINATION

6 BY MR. REES:

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

9 A. Peter Taylor, P-E-T-E-R. Last name is
10 T-A-Y-L-O-R.

11 Q. And what is your current employment?

12 A. I am a Portland police officer.

13 Q. What position do you have currently with the
14 Portland Police Bureau?

15 A. I work in our Training Division. I am one of
16 the defensive tactics instructors.

17 Q. Can you tell us a little bit about your
18 background, in terms of training and experience, both in
19 police work, generally, and then specifically in the
20 training work that you do?

21 A. Sure. I was hired in 1997. I attended the
22 base Police Academy, which was run in Monmouth, Oregon, at
23 the time, and that was by the State of Oregon. Got my
24 basic certification as a police officer there, for the
25 Portland Police Bureau.

1 I did the Field Training Program through the
2 Portland Police Bureau, and then along the way, also did
3 the Bureau's Advanced Academy, which is provided to all
4 new officers. I spent about 14 years in patrol, most of
5 that in the East Precinct area.

6 And I picked up certifications through the
7 Police Bureau as a defensive tactics instructor,
8 firearms instructor, and taser instructor, and patrol
9 tactics instructor. And then eventually transferred
10 full-time to the Training Division about four years ago
11 now.

12 Officially I was in charge of the Patrol
13 Tactics Program, and then not long after, ended up
14 taking over the Defensive Tactics Program. And I'm also
15 now certified as a driving instructor.

16 Q. And in terms, then, of defensive tactics, how
17 often are you involved in the training of police officers?

18 A. Depending on the workload, it can be daily.
19 Right now we're running an in-service program where we
20 provide ongoing training to all of our tenured members, all
21 950 of them. And we are running a daily program right now.

22 There will be a little less of a workload in
23 the summer, but other things come up. We also
24 provide -- as I mentioned, I went through an Advanced
25 Academy Program. We do those on a recurring basis when

1 we recruit classes ready to go.

2 Q. How frequently do Portland police officers
3 train in the area of use of force, including deadly force?

4 A. Primary mechanism of training is the
5 in-service program, which we offer annually. We run a
6 program of -- depending on the calendar year, 30 to
7 40 hours of training. And that is the -- pretty much the
8 minimum standard any of our members will get. Many of the
9 members also receive additional training, depending on
10 different assignments and skills.

11 So for instance, if somebody were a
12 less-lethal bean bag operator, they might attend a
13 training program every couple, three years, specific to
14 that. Somebody that was trained in the use of the
15 patrol rifle would also attend annual training.

16 So things like that do come up, but as I
17 said, the minimum is about 30 to 40 hours, and most of
18 that is in the area of force decision-making scenario
19 training.

20 Q. Are you familiar with a concept that is
21 generally known as action/reaction?

22 A. Yes. That's something that we teach, most
23 police agencies teach this. It's the national concept, I
24 suppose. An action/reaction, what we define it as is that
25 in a contest of time, the initiator has an advantage.

1 What we mean by that is, as people, we're
2 animals. And we have biological processes, and that's
3 how we move, that's how we think, that's how we perceive
4 our world around us. And we see things in our
5 environment as we decide what is meaningful, and we
6 decide what we're going to do in that environment.

7 And because of how our brains work and our
8 senses work, there's always some delay in the time
9 between when we perceive something and then we act.

10 One of the things I like to relate to folks
11 that are just hearing about this is the idea, since most
12 people are very familiar with driving, most of us are
13 drivers, or at least if we're pedestrians we have to pay
14 attention to traffic signals. And it's a very simple
15 stimulus, right, red light, green light, yellow light.
16 Not very complex.

17 Most transportation agencies, when they are
18 looking at intersections and how long a person will need
19 to react to a change in that traffic signal use a
20 standard of about a second and a half. So in other
21 words, for that very simple stimulus of a changing
22 light, it's a second and a half before you say, "Oh, the
23 light changed from green to yellow. I should take my
24 foot off the gas." So not that you have stopped, but
25 that you even begin reacting to the change in the

1 signal, and that's about a second and a half. And
2 that's a very simple stimulus.

3 When I look at more complex environments and
4 distractions and difficulties in perceiving whatever the
5 stimulus is, that delay can become much longer.

6 Q. And so how does that concept that you just
7 described relate to the work of a police officer in
8 situations that involve the use of force against
9 themselves?

10 A. So for our police training, we use this
11 concept to make sure that police officers understand there
12 will always be some inherent time lag in reacting to
13 something in front of them, or around them. And depending
14 on the more complex thing they have to react to, the longer
15 that time lag may be.

16 So in terms of tactics, they have to be
17 aware of this time lag and try to create other
18 advantages so that they are not at such a significant
19 disadvantage that they have failure.

20 Q. And how does that concept relate to distances
21 from a subject that may pose a threat to a police officer?

22 A. So we just mentioned action/reaction. One of
23 the other concepts we talk about very closely related to
24 this is we call it reactionary gap. And the idea here is
25 that in reacting to a potential threat or an actual threat,

1 an officer wants to have some distance between themselves
2 and that threat in order to make up for that lost time,
3 knowing that if a person moves, I am always going to be a
4 bit slower, because they are the initiator. I have to
5 react. So the time lag works against me.

6 So one of the ways we can try to account for
7 that is by creating distance between ourselves and the
8 threat. And if the distance is there, we can work with
9 that. Absent that distance, the officer might have to
10 act to protect themselves more immediately.

11 Q. Do you teach any specific distance that
12 officers might keep in mind to place between themselves and
13 the perceived threat?

14 A. There is no hard and fast distance that I can
15 tell you this many feet. It's all going to be dependent on
16 the totality of circumstances. What is the nature of the
17 threat? Is the person armed? What is their apparent
18 physical ability? What is the environment? Is there a
19 barrier, or no barrier? Is there a stable surface or
20 unstable surface? What is your own physical capability in
21 terms of getting out of the way? Do you have an area to
22 retreat to as a safe place to retreat to? Your actual
23 athletic abilities in terms of movement.

24 So because of all of those factors, we don't
25 pin a set distance; well, it's going to be 12 feet, or

1 21 feet or 30 feet. It will depend each and every time
2 depending on the actual environment.

3 Q. And generally, when are officers trained that
4 the use of lethal force is appropriate?

5 A. Our policy is consistent with various rulings
6 for the Supreme Court, most notably Graham v Connor. So we
7 say that officers may use deadly force to protect
8 themselves or others from what they reasonably believe is
9 an immediate threat of death, or serious physical injury.

10 And some of the components there are the
11 threat to themselves or others should be sufficient that
12 it could cause death, or there are some state laws that
13 apply to what serious physical injury is. But the
14 phrase itself conveys most of the information, a
15 life-altering type injury, loss of a bodily function,
16 such as being blinded, loss of a limb, possibility of
17 death. The immediate part refers to the circumstances
18 at that moment, and what can be perceived.

19 Q. And what is the training regarding the use of
20 force, given the context you just set out, when confronted
21 by persons who are armed with weapons that might range from
22 a screwdriver, baseball bat, hammer, knife, various options
23 like that that can be used as weapons?

24 A. So these things, again, would have to be put
25 into context. Somebody with a screwdriver who is on the

1 other side of a football field is probably not an immediate
2 threat. Somebody armed with a screwdriver who is two feet
3 away and it's raised overhead could be an immediate threat,
4 depending on what kind of intent they are showing, and
5 other things about their behavior.

6 So again, all of this is totality of
7 circumstances, as I mentioned. What is the person's
8 behavior? What are they armed with? What are they
9 doing at the moment? Other things that have led up to
10 this moment might be constructed towards making that
11 decision, are they an immediate threat or not.

12 Q. I think some people probably think out of a
13 sense of fairness, an officer might give verbal commands
14 before using deadly force, but is that necessarily a
15 component of the training? Is that a requirement in an
16 extraordinary circumstance?

17 A. We teach, and our policy also enshrines the
18 idea that we will try to give a warning before using deadly
19 force if tactically feasible. We have talked about
20 action/reaction, we have talked about a reactionary gap.
21 If I have that time, based on my environment, to tell
22 somebody, "Stop or you will be shot," then we want to do
23 that, and we train that.

24 However, there may be times where that is
25 not appropriate for the person, that trying to give that

1 warning will use up precious time to where they are
2 actually attacked, impaired, and unable to defend
3 themselves or somebody else.

4 Q. Of course, in the movies, we have all seen
5 actors playing police officers and shooting weapons out of
6 people's hands, things like that, trick shots.

7 Is that a realistic depiction in terms of
8 what officers are taught, and in terms of actual
9 situations they would encounter?

10 A. I would say of course not, that's why it's
11 Hollywood. Shooting is a pretty complex physical task.
12 It's not necessarily easy to learn or do. And that degree
13 of precision is pretty much unattainable, and not
14 sustainable for most folks. You can watch some trick
15 shooters on some of the TV shows, but that's their
16 full-time job. That's what they do all the time in a
17 nonthreatening environment. I have never seen a clay
18 pigeon actually shoot or stab a guy with a shotgun who
19 flicks it off the barrel and then shoots it.

20 And then we know that under stress and
21 immediate peril, that people are never more proficient
22 at a physical task, that stress tends to degrade both
23 our ability to perceive our environment, and then to
24 react effectively.

25 Even in a static environment, learning to

1 shoot that precisely is probably unattainable for most
2 people, and not sustainable without that being
3 dedicated, their only job.

4 So just shooting a person-size target is
5 actually a fairly challenging skill when it's just
6 standing still in a static type environment. You
7 introduce things like movement, low light, and hitting
8 that target very reliably can be, as I say, a challenge
9 for the average person, even with some degree of
10 training.

11 Q. Would stress also be a factor?

12 A. Absolutely. As I said, stress will never
13 improve performance under those circumstances, but will
14 degrade performance in terms of both sight and mechanical
15 ability to manipulate the weapon, and aim the weapon.

16 Q. So given those realities, where are officers
17 trained to aim in the event they decide to use or determine
18 to use lethal force?

19 A. We train to aim at the largest part of the
20 threat target. And for most threats, most environments,
21 that's going to be the torso of a person, because that
22 offers the largest mass to aim at, and the most forgiving
23 area for all of these inherent losses of precision that are
24 going to be part of the shooting event.

25 Whether I can see as well as I would like,

1 whether I am holding the gun as steady as I would like,
2 whether I am lining up the sights as steadily as I like,
3 whether I pull the trigger as smoothly as I would like.

4 So as these errors start to compound, well,
5 I have aimed directly in the middle, and now because of
6 that error, I am going to be a little off-center. The
7 largest part of the target is then the most forgiving in
8 terms of still being able to influence the situation.
9 Limbs and extremities are smaller targets. They are
10 moving, and much more difficult to both aim and hit.

11 Q. Is this training given with consideration to
12 the additional factor of other people who may be in the
13 area when shooting in an urban environment, meaning
14 bystanders?

15 A. Yes. When we do our firearms training, one of
16 our cardinal safety principles is that officers must be
17 aware of their target, their back stop, and what is beyond.
18 In other words, we know that, through national studies in
19 police shootings, that because of the complexity of the
20 environment, the challenges, the physical realities, that
21 bullets do not always strike their intended target.

22 So officers should try to position
23 themselves, be aware of what is behind that target,
24 because that bullet will go somewhere. So the most
25 important thing is to try to hit the target, but then to

1 be aware of the fact that they may not. And also the
2 reality that bullets sometimes pass through targets and
3 hit things behind those targets, and so we do train
4 that.

5 Q. Are officers taught to fire any particular
6 number of times after making a decision to shoot?

7 A. No. We do not put a set number of shots in
8 our training. What we teach is to use the reasonable force
9 for the threat until that threat has changed. And in the
10 face of an immediately -- an immediate deadly force threat,
11 if an officer believes that deadly force is reasonable,
12 they would be using deadly force until something has
13 changed that makes that threat no longer that immediate
14 danger. The threat has stopped or changed, and then they
15 can de-escalate it.

16 MR. REES: Any questions from the Grand Jury
17 for this witness?

18 GRAND JUROR: I do. On each officer, do you
19 keep a record of how many hours of training each officer
20 has, and do you know which ones need to have continued
21 hours of training?

22 THE WITNESS: Yes. Every officer has a
23 training record that's maintained electronically. And
24 then we do know who has attended the Annual Training,
25 and if they have not, then they are sought out to

1 actually come to the training. So they are scheduled
2 through, like, the Division they work at, if they work
3 at a patrol precinct, then that precinct sends them to
4 training per our schedule.

5 When we see at the end of the year that
6 certain names have not yet attended and are not yet
7 scheduled, then that Division will be sent a notice that
8 says Officer Taylor has not yet attended this class of
9 in-service training, and needs to go before the end of
10 the year.

11 GRAND JUROR: I was wondering if there are
12 any sort of general guidelines on when lethal force
13 would be appropriate versus say, using a stun gun, or
14 some alternate means of stopping a threat.

15 THE WITNESS: Yes. I will try to speak to
16 that. So again, it's totality of circumstances. I
17 can't tell you a hard and fast rule, you will only use
18 deadly force under this circumstance or less lethal
19 force under this circumstance. It's up to the member on
20 scene who has the best information at that moment about
21 what is appropriate for them.

22 In terms of using less lethal force against
23 a potentially lethal threat, again, some of that will
24 come down to this reactionary gap. So if somebody were
25 to be armed with a striking weapon and come to me, I

1 might have time to -- because of the distance, to try,
2 say, a taser first, if, knowing that the taser doesn't
3 work, I can then transition now to that firearm to then
4 still stop the threat before it gets to me.

5 If I have limited distance, I might not have
6 time to first try a taser and see if the taser works,
7 because tasers do not always work, and then transition
8 to the firearm.

9 Does that answer your question?

10 GRAND JUROR: I think so. I know you said
11 there's no hard and fast rules, obviously. Are there
12 any sort of, I don't know, red flags where an officer
13 will think, I should definitely try to use my taser?
14 Say they seem to be under the influence of stimulants,
15 like meth, or PCP, where they don't think it would work,
16 or they are very close, or anything like that?

17 THE WITNESS: Well, the distance is
18 definitely a factor. Taser, through the way it works,
19 it fires out these probes that are connected by wire to
20 the taser itself. And there is a mechanical offset at
21 the taser that angles the two probes apart. And in
22 order to have the most reliable effect on a person, the
23 taser probes need to be about a foot apart when they
24 make contact.

25 That does not occur until that person is at

1 least seven feet away, because the angle is
2 trigonometry. That's about the minimum. We know
3 through field experience that a better distance is about
4 15 feet to have a fairly reliable effect. But again,
5 sometimes because of the angle the taser probes don't
6 always strike the person. Sometimes because of
7 clothing, one may strike and bounce off.

8 So it's not a perfect system, by any means.
9 So again, it comes down to that reactionary gap, the
10 behavior of the threat. What is the threat armed with
11 for that decision? Can I try a less lethal tool before
12 I am now out of options and have to resort to a deadly
13 force before I am no longer able to defend myself?

14 Is that helpful?

15 GRAND JUROR: Yeah. Thanks.

16 MR. REES: Was there somebody else?

17 (No Response.)

18 MR. REES: All right. If there's no further
19 questions from the Grand Jury, we will excuse Officer
20 Taylor.

21 GRAND JUROR: Thank you.

22 (Brief recess taken from 10:48 a.m. to
23 11:34 a.m.)

24

25

TERA HARRIS,

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

3

4

EXAMINATION

5

BY MR. REES:

6

7

8

Q. Ms. Harris, could you please take a seat, and
then when you are ready, I will have you state your name
for the record, and spell your name.

9

A. Tera, T-E-R-A.

10

Q. And your last name?

11

A. Harris, H-A-R-R-I-S.

12

13

14

Q. All right. You indicated to me that you did
have some concerns about testifying in this matter; is that
right?

15

A. Correct.

16

Q. And what is your concern?

17

A. I am in fear of being retaliated against.

18

Q. May I ask by whom?

19

A. The City of Portland Police.

20

21

Q. In looking at the photo to your left, are you
able to see your residence on Southeast Sherman?

22

A. Yes.

23

24

25

Q. And which apartment is yours, marked as 2305
Apartment A lower; 2305 Apartment A upper; 2305 Apartment
A, lower B, is how they are marked? Which one is your

1 residence?

2 A. I live in the house.

3 Q. In the house, indicating this structure here?

4 A. That's one whole house.

5 Q. And it's marked on here as straight -- it's
6 marked as lower and upper, and then this side building is
7 lower B, but you are saying you reside in the entire
8 structure?

9 A. Yes.

10 Q. And did you have some contact --

11 A. Again, I do not -- I do not want to take any
12 part of this proceeding. And I have explained to you the
13 reasoning why.

14 Q. Well, are you willing to at least answer a
15 couple of questions?

16 A. No.

17 Q. All right. Is it correct, you did not witness
18 the actual shooting?

19 A. I plead the 14th. I just said I do not -- I
20 am not willing to speak.

21 Q. Now, you did previously speak with detectives
22 about this matter, correct?

23 A. (No response.)

24 Q. And you spoke to the media, because I know you
25 were on television.

1 A. (No response.)

2 Q. All right. You are not responding, so I take
3 it that's because you are choosing not to testify?

4 A. Because I am afraid for me and my children's
5 safety. I said that.

6 GRAND JUROR: Are you willing to tell us why
7 you feel a threat?

8 THE WITNESS: I just don't want to talk
9 about it right now.

10 MR. REES: All right. Why don't we step
11 outside.

12 (Lunch recess taken from 11:41 a.m. to
13 1:12 p.m.)

14 //

15 //

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

19

20 EXAMINATION

21 BY MR. REES:

22 Q. Officer, please be seated, and if you would,
23 for the record, state your first and last name, and spell
24 your name.

25 A. Thomas M. Clark, T-H-O-M-A-S, C-L-A-R-K.

1 Q. And Officer Clarke, are you a member of the
2 Portland Police Bureau?

3 A. Yes, sir.

4 Q. How long have you been a police officer?

5 A. About six years.

6 Q. And prior to that, what was your occupation?

7 A. I was in the military, I just returned from
8 Iraq.

9 Q. And what branch of the military?

10 A. Army.

11 Q. How many years did you serve in the US Army?

12 A. I am still serving now as a reservist, and I
13 have about 16 years total.

14 Q. When you say you had returned from deployment
15 in Iraq, that was immediately, then, before becoming a
16 Portland police officer?

17 A. Yes, sir.

18 Q. And what kind of assignments have you had with
19 the Portland Police Bureau since joining the force?

20 A. I have just been a patrol officer for the last
21 six years.

22 Q. And what is your current assignment?

23 A. I am a patrol officer at East Precinct,
24 afternoon shift.

25 Q. And so when this event occurred on the Sunday

1 afternoon of March 22nd, 2015, was that a regular working
2 day for you?

3 A. Yes, sir.

4 Q. And prior to this call that took you to the
5 area of Southeast 130th and Southeast Sherman, had anything
6 unusual occurred during the shift?

7 A. Nothing unusual, that I can recall.

8 Q. Let me direct your attention, then, to this
9 particular -- emergency call that you responded to.

10 What do you remember about the nature of the
11 call and the information that was provided to you from
12 BOEC?

13 A. The call came out as a burglary in progress.
14 And information that was given to me and other officers
15 involved in the call from dispatch was that a man came
16 home, or a person came home and noticed someone in his home
17 that he did not recognize.

18 And further information from BOEC, stated
19 there was a lot of screaming in the background, and that
20 the homeowner was fighting with the suspected burglar.

21 Q. And what was the level of priority of this
22 call? In other words, did you respond with lights and
23 sirens?

24 A. So this type of call I would -- and I
25 responded, basically, Code 3, lights and sirens, yes.

1 Q. And why is that?

2 A. There's a certain urgency in that type of a
3 call. You don't know what is going on inside the home,
4 especially when dispatch is saying that they are fighting.
5 Someone could be hurt, or someone is about to get hurt, so
6 you have to respond accordingly.

7 Q. Did you have the impression from the call that
8 the homeowner was struggling with an intruder inside of the
9 residence?

10 A. That was the impression that I had, based on
11 the information that I received from BOEC.

12 Q. Do you recall about how long it took you to
13 arrive at the scene?

14 A. I don't recall exactly how long it took me,
15 but I would -- if I was to guess, I would say probably
16 about a minute or less.

17 Q. So you were responding, obviously, from an
18 area fairly close to that neighborhood?

19 A. Yes.

20 Q. This view is looking to the east, to 130th
21 Avenue, at the stop sign from the west on Sherman. Do you
22 recognize this scene?

23 A. I do recognize.

24 Q. And do you see your patrol car in this image?

25 A. Yes.

1 Q. And which patrol car is that?

2 A. I believe my patrol car is the one right in
3 the middle. Not the front one, but I believe it's the
4 middle. Unless there's another car in front of that car,
5 but it was the second car, counting from the west.

6 Q. So that would be -- indicating here with the
7 cursor, you believe that would be your car?

8 A. Yes, sir.

9 Q. Were you the first police officer to arrive?

10 A. I was the first one.

11 Q. And so when you arrived, do you recall -- and
12 I will circle the view around -- and stop me if you see the
13 area that you recall where you first saw the two men?

14 A. Okay. Right about there.

15 Q. And just stop me with the cursor along the
16 fence line here?

17 A. Yeah. Right there in the grassy area
18 (indicating).

19 Q. Did you see the two men while you were still
20 in your police car or after you got out of the car?

21 A. I saw them while I was still in my car,
22 traveling northbound on 130th, as I was approaching
23 Sherman.

24 Q. And when you saw them, was it apparent to you
25 that those were actually the persons that had been

1 described in the information you received about the call?

2 A. Yes. Because the information that I received
3 from dispatch, as far as the suspect information, the
4 suspected burglar was a white male in his 30s, black shirt,
5 blue jeans. Of course, no description was given about the
6 caller.

7 Q. When you were arriving, you mentioned that you
8 went quickly, lights and sirens. As you get closer to that
9 intersection where you stopped, or past the intersection,
10 did you deactivate your siren?

11 A. I did.

12 Q. When did you do that, and why did you do it?

13 A. I deactivated my siren right at 130th, just
14 north of Division. And we do that because it's an
15 advantage, tactical advantage for us so the suspect doesn't
16 know that we're arriving.

17 Q. So is that pursuant to your training on that
18 type of call to submit -- that you wouldn't alert the
19 suspect that the police were arriving?

20 A. Yes, sir.

21 Q. So now that you have arrived, and you are
22 seeing these two men, what are you thinking in terms of
23 what is happening, and what is your plan to deal with what
24 is happening?

25 A. So what brought my attention to the two men

1 that were struggling in the middle of the street was a
2 group of guys and -- group of people standing on the
3 southwest corner of 130th and Sherman, and they are all
4 looking in the northwest direction, towards these two males
5 that were struggling with each other in the middle of the
6 street.

7 I noticed a black male, who I perceived was
8 holding a cell phone, what I thought was a cell phone,
9 in his right. And he was waving at me like this,
10 (indicating), towards me.

11 And based on the information that I received
12 from BOEC, I saw him struggling with a white male in his
13 30s, had a black shirt, that was kind of in his hands,
14 and blue jeans. So immediately I thought, that's got to
15 be the caller, the black male, and then the suspect was
16 a white male.

17 Q. Okay. And so what did you think in terms of a
18 plan for dealing with this situation? Because it sounds
19 like at that time these two are still in some sort of
20 physical confrontation?

21 A. Yes, they were. And so immediately I thought
22 to myself, I have to get in there and break up the fight
23 before somebody gets hurt, and at the same time, I am
24 looking to see where my cover was at.

25 Q. By cover, do you mean other police officers

1 responding to the scene?

2 A. Yes.

3 Q. And at that point, was anyone else there?

4 A. Yes. Officer Curtiss, basically pulled up
5 just as I was getting out of my vehicle.

6 Q. And do you recall where he parked? In other
7 words, did he park behind you, or did he roll in behind
8 where you parked?

9 A. Officer Curtiss basically parked just to my
10 left, because I remember seeing in my peripheral vision his
11 lights on his vehicle. So he was to my left, and little
12 bit in front of mine.

13 Q. And after he arrived, then, what did you do?

14 A. As I am walking towards the confrontation that
15 was in front of me, I was yelling at the homeowner to let
16 go, or disengage from the suspect. And I probably yelled
17 maybe two or three times. I don't recall exactly the
18 amount, how many times I yelled at him, but I would say two
19 to three times.

20 Q. And did he seem to respond to what you were
21 saying?

22 A. At first I don't think he responded, so maybe
23 he didn't hear me, or was still too busy with the
24 confrontation with the suspect. That's why I had to repeat
25 myself a couple more times afterwards. But then he

1 eventually heard me and disengaged from the suspect.

2 Q. And at that point did you see where the black
3 male went, or were you just focused on the white suspect?

4 A. Immediately I focused on the white male
5 suspect, because I couldn't see his hand. And on my
6 peripheral vision, I saw the homeowner go somewhere
7 westbound, and south from me.

8 Q. And did you say you could not see the hand or
9 hands of the white male suspect?

10 A. Yes, I could not see his hands.

11 Q. Why not?

12 A. Because he had a shirt over his hands. And I
13 assume during the struggle the homeowner was able to pull
14 the shirt over his head, because it was right around his
15 wrists and his hands, so I couldn't see his hands.

16 Q. And do you recall how he was holding himself,
17 or how he was holding his hands?

18 A. I do recall. He was what I would call a
19 fighting stance. He was slightly hunched over and slightly
20 bladed away from me. And with the left leg forward, and he
21 had his right kind of cocked back, just like this
22 (indicating).

23 Q. So seeing that, what was your thought process?

24 A. My thought process was basically I wanted to
25 see what this guy was holding in his hands. So I yelled at

1 him approximately two to three times, "Let me see your
2 hands."

3 Q. And did he have any response to that?

4 A. He made no response at all. All I could
5 remember hearing was he was hissing. He was making hissing
6 sounds like a cornered badger would make. That's the only
7 thing I can recall.

8 Q. And at that point, do you have your gun drawn
9 or any other tactical devices out?

10 A. At this point, no, I did not draw my gun or
11 taser. I was just basically talking to him, and telling
12 him, "Hey, show me your hands."

13 Q. Why was it important to you to see his hands?
14 Why were you asking him to show you his hands?

15 A. I was asking him to show -- for him to show me
16 his hands, because it's not uncommon for a suspect burglar
17 to carry a weapon of some sort, burglary tool or anything
18 like that. And basically, for my safety and the officer
19 that was next to me, we had to see his hands before we can
20 address the situation.

21 Q. And as you were saying, "Show me your hands,
22 show me your hands," about how close do you recall getting
23 to this person?

24 A. Approximately about two yards away from him, a
25 yard and a half to two yards.

1 Q. So around six feet; is that right, that --

2 A. Yes.

3 Q. That's about the distance between --
4 approximately between you and me right now; is that
5 correct?

6 A. I would say a little bit closer. About an
7 arm's length away. Maybe an arm and a half.

8 Q. So pretty close?

9 A. Yes, very close.

10 Q. And what happened -- actually, at that point,
11 do you recall where Officer Curtiss was?

12 A. I don't recall exactly where he was at. I
13 just know he was somewhere behind me, because I saw him
14 exit his vehicle and was walking towards me.

15 Q. Do you have some intention at that point in
16 terms of a plan of what you were going to do? Because it
17 sounds like you were getting, physically, pretty close to
18 this person?

19 A. Yes. I got that close, because he was
20 fighting with the homeowner, and I wanted to get there and
21 break up the fight. But I stopped, momentarily, after the
22 homeowner disengaged, and the reason why I stopped is
23 because I couldn't see his hands. And the plan was to take
24 him into custody.

25 Q. What happened?

1 A. So after I told him to show me his hands, he
2 either dropped the black shirt that was covering his hands,
3 or moved it aside. And simultaneously I saw his right hand
4 come up, and he was holding a knife.

5 My first thought was box-cutter knife,
6 that's initially what I thought. I just saw a
7 silver-edged weapon he was holding in his right hand.
8 And without warning, just as quick as I perceived that
9 he was holding a knife, the knife came towards my
10 throat.

11 Q. And can you describe for the Grand Jury, and
12 demonstrate for us the type of motion he used with the
13 knife?

14 A. It was basically the type of motion that you
15 would also use as if you were punching somebody. He cocked
16 back, went forward like this, towards my throat. And
17 that's when I recognized that he's trying to cut my throat.
18 And that's when I craned my neck backwards, and at the same
19 time, I brought up my left hand.

20 And I -- this is what we call parry. I
21 slapped his hand downward towards my chest level,
22 because I didn't want to get cut. And at the same time,
23 I felt something graze the back of my triceps, and then
24 I felt an impact on my chest. I don't know exactly what
25 hit my chest, if it was the knife or parts of his hand,

1 but I definitely felt the impact.

2 Q. As it so happens, you have an extensive
3 background in martial arts training, correct?

4 A. I do.

5 Q. And you were born and raised until the age of
6 12 in the Philippines; is that correct?

7 A. That is correct.

8 Q. What types of martial arts have you studied,
9 and when did you begin studying the martial arts?

10 A. I started studying martial arts in Philippines
11 at the age of five. And in Philippines, it's almost a
12 cultural thing to study martial arts. And that's basically
13 stick fighting, and then knife fighting for me in the
14 Philippines, just as the Koreans would study Taekwondo at
15 the young age.

16 Q. And what types of martial arts have you
17 continued to study into your adulthood?

18 A. Currently, I am studying Jujitsu, Taekwondo,
19 mixed martial arts, and I have continued my edge weapons
20 training ever since I was five.

21 Q. And by edge weapon, would that include knives?

22 A. Yes, sir.

23 Q. So are you familiar with the use of knives,
24 both offensively and then defensive tactics, to use against
25 a knife attack?

1 A. Yes, I am very familiar with it.

2 Q. And I ask because it sounds like had you not
3 taken that defensive move you just described, that you
4 might have been actually slashed at that time; is that
5 correct?

6 A. That is correct.

7 Q. And I assume that was a skill that is not
8 necessarily part of basic police training, or is it?

9 A. No, it's not.

10 Q. So you knew that because of your martial arts
11 experience?

12 A. That is correct.

13 Q. In terms of the slashing motion that you
14 described, did it look to you, based on your training and
15 experience, as if this was a person who -- just to use the
16 phrase "knew what he was doing," as opposed to just some
17 guy with a knife?

18 A. Yes. Automatically I recognized that this
19 person has had some kind of training, just the way he
20 handled the knife, and the way he came at me with the
21 knife.

22 There's certain things that a person who has
23 had knife training, certain things the way you would
24 handle the knife, and just the way he came at me. It
25 looks just like from somebody looking from the outside

1 like he was punching. But with the flick of a wrist,
2 the blade was basically at the bottom part of the hand,
3 and that's what he did.

4 Q. Between the time that you first saw that he
5 actually had a knife in his hands when he dropped the shirt
6 or the sweatshirt, and the time that he moved in and you
7 pushed his hand away, what was the time frame on that?

8 A. That happened so fast. Everything happened so
9 fast, I mean, I immediately -- if I can paint a picture, by
10 the time he removed the shirt, whether he dropped it on the
11 ground or just moved it away, the knife was already coming
12 towards my throat. I mean, as soon as I saw it, he was
13 already halfway between where I originally saw it and to my
14 throat.

15 Q. All right. And when this happened, you have
16 already described taking defensive action?

17 A. (Witness nods head.)

18 Q. And did you also step back to create more
19 distance between yourself and this person?

20 A. I did. First thing that they teach you in any
21 knife defense training is to redirect and create distance,
22 and that's what I did. I redirected his hands, basically
23 below my throat, and took a few steps back to gain that
24 distance.

25 Q. And what did you do after stepping back?

1 A. After creating the distance, which I thought
2 was safe, I basically pulled my weapon out and pointed at
3 him as I am creating the distances.

4 Q. And do you recall whether you said anything at
5 that point?

6 A. At that point, yes, I told him to drop the
7 knife. And I repeated myself, probably, two or three times
8 as I was backing up. And he was shadowing me as I was
9 backing up, because he was moving forward and to his left,
10 as I am backing up to my right.

11 Q. In addition to him shadowing you, matching
12 your move, did he take any action with the knife?

13 A. Yes. He made a flurry of movement, like a
14 figure 8 motion. And that's when I recognized that the
15 knife he was holding wasn't a box cutter.

16 And if I could -- can I tell them exactly
17 what I was thinking?

18 Q. Uh-huh.

19 A. And I thought to myself, "Oh, shit, he's got a
20 karambit." And a karambit is a very specialized knife.
21 It's made for one thing, and that's to really hurt
22 somebody, or to kill somebody.

23 Q. And how are you familiar with that particular
24 type of knife?

25 A. I am very familiar with it. I have trained

1 with it all my life. I carry one, and I know what they can
2 do.

3 Q. And so as you have this realization and seeing
4 this knife, what do you do, and what does he do?

5 A. Well, I thought to myself, he's got a
6 karambit. This is someone who has had some training with a
7 knife, because your normal, average person won't even know
8 about a karambit unless he's had some training.

9 And just the way he was moving the knife,
10 from an untrained person looking from the outside, it
11 looks like he was making a figure 8 motion. But from my
12 training, that's strike one and strike two of the ten
13 basic knife strikes in knife fighting.

14 Q. Did he have any response to your commands to
15 drop the knife?

16 A. He made no response.

17 Q. So what happened then?

18 A. So I yelled at him, "Drop the knife. Drop the
19 knife." He then made eye contact with me, made this
20 hissing sound again, and basically charged myself and
21 Officer Curtiss.

22 Q. And what did you do?

23 A. So I discharged my weapon, because I knew that
24 if I didn't stop him from charging towards me that he was
25 going to seriously hurt me or kill me or my partner.

1 Q. And do you recall how many times you fired
2 your weapon?

3 A. I do recall. I fired twice.

4 Q. Do you remember your position when you fired,
5 or not?

6 A. I do slightly recall my position. I was
7 facing northbound, slightly canted, probably eastbound.

8 Q. I guess, I mean in terms of your stance, did
9 you have the opportunity to sight your weapon in and fire,
10 in that kind of shooting position, or was it more of a -- I
11 don't know if you call it an instinctive type shooting?

12 A. Yes. This -- I didn't have time to use my
13 sights, because he was coming pretty fast. He was at a
14 dead sprint when he came towards me. And at that point it
15 was basically instinct shooting. And I was bladed slightly
16 towards my right.

17 Q. And you said you fired two shots. Could you
18 tell whether you had struck him with gun fire?

19 A. No, initially I thought I missed him. But for
20 some reason he stopped, and I was thinking to myself,
21 "Shit, I missed him. I didn't hit this guy."

22 Q. So he stopped. Did he have any other
23 reaction?

24 A. I was looking at his hand, his right hand, but
25 for some reason the knife wasn't in his hand anymore, so I

1 didn't fire again. He made no advancement towards myself
2 or Officer Curtiss. He didn't have a knife, so I didn't
3 shoot again.

4 Q. And did you -- at this point, were you still
5 giving any commands?

6 A. I then told him to get on the ground, I would
7 say, about two or three times.

8 Q. And did he respond to that?

9 A. No, he did not.

10 Q. So what happened then?

11 A. He made some weird noise. He tucked his right
12 elbow next to his side, like this, and he kind of arched
13 his back slightly backwards, and then he was hissing and
14 making other noises. And then I heard a pop, and I saw
15 taser lines going towards him.

16 And, of course, I realize that Officer
17 Curtiss just deployed his taser, and immediately he went
18 down.

19 Q. So it sounds as if you didn't realize that
20 Officer Curtiss was using the taser until you heard the
21 sound?

22 A. Yes, until I heard the sound, and then I saw
23 the taser lines.

24 Q. And when you saw the suspect fall to the
25 ground, what did you think had happened?

1 A. I knew that he was tased, that the taser line
2 made contact.

3 Q. And what do you do at that point?

4 A. At that point I stayed as lethal cover,
5 because I didn't know if he had another weapon in his
6 waistband, or like I said, I don't know where the knife
7 went. I couldn't see it anymore.

8 Q. And by lethal cover, does that mean you are
9 holding the suspect at gun point at that point, now that
10 he's down on the pavement?

11 A. Yes, sir.

12 Q. Do you recall other officers arriving to the
13 scene?

14 A. I do recall Officer Bigoni arriving, and
15 Officer Bianchini arriving.

16 Q. About how long do you think went by before
17 those police officers arrived?

18 A. It felt like forever, but I would say probably
19 under a minute.

20 Q. And do you recall whether Officer Curtiss or
21 the other officers called for medical assistance for the
22 suspect?

23 A. Yes, I do recall Officer Curtiss calling for
24 Code 3 medical, and that a person was shot.

25 Q. Well, you have had years of training in

1 different types of martial arts, you have served in the US
2 military in the Middle East, and now as a police officer.

3 How did this experience grade on a scale in
4 terms of the fear you felt, or the danger that you
5 perceived?

6 A. Well, the person, I know, is definitely trying
7 to -- was trying to kill me, and he made it obvious by
8 trying to cut my throat with a knife, and I was in full
9 fear of my life.

10 And even after that, I gave him a warning to
11 drop the knife, because I didn't want to shoot the guy.
12 I didn't want to shoot anybody. But he forced me to
13 shoot him, because even after a few warnings, he came
14 after us again with the knife.

15 Q. I am sure that you have thought many times
16 about this situation since it occurred, and mentally
17 reviewing what happened.

18 Do you believe there were any other force
19 options that were available to you at that time?

20 A. I have thought about it a lot, and I do not
21 believe that there was one other option, because it
22 happened so fast. I mean, I had to get there because he
23 was fighting with the homeowner, and I didn't want the
24 homeowner getting hurt, or the suspect getting hurt because
25 of the fight. So we had to get pretty close to him, to

1 both of them.

2 And immediately when I arrived, it became a
3 self-defense situation for myself and the other officer
4 that was with me, because we didn't have any other
5 option, because he had already deployed the knife. It
6 was already open when he came after me with it. And in
7 that type of situation things happen so fast, you are
8 maybe able to give one or two different warnings, and
9 then just the way it happened, he attacked again.

10 So we weren't -- we didn't have any other
11 options as far as deploying a less lethal --

12 Q. And just for clarification, to the extent any
13 is needed, it sounds as if you believe he had the knife in
14 his hand, blades open at the time that you arrived, and
15 that the knife was concealed by some clothing that he had
16 over his hand; is that correct?

17 A. That is correct.

18 MR. REES: Any questions from the Grand
19 Jury?

20 GRAND JUROR: When you parried the guy's
21 knife, did it seem to you he really knew what he was
22 doing, and that's why you didn't stay with him as a
23 knife fight?

24 THE WITNESS: Just the way he -- initially,
25 as I am assessing the situation, the way he was

1 standing, he was already bladed. He was in a fighting
2 stance already. And as soon as that knife came out, I
3 mean, he was already coming towards me in a way that it
4 was -- you know, your normal knife attack from a person
5 that is inexperienced with knives, would come overhand
6 like this, or in a stabbing motion.

7 Okay. This came at me like a punch, and
8 what is dangerous about this type of a knife is that you
9 can't really see it because most karambits are
10 single-bladed. Initially, I thought that was a
11 single-bladed karambit, and then I later found out that
12 it was double-bladed after I saw the pictures, because I
13 only saw one blade.

14 Just the way he came at me, like a punch and
15 then with the flick of a wrist, that knife came out and
16 basically I defended myself by slapping it down, and
17 creating the distance.

18 GRAND JUROR: I have a question. On the
19 first -- when you said you thought you had missed him --

20 THE WITNESS: Yes, ma'am.

21 GRAND JUROR: Did he still have the knife in
22 his hand then, and then the second shot -- when did you
23 do the second shot?

24 THE WITNESS: It was consecutive shots. It
25 was probably under half a second when I made those two

1 shots.

2 MR. REES: And then to the second part of
3 the question --

4 GRAND JUROR: Did you see the knife still in
5 his hand when you did the second shot?

6 THE WITNESS: Yes. He was still coming
7 towards us with the knife in his hands when I fired the
8 two shots. And after I fired the two shots, he had
9 stopped. And then I looked for the knife, and it wasn't
10 in his hand already.

11 MR. REES: Any other questions?

12 GRAND JUROR: To your knowledge, have you
13 ever had any contact with the woman living in this area
14 named Tera Harris?

15 THE WITNESS: No, I don't believe so.

16 MR. REES: If there are no further
17 questions, we will excuse Officer Clarke. Thank you.

18 THE WITNESS: Thank you.

19 (Proceedings concluded at 1:47 p.m.)

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MULTNOMAH COUNTY GRAND JURY
DEATH INVESTIGATION

Deceased:)
Christopher Ryan Healy) DA No. 2317948-1
Date of Incident:)

1 Location: SE 130th Ave./ SE)
2 Sherman Street,)
3 Portland, Oregon)
4)

5 TRANSCRIPT OF PROCEEDINGS

6 BE IT REMEMBERED that the above-entitled
7 transcript of GRAND JURY proceedings was heard,
8 commencing at the hour of 10:30 a.m., on Friday,
9 April 24, 2015, at the Multnomah County Courthouse,
10 Portland, Oregon.

11 APPEARANCES

12 Mr. Donald Rees
13 Deputy District Attorneys
14 On Behalf of the State of Oregon.

15
16
17 DEBORAH L. COOK, RPR, CSR
18 Certified Shorthand Reporter
19 Portland, Oregon

20 * * *

21 PROCEEDINGS

22 Wednesday, April 22, 2015, at 10:48 a.m.

23
24 MARK JOHNSON,

25 a witness called on behalf of the State, having been first

1 duly sworn, was examined and testified as follows;

2

3

EXAMINATION

4

BY MR. REES:

5

Q. All right, sir. Thank you. For the record --

6

A. That's my house.

7

Q. Yeah, we will talk about it in a second.

8

First, sir, if I could have you state your

9

first and last name for the record, and then spell your

10

name.

11

A. My name is Mark Johnson. Mark, common

12

spelling, M-A-R-K; Johnson, common spelling, J-O-H-N-S-O-N.

13

Q. And what is your residential address?

14

A. 2305 Southeast 130th Avenue. I am on the

15

corner of Sherman and Southeast 130th.

16

Q. And so then using this 3-D image, let's see if

17

we can show the Grand Jury --

18

A. That's 130th there coming this way

19

(indicating), going north --

20

Q. Indicating at the stop sign, and --

21

A. And coming west this way, that's Sherman.

22

That's my house right there, where you see -- right up

23

there to the right. You see the stairs, upstairs, that's

24

my house. Where you see the yellow up there, up at the

25

top, that's my apartment.

1 Q. So we're going to click on this. And let's
2 see --

3 A. Where the red is up there, on the right,
4 that's me.

5 Q. This here?

6 A. Right. Apartment C, yes.

7 Q. And do you know Jean-Paul?

8 A. No.

9 Q. Do you know Tera Harris?

10 A. No.

11 Q. Does that picture show the view of Southeast
12 Sherman from your apartment?

13 A. Yeah. Closer to the left, though. I see it
14 all. But from the view I was in, I looked out the second
15 window, not the first. So right in there, right in the
16 area where that -- right there in the middle, between that
17 tree and --

18 Q. Tell you what, instead of pointing, why don't
19 you go up to the picture and you can show us.

20 A. This would be where I would be at. From my
21 point of view would be from here to here. I see all of
22 this, but I mostly see this (indicating). I mean, I have
23 to look in the other window to see this far.

24 Q. So let me ask you while you are still standing
25 there for one second, this image that we're seeing

1 approximates what you would see from this window?

2 A. Yeah, from that window -- from this. And from
3 that window, the second window here.

4 Q. But as far as the events you are going to
5 describe for us --

6 A. I saw them in the second window.

7 Q. So you were looking from this window?

8 A. Yes. Yes.

9 Q. And just to be clear, then, from this
10 window --

11 A. I can see all of this (indicating).

12 Q. You see less of this to the right --

13 A. Right. I see less. I mean, if I look in the
14 window, I can see it all. But I was looking out of that
15 window.

16 Q. Okay. So is everybody clear on that?

17 GRAND JUROR: Uh-huh.

18 BY MR. REES:

19 Q. All right. So then just to direct your
20 attention back to this event that happened on Sunday
21 afternoon or evening of March 22nd, 2015, were you at home?

22 A. Yeah.

23 Q. At that time?

24 A. Yes. Yes.

25 Q. Was anybody else in Apartment C with you?

1 A. Yeah, my wife.

2 Q. And what was the first thing you noticed
3 unusual that afternoon?

4 A. Well, it all started because there was a
5 basketball game that they didn't show, and I was really
6 ticked off about it. And because I went and got me some
7 beer and some things, and some chips and things, and they
8 said it was going to be on TV. And I said, "I don't see it
9 yet." They had golf instead.

10 So I thought, oh, I am going to bed, so I
11 lay down and take a nap. So I take a nap, and I heard a
12 scuffling, which I thought was my neighbors next to me,
13 because they are always arguing, and they drink a little
14 bit, and then they always have occasional outbursts of
15 anger.

16 And I assumed it was them. And I was
17 looking at my wife, and she laying down napping, and I
18 said, "Here we go again."

19 But then I laid down, and then I heard
20 somebody else, that was closer, right up in front of my
21 window. And so I got up to take a look, and that's when
22 I saw the gentleman downstairs holding this gentleman by
23 the arm, and pushing him out into the street, as you see
24 there.

25 Q. You say the gentleman downstairs, you don't

1 know his name?

2 A. No, I don't know his name. Him and me are not
3 the greatest of neighbors.

4 Q. And is he an African American?

5 A. He's African. I don't know if he's American.
6 That much I can say.

7 Q. So he's dark-skinned --

8 A. I can say he was a man of African decent.

9 Q. And then what about the other man you saw?

10 A. The other man was Caucasian.

11 Q. And could you hear any of the things that were
12 being said between these two men?

13 A. I heard some mumbling because my TV had been
14 on, and I heard some mumbling. And I heard -- and I saw
15 him and him kind of scuffling. And by the time he had
16 moved him -- he had had him, because there's a truck he had
17 that's sitting right up under my window. And he was on the
18 opposite side of that.

19 And all I saw is when I looked out, he had
20 had him by the arm and he was pushing him toward the end
21 of the truck, toward the street. And they had gotten
22 into some scuffling, and his hand and sweater and stuff
23 were all mangled together.

24 And I go, "Oh, what is this about?" And
25 just then, that's when a policeman showed. And then he

1 let him go, and he was --

2 Q. Just to slow you down so we're clear, when you
3 say he let him go?

4 A. The dark -- the black gentleman let the white
5 guy go.

6 Q. When the police officer arrived --

7 A. Right. And he was pointing at him, or
8 something to that nature. All I know is after that, he had
9 backed up. And he was trying to explain something. I
10 think he was trying to explain something to the policeman.
11 I didn't hear all of the -- I didn't hear all the actual
12 verbatation -- the actual verbal stuff that was going on.

13 Q. Could you hear the police officer --

14 A. I heard the police officer, when he had
15 gotten -- we had gotten -- when the white guy had backed
16 all the way up across the street to where you see the grass
17 right there, he had backed up. He had told him that he
18 wanted him to get on the ground, and he did not comply.

19 And I looked at my wife and said, "Oh, this
20 is going to be a good one." So we sat there and looked,
21 and when the officer got up on him, when I turned back
22 around, the officer was already next -- in front of him.
23 By this time, the guy took a swing at the officer.

24 Q. Can I back up on something. You told the
25 detectives that you noticed something about the white guy,

1 as far as his hands being wrapped in a coat?

2 A. Yeah. He had -- because of the scuffle, the
3 scuffle that him and the other guy -- and he was mangled up
4 in his arm. And he had to pull it -- pull his hand out.
5 And that's -- and he was struggling and pulled it out.

6 And the next thing I know is he took a swing
7 at the cop. And I looked at my wife, and I said, "Oh,
8 he's fighting the police. This is going to get ugly
9 now." And when I turned back around and looked, the
10 officer was in the middle of the street firing shots at
11 him.

12 Q. When you turned around to look at your wife,
13 was she still in the napping --

14 A. She was laying down. She was getting up to
15 look. What she did after I turned my head, I don't have a
16 clue. I never bothered to ask her.

17 Q. Could you tell whether the white person seemed
18 to be complying with the officer's commands, verbal
19 commands?

20 A. No.

21 Q. You could not see, or he was not complying?

22 A. He just wasn't complying. They told him to
23 get on the ground, and he didn't. Next thing I know, he
24 was walking up on him, and he took a swing at him. When he
25 swung at him -- the cop's like 6-4, or something like that.

1 He was bigger than me. So I figured, well, this is going
2 to be good. And when I turned back around, the officer was
3 firing shots at him.

4 Q. Could you see whether the white guy had
5 anything in his hand?

6 A. No. When I saw him, the swing, he had nothing
7 in his hand, that I could see. But I had turned my head,
8 but when I turned back, all I know is he had risen his gun,
9 and he was squeezing rounds off.

10 Q. Do you know how many shots were fired?

11 A. I heard two.

12 Q. Did you see what happened after that?

13 A. He fell to the ground.

14 Q. What happened after that?

15 A. They tased him and handcuffed him. I thought
16 that was silly. He had two bullets in him, duh. He ain't
17 gettin' up and walkin' nowhere.

18 Q. How close did this person get to the police
19 officer?

20 A. The officer was halfway back toward my
21 apartment when he fired the shots.

22 Q. And where was the white guy?

23 A. He was near the -- he was near the edge of the
24 green where you see the grass. He was at the edge of the
25 grass.

1 Q. And did you see -- other than the shooting
2 officer, did you see any other police officer there?

3 A. I remember one cop coming from the open --
4 from the corner. And that's my memory, as far as that's
5 concerned. When you see somebody get shot, you are kind of
6 like (indicating). It looks okay on TV, but in real life,
7 it was not funny.

8 Q. And you made an expression. It was a
9 startling event?

10 A. Yeah, it was a really startling event, because
11 I never seen nobody shot. No kind of violence like that,
12 ever in my life. A few fights in my time, but never --
13 huh-uh.

14 MR. REES: Thank you.

15 Are there any questions from the Grand Jury?

16 GRAND JUROR: Maybe you could estimate the
17 number of feet when the officer did discharge his
18 firearm?

19 THE WITNESS: It was -- it had to be at
20 least 30, because all I know is when he told him -- when
21 he took a swing at the officer, I turned for my wife, I
22 turned back. When I turned back he was -- do you mind,
23 if I could?

24 He was here, the guy was about here,
25 somewhere in here, and the officer was right about here.

1 He was almost back to my driveway when the shots were
2 fired. He had about maybe 10, 15 feet from my driveway
3 when the shots were fired.

4 MR. REES: Anything else?

5 (No response.)

6 MR. REES: Thanks again for coming in.

7 Appreciate it.

8

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

12

13

14

EXAMINATION

15

BY MR. REES:

16

17

Q. And if you would, please, state your name
again for the record and spell it.

18

A. Kristina Coffey, K-R-I-S-T-I-N-A, C-O-F-F-E-Y.

19

20

21

22

Q. Thank you, Detective Coffey. Yesterday the
Grand Jury requested some additional information or
evidence in this case, which was information related to the
training of Officer Thomas Clarke.

23

24

25

And specifically, and correct me if I am
misstating this, members of the Grand Jury, the interest
specifically was training that he's received related to

1 defensive tactics and use of force.

2 MR. REES: Is that correct?

3 GRAND JURORS: (Nodding heads.)

4 MR. REES: Yes. Everybody is nodding.

5 So based on your request, I called Sergeant
6 Ken Whattam from the Portland Police Bureau, Homicide
7 Division, and Detective Coffey was then given the task
8 of obtaining the records.

9 BY MR. REES:

10 Q. And were you able to obtain those records?

11 A. Yes, I was.

12 Q. And if you would, please, what did you learn
13 about Officer Clarke's training and use of force?

14 A. I have learned that 24 hours are required by
15 DPSST for firearms and use of force training during a
16 three-year period. Officer Clarke has 160.5 hours of
17 training in use of force and firearms in the last
18 three-year period.

19 Q. So does that indicate that he has voluntarily
20 obtained the additional training above and beyond the
21 minimum requirement?

22 A. Yes, he has.

23 MR. REES: Are there any questions about
24 that?

25 (No Response.)

1 MR. REES: Did that answer your question?

2 GRAND JUROR: Yes, it did. Uh-huh.

3 MR. REES: Thank you, Detective. That
4 concludes our presentation.

5 (Proceedings concluded at 11:02 a.m.)

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1 STATE OF OREGON)
2)ss
3 COUNTY OF YAMHILL)
4

**CERTIFIED
ORIGINAL**

5 I, Deborah L. Cook, RPR, Certified Shorthand
6 Reporter in and for the State of Oregon, hereby certify
7 that at said time and place I reported in stenotype all
8 testimony adduced and other oral proceedings had in the
9 foregoing hearing; that thereafter my notes were
10 transcribed by computer-aided transcription by me
11 personally; and that the foregoing transcript contains a
12 full, true and correct record of such testimony adduced
13 and other oral proceedings had, and of the whole thereof.

14 Witness my hand and seal at Dundee, Oregon, this
15 1st day of May, 2015.

16 
17



18
19 DEBORAH L. COOK, RPR
20 Certified Shorthand Reporter
21 OREGON CSR #04-0389
22 CALIFORNIA CSR #12886
23 WASHINGTON CSR #2992
24
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