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

GRAND JURY B PROCEEDINGS

Case No. 24

Conducted by:

Shawn Overstreet, Deputy District Attorney  
Jayme Kimberly, Assistant Attorney General

- - -

September 22, 2021

(03:49:37)

- - -

DA Case No. 2434834-1

Katie Bradford, CSR 90-0148  
Court Reporter  
Portland, Oregon  
(503) 267-5112

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

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1 Deceased: Robert Delgado

2 Date: 4-16-21

3 Location: Lents Park

4 DA Case No. 2434834-1

5 Grand Jury B Recordation, Case No. 24

6 \* \* \*

7

8 (Volume 2, Wednesday, September 22, 2021, 9:06 a.m.)

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

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

12 A GRAND JUROR: Okay.

13 MR. OVERSTREET: Okay. We're on the record  
14 again here in the matter regarding the death of Robert  
15 Delgado. This is DA Case No. 2434834-1, Grand Jury B,  
16 Case No. 24. This is Day 2 of testimony, and we are  
17 ready to get started with Officer Ken Le.

18 A GRAND JUROR: Please raise your right hand  
19 before you sit down there.

20 THE WITNESS: Yeah.

21 A GRAND JUROR: Thank you.

22 KEN LE

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

25 A GRAND JUROR: Thank you. You may sit

## Examination of Ken Le

1 down.

2 MR. OVERSTREET: And once you're seated, go  
3 ahead and state and spell your full name, please.

4 THE WITNESS: Yep. First name is Ken,  
5 K-e-n. Last name is Le, L-e. Been employed with the  
6 City of Portland as a police officer since May of  
7 2017.

8 EXAMINATION

9 BY MR. OVERSTREET:

10 Q Okay. And where are you currently assigned  
11 with the Portland Police?

12 A I am currently assigned to East Precinct.

13 Q Okay. And were you assigned to East  
14 Precinct on April 16th of this year?

15 A Yes, sir, I was.

16 Q Okay. And what kind of shift were you  
17 working on April 16th of this year?

18 A I was working day shift on overtime  
19 that day.

20 Q Okay. And what time did your shift begin?

21 A At 7:00 a.m.

22 Q And when you say "overtime shift," does that  
23 mean you just came off a shift and you're starting a  
24 new one or this is normally like a day off and you're  
25 working just a normal shift?

## Examination of Ken Le

1           A     Got off the night before and then came in  
2     that morning.  And then I had another shift after that  
3     as well.

4           Q     Okay.  And when you say you "Got off the  
5     night before," do you recall about what time you --

6           A     I don't recall what time that was.

7           Q     Was it enough time for you to go home and --  
8     and get some sleep?

9           A     Yes.

10          Q     Did you feel rested the morning of the 16th?

11          A     Yes, sir.

12          Q     And you said you started that shift at  
13     7:00 a.m.?

14          A     Correct.

15          Q     East Precinct, you're in a patrol car?

16          A     Yes, sir.

17          Q     Are you with a partner or are you by  
18     yourself?

19          A     By myself.

20          Q     Okay.  And did you hear a radio call  
21     regarding a person with a gun in Lents Park that  
22     morning?

23          A     Yes, sir.

24          Q     Do you recall about what time that was?

25          A     I believe it was somewhere about 9:30 a.m.

## Examination of Ken Le

1           Q     Okay.  And where were you when you heard  
2     the call?

3           A     I was driving just somewhere approximately  
4     in the vicinity of East Precinct, which is, like, by  
5     Mall 205 area.

6           Q     Okay.  About how far is that from the call  
7     location?

8           A     So from Burnside down to Holgate, so quite a  
9     few blocks away.

10          Q     Okay.  Were you assigned to -- or were you  
11     dispatched to the location or did you respond on your  
12     own will?

13          A     I responded on my own will.

14          Q     And why did you do that?

15          A     I received an update from the radio -- I  
16     heard over the radio that Officer DeLong said he had  
17     eyes on with the subject.  And he wanted more units  
18     coming from the north side 'cause the subject was  
19     uncooperative.

20          Q     Okay.  Was there anything concerning about  
21     the call that made you think that you needed to  
22     respond?

23          A     Yes, sir.  The initial call that came out  
24     was guy practicing drawing a firearm.  And  
25     Officer DeLong confirmed that he did have a firearm

## Examination of Ken Le

1 and was practicing drawing it in the park.

2 Q Okay. And that's from what you're hearing  
3 over the radio from Officer DeLong?

4 A Correct, sir.

5 Q And that's after you heard the dispatch  
6 call?

7 A That's correct.

8 Q Okay. And is it safe to say that there's  
9 some further chatter on the radio regarding this  
10 individual in the park?

11 A Correct.

12 Q And specifically between dispatch and  
13 Officer DeLong, possibly other officers as well?

14 A Yes, sir.

15 Q How did you respond to the park, meaning did  
16 you just drive casually? Did you do lights and  
17 sirens? How did you respond?

18 A I went lights and sirens until I came closer  
19 to the area. I shut down the sirens and then I staged  
20 to a north end of the park.

21 Q Okay. And I'm going to actually put up a --  
22 I know you can see that photo on the screen.

23 A Yep.

24 Q I'm going to get a different overview. I'm  
25 just going to put this over here. I'm not necessarily

## Examination of Ken Le

1 going to reference it right now, but the -- the photo  
2 on the screen, do you recognize that area?

3 A Yes, sir.

4 Q Okay. And where did you respond when you  
5 came into that area?

6 A So I responded to the northeast corner of  
7 the park, which is where the bushes is, basically,  
8 yeah, around right there.

9 Q Okay. And did you just stop in the street  
10 and walk into the park or how --

11 A No. I drove directly into the curblineline of  
12 the park, which is approximately where the sidewalk  
13 was at. Yeah, just around that area. So I drove my  
14 car right up there --

15 Q Okay.

16 A -- and then parked it.

17 Q And when you arrived did you notice any  
18 other officers on scene?

19 A Yes. Officer Consider Vosu was already  
20 there with me as well. His car was already there, so  
21 that's why I drove to that area.

22 Q Okay.

23 A Yeah.

24 Q So when you pulled up into this area near  
25 the -- or on the sidewalk or kind of in the park,



## Examination of Ken Le

1 Officer Vosu was already there?

2 A Correct.

3 Q Okay. And was Officer Vosu still in  
4 his car?

5 A No. I believe he was already outside  
6 his car.

7 Q Okay. And when you pulled up, did you  
8 notice any other officers anywhere in the park?

9 A There were officers already down towards the  
10 south side by the trees. Yeah, around that area. And  
11 that was where Officer DeLong and Officer Wutherich  
12 was at --

13 Q Okay.

14 A -- which they were the first two that  
15 responded.

16 Q Okay. And could you see what they were  
17 doing?

18 A They were hunkered behind a tree and trying  
19 to, it seemed like, get cover. And the subject was  
20 towards -- in the middle of the park.

21 Q Okay. And did you have eyes on the subject?

22 A Yes, I did.

23 Q And could you tell what he was doing?

24 A Yes. He was acting very erratic. He was  
25 shirtless. He was just screaming -- I couldn't tell

## Examination of Ken Le

1 what he was screaming -- and kept flailing his -- his  
2 arms around.

3 Q Okay. Did he seem to be engaging with the  
4 Officers DeLong and Wutherich?

5 A I mean, he was screaming towards their  
6 direction, so I believe he was screaming at them. But  
7 I couldn't what they were -- what he was screaming.

8 Q Okay. Could you tell if either Officer  
9 Wutherich or DeLong were giving commands to the  
10 subject?

11 A I know they were screaming at him, yelling  
12 at him from a distance to give him a commands. And I  
13 know they updated on the dispatch. They were saying  
14 they were trying to give him commands, but he was  
15 noncompliant.

16 Q Okay. And, at this point, are you still  
17 back sort of near the corner of 92nd and Holgate?

18 A No. That's when I -- basically, right when  
19 I arrived on scene, I quickly grabbed my rifle from my  
20 car and then partnered up with Officer Vosu. And then  
21 another officer, which is Officer Bailey, he pulled up  
22 next to me and that's when we started to move our  
23 location.

24 Q Okay. And how did you accomplish that move?

25 A So Officer Bailey was a driver. I had my

## Examination of Ken Le

1 rifle. Officer Vosu, I think he was with us. So our  
2 point was to move south towards the park to  
3 triangulate with the subject and Officer DeLong  
4 because we didn't want to prevent -- or we wanted to  
5 prevent a crossfire situation.

6 Q Okay. And so what -- at what point did you  
7 move to in the park?

8 A I mean, it was within seconds when I arrived  
9 on scene.

10 Q And how far down into the park did you move?

11 A We -- we went to probably the area where, I  
12 want to say, the first tree was at on the south end.

13 Q Oh, down here?

14 A Yeah. Yeah.

15 Q Okay. So -- and when you say you moved  
16 there, that means Officer Bailey's driving his  
17 vehicle?

18 A Correct.

19 Q And you and Officer Vosu are taking cover  
20 behind that vehicle?

21 A Yes. So we are positioned -- as the car was  
22 going south, we were positioned to the east of the  
23 patrol car. I was using the engine block as cover.  
24 And also our vehicle -- or the side panels on our --  
25 the vehicle had ballistic panels as well.

## Examination of Ken Le

1 Q Okay. And did the vehicle come to a stop at  
2 around this first tree?

3 A Correct, it was around that vicinity.

4 Q Okay. At that point, now that you've moved  
5 closer to the subject, were you able to hear him any  
6 better, hear any -- what he was saying?

7 A No. I mean, when we were moving -- when we  
8 were moving, he was still yelling. And while we were  
9 moving, that's when the subject -- that was when the  
10 shots were fired.

11 Q Okay. And we'll get there in just a second.

12 A Yep.

13 Q I want to make sure we are understanding  
14 exactly where you are and what you're observing. So  
15 you said while you were still moving that occurred.  
16 So at what point and where were you -- well, we'll get  
17 to that. Just a second. When you say, you know, he's  
18 still moving around, he's still -- is he grabbing  
19 anything? Is he removing clothing?

20 A Right.

21 Q Putting clothing on? What -- what is he  
22 doing?

23 A I think he was throwing, like, a sleeping  
24 bag around. He was shirtless, so he kept on putting  
25 his hands up and down, kind of flailing around, like,

## Examination of Ken Le

1 while he's screaming.

2 Q Okay. And you said Officer DeLong and  
3 Officer Wutherich were at least yelling at him.  
4 You're not sure what they said.

5 A Correct.

6 Q Did you also issue commands or -- or any of  
7 the officers that you were with?

8 A No. I remember yelling one set of commands.  
9 And then because I don't want to have too many people  
10 screaming, I stopped the commands. That way he can  
11 focus on Officer DeLong and Wutherich.

12 Q Okay. Did the subject ever turn his  
13 attention toward you?

14 A No, he did not.

15 Q Okay. So even though the one command was  
16 yelled, it didn't get -- get his attention?

17 A Yes, sir.

18 Q Okay. Now, when you're posted up with your  
19 rifle, are you pointing it at the subject?

20 A It was towards the vicinity, but not  
21 directly at him, just because we were moving. So I  
22 didn't want to point and move at the same time because  
23 it's hard to concentrate like that and get a good  
24 shot off.

25 Q Okay. Because you're moving?

## Examination of Ken Le

1           A     Correct.

2           Q     And, at that time, did you see anything  
3     in -- in the subject's hands?

4           A     Yes.  He -- he pulled a black firearm, which  
5     was a pistol -- I don't know from what area, but I saw  
6     him point it up towards the officers.

7           Q     Okay.  And I want you to walk us through  
8     that a little bit more.

9           A     Yep.

10          Q     I know you said you don't know which area he  
11     pulled it from, but at what point in this event do you  
12     see him actually have the gun?  Was he standing up,  
13     sitting down --

14          A     Yeah.

15          Q     -- reaching down?  What was he doing?

16          A     He was standing up the entire time, yelling  
17     towards Officer -- the direction of Officer DeLong and  
18     Officer Wutherich.  And it looked like there was other  
19     people behind there as well.

20                 But, as I was moving -- we were moving  
21     towards where -- ultimately where we landed, that was  
22     when he -- he brought -- brandished a firearm towards  
23     the officers.

24          Q     Okay.  And in which manner did he brandish  
25     the firearm?

## Examination of Ken Le

1           A     So he went from low, where he pulled it  
2 from, directly towards like he was going to shoot it  
3 at them.

4           Q     Okay. And do you recall if he was using one  
5 hand or two hands?

6           A     I believe it was one hand.

7           Q     Okay. And you say he pointed it at the  
8 officers. Are you referring to Officer Wutherich and  
9 DeLong?

10          A     Yes, sir.

11          Q     Okay. At the moment that he pointed the  
12 firearm, what's the next thing that you remember  
13 happening?

14          A     Hearing a shot off coming from that area of  
15 -- so I heard one shot from the area of Officer DeLong  
16 and Officer Wutherich.

17          Q     Okay. You heard just one shot?

18          A     Correct.

19          Q     Did you recognize the sound of that shot?

20          A     Yes, sir.

21          Q     What did it sound like to you?

22          A     It sounded like a rifle.

23          Q     At that point, you said you're -- you have  
24 your rifle. You're pointing down range, but not  
25 necessarily at the subject?

## Examination of Ken Le

1           A     Right.

2           Q     Did you perceive him to be a threat?

3           A     Most definitely, yes.

4           Q     Why did you not fire your firearm?

5           A     Because I was moving at the same time, so I  
6     told the car just stop.  And by the time I already  
7     pointed my firearm, the subject fell already.

8           Q     Okay.  And did you stay on your AR --

9           A     Correct.

10          Q     -- after the subject was down?

11          A     Correct, sir.

12          Q     Okay.  Now, you stated that you had your  
13     rifle out.  Why did you have your rifle out instead of  
14     your handgun or a less-lethal (indiscernible)?

15          A     With training and experience for anyone  
16     involved with a weapon, especially a firearm, when we  
17     have the advantage of a distance, I prefer to grab my  
18     rifle, unless there are other -- or other tools in  
19     place already from other officers.  But, because I was  
20     one of the first officers on scene, after  
21     Officer DeLong requested it, I decided to pull my  
22     rifle instead.

23          Q     Okay.  And in order for you to carry a  
24     rifle, do you have to have separate training, other  
25     than normal firearms training that the police receive?



## Examination of Ken Le

1           A     Yes, sir. We get certified as a -- from the  
2 rifle instructors.

3           Q     Okay. And how long have you been certified  
4 on the rifle?

5           A     Just about a year.

6           Q     Okay. A year back in April or a year in --

7           A     Correct, a year back in April.

8           Q     And to maintain that certification, do you  
9 have to be recertified annually?

10          A     Yes, sir.

11          Q     And you stated that -- or I'm sorry. As a  
12 rifle operator, is it a fair statement to say that not  
13 all Portland police officers are rifle operators?

14          A     Yes, sir.

15          Q     Okay. And when you heard the shot, about  
16 how far away from the subject were you at that point?

17          A     I was basically from -- I want to say  
18 probably about 30, 40 yards.

19          Q     Okay. And you were still -- do you think  
20 you were still back kind of by this tree or had you  
21 moved forward a little bit more at that point?

22          A     We were a little bit more towards the west  
23 of the trees, but we were still by the area of the  
24 trees.

25          Q     Okay. So kind of in this --

## Examination of Ken Le

1           A     Yes.

2           Q     -- area; is that --

3           A     Yes, sir.

4           Q     Okay.  So after you heard the one shot, did  
5 you see the subject fall to the ground?

6           A     Yes, sir.

7           Q     Did you approach the subject immediately to  
8 render aid?

9           A     Not immediately.  We were coming -- I was  
10 broadcasting with the radio dispatch to get more  
11 units, so we can come up with a plan to engage with  
12 the suspect again.  That way we can render aid.

13          Q     Okay.  And why not just run up to the  
14 subject and render aid?

15          A     Because he was still moving around and we  
16 didn't -- neither of us could see where the firearm  
17 was at.

18          Q     Okay.  And I'm sorry, I don't mean to jump  
19 around too much, but you talked about seeing this  
20 firearm.  Could you describe the firearm to the best  
21 of your ability?

22          A     Yeah.  It looked like a black pistol.

23          Q     Okay.  Now, you said you were waiting for  
24 more cover units.  When they finally arrived, how did  
25 you develop a plan to approach the subject?

## Examination of Ken Le

1           A     So over the air I told dispatch what I  
2 requested, which was a shield, a less-lethal --  
3 less-lethal operator to deploy a 40-millimeter  
4 less-lethal tool.

5                     And the game plan I came up with everyone  
6 was we're going to do -- and I'm sorry. While we're  
7 doing this, I told Officer Bailey to go on the PA  
8 system to give loud commands to the subject to move --  
9 if he could hear us, move away from the firearm, which  
10 we didn't know where it was, and that we were trying  
11 to render aid to him.

12                    So after -- while Officer Bailey's giving  
13 those loud yells, I came up with a -- a plan on the  
14 dispatch air. So once we got a shield and a 40 ready,  
15 that was when we were moving closer to -- towards the  
16 subject.

17           Q     Okay. And why the shield?

18           A     Because we were using it in case -- if he  
19 was still going to be armed and he shot at us, it's a  
20 ballistic shield, so we use that as cover.

21           Q     And you did not have a shield with you?

22           A     Not at that time, but eventually I did.

23           Q     Okay. Is it Sergeant Anderson that brought  
24 the shield?

25           A     I don't remember who had it.

## Examination of Ken Le

1 Q Okay. Somebody brought a shield to you?

2 A Correct.

3 Q Okay. And then you also -- somebody showed  
4 up with a less-lethal --

5 A Yes, sir.

6 Q -- (indiscernible)?

7 Okay. And was it you that was developing  
8 this plan?

9 A Yes, sir, it was.

10 Q Okay. And can you authorize that plan or do  
11 you need authorization from someone else?

12 A I don't need authorization. If a sergeant  
13 thinks -- if a sergeant's on scene or they think it's  
14 a bad plan, then they will tell the dispatch to shut  
15 the -- either come up with a new plan or they would  
16 originate one.

17 Q Okay. And, ultimately, did you recall  
18 Sergeant Anderson showing up on scene?

19 A I do, but I don't recall at what point.

20 Q Okay. Now, once you developed this plan,  
21 was a 40-millimeter deployed on the --

22 A Yes, it was.

23 Q -- subject?

24 Okay. And do you recall if that struck the  
25 subject?

## Examination of Ken Le

1           A     Yes, it did.

2           Q     Okay. Did you see a reaction from him?

3           A     We did not see a reaction.

4           Q     Okay. At that point, was the decision made  
5 to actually make contact?

6           A     Yes.

7           Q     Okay. And so how -- how many officers  
8 approached, to the best of your recollection?

9           A     I mean, at least five or six officers.

10          Q     Okay. And you were one of them?

11          A     Correct.

12          Q     Okay. And once you got up to where the  
13 subject was laying on the ground, did you make any  
14 observations of the surrounding area?

15          A     Yes. There was a -- the black handgun to  
16 left of him, towards -- a couple feet away from him.

17          Q     Okay. And what did you do once you saw that  
18 black handgun?

19          A     So because officers were trying to render  
20 aid, I kicked it about a foot away and then stayed on  
21 it because it was going to be evidence, so I stayed  
22 there until another officer relieved me.

23          Q     Okay. So you kicked it further away from  
24 the subject?

25          A     Correct.

## Examination of Ken Le

1           Q     And then you stayed with it until it was  
2 corrected?

3           A     Correct.

4           Q     Or you were relieved?

5           A     Correct.

6           Q     Okay. Did you make any other observations  
7 about the gun while you were with it?

8           A     Yeah. There was an orange tip on it.

9           Q     Okay. At what point did you notice that?

10          A     When we got about a couple feet away  
11 from him.

12          Q     Okay. So did you not notice it earlier when  
13 he was pointing the firearm?

14          A     Definitely not.

15          Q     Okay. So once the immediate area was  
16 secured, was any medical aid rendered?

17          A     Yes. Officers, I believe, put on a chest  
18 seal and were trying to do CPR until medical got  
19 there.

20          Q     Okay. And then medical relieved the police  
21 officers?

22          A     Correct.

23          Q     Okay. And did you stay -- you said you  
24 stayed with that firearm until you were relieved?

25          A     Yeah, briefly.

## Examination of Ken Le

1 Q Okay. And then where -- you were relieved.  
2 And then where did you go?

3 A I went back towards my car to put away my  
4 rifle.

5 Q Okay. And at no point you ever fired your  
6 firearm?

7 A No.

8 Q Okay. Or used less-lethal?

9 A No, sir.

10 Q Okay. And, to the best of your  
11 recollection, did medical -- once they did come and  
12 relieve the police officers, did they transport the  
13 subject?

14 A No. They pronounced him deceased at  
15 the scene.

16 Q Okay. And so would that be standard to not  
17 have him transported at that point?

18 A That's correct.

19 MR. OVERSTREET: Okay. Just one second.

20 Do you guys have any questions before we  
21 turn it over to the grand jurors?

22 Okay. Do any of the grand jurors have any  
23 questions for Officer Le?

24 A GRAND JUROR: I do.

25 MR. OVERSTREET: Yes, sir.

## Examination of Ken Le

1           A JUROR: Thank you for coming in. I  
2 appreciate that.

3           I know we're going to get testimony on this  
4 probably later, but let's start -- I want to ask you a  
5 question. So you said when you heard a call and  
6 responded, you were a ways away and you respond with  
7 lights and siren?

8           THE WITNESS: Yes, sir.

9           A GRAND JUROR: What's your training on when  
10 you turn a siren off? How far away are you when you  
11 turn a siren off?

12          THE WITNESS: It just depends on the  
13 situation, whether -- what kind of call we're going  
14 towards. You know, if it's, like, a bank robbery, we  
15 -- we don't want to deploy or lights and sirens right  
16 where we're stopping at. We want to be from a  
17 distance at least. That way the subject can't  
18 hear us.

19          A GRAND JUROR: So, like, what's a -- what's  
20 a usual distance that you would do something?

21          THE WITNESS: Honestly, there is no usual.  
22 There's no protocol. There's no rule. It's just what  
23 the officer feels is best for the -- the scenario.

24          A GRAND JUROR: So, okay, given that --  
25 what -- how far do you feel is best for you to turn



## Examination of Ken Le

1 off your siren from where you're headed here?

2 THE WITNESS: Probably from Holgate to  
3 Powell, so about a block.

4 A GRAND JUROR: You were coming south from  
5 Powell down to Holgate?

6 THE WITNESS: Yes, sir.

7 A GRAND JUROR: On -- what? On 92nd?

8 THE WITNESS: Yes, sir.

9 A GRAND JUROR: Okay. So about a block away  
10 you turned your siren off?

11 THE WITNESS: Yes, sir.

12 A GRAND JUROR: Okay. I think you asked the  
13 other questions I had, so --

14 MR. OVERSTREET: Okay. Any other questions  
15 -- whoever wants to go first.

16 A GRAND JUROR: Go ahead.

17 THE WITNESS: Yes, sir.

18 A GRAND JUROR: Yeah. Thank you for your  
19 testimony. About how soon after the gun was pointed  
20 in DeLong's and Wutherich's direction did you hear the  
21 rifle shot fired? Do you know about how long a time  
22 was it?

23 THE WITNESS: To me, it seemed like a  
24 second. It was very quick.

25 A GRAND JUROR: Thank you.

## Examination of Ken Le

1 A GRAND JUROR: Yep.

2 Yes, sir?

3 A GRAND JUROR: I still don't understand  
4 this replica firearm.

5 THE WITNESS: I'm sorry. What was that?

6 A GRAND JUROR: Replica firearm.

7 THE WITNESS: Okay.

8 A GRAND JUROR: It was a fake gun.

9 THE WITNESS: Correct.

10 A GRAND JUROR: What's the purpose? Why  
11 would people carry a fake gun? I just don't  
12 understand. And since you've been with the police  
13 force, do a lot of people carry, you know, fake guns?

14 THE WITNESS: From my experience with the  
15 Portland Police Bureau, yes, we have retrieved a lot  
16 of replica firearms. And a lot of times it's -- could  
17 be CO2 air soft. And one of their excuses is, well,  
18 they're going to transport to go play air soft. Or  
19 we've had some where they said they're going to shoot  
20 rats and pigeons, that kind of stuff.

21 MR. OVERSTREET: Any other questions?

22 A GRAND JUROR: (Indiscernible).

23 MR. OVERSTREET: Sure. Yes, ma'am.

24 A GRAND JUROR: I just wanted to just  
25 confirm something that you said. After this fellow

## Examination of Ken Le

1 was down, you said that you heard the officers ask the  
2 subject to -- to stop moving so they could render aid.

3 THE WITNESS: Correct.

4 A GRAND JUROR: And that's -- that's --  
5 great. Thank you.

6 THE WITNESS: Yep.

7 A GRAND JUROR: All right. I remembered  
8 another one I wanted to ask about (indiscernible).

9 THE WITNESS: Yes, sir.

10 A GRAND JUROR: So -- and you've probably  
11 relived this a number of times in your -- in your  
12 mind, so -- and we're just trying to figure out what  
13 all was going on.

14 And -- and -- so you show up on the scene.  
15 You're up in the northeast corner. You're a fair ways  
16 away. And you said that you -- what you saw was this  
17 guy, the -- the decedent, the -- the subject, he was  
18 acting erratic, shirtless, flailing his arms around, a  
19 lot of yelling going on back and forth.

20 Could you describe that a little bit more?  
21 Like, what -- what were you -- what did you think was  
22 going on with this particular person at that point?  
23 Had you encountered this kind of thing before recently  
24 with all the homelessness going on and the mental  
25 issues and things like that? So just describe a

## Examination of Ken Le

1 little bit more about that.

2 THE WITNESS: So his behavior appeared to me  
3 like he was either, one, under the influence; or, two,  
4 having a mental health crisis. And there's really --  
5 as an enhanced crisis intervention team officer,  
6 there's really no way to distinguish the two. But  
7 his -- due to his erratic behavior, that was just what  
8 I was visualizing.

9 A GRAND JUROR: How do you -- so you're --  
10 you're a part of the crisis intervention team?

11 THE WITNESS: Yes, sir.

12 A GRAND JUROR: How do you respond to the  
13 situations like that? What do you do? I mean, I -- I  
14 don't -- I'm clueless.

15 THE WITNESS: So, I mean, there's -- there's  
16 -- there's really no set protocol on --

17 A GRAND JUROR: Right.

18 THE WITNESS: -- what we do, right? So it's  
19 just we kind of go with the flow. And -- and this is  
20 why we do a lot of training, because it becomes muscle  
21 memory.

22 And, you know, one, the -- what we get  
23 trained to do is we try to engage with the subject in  
24 a sense of having a conversation to build rapport.  
25 But because it seemed like to me -- and I don't know

## Examination of Ken Le

1 what Officer DeLong and Wutherich were saying.

2 It seemed like the subject, all he was doing  
3 was just screaming. So there was really no way of  
4 building some sort of conversation at that -- during  
5 that time.

6 A GRAND JUROR: So in your experience --  
7 have you been in similar situations where someone's  
8 screaming at -- at you, as a police officer?

9 THE WITNESS: Yes, sir.

10 A GRAND JUROR: Okay. Do you find that  
11 screaming back at them is helpful? Or do you try and  
12 deescalate? What -- how do you respond?

13 THE WITNESS: It just depends. Sometimes  
14 screaming back at them is helpful. Most of the times  
15 we don't scream back at them. But, again, the  
16 disadvantage we had here was the distance --

17 A GRAND JUROR: Sure.

18 THE WITNESS: -- between us and him.

19 So, like I said, each scenario's completely  
20 different. So -- and every tactic that I've tried,  
21 you know, it works for one scenario, but doesn't work  
22 for the other and vice versa.

23 A GRAND JUROR: All right. I mean, there's  
24 no one solution to any of this stuff.

25 THE WITNESS: Yes, sir.

## Examination of Ken Le

1                   A GRAND JUROR:   Okay.

2           BY MR. OVERSTREET:

3           Q       And I want to build on that just a little  
4           bit.

5           A       Yes, sir.

6           Q       A couple things.  I want to talk about ECIT  
7           as well.

8           A       Yes, sir.

9           Q       But also to build on the foreperson's  
10          question there, the line of questioning; it's not that  
11          this person's just yelling at you, right?

12          A       Correct.

13          Q       Did you have knowledge also at the time that  
14          it was believed this person had a gun?

15          A       Correct.  So the prior knowledge from, you  
16          know, multiple witnesses or callers and officers on  
17          scene confirmed that he was armed with a firearm.  
18          And, you know, he was drawing it and holstering it.

19          Q       And so does that change maybe how commands  
20          are given or -- or in what manner commands are given,  
21          you know, and how you approach a situation, as opposed  
22          to somebody who may be just acting erratic?

23          A       That's correct.  Just because he's armed,  
24          that -- you know, that put -- puts more stress into  
25          the situation because obviously he's armed, so we got

## Examination of Ken Le

1 to be careful of situational awareness.

2 So the -- you know, we do have to give a  
3 stern tone of voice. And potentially we can try to,  
4 you know, calm the voice down, depending how he  
5 reacts. But it just varies on the subject's reaction.

6 Q And, at some point, you said that -- even  
7 your own observations, that it didn't appear that he  
8 had anything in his hands?

9 A Correct.

10 Q Would one of the goals be in possibly  
11 yelling at the subject -- be to prevent him from  
12 actually reaching for a firearm?

13 A That's correct. Just because we didn't know  
14 where the firearm was at. So the whole purpose of  
15 yelling was to give him commands to say, "Hey, we want  
16 to see your hands the entire time. We want to make  
17 sure you're not reaching for something because we knew  
18 you were armed with a firearm."

19 Q Okay. And then slightly switching gears,  
20 you had mentioned your ECIT training. First of all --

21 A Yes.

22 Q -- could you explain what CIT is --

23 A Yes.

24 Q -- and then what ECIT is and how you  
25 received that designation?

## Examination of Ken Le

1           A     Yeah.  CIT stands for crisis intervention  
2     training.  And that's what every officer in the state  
3     of Oregon has to go by.  We get that training through  
4     basic academy when you get certified as a police  
5     officer.

6                     In addition, in Portland we go through  
7     advanced academy to get additional mental health  
8     training.  As an ECIT officer, you put in a request to  
9     become an ECIT officer and a -- a board of civilians  
10    and committee members looking to your -- your  
11    background history and they will choose whoever gets  
12    certified as an ECIT.

13                    And then we're required to go through a  
14    course to get certified as an enhanced crisis  
15    intervention team officer.  And ECIT officers get  
16    dispatched to certain calls because we just have a lot  
17    of extra training on mental health.

18           Q     Okay.  And is this a selective process, it  
19    sounds like?

20           A     Yes, sir.

21           Q     Okay.  And how long have you carried that  
22    designation?

23           A     I want to say at least two years.

24           Q     Okay.  And does it require annual training  
25    as well?



## Examination of Ken Le

1           A     It does not require annual training.

2           Q     It does not.  Just initial --

3           A     No.

4           Q     -- training?

5           A     Correct.  But then there's also training  
6     that can be hosted by other agencies.  Any mental  
7     health, ECIT officers get priority to attend those  
8     trainings --

9           Q     Okay.

10          A     -- which I have attended several.

11          Q     You have attended several of those  
12     trainings?

13          A     Yes, sir.

14          Q     And you sort of touched on this, but not  
15     necessarily in this particular call, but on other  
16     calls where there is a component of possible mental  
17     health issues, is that when an ECIT officer is  
18     specifically dispatched?

19          A     Correct.  There are seven categories that  
20     dispatch will have to dispatch an ECIT officer.  So  
21     that's when we get sent to those.

22          Q     Okay.  But you were not dispatched as an  
23     ECIT in this case?

24          A     That's correct.

25          Q     Okay.  But, nonetheless, did you draw on

## Examination of Ken Le

1 some of your training during this call --

2 A Yes, sir.

3 Q -- as an ECIT?

4 A Yes, sir.

5 Q Okay. And did you draw any -- formulate any  
6 opinions based on that training as to what was  
7 happening at --

8 A Most definitely. I --

9 Q And what was that?

10 A Basically, his behavior, just to look at how  
11 we can potentially try to disengage -- I'm sorry --  
12 deescalate the situation. And kind of put his  
13 behavior to other scenarios I've seen in other crisis  
14 calls to see how -- what kind of tactics we can use to  
15 potentially resolve the situation.

16 Q Okay. And did you feel that the less-lethal  
17 options had been exhausted?

18 A Yes, sir.

19 A GRAND JUROR: Are you done? I don't want  
20 to go --

21 MR. OVERSTREET: Sure. If you have  
22 questions, go ahead.

23 A GRAND JUROR: All right. So you got  
24 there. The yelling -- he's out -- but he is  
25 shirtless. He's waving his hands, you said, and all

## Examination of Ken Le

1 this stuff. You just said you thought that  
2 less-lethal had been used. I thought that's what you  
3 just said.

4 THE WITNESS: Well, I guess exhausted.

5 A GRAND JUROR: So, okay. Exhausted. And  
6 in this -- the time frame -- I mean, everything  
7 compresses down. So it sounds like when you got there  
8 this is all pretty high -- escalated and maybe  
9 escalating.

10 And you -- but you only heard -- you heard  
11 one shot, which turned out to be fatal. So just --  
12 like, you -- you get there -- looking at the clocks  
13 and things, you get there at 9:38. And within a  
14 minute, two minutes -- what's the time frame from the  
15 time you're there looking and seeing this and you've  
16 got enhanced, you know, training and all -- this is  
17 all happening and ranking up.

18 Could you help us out, just kind of walk  
19 through what -- what's your thinking about all this,  
20 your -- your experience?

21 THE WITNESS: Yeah. So, obviously, like you  
22 said, this is a very escalating situation or high  
23 dynamic. So, I mean, I'm trying to digest everything,  
24 right, based on what we're being told over the radio.  
25 So I'm just -- and this is why, in my opinion,

## Examination of Ken Le

1 training is so important, because it -- it builds to  
2 muscle memory.

3 So while, you know, we're moving at the same  
4 time, everything's happening within seconds and  
5 minutes, so very dynamic. So I'm trying to process it  
6 at the same time with, you know, obviously the safety  
7 of us and everyone else. So it was very -- just, in  
8 my mind, there was a lot going on because of his  
9 behavior and with the knowledge that he was armed.

10 A GRAND JUROR: And what in -- so I'm going  
11 to say some things that are -- that are -- maybe I'll  
12 just repeat that everything that goes on in here is  
13 secret. It's confidential and all.

14 We're trying to help figure out what the  
15 facts -- what all took place, what people were  
16 thinking, activities and things like that. So any  
17 light that you can shed on that -- that's why I'm kind  
18 of probing and I'm more of like -- and you've got good  
19 training and experience and you were on the scene.

20 THE WITNESS: Yeah.

21 A GRAND JUROR: And, again, it seems like  
22 from the time point, we see really tight.

23 THE WITNESS: Correct.

24 A GRAND JUROR: You know, like two  
25 minutes --

## Examination of Ken Le

1 THE WITNESS: Yep.

2 A GRAND JUROR: -- basically. Is -- do you  
3 have an opinion about how -- was it handled the way  
4 you think it should be handled? Do you have an  
5 opinion about, well, a little more time or a little  
6 more deployment, other options or things from your  
7 training, from your experience? Is there something  
8 else about all that?

9 THE WITNESS: I mean, it definitely would've  
10 been nice to have more time to basically engage with  
11 the subject, to build some sort of conversation,  
12 dialogue and rapport.

13 A GRAND JUROR: Sure.

14 THE WITNESS: But, because he presented the  
15 firearm so quickly, which led to the lethal shot, you  
16 know, there's no time for us to kind of -- obviously  
17 we can't do anything about that.

18 A GRAND JUROR: Okay. All right. Thank  
19 you.

20 THE WITNESS: Yeah.

21 A GRAND JUROR: Can I just have a -- mine is  
22 a followup to that.

23 A GRAND JUROR: So is mine.

24 A GRAND JUROR: Oh, okay. You go.

25 A GRAND JUROR: So in followup to that and

## Examination of Ken Le

1 based on your training and -- and the situation before  
2 the shot was fired, the subject's behavior, flailing  
3 his arms and he turned to go to the ground, was there  
4 any -- do you think there was any training that  
5 would've thought that -- it didn't appear that he had  
6 a firearm in his hands 'cause his hands were empty  
7 when he -- when he flailing his arms.

8 THE WITNESS: Oh, gotcha.

9 A GRAND JUROR: Couldn't Officer Wutherich  
10 have fired her nonlethal rounds -- round at that  
11 point? I mean, does the nonlethal round stun the  
12 victim or stun the -- the subject to the point where  
13 they might not have the -- I mean, I don't know how --  
14 how that feels --

15 THE WITNESS: Yeah.

16 A GRAND JUROR: -- to be hit by one of those  
17 nonlethal rounds.

18 THE WITNESS: Yeah.

19 A GRAND JUROR: Does it knock them to the  
20 ground? Does it --

21 THE WITNESS: So --

22 A GRAND JUROR: What's -- what's your  
23 opinion on that, whether or not that would've been  
24 a -- a safe spot to use that nonlethal round?

25 THE WITNESS: Sure. So, you know, and I

## Examination of Ken Le

1 don't know Officer Wutherich's point of perspective  
2 with the subject 'cause she was somewhere else. But,  
3 you know, the -- the less-lethals do hurt a lot, so --  
4 but they don't always work, whether it's the subject  
5 has a lot of clothing or just their behavior.

6 And sometimes, like, when they're high or  
7 just under the influence, they have that kind of  
8 adrenaline, so they don't -- they don't feel certain  
9 less-lethal -- as you've probably seen a lot of, you  
10 know, like Tasers, for example.

11 So we -- we don't always know that they're  
12 effective. So we want to make sure that we have some  
13 sort of backup. And the whole purpose of, you know,  
14 waiting to come up with a plan, which is getting more  
15 officers on scene --

16 A GRAND JUROR: Mm-hmm.

17 THE WITNESS: -- for another officer to  
18 deploy the less-lethal, the logic behind that is to  
19 have more resources available in case -- if he gets  
20 shot with a less-lethal and does pull that firearm  
21 back at us, you know, we want to have enough resources  
22 to engage with him, you know, and how to do so safely.

23 A GRAND JUROR: Such as maybe another  
24 nonlethal weapon in order to --

25 THE WITNESS: Correct. I'm also a

## Examination of Ken Le

1 less-lethal operator. So what we get trained -- and  
2 we try to talk to this -- whenever we have a  
3 less-lethal 40 launcher, we want a second officer to  
4 be with us as less-lethal.

5 The whole purpose of that is because it's a  
6 one-shot tool, so we have to reload it. So we -- the  
7 whole purpose of having two officers there is to  
8 potentially -- if he's continuously charging at us or  
9 engaging with us, the other person can use their  
10 less-lethal while we're reloading.

11 BY MR. OVERSTREET:

12 Q And, Officer Le, is the point of the  
13 less-lethal to generate pain compliance?

14 A Correct.

15 Q Okay. So it doesn't necessarily  
16 incapacitate the person?

17 A That's correct.

18 Q Okay. And what is its effective range, do  
19 you know?

20 A Honestly, I don't recall. But it's -- it's  
21 a pretty far range.

22 Q Okay. And you said you get one shot without  
23 reloading?

24 A Correct.

25 Q Okay. And also if you're engaging with



## Examination of Ken Le

1       somebody who's acting erratically and throwing their  
2       hands up in the air, would that be a situation where  
3       you would just shoot somebody with a less-lethal  
4       round, without any further threat?

5           A       Not necessarily, no, because there's  
6       thresholds. It just depends on how we can -- I guess  
7       how we see the situation. You know, if he -- he had  
8       -- could go towards -- down towards the firearm, you  
9       know, potentially, yeah.

10          Q       And that's what I'm getting at. Without any  
11       further threat, so just somebody waving their hands in  
12       the air in the park --

13          A       Correct. Then no.

14          Q       -- acting erratically, are you going to just  
15       shoot that person with a less-lethal round?

16          A       No, sir. It doesn't meet our requirements.

17          Q       Okay. So it'd give you a reason to pause  
18       and address the situation without using that?

19          A       Yes, sir.

20               MR. OVERSTREET: Okay. Does that bring up  
21       any -- oh, I'm sorry, you had a question.

22               A GRAND JUROR: Yeah. Well, I just want to  
23       confirm: They did fire some nonlethals, correct?

24               A GRAND JUROR: We'll talk about that --

25               MR. OVERSTREET: Well --

## Examination of Ken Le

1 A GRAND JUROR: Yeah. Okay. Sorry.

2 MR. OVERSTREET: Yeah.

3 A GRAND JUROR: You said -- thank you again.

4 Sorry. You said he -- so he was flailing his arms.

5 And then you said he pulled a black firearm and

6 pointed it at the officers; is that correct?

7 THE WITNESS: That's correct, ma'am.

8 A GRAND JUROR: Thank you. Then you said he

9 pointed towards the Officers DeLong and Wutherich.

10 THE WITNESS: He pointed towards that

11 vicinity, yes.

12 A GRAND JUROR: Exactly.

13 THE WITNESS: Yeah.

14 A GRAND JUROR: Or, yeah, in that area. So

15 he did go back, flailing his arms; goes back, grabs

16 something that's -- you know, something, points this

17 black firearm towards the police officers.

18 THE WITNESS: Correct.

19 A GRAND JUROR: And then when you got to the

20 -- 'cause you kicked the gun away.

21 THE WITNESS: Correct.

22 A GRAND JUROR: Or whatever it's called, the

23 fake gun. When you kicked that fake gun, how -- it

24 was next to him?

25 THE WITNESS: Correct.

## Examination of Ken Le

1 A GRAND JUROR: Great. Thank you.

2 MR. OVERSTREET: Any other questions?

3 Okay. I believe that's it. Thank you,  
4 Officer.

5 A GRAND JUROR: Thank you very much.

6 A GRAND JUROR: Thank you very much.

7 MR. OVERSTREET: Thank you. So our next  
8 witness appearing by simultaneous television  
9 transmission.

10 A GRAND JUROR: We appreciate you. Thanks.

11 MR. OVERSTREET: So why don't we go off the  
12 record while we set that up.

13 (Whispered discussion, off the record,  
14 9:46 a.m.)

15 (Recess taken, 9:46 a.m. - 9:47 a.m.)

16 A GRAND JUROR: Okay.

17 MR. OVERSTREET: Okay. We're back on the  
18 record. We have Officer Consider Vosu joining us via  
19 WebEx.

20 Officer Vosu, could you go ahead and raise  
21 your right hand, please.

22 A GRAND JUROR: I'm sorry. Raise your right  
23 hand there.

24 **CONSIDER VOSU**

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

## Examination of Consider Vosu

1 first duly sworn, was examined and testified (via  
2 simultaneous video transmission) as follows:

3 A GRAND JUROR: Great. Thank you.

4 MR. OVERSTREET: And, Officer Vosu, could  
5 you please state and spell your full name.

6 THE WITNESS: My name is Consider Vosu,  
7 C-o-n-s-i-d-e-r, V-o-s-u.

8 MR. OVERSTREET: Thank you.

9 EXAMINATION

10 BY MR. OVERSTREET:

11 Q And where are you employed?

12 A With the Portland Police Bureau.

13 Q And how long have you been in law  
14 enforcement?

15 A Four-and-a-half years.

16 Q And were you working as a police officer on  
17 April 16th of this year?

18 A Yes, I was.

19 Q And where were you assigned?

20 A I was working patrol in East Precinct.

21 Q Okay. And were you working in a patrol  
22 vehicle by yourself or were you with a partner?

23 A I was working by myself.

24 Q And what was your shift that day?

25 A From 7:00 to 5:00.

## Examination of Consider Vosu

1 Q 7:00 a.m. to 5:00 p.m.?

2 A That is correct.

3 Q Okay. And did you hear a radio call  
4 regarding a person with a firearm in Lents Park that  
5 morning?

6 A I did.

7 Q Do you recall about what time that was?

8 A Off the top of my head, I do not.

9 Q Okay. After you heard that radio call, did  
10 you dispatch yourself or were you dispatched?

11 A I attached to that call. I dispatched  
12 myself.

13 Q Okay. And why did you do that?

14 A In order to assist my fellow officers with  
15 the situation that was unfolding at Lents Park.

16 Q Okay. And what was your understanding of  
17 the nature of the call when you attached yourself  
18 to it?

19 A The information that I had at that time was  
20 that an individual was in Lents Park, armed with a  
21 handgun and doing quick draws.

22 Q Okay. And so did you drive to the location  
23 yourself?

24 A I did. I drove along Holgate and hit the  
25 park from the northern side.

## Examination of Consider Vosu

1 Q Okay. And did you notice if there were any  
2 other police officers there when you arrived?

3 A Aside from Officer Wutherich and Officer  
4 DeLong, I was the -- the first to arrive --

5 Q Okay.

6 A -- as cover.

7 Q As -- as cover. And did you see  
8 Officer Wutherich and Officer DeLong when you arrived?

9 A Yes, I did.

10 Q And where were they?

11 A They were on the north end of the parking  
12 lot taking cover behind a tree.

13 Q Okay. And you had good visual on them?

14 A Yes, I did.

15 Q And did you stop at that northeast corner of  
16 the park?

17 A Initially, I stopped at the northeast corner  
18 of the park; but then I moved south about 30 meters or  
19 so in order to be of better assistance.

20 Q Okay. And did you do that while you were  
21 still the only one on scene or did you wait for other  
22 cover to arrive?

23 A Initially, I did that; but other officers  
24 arrived shortly thereafter.

25 Q Okay. And you said you moved closer. Were

## Examination of Consider Vosu

1 you moving closer along the tree line, like towards  
2 Officer DeLong --

3 A I was on -- yes. I was on the eastern side  
4 of the park and moved south closer to Officer DeLong  
5 and Officer Wutherich.

6 Q Okay. And did you stay in your vehicle?

7 A After I moved south, I exited my vehicle and  
8 used my door as cover.

9 Q Okay. And did you see the subject that  
10 Officer Wutherich and DeLong were trying to engage?

11 A Yes, I did.

12 Q And where was he at the time that you  
13 stopped your vehicle?

14 A He was approximately 30 to 40 yards from  
15 Officer DeLong and Officer Wutherich.

16 Q Okay. And was he engaging with  
17 Officer Wutherich and DeLong?

18 A He was being challenged by Officer Wutherich  
19 and DeLong, and he was not compliant. He was throwing  
20 his arms up in the air in an animated fashion.

21 Q Okay. Did you hear Officers DeLong and  
22 Wutherich issue commands to the subject?

23 A Yes, I did.

24 Q Do you recall what those commands were?

25 A It was difficult to hear exactly what they

## Examination of Consider Vosu

1 were saying because of the surrounding noise; but I  
2 could hear them yelling, see them yelling.

3 Q Okay. And was the subject responding to  
4 either of their commands?

5 A No, he was not.

6 Q When you say he was flailing his arms and  
7 stuff, moving around, was -- was he pacing? Was he  
8 yelling? Was he doing anything else that caught your  
9 attention?

10 A He was -- yeah. He was exceptionally  
11 animated. He was pacing back and forth. He was  
12 yelling.

13 Q And once you got out of your vehicle, you  
14 said you used your door as cover. Did you pull a  
15 firearm or a less-lethal weapon?

16 A I pulled my firearm.

17 Q And are you talking about a handgun or a  
18 rifle?

19 A A handgun.

20 Q Okay. And why did you pull your handgun?

21 A Because of the threat of a -- of a subject  
22 being armed with a firearm.

23 Q And at the time that you observed him, once  
24 you were out of your vehicle, once you observed the  
25 subject, did you notice whether or not he had anything



## Examination of Consider Vosu

1 in his hands at that point?

2 A I did notice that at that time he had  
3 nothing in his hands.

4 Q Okay. And so the purpose for you drawing  
5 your firearm at that point was just because of the  
6 knowledge that it had been reported that he had a  
7 firearm, not that you saw one yourself at that time?

8 A That is correct.

9 Q Okay. And then did you ever see the subject  
10 with a firearm?

11 A I did.

12 Q Okay. Could you walk us through from the  
13 time that you saw him without a firearm to the time  
14 you saw him with a firearm, how did that transpire?

15 A So, as he was pacing and animated, yelling  
16 at Officers DeLong and Wutherich, he proceeded to move  
17 back to a tent that was close by, 10, 15 feet from  
18 where he was standing, and began to uproot the -- the  
19 tent from its -- from its borings.

20 He was at the -- the porthole of the tent  
21 and looked like he was reaching inside, searching  
22 inside the tent. Shortly thereafter, he began to pace  
23 with purpose to proceed towards Officer DeLong and  
24 Wutherich. And about three or four paces from the  
25 tent, he extended an arm and punched out a firearm.

## Examination of Consider Vosu

1           Q     Okay.  When you say a "arm," was he -- was  
2 he only holding a firearm with one hand or two?  Do  
3 you remember?

4           A     He was -- he was holding the firearm with  
5 one hand.

6           Q     Okay.  And you say he punched it towards  
7 them.  Could you describe that a little bit more?

8           A     So with -- with purpose he extended his --  
9 his arm forcefully towards them.

10          Q     Okay.  And you could see that there was a  
11 handgun in his hand?

12          A     I could.

13          Q     And, to the best of your ability, could you  
14 describe what that handgun looked like to you?

15          A     It was a black handgun that looked similar  
16 to a -- to a black firearm, which is what we were  
17 assuming, but the distance was such that I couldn't  
18 make out the make of that handgun.

19          Q     Okay.  Was there any other defining factors  
20 or defining characteristics of the firearm that you  
21 noticed at that time?

22          A     Not from that distance, no.

23          Q     What was the next thing that happened after  
24 the subject punched this firearm towards  
25 Officers DeLong and Wutherich?

## Examination of Consider Vosu

1           A     I heard two shots, and I saw the subject  
2 fall to the ground.

3           Q     Okay. Did you see what happened to the  
4 subject after he fell to the ground?

5           A     After he fell to the ground, additional  
6 commands were given. I could see that the subject was  
7 still moving. He placed his -- one of his arms over  
8 his body.

9           Q     And did you see where the firearm went at  
10 that point?

11          A     I could not, from my distance, see where the  
12 firearm was laying.

13          Q     Were you part of the team that developed a  
14 plan to approach the subject?

15          A     I was not.

16          Q     Okay. Why not? Where did you go?

17          A     I went to extract Officer Wutherich and  
18 Officer DeLong from the line to make sure that they  
19 were okay and to calm them.

20          Q     Okay. And so you left the group and were  
21 not part of the approach team?

22          A     That is correct.

23          Q     Okay. Just from your observations from not  
24 only being at the vehicle and observing the subject,  
25 but also from when you went over and extracted

## Examination of Consider Vosu

1 Officer DeLong and Wutherich, did you notice if there  
2 was any other people in the area, civilians --

3 A I did.

4 Q -- (indiscernible)? Sorry.

5 A Immediately after extracting Officer DeLong  
6 and Wutherich, I spoke to -- to a witness, last of  
7 Hernandez, who was parked to the north end of the  
8 parking lot and filming the incident with a cell  
9 phone.

10 Q Okay. And are you the one that actually was  
11 able to collect that video from Mr. Hernandez or at  
12 least put him in touch with somebody to get the video  
13 downloaded?

14 A I put -- yes. I put other officers in touch  
15 with -- with Mr. Hernandez. He said he was willing to  
16 provide that video that he was -- he was shooting as  
17 we spoke.

18 Q Gotcha. And, just from your own  
19 perspective, Officer Vosu, when you -- you said you  
20 had your firearm out. You're observing the subject.  
21 Did you, yourself, based on your training and  
22 experience, view the subject as a threat?

23 A Absolutely.

24 Q And was there anything specific that helped  
25 you formulate that opinion?

## Examination of Consider Vosu

1           A     The aggressive nature in which he was  
2 walking and searching for the gun prior to walking;  
3 the nature in which he punched out that firearm  
4 towards the officers. As he did so, I was  
5 anticipating shots from that firearm. It appeared as  
6 if he was moving to them with intent.

7           Q     And were you at a position for you,  
8 yourself, to use your firearm?

9           A     I was not. The distance was too great. The  
10 backdrop was not something that an officer would  
11 fire on.

12          Q     From your location with a handgun?

13          A     Correct.

14          Q     Okay. And are you trained on the AR-15?

15          A     I am not.

16          Q     Okay. So -- so you did not have access to a  
17 rifle at that point yourself?

18          A     That is correct.

19                MR. OVERSTREET: I'm going to check with my  
20 colleagues. But also if any of the grand jurors have  
21 any questions, feel free to ask.

22                A GRAND JUROR: Yeah.

23 BY MR. OVERSTREET:

24          Q     And maybe before we get to that, I think you  
25 told us how far you thought Officers DeLong and

## Examination of Consider Vosu

1 Wutherich were. How far away were you from the  
2 subject?

3 A Approximately 60 yards.

4 Q Okay. So quite a bit farther away than  
5 Officer Wutherich and DeLong?

6 A Perhaps twice the distance, yes.

7 MR. OVERSTREET: Okay. Any questions?

8 A GRAND JUROR: Yeah, a few questions. And  
9 some of this is just kind of your background and  
10 training. And, again, we're going to have other  
11 people testify about our experts. But how long have  
12 you been certified with your handgun?

13 THE WITNESS: I've been certified since  
14 completing the basic academy four-and-a-half years  
15 ago, a little bit less.

16 A GRAND JUROR: Okay. Well, I think that --  
17 so do -- you said that after -- after the subject was  
18 shot and went down, moved around, so you then --  
19 you -- you went to Officer Wutherich and DeLong to  
20 extract them, I think are the terms you used, and calm  
21 them.

22 Can -- how -- just walk -- walk me through  
23 that process. I mean, what do you -- there's been a  
24 fire -- there's been a shooting. And you're going  
25 over there. What -- what are you doing with them?

## Examination of Consider Vosu

1       What are you talking with them? How -- describe all  
2       that for me, would you please.

3               THE WITNESS: I'm sorry. I'm -- I -- I'm  
4       not getting the audio very clearly.

5               A GRAND JUROR: Okay. Let me take my mask  
6       off here.

7               So when you -- you said that after the  
8       subject was shot, went down, you -- you said, "I went  
9       to Officers Wutherich and DeLong to extract them and  
10      then calm them."

11              So could you just describe the process of --  
12      you go there and you're extracting them away from that  
13      scene. What happened -- what happens and what  
14      happened at -- at this point.

15              THE WITNESS: So where I was, it was a -- a  
16      run of perhaps 30, 40 yards. I ran to their location,  
17      verbally checked to see if they were all right. They  
18      informed me that they -- they were doing fine. And I  
19      removed them from their position to -- to a place to  
20      not -- not engage with the -- with the scene.

21              A GRAND JUROR: Did you talk to them at all?  
22      Do you say anything? Do you suggest any -- I mean,  
23      what -- just continue in more detail about -- "Okay.  
24      Are you guys okay?" They say, yeah, they're fine.  
25      What do you do? How -- what did you do?

## Examination of Consider Vosu

1           THE WITNESS: Effectively that was -- that  
2 was the conversation. I had asked, "Are both of you  
3 guys all right? Come walk with me. Let's get back to  
4 one of these patrol cars here. Let's -- let's remove  
5 you from this."

6           A GRAND JUROR: Did you say anything to them  
7 about -- should they be talking to each other? Should  
8 they be talking to you? Did you talk about what just  
9 happened?

10          THE WITNESS: No. I -- there was no  
11 conversation while I was there between  
12 Officer Wutherich and Officer DeLong. I was in  
13 conversation with them for 30 seconds, 45 seconds, for  
14 that initial conversation towards -- back towards the  
15 parole cars. And then I went and spoke with  
16 Witness Hernandez.

17          A GRAND JUROR: Okay. Great. Thank you.

18          MR. OVERSTREET: Any other questions?

19                         We have one over here.

20          A GRAND JUROR: Yeah. So is it normal  
21 protocol after a situation like this for the police  
22 officers to not discuss the situation until they're  
23 being interrogated by, you know, some official process  
24 or something?

25          THE WITNESS: I'm sorry. I can't hear the



## Examination of Consider Vosu

1 question.

2 MR. OVERSTREET: I can reask the question,  
3 and you can correct me if I'm wrong. I think --

4 A GRAND JUROR: Sure.

5 MR. OVERSTREET: -- the audio might be  
6 better.

7 BY MR. OVERSTREET:

8 Q Is it a normal process to question or not  
9 question the involved officers by somebody like  
10 yourself until there's some sort of detective assigned  
11 or some sort of more formal process to interview them?

12 A That is correct.

13 Q Okay. And so I'll just follow up with that.  
14 You, yourself, did you feel that you were in a  
15 position or that it was your role to interview  
16 Officer Wutherich or DeLong about what had just  
17 happened?

18 A No, that is not my role. My role is to make  
19 sure that they are safe and to extract them from that  
20 situation.

21 Q Okay. And did you question them or engage  
22 in question about what just happened?

23 A Now, to the best of my recollection, I  
24 asked -- I asked if they were doing all right. I  
25 attempted to pull them back off from their position.

## Examination of Consider Vosu

1 But, no, I did not speak to them.

2 MR. OVERSTREET: Okay.

3 A GRAND JUROR: Thank you.

4 A GRAND JUROR: I have a question, and you  
5 could --

6 MR. OVERSTREET: Sure.

7 A GRAND JUROR: -- ask it for me. Did he --  
8 I don't know -- was he close enough to hear after the  
9 shots the officers asking the subjects to -- asking  
10 the subject to stop moving so they can render it aid?

11 MR. OVERSTREET: Okay. I'll ask it maybe in  
12 two parts.

13 A GRAND JUROR: Right.

14 BY MR. OVERSTREET:

15 Q And, that is, so, Officer, did you hear --  
16 after the subject was shot and fell to the ground, you  
17 had noted that he was moving. Did you hear any  
18 commands -- follow-up commands from the police to the  
19 subject telling him to stop moving?

20 A There were commands that were given.  
21 Information was given that we were trying to send  
22 help, to, I believe, roll over.

23 Q Okay. And so commands --

24 A So there was -- but --

25 Q Sorry. I did not mean to cut you off.

## Examination of Consider Vosu

1 Commands given to the subject in order to render him  
2 aid?

3 A Correct. There was information that was  
4 given that we were trying to assist him and to roll  
5 over, place his hands in the air.

6 MR. OVERSTREET: Okay. Does that answer  
7 your question?

8 A GRAND JUROR: Yes. Thank you.

9 MR. OVERSTREET: Okay. Any other questions?  
10 Anything?

11 A GRAND JUROR: Not from me.

12 MR. OVERSTREET: Okay. Officer Vosu, I  
13 believe that's all. Thank you for joining us this  
14 morning.

15 THE WITNESS: Thank you.

16 MR. OVERSTREET: Okay. And so I believe  
17 we're ready for our next witness.

18 A GRAND JUROR: Can we go off the record for  
19 just a second? I want to kind of talk a little  
20 procedural thing with, actually, all four of you.

21 (Recess taken, 10:05 a.m. - 10:35 a.m.)

22 MS. KIMBERLY: We are back on the record  
23 after our morning break in Case 24. The State calls  
24 Mr. Anthony Adams.

25 All right. Mr. Adams, if you could head --

1 well, I'm going to take a walk to you 'cause there's  
2 some obstruction here.

3 THE WITNESS: Yes, ma'am.

4 MS. KIMBERLY: If you want to go around and  
5 have a seat.

6 THE WITNESS: Yes, ma'am.

7 (Whispered discussion, off the record,  
8 10:36 a.m.)

9 MS. KIMBERLY: All right.

10 A GRAND JUROR: Mr. Adams, could you raise  
11 your right hand, please.

12 THE WITNESS: Oh, right hand.

13 A GRAND JUROR: I'm sorry. Thank you.

14 **ANTHONY THOMAS ADAMS**

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

17 A GRAND JUROR: Okay. Thank you.

18 MS. KIMBERLY: Can you please say that out  
19 loud again.

20 THE WITNESS: Yes.

21 A GRAND JUROR: Great. You can put your  
22 hand down.

23 Thank you.

24 MS. KIMBERLY: All right.

25 THE WITNESS: Sorry.

## Examination of Anthony Thomas Adams

1 MS. KIMBERLY: Good morning, Mr. Adams.

2 Could you state your full name for the record and  
3 spell your last name, please.

4 THE WITNESS: Anthony Thomas Adams, spelled,  
5 last name, A-d-a-m-s.

6 EXAMINATION

7 BY MS. KIMBERLY:

8 Q Okay. Thank you. Good morning, Mr. Adams.  
9 I understand that you live with Mr. David Hernandez;  
10 is that correct?

11 A Correct.

12 Q Okay. And in April -- on April 16th of this  
13 year, were you living with Mr. Hernandez?

14 A Yes.

15 Q Yes. Okay. And --

16 A And I've known him for 11 years.

17 Q Okay. Thank you. So were you in Lents Park  
18 on the morning of April 16th, 2021?

19 A Yes, I was.

20 Q Okay. And were you with Mr. Hernandez?

21 A Yes, I was.

22 Q And where were you guys in the park?

23 A He was in the truck. I was in the truck. I  
24 was laying down in the truck. All I know is I heard  
25 two pops. I looked up. I seen a dude hit the ground,

## Examination of Anthony Thomas Adams

1 and I laid back down.

2 Q Okay. So you just gave a lot of  
3 information. I'm going to show you a map here, just  
4 so we're clear.

5 A That's all that I have.

6 Q Okay. And I'm just going to ask some  
7 follow-up questions. I understand that that's what  
8 you said, you know. Could you orient yourself with  
9 this map and tell me where --

10 A Right there.

11 Q -- your truck was?

12 So right there you're pointing to a tree?

13 A Right under that in the parking lot.

14 Q Right under that in the parking lot?

15 A Or right here. Wherever the first spot was.

16 Q The first spot? Okay.

17 A Yeah.

18 Q And what type of truck were you guys in?

19 A A maroon or burgundy colored Chevy -- what  
20 is it? -- not Silverado but a Suburban.

21 Q A Suburban. Okay.

22 A Yeah.

23 Q So you were inside that truck?

24 A Yep. I was --

25 Q Okay.

## Examination of Anthony Thomas Adams

1           A     -- laying down.

2           Q     Laying down.  Okay.

3           A     I heard pop, pop.  I look up.  I see dude  
4 hit the ground 'cause I heard all the commotion  
5 outside.  And I laid back down.

6           Q     Okay.

7           A     I didn't see much.

8           Q     Okay.  Had you -- the -- you know, the --  
9 the person you saw hit the ground, had you encountered  
10 him earlier --

11          A     Yes.

12          Q     -- that day?

13          A     Yes.

14          Q     When did you encounter him?

15          A     I was smoking marijuana with him and I gave  
16 him a few cigarettes.

17          Q     Okay.  And --

18          A     And I'm not going to lie about that one.

19          Q     Okay.  And did you make any observations of  
20 him when you were smoking marijuana and having  
21 cigarettes with him?

22          A     Not that I -- not that I recommend or --

23          Q     All right.  Okay.

24          A     -- or how do you say that?  But not that I  
25 know of.

## Examination of Anthony Thomas Adams

1 Q Did you -- did he ever comment about whether  
2 he had any sort of weapon on him?

3 A He showed the fact that he had something on  
4 him, but it -- I don't know. Apparently from what  
5 Dave was telling me and what I saw, it didn't have a  
6 clip in it, I guess.

7 Q Okay.

8 A So I don't know.

9 Q You don't know. Okay. So after you spoke  
10 to this individual -- where did you have guys have  
11 cigarettes at? Was it by the truck or somewhere --

12 A Hold on a second.

13 I can't answer the phone right now.

14 Sorry.

15 Q That's okay, sir. So where were you guys  
16 having the cigarettes? Was it by your truck or  
17 somewhere else?

18 A At the truck.

19 Q At the truck. Okay. After you had  
20 cigarettes and smoked some marijuana, did the  
21 individual stay and hang out with you or did he go  
22 somewhere else?

23 A For a minute, yes. And then he went and  
24 started picking up all his stuff at the tent and after  
25 that all heck broke loose.



## Examination of Anthony Thomas Adams

1 Q Okay. And you said, "all heck broke loose."

2 A I mean hell.

3 Q Oh, hell.

4 A Hell -- heck broke loose.

5 Q And --

6 A I'm putting it lightly.

7 Q And so what do you mean by "all hell broke  
8 loose"?

9 A Well, next thing you know, I -- we saw cop  
10 cars at the park. And then they were demanding all  
11 kinds of threats and this, that and the other. And  
12 that's when I laid down. I didn't want to deal  
13 with it.

14 Q Okay. So did you see where the officers  
15 were?

16 A Not -- well, a couple of them were right  
17 next to the tree that we were next to. I know that.

18 Q Okay.

19 A But I don't know anything after that.

20 Q You don't know anything after that.

21 Okay. And then did you see what the  
22 individual you smoked the cigarettes with was doing  
23 during any of this time?

24 A Robert?

25 Q Robert. So you know his --

## Examination of Anthony Thomas Adams

1           A     His name's Robert.

2           Q     -- Robert.  Okay.

3           A     I know he threw his tent at one point.

4           Q     How do you know that?  Did you see that?

5           A     Well, I heard a whole bunch of confrontation  
6 going on between him and officers.  And the next thing  
7 I -- I sit up and look.  He throws his tent at -- I  
8 didn't want anything to do with it.

9           Q     Okay.  Besides his throwing his tent, did  
10 you see anything else that Robert was doing?

11          A     (No audible response.)

12          Q     Did you hear anything that Robert was  
13 saying?

14          A     (No audible response.)

15          Q     You keep shaking your head no, but we're on  
16 the record.

17          A     It's like his -- I -- I could partially hear  
18 what he was saying, but I couldn't make out what he  
19 was saying.

20          Q     Okay.

21          A     Okay.  'Cause it was at such a distance  
22 that -- it's like I'm going to say something and I'm  
23 going to be over there at that building over there.  
24 And I could be yelling all you want.  You can hear me  
25 yelling, but you're not going to know what I'm saying.

## Examination of Anthony Thomas Adams

1 Q Okay.

2 A That's where I'm stuck.

3 Q Okay. Did you hear anything specifically  
4 that the officers said?

5 A No.

6 Q Okay. And so --

7 A No, I did not.

8 Q -- you testified earlier that you heard  
9 shots. Did -- did you --

10 A That I did hear.

11 Q You did hear. Did you actually see those?

12 A No.

13 Q Okay. And did you see --

14 A Now, here's why I say that. Just recently,  
15 at 7-Eleven on Holgate and 92nd, I just watched a  
16 black gentleman shoot a white gentleman in the face.  
17 And it was uncool.

18 Q Okay. Well, I'm sorry to hear that, so --  
19 but that was a totally separate incident --

20 A Correct.

21 Q -- from what we're talking about today.

22 A Correct.

23 Q Okay.

24 A I heard the pop, but I didn't --

25 Q You heard the pop. And you mean in this

## Examination of Anthony Thomas Adams

1 incident with --

2 A I heard pop, pop, and that was it.

3 Q That was it. Okay. And did you see  
4 anything after the pop, pop?

5 A I seen the gentleman hit the ground.

6 Q And that's Robert?

7 A And -- yep.

8 Q Okay.

9 A And then I was just speechless. I couldn't  
10 talk.

11 Q Okay. And did you stay in your truck --

12 A Yeah.

13 Q -- while police were there?

14 A We didn't have a choice, yeah.

15 Q Okay.

16 A We didn't have a choice.

17 Q Did you speak to police that day?

18 A Detectives, yes.

19 Q Detectives. Okay. And did you observe  
20 anything else that happened with police after  
21 Mr. Delgado fell to the ground?

22 A No. But they're saying something about one  
23 of the videos or something like that. They say they  
24 saw a friend of ours. I'm telling him, "Get the fuck  
25 away. Go somewhere else." And his name's James.

## Examination of Anthony Thomas Adams

1 Q Okay.

2 A And he won't talk to cops at all.

3 Q Okay. So there was another individual there  
4 in the area?

5 A And he took off.

6 Q He took off?

7 A Mm-hmm.

8 Q His name's James?

9 A Mm-hmm.

10 Q Okay. And other than that, though, did you  
11 observe anything else that happened with police or  
12 Mr. Delgado after he fell to the ground?

13 A No.

14 MS. KIMBERLY: Okay. Well, thank you,  
15 Mr. Adams. I don't have any further questions for  
16 you. I don't know if the grand jury has some  
17 questions for you.

18 THE WITNESS: Any questions at all?

19 A GRAND JUROR: No. Thank you for coming  
20 in. I don't.

21 A GRAND JUROR: I just want to confirm one  
22 thing. You said that -- that he -- he -- you -- you  
23 saw a weapon, but it didn't have a magazine in it; is  
24 that correct?

25 THE WITNESS: Right.

## Examination of Anthony Thomas Adams

1           A GRAND JUROR: I just want to -- I just  
2 want to confirm.

3           THE WITNESS: That's correct. That's  
4 correct.

5           A GRAND JUROR: Okay. So he had a weapon.  
6 And --

7           THE WITNESS: We were --

8           A GRAND JUROR: -- describe the weapon  
9 again.

10          THE WITNESS: We were smoking marijuana with  
11 him and cigarettes with -- I gave him a couple  
12 cigarettes. And he said, "Hey, check this out."

13           He opened up his jacket. He had -- it  
14 looked like a BB gun. I don't know what it was, but  
15 he was flaring it off. And next thing you know, all  
16 hell broke loose. So I don't know what happened after  
17 that. Yeah.

18          A GRAND JUROR: So I'm sorry. When you said  
19 flaring off --

20          THE WITNESS: And -- and here's the best  
21 part, okay? When they shot him -- this is the best  
22 part. He didn't have a jacket on. He didn't have a  
23 shirt on, okay? He had nothing on him. I don't know  
24 why they fired the shots.

25           I mean, they could've aimed at his arm, his

## Examination of Anthony Thomas Adams

1 leg or his hand or something like that instead. But  
2 they took him out. And I don't understand why.

3 BY MS. KIMBERLY:

4 Q And I'm trying to -- it sounds like you  
5 didn't see him be shot. Is that -- what do you  
6 mean --

7 A This is what I've been told aftermath.

8 Q After that. Okay. After. This is what  
9 you've been told, not what you saw?

10 A Right.

11 Q Okay. So we only want to hear about what  
12 you actually saw.

13 A That's --

14 Q We'll talk to other people.

15 A That's what I know on the aftermath, though.

16 MS. KIMBERLY: Okay. Any other questions  
17 for Mr. Adams?

18 All right. Thank you, Mr. Adams. You're --

19 THE WITNESS: Definitely.

20 MS. KIMBERLY: -- free to go.

21 THE WITNESS: Definitely. Thank you.

22 A GRAND JUROR: Thank you very much.

23 THE WITNESS: You guys have a wonderful day.

24 A GRAND JUROR: You, too.

25 A GRAND JUROR: And your pup-pup, what's

## Examination of Anthony Thomas Adams

1 his -- what's his or her name again?

2 THE WITNESS: Her name is Kota (phonetic).

3 A GRAND JUROR: Kota.

4 THE WITNESS: She's a sweetheart. Would you  
5 like to see her?

6 A GRAND JUROR: She is a sweetheart. I --  
7 well, I gave her some love before I walked in here.

8 THE WITNESS: She's a sweetheart.

9 A GRAND JUROR: But I'd love to give her  
10 some more love.

11 THE WITNESS: She's a sweetheart.

12 A GRAND JUROR: She is a sweetheart.

13 A GRAND JUROR: She is.

14 A GRAND JUROR: What a good, good girl.

15 Good (indiscernible).

16 THE WITNESS: She is a sweetheart.

17 MS. KIMBERLY: Can we go off the record for  
18 just a minute while we coordinate witnesses?

19 A GRAND JUROR: Sure.

20 THE WITNESS: Thank you, guys.

21 A GRAND JUROR: Thank you.

22 THE WITNESS: Come on, girl.

23 A GRAND JUROR: Thank you, Mr. Adams.

24 THE WITNESS: Thank you, guys.

25 (Recess taken, 10:46 a.m. - 10:48 a.m.)



## Examination of Sean Hurst

1 MS. KIMBERLY: We are back on the record in  
2 Grand Jury Case 24. Our next witness is  
3 Dr. Sean Hurst. Doctor, stand to be sworn in, please.

4 A GRAND JUROR: Could you stand up and raise  
5 your right hand, please.

6 **SEAN HURST**

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

9 A GRAND JUROR: Thank you. You can sit  
10 there.

11 MS. KIMBERLY: Dr. Hurst, could you please  
12 state your full name and spell your last name for the  
13 record, please.

14 THE WITNESS: My name is Sean Hurst and  
15 that's H-u-r-s-t.

16 **EXAMINATION**

17 BY MS. KIMBERLY:

18 Q And Dr. Hurst, could you please tell the  
19 jury how you are employed.

20 A I am the chief medical examiner for the  
21 Oregon State Medical Examiner's Office.

22 Q And could you briefly describe to them your  
23 educational background and training.

24 A Sure. So I attended Seton Hall University  
25 in South Orange, New Jersey for my undergraduate

## Examination of Sean Hurst

1 degree. And I received a bachelor's in biology with a  
2 minor in chemistry and Japanese language.

3 From there, I attended St. George's  
4 University medical school, graduated with my doctorate  
5 from there. I then attended a combined anatomic and  
6 clinical pathology fellowship in St. Barnabas Medical  
7 Center in Livingston, New Jersey.

8 Following that, I became board certified in  
9 both of those specialties. And then after that, I  
10 attended a one-year forensic pathology training  
11 fellowship in Miami Dade County in Miami, Florida,  
12 following which I became certified in forensic  
13 pathology as well.

14 I worked for a few years in southwest  
15 Florida in the Fort Myers and Naples area before  
16 coming out to Oregon. And in Oregon, I was a deputy  
17 state medical examiner for a period of one year before  
18 moving into the chief position for our program.

19 Q And so you're a certified forensic  
20 pathologist?

21 A Yes, I am.

22 Q Okay. And could you -- in your capacity as  
23 a forensic pathologist, as one of your duties is to  
24 perform autopsies to determine cause and manner of  
25 death?

## Examination of Sean Hurst

1           A     Yes, it is.

2           Q     Okay.  And if you could estimate,  
3     approximately how many autopsies have you conducted in  
4     your career?

5           A     At this point in time, probably between 950  
6     and a thousand.

7           Q     And specifically have you conducted  
8     autopsies with regard to gunshot wounds?

9           A     Yes, I have.

10          Q     Okay.  Now, were you the medical examiner  
11     who performed the autopsy of Robert Delgado?

12          A     Yes.

13          Q     And what day did you do that, sir?

14          A     That was on April 17th.

15          Q     Okay.  Of this year, 2021?

16          A     Yes.

17          Q     Now, could you just tell the jury very  
18     briefly just an overview of what the autopsy process  
19     looks like or how you go about conducting an autopsy.

20          A     Sure.  So our work begins when a death is  
21     reported to us and we usually receive some information  
22     from the scene and about the individual who died from  
23     county death investigators.

24                     From there, we'll transport the body to our  
25     facility and begin our in-person examination.  So in

## Examination of Sean Hurst

1 cases like this, that usually begins with radiology to  
2 determine if there's any evidence embedded in the body  
3 to retrieve.

4 From there, we begin an external examination  
5 and basically work from the outside in. So we start  
6 by cataloging and documenting the clothing that the  
7 individual wore.

8 Then we proceed to examining the external  
9 surfaces of the body with a focus on injuries as well  
10 as any identifying features, such as scars and tattoos  
11 and things of that nature.

12 From there, we'll move into the internal  
13 examination, by which we examine each individual organ  
14 system in the body. And the goal there is basically  
15 the same.

16 We identify any injuries that may exist. We  
17 do our best to identify any preexisting natural  
18 disease that the person may or may not have known that  
19 they had. And then we can also retrieve any evidence  
20 that we need to as part of that -- our examination.

21 Q So in your examination of Mr. Delgado, how  
22 did he present to you? What type of -- you said you  
23 index clothing, so how did he come to you for autopsy?

24 A So he was dressed in a pair of black denim  
25 jeans, a pair of sweat pants and gray socks.

## Examination of Sean Hurst

1 Q Did he have any shirt or top on?

2 A He did not.

3 Q Okay. Now, in your external -- well, one,  
4 you said you do radiology. Was there radiology done  
5 in this matter?

6 A There was.

7 Q And was there anything that presented in  
8 radiology?

9 A Yes. There was a retained projectile  
10 fragment in the torso.

11 Q So then on your external review of  
12 Mr. Delgado, did you note any visible injuries to his  
13 body?

14 A Yes. There was a gunshot wound.

15 Q Okay. And could you tell us approximately  
16 where on his body the gunshot wound was?

17 A Sure. Would you like me to go through  
18 the --

19 Q Yes, please.

20 A -- parts of the body that were injured? So  
21 the entrance wound was located on the left side of the  
22 chest at the level of the eighth rib, so kind of the  
23 lower part of the chest here. From there, it passed  
24 through the eighth rib and then the left portal  
25 cavity.

## Examination of Sean Hurst

1                   As part of that part of the gunshot wound,  
2                   it impacted the left lung. It then passed through the  
3                   left side of the diaphragm, entering the peritoneal  
4                   cavity, which is, you know, typically referred to as  
5                   the abdomen.

6                   In part of that course, it impacted the  
7                   spleen and perforated the stomach before exiting the  
8                   peritoneal cavity through the posterior wall of the  
9                   peritoneum. And then we had a projectile fragment  
10                  that was lodged in the left side of the back.

11                 Q     All right. So you used a lot of big words  
12                   there. If we could just break it down a little bit  
13                   more in maybe some layman's terms so we can understand  
14                   specifically exactly --

15                 A     Sure.

16                 Q     -- what you observed as far as injuries to  
17                   Mr. Delgado. So you first said it entered on his left  
18                   chest and you kind of motioned, but we're -- we're  
19                   only audio recording, so where exactly on his body, if  
20                   you could demonstrate, we can state for the record  
21                   exactly where you're pointing to on his body.

22                 A     So it's the lateral, so the outer part of  
23                   the chest towards the -- the lower part where your  
24                   chest meets your abdomen.

25                 Q     So -- and, just for the record, you're

## Examination of Sean Hurst

1 pointing to -- almost to your side area, the midrange  
2 of the chest --

3 A Yes.

4 Q -- below (indiscernible). Okay. And so is  
5 that where the -- the bullet entered the body?

6 A Yes.

7 Q Okay. And then you described several organs  
8 and body functions that were damaged through it, so  
9 what were it -- the -- you know, some of the things in  
10 layman's terms so we can understand it better.

11 A So there was injury to the left lung and  
12 that was associated with some blood that had collected  
13 in the left side of the chest. There was an injury to  
14 the spleen and an injury to the stomach. In addition  
15 to that, there was injuries to two ribs.

16 Q Two ribs. Okay. And then you said -- you  
17 noticed that some of the -- you found projectile  
18 fragments.

19 A Mm-hmm.

20 Q Did the -- did -- was there an exit wound or  
21 did the bullet appear to stop somewhere in the body?

22 A There was no exit wound. We recovered a  
23 projectile fragment from the left side of the back.

24 Q Left side of the back. Okay. So were you  
25 able to then determine kind of the general path of the

## Examination of Sean Hurst

1 projectile or the bullet as it went through  
2 Mr. Delgado's body?

3 A Yes, I was.

4 Q Okay. And so can you kind of describe that  
5 to the best of your ability?

6 A The trajectory that we were able to  
7 determine from the injuries in the body was left to  
8 right, front to back and slightly downward.

9 Q Okay. Now, were there any other -- other  
10 than the injuries associated to the gunshot wound,  
11 were there any other injuries of significance to  
12 Mr. Delgado?

13 A There were some abrasions on parts of the  
14 body, but I wouldn't classify them as significant  
15 injuries.

16 Q Okay. Were you able to determine then a --  
17 the cause of death of Mr. Delgado?

18 A Yes, I was.

19 Q Okay. And what was that?

20 A That was gunshot wound to the torso.

21 Q Okay. So did Mr. Delgado appear to have any  
22 other natural disease conditions or other physical  
23 ailments that were apparent at autopsy?

24 A There was some natural disease. The heart  
25 was slightly enlarged, which can be due to a number of



## Examination of Sean Hurst

1 conditions. And there was some disease in the lungs  
2 that probably represented pulmonary emphysema.

3 And then there was what's called  
4 steatohepatitis or it's basically an injury to the  
5 liver that can occur with the use of various  
6 substances. And that was present in the liver as  
7 well.

8 Q But were any of those natural diseases a  
9 factor in his -- in his death?

10 A No.

11 Q Okay. Now, as part of your regular process  
12 of autopsy, do you run toxicology?

13 A Yes. Toxicology is a standard procedure  
14 when we perform our examinations.

15 Q Okay. And did you run toxicology on  
16 Mr. Delgado?

17 A We did.

18 Q Okay. Now, I just want to be very clear.  
19 Were substances found in Mr. Delgado's toxicology?

20 A Yes, there were.

21 Q Okay. And what were those?

22 A So there was methamphetamine, amphetamine  
23 and then opiates, including morphine, codeine and  
24 Morphine-3-glucuronide. In addition to that,  
25 cannabinoids were detected as well.

## Examination of Sean Hurst

1 Q Do you --

2 A GRAND JUROR: Can you slow down, please?

3 Sorry, I'm trying to write super fast.

4 THE WITNESS: Sure.

5 A GRAND JUROR: So do you mind just saying  
6 that answer was methamphetamines?

7 THE WITNESS: Of course. Methamphetamine.

8 A GRAND JUROR: And opioids?

9 THE WITNESS: Yes. The --

10 A GRAND JUROR: Or is that the same thing?

11 THE WITNESS: No. Methamphetamine is one  
12 particular drug. Then amphetamine was detected, which  
13 is a metabolite of methamphetamine. And then --

14 A GRAND JUROR: Okay. Sorry. I got to  
15 write this -- write this down.

16 THE WITNESS: Okay.

17 A GRAND JUROR: Sorry. So I've got the  
18 methamphetamine and then --

19 A GRAND JUROR: Amphetamine.

20 A GRAND JUROR: Amphetamine. And they're  
21 different?

22 THE WITNESS: Yes.

23 A GRAND JUROR: Okay. And then amphetamine.  
24 And then opioids. And then what was the other one?

25 THE WITNESS: There were three opioids

## Examination of Sean Hurst

1 detected.

2 A GRAND JUROR: Three opioids. Okay.

3 THE WITNESS: They were morphine --

4 A GRAND JUROR: Okay.

5 THE WITNESS: -- codeine.

6 A GRAND JUROR: Codeine. Okay.

7 THE WITNESS: And then a metabolite of  
8 morphine called Morphine-3-glucuronide.

9 A GRAND JUROR: Morphine. Sorry, morphine  
10 what?

11 THE WITNESS: 3-glucuronide.

12 A GRAND JUROR: 3 and glucurone?

13 THE WITNESS: Glucuronide.

14 A GRAND JUROR: It's all the same thing.

15 A GRAND JUROR: Okay.

16 MS. KIMBERLY: And just to -- I'm going to  
17 interrupt just real quick to ask a clarifying  
18 question.

19 BY MS. KIMBERLY:

20 Q You said now "a metabolite of" for both the  
21 amphetamine and then the morphine glucuronide. So  
22 just could you explain what a metabolite of a drug is  
23 so we understand the distinction?

24 A Sure. So any time a drug is used by an  
25 individual, it is processed by either your liver or

## Examination of Sean Hurst

1 your kidneys and then certain byproducts are produced  
2 as part of that process. And those byproducts are  
3 typically referred to as metabolites.

4 Q Okay. So when you say methamphetamine and  
5 amphetamine, amphetamine's not a separate substance.  
6 It just is the creation or byproduct of having the  
7 methamphetamine --

8 A Yes.

9 Q -- in the body?

10 Okay. And that's the same with the  
11 Morphine-3-glucuronide?

12 A Yes.

13 MS. KIMBERLY: Okay. Does that clarify some  
14 of that?

15 A GRAND JUROR: Yes. Thank you. I was just  
16 trying to write it down.

17 MS. KIMBERLY: Yeah.

18 A GRAND JUROR: I think -- I think it's  
19 important to me.

20 MS. KIMBERLY: Yeah. Okay.

21 A GRAND JUROR: So I just wanted to get it  
22 all down. Sorry. I'm really sorry.

23 MS. KIMBERLY: No, no, no, no.

24 THE WITNESS: Oh, no. That's okay.

25 MS. KIMBERLY: And we can slow down

## Examination of Sean Hurst

1 anything. I --

2 THE WITNESS: Thank you. I -- I'm a slow  
3 writer, too.

4 A GRAND JUROR: I know. I'm trying to write  
5 this down and --

6 MS. KIMBERLY: We can -- we can slow  
7 anything down. That's not a problem, just --

8 A GRAND JUROR: Thank you. So excuse me.  
9 So that would mean that he had taken like two  
10 different drugs, not four in that case, as far as  
11 referring to the methamphetamine and opioids, correct?

12 THE WITNESS: Yes. Two different classes of  
13 drugs.

14 A GRAND JUROR: Okay. Thank you.

15 BY MS. KIMBERLY:

16 Q And then in addition to that, I think you  
17 said cannabinoids?

18 A Yes. Cannabinoids as well.

19 Q Okay. So methamphetamine's one class of  
20 drugs, opioids is a second class and then  
21 cannabinoids. And then I think we are moving on to do  
22 you also test for ethanol or alcohol consumption?

23 A Yes, we do.

24 Q And what was the toxicology for that?

25 A Ethanol was present at a low level.

## Examination of Sean Hurst

1           Q     Now, Dr. Hurst, I want to be very clear.  
2     What is the purpose of this toxicology when you're  
3     talking about an autopsy?

4           A     So the overall goal of our activities and  
5     our participation in death investigations is to  
6     determine cause and manner of death.  And so  
7     toxicology is typically used to help inform the cause  
8     and manner of death that we put on our death  
9     certificates when we certify them.

10          Q     Okay.  Was there anything about these  
11     substances in the autopsy that were -- that caused  
12     Mr. Delgado's death?

13          A     No.

14          Q     Okay.  Now, is there anything about this  
15     toxicology that you as a medical doctor can give any  
16     sort of opinion on the effects of these drugs or his  
17     behavior?

18          A     Well, the subjective experience of drug use  
19     is a highly individualized process, so it's difficult  
20     to say what any particular amount of drug would have  
21     in terms of subjective effects in any particular  
22     person.

23          Q     Okay.  So these were not taken with any goal  
24     to determine intoxication?

25          A     Correct.  We typically use this as a

## Examination of Sean Hurst

1 supplement to determine cause and manner of death.

2 Q And then Dr. Hurst, based on your training  
3 and experience as a forensic pathologist, the nature  
4 of the gunshot wound and the injuries to the various  
5 organs of Mr. Delgado's body, do you have an opinion  
6 on whether quick medical care or access to medical  
7 care would have -- could Mr. Delgado have survived  
8 this particular type of gunshot wound?

9 A I think that would be extremely unlikely.  
10 One of the things that people use to determine how  
11 severe an injury is and a person's likelihood for  
12 survival are the number of structures that are injured  
13 as well as the number of body cavities that are  
14 involved in a particular injury.

15 So here, we have injury to several organs in  
16 two body cavities, which would imply that it's a very  
17 serious injury.

18 MS. KIMBERLY: Thank you. I asked probably  
19 a second set of questions.

20 Does the grand jury have questions for  
21 Dr. Hurst? I'll start in the back.

22 A GRAND JUROR: Did you notice any bruising  
23 as far as -- one of the officers shot, like, a rubber  
24 bullet. Did you notice any bruising from that they  
25 made contact with the body?

## Examination of Sean Hurst

1           THE WITNESS: Let's see. Yes, there was  
2 a -- an injury to the right and low back, sort of with  
3 a curved, linear margin to it that I classified as an  
4 abrasion, so I think that that is probably due to the  
5 impact of that munition.

6           MS. KIMBERLY: And I think someone else had  
7 their hand up too.

8           A GRAND JUROR: Yeah, I did. I'm just  
9 writing this down first before I can answer that.  
10 Okay. Could the substances that Mr. Delgado ingested  
11 could have caused him to be very erratic in his  
12 behavior and maybe cause him to be any -- any paranoia  
13 or other reasons that he wouldn't be compliant with  
14 officers?

15          THE WITNESS: So that's difficult to say, as  
16 I mentioned before. It's subjective experience.  
17 (Indiscernible) abuse is highly individualized.  
18 That's not typically something that we offer an  
19 opinion on.

20          A GRAND JUROR: Okay. Did you -- sorry,  
21 when you said methamphetamine and the opiates, do you  
22 (indiscernible) the quantity?

23          THE WITNESS: Yes.

24          A GRAND JUROR: And what were the  
25 quantities? Were they low, high, medium or what were



## Examination of Sean Hurst

1 the quantities, I guess. And then second is based on  
2 your experience and opinion: Low, high, medium.

3 THE WITNESS: So would you like me to give  
4 the values?

5 A GRAND JUROR: Yes, please.

6 THE WITNESS: Okay. So for methamphetamine,  
7 the concentration was 0.044 milligrams per liter.

8 A GRAND JUROR: Okay.

9 THE WITNESS: For amphetamine, the  
10 concentration was less than 0.010 milligrams per  
11 liter.

12 A GRAND JUROR: Okay.

13 THE WITNESS: For morphine, the  
14 concentration was less than 0.010 milligrams per  
15 liter.

16 A GRAND JUROR: Okay.

17 THE WITNESS: For codeine, the concentration  
18 was less than 0.010 milligrams per liter. And for  
19 Morphine-3-glucuronide, the concentration was  
20 0.032 milligrams per liter.

21 A GRAND JUROR: Okay.

22 THE WITNESS: Cannabinoids were not  
23 quantified. The lab doesn't have the ability to do  
24 that. And for ethanol, the concentration was  
25 0.052 grams per deciliter.

## Examination of Sean Hurst

1           A GRAND JUROR:   Okay.

2           THE WITNESS:   And then to answer the second  
3 part of your question, those are low concentrations.

4           A GRAND JUROR:   All right.  Thank you.  I'm  
5 just -- so the morphine is -- well, never mind.  I  
6 don't know.  Never mind.

7           THE WITNESS:   Okay.

8           MS. KIMBERLY:   Yes.

9           A GRAND JUROR:   I have a question and I  
10 don't know if you can answer this and maybe we can get  
11 it later.  He wasn't, like, recently hospitalized  
12 where he would need morphine or I don't know.  Is  
13 it --

14          MS. KIMBERLY:   Yeah.  Could I ask a question  
15 in aid of object or -- ask a clarifying question  
16 before we get to that.

17          A GRAND JUROR:   Yes.  I'm just trying to  
18 think why somebody would have a these things in their  
19 system.

20       BY MS. KIMBERLY:

21           Q     Yeah.  Dr. Hurst, as part of your review of  
22 this, did you collect any prior medical records or  
23 obtain any information about Mr. Delgado's medical  
24 history?

25           A     Yes, we did.  But I think there's probably a

## Examination of Sean Hurst

1 more direct answer to the question here. So this  
2 combination of substances, so morphine, codeine and  
3 Morphine-3-glucuronide, is commonly seen after people  
4 use heroin, as all of these things are metabolites of  
5 heroin.

6 And we know from his medical records that  
7 the decedent did have a history of substance abuse  
8 which included heroin and methamphetamine.

9 MS. KIMBERLY: Yeah, can we -- so we're  
10 going to have you disregard that last statement, okay?  
11 So there's only so much about the history that we can  
12 get into as far as inform the cause of death, so we're  
13 going to disregard that last statement.

14 A GRAND JUROR: Thank you, though.

15 MS. KIMBERLY: Any other -- thank you,  
16 Dr. Hurst. Nothing further.

17 THE WITNESS: All right. Thank you.

18 MR. OVERSTREET: And our next witness will  
19 be Sergeant Craig Andersen.

20 A GRAND JUROR: I wonder if Craig Andersen  
21 -- but good friend of ours. I'm sure there's lots of  
22 Craig Andersens in the world.

23 MR. OVERSTREET: Oh, but not this sergeant.

24 A GRAND JUROR: Not this Craig Andersen.

25 MR. OVERSTREET: Okay. Sir, once you get up

## Examination of Craig Andersen

1 by the chair, if you can go ahead and raise your right  
2 hand and we'll get you sworn in.

3 **CRAIG ANDERSEN**

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

6 A GRAND JUROR: All right. You may be  
7 seated. Thank you.

8 MR. OVERSTREET: And once you're seated, go  
9 ahead and state and spell your full name, please.

10 THE WITNESS: My name's Craig Andersen,  
11 C-r-a-i-g, A-n-d-e-r-s-e-n.

12 **EXAMINATION**

13 BY MR. OVERSTREET:

14 Q And where are you employed?

15 A City of Portland, Portland Police Bureau.

16 Q And how long have you been in law  
17 enforcement?

18 A 16 years.

19 Q And where are you currently assigned?

20 A East precinct.

21 Q And what is your current role at east  
22 precinct?

23 A I'm a supervisor, a sergeant for the east  
24 neighborhood response team.

25 Q Okay. And were you serving in that capacity

## Examination of Craig Andersen

1 on April 16th of this year?

2 A I was.

3 Q Okay. And could you just briefly describe  
4 what your duties entail as being a sergeant of the  
5 neighborhood response team.

6 A My duties, I supervise -- at the time, it  
7 was four officers that -- that conduct proactive  
8 policing as far as dealing with neighborhood  
9 complaints, drug complaints, any kind of issues  
10 surrounding homelessness.

11 And we work with partners and social service  
12 groups with helping homeless find placement and things  
13 of that nature.

14 Q Okay. And you were serving in that role in  
15 April of this year?

16 A I was.

17 Q But particularly on April 16th, in what  
18 capacity were you serving?

19 A I was working a overtime shift for east A  
20 shift.

21 Q Okay. So were you still running the  
22 neighborhood response team at that time or are you --  
23 do you have different duties?

24 A That day, my duties were I was covering a  
25 patrol shift.

## Examination of Craig Andersen

1 Q Okay. And what was your shift that morning?

2 A From 0700 to 1700 hours.

3 Q Okay. And you'd used the term an overtime  
4 shift?

5 A Correct.

6 Q Okay. And but -- but still in your capacity  
7 as a patrol sergeant?

8 A Yes. Correct.

9 Q Okay. And did you hear a radio call  
10 regarding a person with a gun inside of Lents Park  
11 that morning?

12 A Yes, I did.

13 Q And do you recall about what time you heard  
14 that call?

15 A I -- actually, I don't.

16 Q Okay. And where were you when you heard  
17 that call?

18 A I was at East Precinct.

19 Q Okay. And when you heard that call, what  
20 kind of response did that elicit from you?

21 A It elicited -- I -- I -- it made me quickly  
22 leave the precinct and head towards the call.

23 Q Okay. And what about the call caused you to  
24 leave the precinct and head towards the call?

25 A It's alarming when you hear a subject in

## Examination of Craig Andersen

1 a -- in a park with a gun in an open-air area with  
2 victims, bystanders, things of that nature.

3 Q And as you were heading in that direction,  
4 did you receive any updates over the radio?

5 A I did.

6 Q Do you recall what those were?

7 A I -- I knew that they -- that officers had  
8 arrived and had eyes -- eyes on. I knew that they --  
9 they were -- it sounded like they attempted to contact  
10 the subject and the subject was uncooperative. And  
11 then -- and then I actually requested medical to stage  
12 for the -- for the event. And then I overheard "Shots  
13 fired."

14 Q Okay. So I want to break that down a little  
15 bit. You said you were on your way to the park. You  
16 were driving to the park at that time?

17 A Yes, Code 3.

18 Q And -- and what is Code 3?

19 A It was lights and sirens on and drive as  
20 quickly as I can in a safe manner.

21 Q Okay. And then you said that on your way,  
22 you had heard that the individual was not compliant  
23 and that you decided to stage medical. First of all,  
24 what does that mean and why did you decide to do it?

25 A Staging medical means that -- so that way,

## Examination of Craig Andersen

1 if -- if something -- if something happens where  
2 somebody needs medical attention, the medical should  
3 be nearby as opposed to showing up, something happens,  
4 somebody gets hurt, police, bystander, subject,  
5 whomever.

6 And then you call for medical, now you're  
7 waiting for them to come from -- they could be at a  
8 different part of the city. So it's a way to try to  
9 have your resources ready to go if there is -- if you  
10 do indeed need them.

11 And -- and on that day, my reason for  
12 requesting them to stage is -- is because we were  
13 talking about a individual in the park with a gun that  
14 could easily lead to somebody being injured.

15 Q Okay. And when you asked for them to stage  
16 in particular, what does staging mean?

17 A That means that they'll park, typically,  
18 within a block or two of wherever the call location  
19 is. So they'll be parked there waiting for us to call  
20 them in once we make the scene stable and safe.

21 Q Okay. And so you said you had called to  
22 have the medical staged. But at the time that you did  
23 that, did you have information at that particular time  
24 that somebody was needing medical care?

25 A I did not.



## Examination of Craig Andersen

1           Q     Okay.  And so once you arrived at the park,  
2     did you make contact with anyone?

3           A     I did.

4           Q     Who was that?

5           A     I initially parked, talked to -- briefly  
6     talked to Officer DeLong and with Rich 'cause they  
7     were kind of right there, almost basically right in  
8     front of me where I pulled up.  And that was real  
9     brief.

10                     And then basically, they pointed out to me  
11     where the custody team was to -- to make approach.  
12     And I retrieved the shield and ran over to the custody  
13     team.

14           Q     And I just want to be clear just so there's  
15     no confusion here.  When you heard the shots fired,  
16     were you already on scene or were you still in your  
17     vehicle?

18           A     I was still in my vehicle traveling to the  
19     scene.

20           Q     So you were not present for the actual  
21     shooting?

22           A     I was not.

23           Q     Okay.  So when you arrived, that's post  
24     shooting and you were directed to a custody team?

25           A     I was.

## Examination of Craig Andersen

1 Q And where was that custody team in relation  
2 to where Officer Wutherich and Officer DeLong were?

3 A Kind of northeast of them.

4 Q Okay. Do you recall about how far?

5 A Oh, 50 yards maybe.

6 Q Okay.

7 A That's the best of my recollection.

8 Q And you referred to them as a custody team.  
9 Do you recall who made up that custody team?

10 A I know that Officer Le was present. I know  
11 that Officer Bailey was present. Officer Nagy  
12 (phonetic) was there and then I believe Officer Letter  
13 and Stroh.

14 Q Okay. So a handful of officers on that  
15 custody team?

16 A Correct.

17 Q As a sergeant, is one of your duties to  
18 either create an approach plan and/or approve an  
19 already created approach plan?

20 A Yes.

21 Q Okay. And in this case, did you create an  
22 approach plan?

23 A I did not. The officers on the scene had an  
24 approach plan in place.

25 Q And was that the plan relayed to you?

## Examination of Craig Andersen

1 A Yes.

2 Q And did you approve that plan?

3 A Yes, I did.

4 Q Do you have the authority to cancel those  
5 plans or come up with a variation of the plan?

6 A Yes, I do.

7 Q But it, in your opinion, was something you  
8 felt okay to approve?

9 A Yes.

10 Q Okay. Did you join the custody team and  
11 approach the subject?

12 A I did.

13 Q And what was your role in that custody team?

14 A I was just -- so I was just kind of -- I was  
15 there with them, but guiding them forward.

16 Q Okay.

17 A 'Cause I -- I got over there and they gave  
18 me the briefing. And I said, "That's great.  
19 Let's go."

20 Q Okay. Did you provide any tools to the  
21 custody team?

22 A I did. I provided a shield.

23 Q And was there not already a shield on scene?

24 A No, not that I'm aware of.

25 Q Okay. Once you approached, did you make any

## Examination of Craig Andersen

1 note of anything near where the subject was laying?

2 A I did. I -- once we were approached up to  
3 the subject, I observed a gun to -- to his left side.

4 Q Any other objects around him that were of  
5 note to you?

6 A No.

7 Q Okay. And to the best of your ability,  
8 could you describe what that gun looked like to you?

9 A It looked -- it was black and it looked like  
10 a Beretta pistol.

11 Q Okay. Was there any other distinguishing  
12 marks that you took note of at that time?

13 A Yes. It -- it looked like it had a small  
14 orange tip.

15 Q Did you retrieve that firearm or handle it  
16 in any way?

17 A I did not.

18 Q At what point -- or I guess I should ask,  
19 did you ask for medical to ultimately come into the  
20 park?

21 A As soon -- as soon as we made the approach  
22 and -- and -- and started first aid. I -- I actually  
23 asked for medical right away now that I knew that --  
24 that there was no threat to us or medical. And then  
25 we began first aid.

## Examination of Craig Andersen

1           Q     Okay.  And did medical eventually arrive and  
2     take over?

3           A     Yes.

4           Q     Now, I just want to go back to the approach  
5     in the first place and the plan that was created or  
6     that you approved.  As a sergeant, you said you have  
7     the ability to override -- that's not the term that I  
8     used a few minutes ago, but the ability to override  
9     the plan and create a new plan.

10                     With that, you said you decided to go ahead  
11     and go with the plan that was created.  From your  
12     perspective as a sergeant who creates these plans and  
13     has the ability to override them, why would it be  
14     important to create those plans and why not just go up  
15     to the subject immediately after they're down?

16           A     Well, it's important because at that point,  
17     we've just -- we're dealing with a subject that's  
18     armed.  We know that he's armed because that's why the  
19     officer took the actions that they took, at least from  
20     the information I had at the time.

21                     And so through training and experience, I  
22     don't know if he's -- if this subject's trying to bait  
23     us in.  If he was potentially just shot by the police,  
24     this person is not safe for us just to run up and  
25     check on.

## Examination of Craig Andersen

1           So we have to make a -- a tactical, safe  
2           approach to be able to address them to assure that a  
3           police officer or a innocent bystander doesn't get  
4           shot or injured.

5           MR. OVERSTREET:   Okay.  Do any of the grand  
6           jurors have any questions?

7           A GRAND JUROR:   No.

8           MR. OVERSTREET:   Maybe one from colleagues?  
9           Okay.  I didn't want to cut anybody off if somebody's  
10          about ready to ask questions.  Anybody?

11          MR. MILLER:   Just a quick follow-up question  
12          here.  When you stated that you did observe this  
13          firearm and you described it, about how far away from  
14          the firearm were you from your vantage point?

15          THE WITNESS:   Oh, once I observed it?

16          MR. MILLER:   Right.

17          THE WITNESS:   Oh, probably a few feet.

18          MR. MILLER:   Okay.

19          THE WITNESS:   'Cause I would have been on  
20          the other side of the subject lying on the -- on the  
21          ground.  So -- and then I saw the gun on the other  
22          side of him.

23          MR. MILLER:   And so you're a few feet away,  
24          about?

25          THE WITNESS:   Yeah, at least.

## Examination of Craig Andersen

1           MR. MILLER: Okay. And was that at the time  
2 that you took note of what the firearm appeared to  
3 look like and including the orange tip?

4           THE WITNESS: I don't recall if that's when  
5 I made my actual picture in my head of all the details  
6 of it, 'cause, you know, as time went on, I believe I  
7 walked around when -- when we were trying to give  
8 first aid and medical came in and were wanting to move  
9 the subject and things of that nature.

10          MR. MILLER: Okay.

11          THE WITNESS: So I could have taken a more  
12 mental -- and more clear mental note after that.

13          MR. MILLER: Okay. Fair enough. In your  
14 experience, is there a -- an actual lethal weapon that  
15 has an orange tip on -- on the gun?

16          THE WITNESS: In my experience, I know  
17 that -- have I -- are you asking me if I've ever had  
18 or dealt with one or if I just --

19          MR. MILLER: Yes. Do you know of any gun --  
20 do you know of any gun that is used for lethal force  
21 that has an orange tip?

22          THE WITNESS: I know that I have seen  
23 officer safety flyers with guns that have been altered  
24 to look like they're fake.

25          MR. OVERSTREET: Any other questions?

## Examination of Craig Andersen

1 A GRAND JUROR: I guess could you explain  
2 that just a little bit more about what you mean,  
3 altered to look like they're fake, like how -- how  
4 would a real firearm be altered to look like a fake?

5 THE WITNESS: By painting the -- the end of  
6 the barrel orange to appear to look fake. Altering it  
7 in such a way that it may not even look like a gun. I  
8 mean, I've seen all over the -- from one end of the  
9 spectrum to the other of alterations that individuals  
10 will make to be able to conceal it from looking like  
11 a -- a true firearm. Does that help?

12 MR. MILLER: Yeah. Thank you.

13 MR. OVERSTREET: Does that generate any  
14 other questions for him? Back here? Okay, Sergeant.  
15 I think that's all the questions I have for you.  
16 Thank you.

17 THE WITNESS: Thank you.

18 A GRAND JUROR: Thank you.

19 MR. JACKSON: Our next witness is  
20 Dan Alessio.

21 A GRAND JUROR: Thank you very much.

22 THE WITNESS: Thank you.

23 MR. JACKSON: Raise your right hand, please.  
24 Our foreperson will swear you in.

25 **DAN ALESSIO**



## Examination of Dan Alessio

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

3 A GRAND JUROR: Great. Thank you. You may  
4 be seated.

5 MR. JACKSON: All right. Could you please  
6 state and spell your name, sir.

7 THE WITNESS: Dan Alessio. Last name's  
8 spelled A-l-e-s-s-i-o.

9 EXAMINATION

10 BY MR. JACKSON:

11 Q And where are you currently employed?

12 A I'm employed with the Oregon State Police  
13 Forensic Laboratory in Clackamas, Oregon.

14 Q What do you do there?

15 A I'm a forensic scientist. My main job is  
16 working in the firearm and toolmark section, so  
17 working with firearms. I'm also a member of the Crime  
18 Scene Response Team.

19 Q Could you explain what education, training  
20 and experience you have regarding your position as a  
21 firearms toolmark examiner?

22 A Sure. I have a degree in biology and then  
23 the firearms training specifically is through the  
24 Oregon State Police as well as the Federal Bureau of  
25 Investigation, the Bureau of Alcohol, Tobacco,

## Examination of Dan Alessio

1 Firearms and Explosives, as well as some forensic  
2 organizations, the Association of Firearm and Toolmark  
3 Examiners and the Northwest Association of Forensic  
4 Scientists.

5 They put on yearly trainings where I receive  
6 training. I also provide training for some of those  
7 organizations as well.

8 Q So as a firearms and toolmark examiner, what  
9 does that mean you do as a practical matter?

10 A It means that we examine firearms,  
11 generally. A lot of times firearms comes in, they're  
12 broken or the question is are they functioning, are  
13 they functioning correctly. So we do that type of  
14 examination.

15 And then we do examinations as far as the  
16 question of if a fired bullet or a fired cartridge  
17 case was fired from a particular firearm. So we'll do  
18 microscopic comparisons. What we'll do is take the  
19 firearm, make test fires to create a bullet or a  
20 cartridge case to compare to the unknown bullet or  
21 cartridge case.

22 And that's really the bulk of what we do.  
23 We do some other -- other things such as serial number  
24 restorations and distance determination. The question  
25 might be how far a firearm was from a target when it

## Examination of Dan Alessio

1 was fired, so we can do some chemical testing. But  
2 the majority is firearms, bullets and cartridge case  
3 comparison.

4 Q Okay. And could you explain how you  
5 actually conduct that comparison analysis.

6 A Sure. I'm trying to think where to start.  
7 We'll start with the firearm. We'll do an overall  
8 analysis of the firearm, document, make model caliber,  
9 you know, things that the manufacturer intended or  
10 designed on the firearm.

11 We'll also document the interior parts of  
12 the firearm that may come in contact with a bullet or  
13 a cartridge case. So when that firearm is machined,  
14 you've got tools cutting this hard metal. And that  
15 machining process will leave marks on --

16 Q Are you talking about when the gun itself is  
17 being made, like in the --

18 A Yes.

19 Q -- factory?

20 A Yes.

21 Q Okay.

22 A Yeah. So when the firearm's produced,  
23 you've got tools cutting this hard metal. And as that  
24 tool is cutting the hard metal, the tool is wearing  
25 and changing and that tool leaves marks behind on that

## Examination of Dan Alessio

1 firearm.

2           So when a firearm comes into contact with a  
3 softer surface of, like, a copper bullet or a brass  
4 cartridge case, those marks will be imparted onto that  
5 bullet or that cartridge case. So we'll document the  
6 firearm. And then if there is an unknown question  
7 bullet or cartridge case, we'll document that.

8           And like I mentioned before, we can  
9 produce -- we'll test-fire the firearm, produce a  
10 cartridge case from our known source, the firearm or a  
11 bullet, and then we'll do a microscopic comparison  
12 between those two items.

13           And what we have is a -- it's called a  
14 comparison microscope. So it has two stages. It's  
15 basically two microscopes with an optical bridge. So  
16 we look through one thing.

17           We can have two objects on the two different  
18 stages, two bullets or two cartridge cases and looking  
19 under magnification, we can look for those marks that  
20 were created when the firearm was manufactured to see  
21 if there's enough agreement with those marks to  
22 determine if it's from the same firearm or not.

23           Q     And are those markings you described that  
24 are generated within the firearm through the  
25 manufacturing process unique to that firearm?

## Examination of Dan Alessio

1           A     It is.  There's been many, many studies over  
2     the hundred-plus years of firearms examination to look  
3     at that.  And what they'll do is go to a manufacturer  
4     that makes firearms and they'll say, can you give us  
5     10 consecutively manufactured, say, barrels that the  
6     bullet will pass through.

7                     So this is ten barrels that the same tool  
8     has cut, one right after the other.  And it's been  
9     shown and proven that each one of those barrels will  
10    have unique marks, one right after the other and  
11    trained firearms examiners can determine which barrel  
12    a bullet came through from those ten.

13                    And like I said, there's been many, many  
14    studies, validation-type studies to prove that the  
15    marks are unique and that trained examiners can  
16    determine which barrel or breechface, in the case of a  
17    cartridge case, fired a particular piece of  
18    ammunition.

19           Q     Okay.  And so you talked about the markings  
20    that are created within the firearm through the  
21    manufacturing process.  Then you also separately  
22    talked about markings that get transferred -- I guess  
23    is a word -- from the firearm to the cartridge casing  
24    when a bullet is actually fired by the gun, right?

25           A     Those are correct.

## Examination of Dan Alessio

1 Q Separate markings?

2 A Correct.

3 Q Okay. So when you're actually doing your  
4 comparison, what markings are you looking at, the ones  
5 that are on the actual cartridge casing or the ones  
6 that are on the gun itself?

7 A So we'll look at both and it's part of our  
8 initial examination. And if I step back just for a  
9 moment, we'll start with the firearm and we'll look at  
10 what we call the class characteristics or  
11 characteristics that are known to be made in a  
12 particular brand and model of firearm.

13 So an instance would be the barrel of a  
14 particular firearm, say, it's a Smith & Wesson -- when  
15 they cut that rifling, so they put rifling in the  
16 barrel that will impart spin to a bullet. It's like a  
17 quarterback throwing a football.

18 And when that bullet spins, it's stabilized.  
19 It's much more accurate. So that rifling, when they  
20 cut that, those grooves into the barrel, the  
21 manufacturer decides how many grooves are cut into  
22 that barrel and what direction they're going to twist.

23 So we can either go clockwise or  
24 counterclockwise. So we'll start with this class --  
25 class characteristics of a barrel. So we can look --

## Examination of Dan Alessio

1 look down the barrel and say there's five lands and  
2 grooves or six lands and grooves and what direction  
3 they twist.

4 So these are class, so this will group this  
5 particular firearm into a group. So say Smith &  
6 Wesson made a certain model of firearm. All those  
7 models are going to have similar class  
8 characteristics.

9 So that narrows down our group of possible  
10 firearms. If we're looking at an unknown bullet, we  
11 can quickly determine, does this bullet have those  
12 same class characteristics imparted on it that this  
13 particular gun has.

14 And we can say they're similar and we're  
15 going to go on to look at these microscopic marks or  
16 they're completely different. If the barrel is five  
17 lands and grooves with a right-hand twist and our  
18 bullet is six grooves with a left-hand twist, we can  
19 immediately just eliminate it and -- and say this is  
20 the wrong firearm. So --

21 Q In other words, that gun did not fire this  
22 bullet?

23 A Correct. So we'll start with that. We'll  
24 start with the large class-type characteristics when  
25 we examine the firearm and/or unknown bullet or

## Examination of Dan Alessio

1 cartridge cases.

2           If the class characteristics are the same,  
3 then we move on to those individual marks that we look  
4 for that I described earlier where we'll take those  
5 fired components and look at them under the microscope  
6 to see if there's enough level of agreement with these  
7 individual marks.

8           And so to get back to your question, so  
9 we're going to look at those marks. On a bullet,  
10 they're going to be on the sides of the bullet when  
11 that bullet goes through that barrel and they're  
12 getting marked by those -- those cut lands and  
13 grooves, as we call them, or the rifling that was cut  
14 by that tool and left those unique marks.

15           In the instance or circumstance with a fired  
16 cartridge case, there's lots of different places on  
17 that cartridge case we can look for. We start usually  
18 at the breech or the end of the cartridge case and  
19 what happens is that's supported by the machined metal  
20 part of the firearm.

21           And when that firearm is fired, the bullet's  
22 going to go down the barrel and at the same time that  
23 cartridge case is being pushed back into the breech or  
24 the supported metal area of the firearm.

25           And so again, those machining marks that



## Examination of Dan Alessio

1 created that area of the firearm are going to be  
2 impressed into the softer copper or brass of the  
3 cartridge case. So we look at the breech area of the  
4 firearm. We'll look at the firing pin area that  
5 actually strikes and initiates the firing of that  
6 cartridge.

7 The firing pin itself is made out of metal  
8 and again, it could have machining marks on it that  
9 will be imparted into that cartridge case. And then  
10 we can look at the sides of the cartridge case.

11 That cartridge, when it's being fired, is in  
12 what's called a chamber and that chamber is machined  
13 specifically to fit that size of a cartridge. Again,  
14 when that firing process happens and the pressure is  
15 trying to push the barrel out, that pressure's pushing  
16 back and that cartridge case will expand and seal into  
17 that chamber.

18 And then as it starts to come out, the  
19 machining marks can get imparted onto the sides of  
20 that cartridge case. Also in a case of a  
21 semi-automatic firearm, that will automatically  
22 extract and eject a fired cartridge case.

23 There's metal parts, the extractor, it's a  
24 little claw that grabs the cartridge case and pulls it  
25 and then an ejector that hits it and knocks it out of

## Examination of Dan Alessio

1 the firearm during the firing process. So those are  
2 all metal pieces of that gun that we can look in those  
3 areas to see if there's marks and agreement when we do  
4 our comparison.

5 Q And is what you're describing the firing  
6 process for semi-automatic handguns, revolvers,  
7 rifles? Is it all the same? Is it different? Could  
8 you explain that?

9 A Yeah. In this case, at the end there when I  
10 talked about that extraction and ejection process,  
11 that's common for all semi-automatic firearms, meaning  
12 every time you pull the trigger, it fires once and  
13 then it will cycle and extract and eject that fired  
14 cartridge case.

15 And then if there's more ammunition during  
16 that cycling, it will reload a new cartridge and then  
17 be ready for the trigger to be fired and start that  
18 cycling process all over again. So yes, common to  
19 handguns and long guns, rifles, shotguns, if they're  
20 semi-automatic.

21 Q Okay. So that process is the same for  
22 rifles and semi-automatic handguns?

23 A Correct.

24 Q Okay. What is the difference between  
25 semi-automatic and automatic?

## Examination of Dan Alessio

1           A     Semi-automatic is defined as for each pull  
2     of the trigger, one shot is fired.  And then the whole  
3     mechanism, the trigger has to be let go and re-pulled  
4     for a second shot to be fired.

5                     Where in automatic, one pull of the trigger  
6     will fire and keep firing until the trigger is  
7     released or the ammunition's all gone.

8           Q     Okay.  Did you receive a Portland  
9     police-issued rifle for examination documented under  
10    Portland Property Receipt 8A071545 for examination at  
11    your lab?

12          A     Yes, I did.

13          Q     And was the serial number on that rifle  
14    LGC015892?

15          A     Yes, it was.

16          Q     Okay.  What -- did you conduct an analysis  
17    of that rifle?

18          A     I did.  I started with -- basically we --  
19    with firearms, we have procedures or what we call  
20    minimum documentation requirements.  And so I -- I  
21    have a worksheet that I filled out that meets those  
22    minimum documentation requirements.

23                     And it's basically recording the caliber,  
24    the manufacturer, the model, the serial number and  
25    then other things on the worksheet will document, as I

## Examination of Dan Alessio

1 talked about, the rifling in the barrel of this  
2 particular firearm, how many grooves are cut into the  
3 barrel, what direction do they twist.

4 I document things like the trigger pull, the  
5 weight it takes to pull the trigger. We're kind of  
6 doing this documentation of the firearm initially just  
7 to kind of look at the overall health of the firearm.  
8 Is it functioning properly? Is there something  
9 broken? And so that's where I started with this  
10 examination.

11 Q What did you find when you analyzed this  
12 rifle?

13 A This particular rifle, I did the initial  
14 examination and I found that it appeared to be  
15 functioning correctly. And at that point, then I took  
16 it out to our range and I fired it three times using  
17 some of the submitted ammunition. And it functioned  
18 normally or as I would expect for this type of  
19 firearm.

20 Q What do you mean when you say some of the  
21 submitted ammunition?

22 A So there was also submitted -- ammunition  
23 submitted with this firearm. So this firearm came in  
24 and it had two magazines with it. The magazine  
25 capacity of each magazine is 30 cartridges. One

## Examination of Dan Alessio

1 magazine had 30 cartridges in it, which to me means it  
2 was not used.

3 The other magazine had 27 cartridges in it  
4 of a 30 capacity, as well as I received one cartridge  
5 that was reported to be removed from the chamber of  
6 this firearm. So in total, I had one magazine with 30  
7 cartridges and one magazine that had a total of 28  
8 cartridges.

9 And I used the magazine that had the 28  
10 cartridges, I used three of those cartridges. Again,  
11 it was reported that that was the magazine that was in  
12 the firearm. And so I just wanted to use the same  
13 ammunition with the same firearm.

14 That's as close as I could come to firing it  
15 in the situation that it had been fired in previously.  
16 And also, we like to use the evidence ammunition  
17 because different types of ammunition may mark  
18 differently depending on what it's made out of.

19 And so if we use the same exact ammunition  
20 when we do our microscopic comparison, it helps,  
21 because the same ammunition tends to mark the same.  
22 And -- and it makes our comparison process usually  
23 more smooth.

24 Q Okay. But the marks that you're looking for  
25 on the ammunition are, nevertheless, unique to that

## Examination of Dan Alessio

1 firearm?

2 A Yes. Again, based on my training and  
3 experience, the validation studies that have been  
4 done, those marks are unique, yes.

5 Q And so you may have said this in the course  
6 of your answer here, but did you find the rifle to be  
7 functional and operating appropriately, correctly?

8 A Yes, I did.

9 Q Okay. Did you also receive two spent 223  
10 casings recovered from the scene --

11 A Yes.

12 Q -- for analysis?

13 A Yes, I did.

14 Q And were those lodged under Property Receipt  
15 No. A1A2984?

16 A Yes.

17 Q Were you able to conduct an analysis of  
18 those cartridge casings?

19 A Yes, I did. And so just like the firearm,  
20 we have minimum documentation requirements for fired  
21 cartridge cases. I have a worksheet. So I examined  
22 each one of those cartridge cases, recorded caliber,  
23 manufacturer, you know, what it's made out of.

24 And then I started looking for the markings,  
25 firing pin impression, shape and size, just again to

## Examination of Dan Alessio

1 work on those larger class characteristics, determine  
2 could these have been fired from this type of firearm.

3 And then I moved on to using those three  
4 cartridges that I fired with the firearm to do my  
5 microscopic comparison of the cartridge cases I  
6 produced from our known firearm to these two unknown  
7 fired cartridge cases.

8 Q And so was your purpose in doing that to  
9 determine whether or not these cartridge casings  
10 recovered from the scene were fired from the rifle  
11 that you received for analysis?

12 A That's correct. That was the question that  
13 had been asked of the laboratory to determine if those  
14 were fired in this particular firearm or not.

15 Q So when you were looking at the class  
16 characteristics level of the analysis, did you find  
17 anything that excluded the rifle you received as the  
18 source or the firing gun for the casings you  
19 recovered?

20 A No. I didn't see any features or marks that  
21 would exclude those two fired cartridge cases as  
22 having been fired in that particular rifle.

23 Q Okay. And then you moved on to the  
24 microscopic analysis?

25 A That's correct.

## Examination of Dan Alessio

1 Q What did you find there?

2 A During microscopic comparison, I found that  
3 there was sufficient individual markings left from  
4 that firearm on these fired cartridge cases to  
5 determine that they had been indeed fired in this  
6 particular rifle.

7 Q Okay. And what are the possible conclusions  
8 you can come to at the end of your analysis?

9 A Possible conclusions are, in this case, I  
10 found it was an identification or that identified the  
11 two cartridge cases as being fired in this particular  
12 rifle. Other conclusions we use are elimination or  
13 that these were not fired in that particular rifle.

14 And then sometimes just because different  
15 firearms mark differently depending on how they're  
16 manufactured, what condition they're in, sometimes  
17 marks aren't good enough on a particular bullet or a  
18 cartridge case.

19 A bullet might hit something hard and be so  
20 damaged that the markings aren't there or are too  
21 damaged. So we might just say all of our class  
22 characteristics are the same, but the individual  
23 characteristics we use to identify aren't good enough,  
24 so we say inconclusive.

25 We just can't say. It might be, but it



## Examination of Dan Alessio

1 might not be. We just can't say. And we have three  
2 levels of inconclusive. Basically, they're -- there  
3 are some individual marks, but not enough to make a  
4 determination that it was fired in. There's no marks  
5 one way or the other. We just can't say.

6 Or there's a lack of individual marks, but  
7 the class characteristics are close enough that we  
8 can't eliminate it. And then we have one more level  
9 where it's just, something's too damaged and it's --  
10 it's not even usable for a comparison. So those are  
11 kind of our levels that we use.

12 Q And again, what was your conclusion at the  
13 end of your analysis of this firearm with these two  
14 223 casings?

15 A Yeah. In this particular case, I determined  
16 that the two fired cartridge cases supplied to me were  
17 fired in this particular rifle.

18 MR. JACKSON: Okay. I don't have any other  
19 questions. Do the grand jurors have any questions?

20 A GRAND JUROR: No.

21 A GRAND JUROR: I do not.

22 A GRAND JUROR: No.

23 MR. JACKSON: That's all we have. And that  
24 concludes the presentation for the morning. So we can  
25 go off the record for our lunch break.

## Examination of Dan Alessio

1           A GRAND JUROR: Thank you very much for your  
2 time.

3   \* \* \*

4           (Noon Recess taken at 11:45 a.m.)

5

6   ***AFTERNOON SESSION***

7           (Whereupon, the following proceedings were  
8 held before the Grand Jury, 1:04 p.m.):)

9           MR. MILLER: Okay. We are back on the  
10 record after our lunch break. And the State's calling  
11 its next witness, which is Officer Perry.

12                                        If you'll head around there to the stand and  
13 raise your right hand to be sworn in.

14   **SPENCER PERRY**

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

17           A GRAND JUROR: All right. Thank you. You  
18 may be seated.

19           MR. MILLER: Once you're comfortable, if  
20 you'll introduce yourself, give first and last name  
21 and spell your last name, please.

22           THE WITNESS: Sure. Is it okay if I remove  
23 this or are you guys keeping these on, the masks?

24           MR. MILLER: We're generally keeping them on  
25 unless you have a difficulty in responding on the mike

## Examination of Spencer Perry

1 or if you can't understand me --

2 THE WITNESS: Fair enough.

3 MR. MILLER: -- or I can't understand you.

4 THE WITNESS: Perfect. All right. My name  
5 is Spencer Perry. Spencer is S-p-e-n-c-e-r; last  
6 name's Perry, P-e-r-r-y.

7 EXAMINATION

8 BY MR. MILLER:

9 Q Where do you work, sir?

10 A I am a police officer. I'm employed by the  
11 city of Portland.

12 Q And how long have you worked there?

13 A Ten-and-a-half years.

14 Q And can you just kind of give me a brief  
15 summation of what training led to your career as a  
16 police officer?

17 A Sure. So I hold an advanced certificate  
18 with the state of Oregon as a police officer. I spent  
19 the entirety of my career in operations, which means I  
20 have done a patrol function for the last 10-and-a-half  
21 years.

22 I spent some time on our rapid response  
23 team, which responds to protests. I've spent time  
24 with the entertainment detail, which essentially works  
25 all of our bar problems. And then I am currently

## Examination of Spencer Perry

1 assigned to east day shift.

2 Q Okay. And were you working on April 16th  
3 of 2021?

4 A Yes.

5 Q Were you assigned to east day shift on  
6 that day?

7 A Yes, I was.

8 Q So what was your shift?

9 A Say that again?

10 Q When did it start and when did it end?

11 A So day shift starts at 7:00 in the morning.

12 Q All right. And when's it go to?

13 A 5 o'clock p.m.

14 Q Were you working as a single-person unit or  
15 were you a multi-person unit that day?

16 A That day, I was a single-patrol unit.

17 Q All right. And at some point in time in the  
18 morning, did you get dispatched or did you assign  
19 yourself to a call at Lents Park?

20 A Yes, I did.

21 Q And how did you get onto that call?

22 A I was on another investigation at 86th and  
23 Claybourne, which is approximately a mile away from  
24 Lents Park.

25 And throughout that morning, I was hearing

## Examination of Spencer Perry

1 updates that there was another call going on in the  
2 precinct. And when I finished my investigation, I had  
3 freed up to go assist them.

4 Q Do you remember when approximately that you  
5 freed up to assist them?

6 A I guess the call was kind of ongoing, but I  
7 was about a mile away. I would say -- before the  
8 incident happened, I would say probably, maybe three  
9 minutes before the incident happened.

10 Q And when you say before it happened, which  
11 it are you referring to?

12 A The officer-involved shooting.

13 Q Okay. So not beginning of the call, but the  
14 actual shots fired part?

15 A That's correct. The call had been ongoing  
16 for several minutes before that.

17 Q Perfect. And so how did you get there?

18 A Actually, I left the scene at 86th and  
19 Claybourne and drove up from 86th to 92nd. And then I  
20 went from 92nd to Schiller or Schiller between Holgate  
21 and Schiller.

22 Q And how'd you get into the park?

23 A So if no one's familiar with Lents Park, I  
24 don't know if you guys -- looks like you guys -- oh.

25 Q I got this view and this view. Which one

## Examination of Spencer Perry

1 would you prefer?

2 A This view's fine.

3 Q Okay.

4 A So there's a driveway into the park, as you  
5 guys can see right there, the only driveway that's  
6 there. I pulled my patrol car right in that  
7 parking lot.

8 Q From this entrance that we're pointing to on  
9 the lower left-hand side of the photograph?

10 A That's correct.

11 Q Okay. And what did you do after you pulled  
12 your car into the parking lot?

13 A I immediately parked behind Officer DeLong's  
14 patrol vehicle. I grabbed my patrol rifle and I  
15 exited the vehicle and I took a position with  
16 Officer Wutherich and Officer DeLong behind a tree.

17 Q Okay. I'm showing you a photograph with two  
18 police officer vehicles next to a tree. Does that  
19 look familiar?

20 A Yes.

21 Q Is one of the those Officer DeLong's  
22 vehicle?

23 A Yes.

24 Q Which one, the one on the right or the left?

25 A I believe it's the one on the right.

## Examination of Spencer Perry

1           Q     All right.  And the tree that you see there  
2     by the sign, is that what the tree that you were  
3     describing?

4           A     Yes.

5           Q     And who was at that tree when you  
6     approached?

7           A     Officer DeLong and Officer Wutherich.

8           Q     Okay.  Is this after Officer DeLong had  
9     called on the radio that you described earlier, that  
10    shots had been fired or before?

11          A     This is after the incident.

12          Q     Okay.  And so when you first approached  
13    Officer DeLong and Officer Wutherich, what were you  
14    doing and what was your kind of role there?

15          A     Immediately, I -- I wasn't sure if the  
16    suspect was moving or doing anything like that, so I  
17    wanted to take a position of cover and then check on  
18    Officer Wutherich and Officer DeLong to see if they  
19    had been shot or they needed medical aid or if  
20    anything happened, if they needed to be relieved of  
21    anything.

22          Q     Okay.  Why didn't you check on the person  
23    who had been shot?

24          A     Tactically at that point, I believe the  
25    person was armed.  And approaching without more

## Examination of Spencer Perry

1 resources would have been dangerous to myself, the  
2 suspect and the other officers.

3 Q Okay. And were there other officers there  
4 that were formulating a plan? Do you know?

5 A I believe so. You know, within a few  
6 seconds of when I arrived, more officers were there as  
7 well or even if it was simultaneously.

8 Q Okay. And at some point in time, did you  
9 become involved in a team that approached the person  
10 who had been shot?

11 A Yes. So there was two different teams once  
12 we gathered all the resources. There was a custody  
13 team, which included somebody with an IFAK, which is  
14 an individual first aid kit. We had an officer with a  
15 less lethal launcher.

16 We had an officer -- other officer with a  
17 rifle and then we had a supervisor as well. And they  
18 came up with a custody team. I was part of a two-man  
19 team which we had a less lethal launcher and I had my  
20 patrol rifle. And we provided cover for that team to  
21 move up.

22 Q So is the less lethal officer Officer  
23 Collin Smith or Officer Cameron Smith?

24 A Officer Collin Smith.

25 Q And so you -- he was the less lethal cover



## Examination of Spencer Perry

1 and you were the lethal cover with your rifle?

2 A That's correct.

3 Q And did you move up with that custody team  
4 towards the suspect?

5 A Yes, we did. We were -- we were laterally  
6 to the south of them, but we moved up together. But  
7 we were approximately, I would say, 25 yards apart  
8 from each other, maybe a little bit more.

9 Q So were you by a vehicle or were you in a  
10 different location? Sounds like you were in a  
11 different location.

12 A Yes, we were -- we were not by the vehicle.  
13 We were just south of the vehicle and we moved up to  
14 another tree.

15 Q I'm going to get you to an overview.

16 A Sure.

17 Q Is that tree in this photo that we see or --  
18 or was it to our right past the vehicle?

19 A No. It's in there. It's where the red tape  
20 is kind of around.

21 Q The one in the center or the one next to the  
22 vehicle?

23 A The one in the center, the -- yes, that one  
24 right there.

25 Q Okay. And from that position, could you see

## Examination of Spencer Perry

1 the person who had been shot?

2 A Yes.

3 Q And did you notice anything about him as far  
4 as movements or objects around him?

5 A The suspect was not moving at the time.

6 Q And where was the approach team? Were they  
7 close to him yet or were they providing treatment?

8 A Like I said, we kind of were moving up  
9 together. They were getting pretty close. They were  
10 within a few feet of him, I believe.

11 Q And did you ever get closer than that to the  
12 person who had been shot?

13 A Yes.

14 Q And when did that happen?

15 A Once the custody team had moved up with  
16 their IFAK kit, they started immediately rendering aid  
17 and I moved up at the same time to see if I could  
18 assist with anything.

19 Q And did you have any other role once you got  
20 up there to assist?

21 A No. We had people working on the suspect  
22 and they were completely competent and they knew what  
23 they were doing and did not need my assistance.

24 Q Okay. And did you have any other kind of  
25 involvement in the investigation?

## Examination of Richard Bailey

1           A     I did not.

2                   MR. MILLER:  I have no further questions for  
3 Officer Perry.  Does the grand jury have any?

4                   A GRAND JUROR:  No.

5                   MR. MILLER:  Seeing none, you are excused,  
6 Officer.  Thank you.  And if we can go off the record  
7 for a moment, we're going to get our next witness by  
8 Webex or video.

9                           (Recess taken, 1:13 p.m. - 1:15 p.m.)

10                   MR. MILLER:  We are back on the record.  If  
11 you'll raise your right hand to be sworn.

12                                   **RICHARD BAILEY**

13 Was thereupon called as a witness; and, having been  
14 first duly sworn, was examined and testified (via  
15 simultaneous video transmission) as follows:

16                   A GRAND JUROR:  Thank you.

17                   MR. MILLER:  And could you introduce  
18 yourself, your first and your last name?

19                   THE WITNESS:  My name is Richard Bailey.  My  
20 first name is R-i-c-h-a-r-d; last name Bailey, B as in  
21 boy a-i-l-e-y.

22                                   **EXAMINATION**

23 BY MR. MILLER:

24           Q     And where do you work?  Can you still  
25 hear us?

## Examination of Richard Bailey

1           A     Yeah, I'm sorry.

2           Q     Thank you.  Where do you work?

3           A     I'm a police officer with the city of  
4     Portland.

5           Q     And how long have you worked there?

6           A     Around six years now.

7           Q     And can you briefly describe some of the  
8     initial training that made you in the position that  
9     you are now?

10          A     Yeah.  About -- about 12 weeks down at Salem  
11     academy, DPSST, a variety of training from report  
12     writing, driving, firearms, law, et cetera.

13                     And then about 12 weeks advanced academy  
14     training, which consisted of more Portland-specific  
15     policies and how -- how things are done in Portland,  
16     followed by about four or five months of on-the-job  
17     field training for a total of about a year; but I'm on  
18     probation for 18 months, so it's quite an extensive  
19     process.

20          Q     After that initial train-up process, have  
21     you gone through any other type of certifications or  
22     any type of additional training?

23          A     Yes.  I'm a rifle operator, which about  
24     60 hours of training for that.  I'm a less lethal  
25     operator, about 20 hours of training for that.  I

## Examination of Richard Bailey

1 received CIT training that every officer in the city  
2 of Portland receives. 40 hours CIT, which is crisis  
3 intervention training.

4 I'm also an enhanced crisis intervention  
5 trained officer, which is an additional 40 hours of  
6 training. I'm also a crisis negotiator on a new --  
7 crisis negotiator for the city of Portland, which I  
8 received 40 hours of training. And then I'm also  
9 training right now for another 40 hours of crisis  
10 negotiation training.

11 Q So it sounds like a lot of that involves  
12 speaking with people out at scenes; is that correct?

13 A Yes.

14 Q Is there some sort of process that goes  
15 through the ECIT, a methodology of how you approach a  
16 scene? Is it the same every time or is it kind of  
17 dynamic?

18 A There's a general framework, but it varies  
19 and human nature is very complex and there's a lot of  
20 complexities to it, but generally treating people with  
21 compassion and empathy, trying to employ what just  
22 being a good human is.

23 But also some of the aspects that are  
24 specific towards being a police officer as far as  
25 deescalation, which -- which is a deliberate attempt,

## Examination of Richard Bailey

1 you know, to reduce the necessity for force.

2 So that is just tactics as far as allowing  
3 an officer to -- to use cover, whether that be a  
4 vehicle or some type of tree or some cover to -- to  
5 give the opportunity for someone else to respond;  
6 being mindful of having multiple officers give  
7 commands to someone, which can be confusing. Have one  
8 person talk at a time, things of that nature.

9 Q So is that mostly a classroom process where  
10 you talk about all the different ways that you can  
11 approach a situation?

12 A There's a portion in the classroom. There  
13 is scenario training for that ECIT training enters  
14 also, so some stuff out in the community where we're  
15 connected with various community resources, such as  
16 Unity and other public entities that -- that want to  
17 connect with the Police Bureau and show what they can  
18 offer for the community.

19 Q And how -- how recently have you been  
20 certified in the negotiator aspects?

21 A The negotiator training, I received my  
22 Level 1 certification in March of 2020. And then this  
23 is my Level 2 training. And I -- I received about  
24 eight to ten hours every month. Sometimes that's  
25 more, depending on what training you have.

## Examination of Richard Bailey

1           Q     So, basically, during the event that we're  
2 going to talk about here on April 16th, you were  
3 already ECIT trained as well as a Level 1 negotiator  
4 as you described it?

5           A     Correct. Yes. But negotiation, just to  
6 clarify, is done in a team environment. I would never  
7 respond to an incident as a negotiator per se. I  
8 would only respond as PC (indiscernible).

9           Q     Thank you. That's a good point of  
10 clarification as far as the role of the negotiator is  
11 part of a different team rather than on the street or  
12 dealing one on one with a person; is that fair?

13          A     Absolutely, yes.

14          Q     Okay. So let's -- let's jump forward to  
15 April 16th, 2021. On that particular day, were you  
16 working in your capacity as a police officer?

17          A     Yes, as a patrol officer at east precinct.

18          Q     All right. And what was your shift  
19 that day?

20          A     I believe I was day shift. Started at  
21 7:00 a.m. to, I think, about 5:00 p.m.

22          Q     At some point in time, did you come involved  
23 in a call at Lents Park?

24          A     I did, yes. I heard a dispatch call of a  
25 gentleman with a gun in Lents Park. I was a pretty

## Examination of Richard Bailey

1 decent distance away.

2 I was at Cesar E Chavez and Steele Street,  
3 which is a significant distance away, but I know from  
4 my experience and training that it never hurts to have  
5 more officers on scene to provide extra resources  
6 and -- and whatnot.

7 Q So did you attach yourself to the call or  
8 were you dispatched to the call?

9 A I attached myself to the call.

10 Q Okay. And for those reasons, because you  
11 believed, based on the nature of the call, that  
12 additional resources were needed?

13 A Absolutely.

14 Q And so I'm guessing you went to the  
15 park then?

16 A I did, yes. I -- again, I heard a dispatch  
17 call of a man with a gun in a park. While I was  
18 driving there, I took, I believe, Holgate Boulevard  
19 east towards the park. And there was some update that  
20 the individual was doing some odd behavior with the  
21 gun, which -- making my concern.

22 I don't know where the information came  
23 from, but it made me actually more concerned. Also  
24 just the fact of where this individual was at. They  
25 were in a park. It was a beautiful day, a spring day.



## Examination of Richard Bailey

1           Early in the morning and on my way there,  
2           there's people walking dogs. They're enjoying a  
3           beautiful spring day in the city of Portland. And  
4           that raised my concern, 'cause this person wasn't  
5           alone in a house or alone in a business. They decided  
6           to start -- not that they're shooting a gun, that  
7           someone, they'd have access to many victims in  
8           the park.

9           Q     So based on your training and experience,  
10          those are things that you consider in what type of  
11          response is the most appropriate; is that correct?

12          A     That's correct, yes.

13          Q     And when you got to the park, what was  
14          happening at that moment in time?

15          A     At that moment, I saw two officers on the  
16          east side of the park, just south of Holgate. So  
17          there's a gas station, the Arco Gas station on the  
18          southeast corner of 92nd and Holgate. I saw two  
19          officers just west of that Arco in the park.

20                   That was Officer Consider Vosu and  
21          Officer Ken Le. And then I saw a gentleman in the  
22          middle of the park that seemed to be waving his arms  
23          around, acting rather erratic.

24                   Seemed to be lots of folks that Officer  
25          Ken Le were focusing their attention on. And then

## Examination of Richard Bailey

1 south of there, that gentleman was -- was saw -- where  
2 Officer Wutherich and Officer DeLong were.

3 Q And where were Officer Wutherich and DeLong?  
4 Were they standing in a field or some other place?

5 A From what I saw, looked like they were near  
6 a tree or something of the sort. My attention  
7 intentionally was on the subject and Officer Ken Le  
8 and Officer Vosu. They were closest to me.

9 Q Sure. So let's then focus on the subject.  
10 When you initially saw him, how far away were you?

11 A I'm not great judging distances, but I would  
12 say maybe when I first saw him, maybe a hundred yards  
13 away from where I was at. So again, I was driving  
14 eastbound on Holgate.

15 Q And you said you pulled up there next to  
16 Officers Vosu and Le?

17 A Yep. I -- I don't know the exact route I  
18 took, but I pulled up next to them. There was some  
19 discussion of using my vehicle as cover. And cover's  
20 something that can stop bullets or rounds.  
21 (Indiscernible) uses an obstacle (indiscernible)  
22 charge us and a decision was made to use my vehicle as  
23 cover. This was a very quick discussion.

24 Q And were you still making observations of  
25 the subject at that point in time?

## Examination of Richard Bailey

1           A     I was, yes.

2           Q     And about how far away were you then?

3           A     I would say maybe closer to 40,  
4     50 yards-ish.

5           Q     And what did you notice at that point?

6           A     I noticed that he was still acting pretty  
7     erratic to me.  On the way there just moments before I  
8     was arriving there, I heard some update that he was  
9     noncompliant.

10                    My assumption is that they're trying to give  
11     him verbal requests, verbal commands to -- to stop  
12     whatever he's doing and be safely taken into custody  
13     or just make sure the situation's safe.  And there was  
14     an update that he was noncompliant.

15                    So what I saw was still -- I saw arms waving  
16     around.  I believe the gentleman's shirt was off.  It  
17     was just very odd behavior, something that the rest of  
18     the park goers were not doing there, enjoying the day.  
19     It was very odd behavior.

20           Q     Did you hear him saying anything or was he  
21     saying anything?

22           A     Ah, at this time, I don't remember.  He  
23     could have been yelling something, but nothing  
24     specific sticks out in my mind.

25           Q     Did you hear a tone of voice?  Was it a low

## Examination of Richard Bailey

1 tone of voice, medium, a high tone of voice?

2 A I'm sorry, I don't remember.

3 Q And you said that you heard that officers  
4 were giving commands and he was being noncompliant on  
5 the radio. Did you hear that in person when you were  
6 at the scene too? Did you hear somebody trying to  
7 give him commands?

8 A Just from the distance I was at and being in  
9 my vehicle, I did not hear commands, I don't believe  
10 so. But my strong assumption is that they were giving  
11 him commands.

12 Q And when you say he was moving around  
13 erratically, can you describe that more?

14 A Yeah. He was in the middle of the grassy  
15 field area just east of the baseball fields. None of  
16 his actions were like deliberate, like he was building  
17 something or playing a game of some sort.

18 Seemed like he was waving his arms around in  
19 a manner that maybe he was experiencing some type  
20 of -- something unusual in his thought process. At  
21 one point, he picked up a piece of a tent that was  
22 nearby.

23 I'm assuming it was his tent or someone  
24 else's tent. And I saw him wave that around for a  
25 moment, but nothing like he was deliberately playing a

## Examination of Richard Bailey

1 game in the park or setting up a tent or doing  
2 something that made sense in my mind. Seemed very  
3 unusual.

4 Q Did you ever move closer to the subject?

5 A I did. Excuse me. After I met up with  
6 Officer Ken Le and Officer Vosu, Officer Ken Le  
7 grabbed his rifle and used my vehicle as -- as cover.

8 I drove south, parallelling Southeast 92nd  
9 Avenue, to get in a position that we were not in a  
10 crossfire situation with Officer DeLong and  
11 Officer Wutherich to the south.

12 If we stayed in the position we were at and  
13 the male moved into position if we'd had to use some  
14 type of force, it would cause a crossfire situation,  
15 which is never a good thing. So we moved south --

16 Q Are you -- I'm sorry to interrupt. I know  
17 you've mentioned that a few times and I am assuming  
18 most people know what that means, but let's just be  
19 abundantly clear. A crossfire means what?

20 A So if someone's standing in between Point A  
21 and Point B directly in the middle, if someone had to  
22 launch a 40-millimeter round at someone, it could  
23 potentially miss the target and go towards Point B.

24 If someone's standing in the middle or if  
25 they had to -- have to use lethal force and missed, it

## Examination of Richard Bailey

1       could potentially hit the other officer.  So we're  
2       trying to negate that and (indiscernible) done like in  
3       an L shape.  So if the subject is here, you have two  
4       points and there's no crossfire situation.  That's  
5       what I mean, but that's -- and I apologize.

6             Q       Okay.

7             A       It's not --

8             Q       So in case you or another officer has to  
9       pull a lethal or less lethal force, that you wouldn't  
10      hit another officer, an unintended target?

11            A       Yes.

12            Q       Okay.  And so you described yourself as  
13      moving south in the park with Officers Le and Vosu.  
14      Were you continuing to monitor the subject's actions  
15      at that point?

16            A       I was, yes.  And his behavior seemed --  
17      still seemed along the same trajectory.  He wasn't  
18      complying with any orders that were given.  I would  
19      assume that they were being given.  This was a very  
20      rapidly evolving situation.  But he continued to do  
21      what he was doing.

22            Q       So did he, like, calm down at any moment  
23      or --

24            A       It did not, no.

25            Q       Okay.

## Examination of Richard Bailey

1           A     Not at all.

2           Q     Could you see his hands while you were  
3     approaching?

4           A     Initially, again, I saw him pick up a tent  
5     pole. I didn't see anything to -- nothing caught my  
6     eye to -- I was concerned, 'cause I'm not sure what  
7     was in his hands at that point, but I didn't see any  
8     type of weapon, nothing that caught my eye initially.

9           Q     And at any point in time when you were  
10    moving south to get into a closer position, did  
11    something change in the subject's behaviors that  
12    caused you alarm?

13          A     Yeah, as we continued south. I don't know  
14    where there was trees -- a tree from, but I -- I then  
15    saw the male holding a dark colored handgun.

16          Q     Going to interrupt you there. Did you see  
17    where it came from?

18          A     I did not, no.

19          Q     Okay. Then go on.

20          A     I -- I saw the -- the male subject holding a  
21    dark colored handgun. This was absolutely, you know,  
22    the last thing that any of us wanted and was like my  
23    worst fears coming to -- to fruition.

24                   And he was holding the gun parallel to the  
25    floor in deliberate manner, like in a shooting

## Examination of Richard Bailey

1 position south towards the parking lot where  
2 Officers DeLong and Wutherich were and south towards  
3 them as well.

4 So I don't know exactly where he was  
5 pointing the gun, just due to my perspectives, but he  
6 was pointing it south where the parking lot was and  
7 Officers DeLong and Wutherich were. And again, in a  
8 manner that looked like he was about to -- to shoot  
9 the gun if something wasn't done.

10 Q And was anything else in that direction that  
11 was concerning besides Officers Wutherich and  
12 Officer DeLong?

13 A Yeah. After -- again, I was focused on him,  
14 but after -- after lethal force was used, I noticed --  
15 I moved my focus that way and I saw a group of park  
16 goers that were in that area.

17 There were some bicyclists that were --  
18 looked like they had some type of meeting of some  
19 sort, that were in the area. There was a lot of  
20 people parked in the parking lot, so a lot of just  
21 bystanders and park goers enjoying the day.

22 Q Okay. And so you described as you saw the  
23 subject with what you believed to be a dark colored or  
24 was it a black handgun?

25 A At the time, I had to assume it looked dark



## Examination of Richard Bailey

1 colored.

2 Q Okay. And as he had it level, what happened  
3 next?

4 A I heard a -- a shot.

5 Q How many? One shot?

6 A I heard -- I'm not sure how many I heard.  
7 With stress, you know, senses are -- are sometimes  
8 altered and I just remember hearing a shot and seeing  
9 the subject fall on the ground.

10 Q And you said you were in your vehicle,  
11 right?

12 A I was, yes.

13 Q Windows up? Windows down?

14 A I know I had my driver door open, 'cause  
15 Officer Ken Le was using my door as a piece of cover  
16 as well, because in our -- some of our police cars,  
17 there's ballistic panels.

18 And he was using that as a -- as a piece of  
19 cover. So I had my driver door open. I'm not sure  
20 what my other windows were doing, though.

21 Q And so when you're saying ballistic panels,  
22 is it something that helps kind of be cover that it  
23 helps stop bullets from getting through it,  
24 penetrating?

25 A Yes. Correct.

## Examination of Richard Bailey

1           Q     Okay.  And so after you heard the shots  
2     fired, shots fired, what did you do next or what did  
3     you see next?

4           A     I saw a male fall to the ground, but he  
5     seemed to -- he fell on his back, I believe, but it  
6     seemed like he was still moving around a little bit.  
7     I'm not sure what was going on, but I believe that  
8     there was some potential that he was still alive.

9                     So I decided to use my PA now that I was in  
10    a better position, and give him some -- some requests  
11    and some commands to put his hands in the air so we  
12    can see them.

13                    I didn't know where the gun was.  That was a  
14    strong concern.  I didn't know if he was going to try  
15    to shoot us or if he was feigning injury or what was  
16    going on, but I started giving him requests to put his  
17    hands in the air so we can render him aid.

18                    I wanted to get there quickly and get him  
19    aid.  I was -- the guy was apparently just shot and I  
20    want to get him help that he needs, so I kept  
21    requesting that he put his hands in the air.

22                    And he never complied with any of our  
23    requests.  And throughout that, one of his hands, I  
24    couldn't see at all.  I didn't know where it was.

25           Q     And just to be clear, since we've talked

## Examination of Richard Bailey

1 about it quite a bit, but when you say he was shot,  
2 did you see like a bullet impact him or did you hear a  
3 shot and the subject went down to the ground?

4 A I heard a shot and saw him went down to the  
5 ground. So I didn't -- I didn't see an impact. It  
6 was just a strong assumption of mine that he was shot.

7 Q But you also described that you didn't  
8 immediately go up to provide first aid 'cause you were  
9 concerned that he, you know, could try and attack  
10 officers 'cause he could be feigning injury or he  
11 could have never even been hit and just took some  
12 cover. Can you kind of describe that thought process  
13 for me?

14 A Yeah, absolutely. I didn't know what was  
15 going on with the individual. I've seen past police  
16 videos and discussions that people feign injuries to  
17 ambush officers. Again, this -- this -- this  
18 individual was acting unusual. I didn't know what was  
19 going on.

20 He was obviously just in possession of a  
21 handgun and pointing it towards officers or park goers  
22 in a deliberate manner. And I wanted to render him  
23 aid, but in the safest way possible.

24 And -- and if I saw the gun, you know,  
25 20 feet away from him or away from him, I would

## Examination of Richard Bailey

1     feel -- and I think most of my colleagues would feel  
2     the same way -- if we could safely approach him, but I  
3     don't think -- none of us knew where the -- where the  
4     gun was. That's even more so because I couldn't see  
5     one of his hands.

6           Q     Makes sense. You also talked a little bit  
7     about, once you saw him go down, that's when you got  
8     on your PA and gave commands. Let's just kind of take  
9     a little pause there and just back up. Why didn't you  
10    try to give any commands before that point in time?

11          A     It was rapidly evolving. I -- again, I  
12    arrived on -- from the time that I arrived on scene to  
13    the point where I started giving commands, that was  
14    maybe -- it felt like maybe 30 seconds. Could have  
15    been longer than that.

16                    Could have been shorter than that. But  
17    initially, I wanted to move to a position that was --  
18    that was with Officer -- or Officer Ken Le and Officer  
19    Vosu, but moved to a position where we had mitigated  
20    the crossfire situation. I also didn't want to do  
21    commands in multiple times.

22                    If someone -- if three, four, five people  
23    are telling someone to do something and maybe there's  
24    some conflicting commands, that can be very confusing.  
25    It could potentially escalate the situation. And

## Examination of Richard Bailey

1 that's the last thing I wanted to do.

2 So my priority number one was to mitigate  
3 the crossfire situation and once we're moved into  
4 position, the shots were fired, so I didn't have time  
5 to -- to use my PA.

6 Q And so you had -- you knew that somebody  
7 else was already giving commands, so is that another  
8 reason that you didn't? Like you just said, you  
9 didn't want to give conflicting commands?

10 A Correct, yeah. Again, I think I made a  
11 strong assumption that he was noncompliant, so someone  
12 was giving him commands. That was my assumption.

13 Q And in your training and experience as an  
14 ECIT officer, I know you just said that that's kind of  
15 typical for one person to give commands.

16 Is there anything else that can be done as  
17 far as like a deescalation concept on a person who is  
18 unarmed versus a person who's armed. Is that a  
19 different scenario for you?

20 A Armed versus unarmed?

21 Q Yes. Deescalate (indiscernible) armed  
22 versus unarmed. I guess I could have worded that  
23 better.

24 A Yeah. If someone -- if someone is unarmed,  
25 you can take all day and slow things down. We can

## Examination of Richard Bailey

1 move closer. You know, talking through a PA is  
2 unpleasant, regardless of how you sound.

3 You can be the nicest person in the world  
4 with the best tone, but it sounds -- it sounds  
5 commanding, which most people don't like. You know,  
6 if someone's unarmed, we'd approach them. We could  
7 speak to them in a calm tone and we don't have any  
8 concerns with weapons.

9 We can -- we have time on our side. We  
10 don't have to act rapidly. It completely changes the  
11 game when someone's potentially armed with a weapon, a  
12 knife or a gun. That absolutely changes our ability  
13 to approach the situation. We can't walk up to them  
14 and speak face-to-face in a calm tone like one would  
15 do in a hospital setting.

16 In a hospital setting, people aren't armed  
17 with weapons, typically. You know, a social worker  
18 can talk to someone in a calm tone 'cause they know  
19 they're not going to pull a gun out of their pocket  
20 and shoot them in the face.

21 But we don't know that where we were at.  
22 When there's a weapon involved, unfortunately, our  
23 options are a little bit more limited. We try to do  
24 all the things. We -- we had additional officers  
25 there. It wasn't just one officer. We tried to use

## Examination of Richard Bailey

1 distance on our side.

2 That's why we didn't just drive up to the  
3 individual. We had, you know, less lethal options as  
4 well, but everything changes when someone picks up a  
5 gun and points it in -- in our direction. Options are  
6 extremely limited.

7 Q Is there a difference in tactics if it's  
8 a -- like a bladed object, like a knife versus a gun,  
9 like in your response to it as a police officer or  
10 ECIT officer?

11 A Yes.

12 Q So what -- what's the difference, like what  
13 options do you have as a -- when you're faced with a  
14 person with a knife versus a person with a gun?

15 A Yeah. With a knife, they have -- they  
16 have to -- you have to be within close contact for  
17 that -- for that knife to be used against you or  
18 anyone else. We can use distance on our side. We can  
19 be, you know, 20, 30, 40 yards away and give commands.

20 Use -- use a 40-millimeter launcher to try  
21 to gain compliance, if in compliance, but at 30,  
22 40 yards away, if someone points a gun at me, I know I  
23 can be shot and killed. My colleagues can be shot and  
24 killed. A park goer can be shot and killed.

25 Distance, although it's still advantageous

## Examination of Richard Bailey

1 to have distance, it is negated a lot because someone  
2 has a firearm.

3 Q And then last thing, as you talked about  
4 ECIT officer, when you're engaging with someone and  
5 trying to talk to them, is that all just you doing the  
6 work to try and calm them down or does it have to have  
7 work both ways?

8 A It has to work both ways. I can speak to  
9 them in a calm, reassuring, nonjudgmental tone, but if  
10 they don't want to listen to me or they're  
11 experiencing some type of psychosis, whatnot, it's a  
12 two-way street.

13 I need some type of agreement or cooperation  
14 on their part even in the slightest bit for  
15 negotiations or crisis intervention to work.

16 Q Same thing. Would it ever be kind of  
17 appropriate to yell at them or speak in a loud,  
18 commanding tone towards them?

19 A Yes. Sometimes that's effective with some  
20 people. Just expressing the need and the immediacy  
21 that, you know, this is the police and we know you're  
22 armed. And just reaffirming the -- the consequences  
23 if they take further action.

24 You know, if you point a gun at me, you will  
25 be shot. Some people don't always take well to the --



## Examination of Richard Bailey

1 the softer approach. That explains --

2 Q So (indiscernible) --

3 A That's not what I talk about --

4 Q Sorry to interrupt you there. So now we're  
5 going to work that forward into the spot where we were  
6 left off, where you were on the PA giving commands as  
7 kind of a background to that.

8 So is that kind of the tactics that you're  
9 employing there on the PA, giving commands to this  
10 person as far as trying to get some compliance  
11 from him?

12 A I was, yeah. So I believe initially I  
13 was -- I didn't record anything or -- but I believe  
14 initially I was giving more of the authoritative-type  
15 commands, giving a clear force warning, you know he  
16 should reach that --

17 Q What do you mean by "force warning"?

18 A Something where if you do an action, there  
19 will be consequences. So if you reach for that gun,  
20 you may be shot again, we may use our 40-millimeter  
21 less -- launcher against you. Do not reach for that  
22 gun. Reaffirming that we are the police.

23 I tried that a few times. That seemed  
24 ineffective, so I tried -- although again, still  
25 sounds very authoritative, because I'm using the PA.

## Examination of Richard Bailey

1 You know, I expressed to him that I wanted to get him  
2 help, that I was concerned for his safety.

3 And -- but the way for us to safely approach  
4 him and give him help is for us to see his hands, so  
5 we could approach him safely.

6 Q And did you continue with those  
7 announcements for some time?

8 A I did, yes.

9 Q Okay. So what happened next as far as in  
10 that sequence of events?

11 A There was some request for -- for medical to  
12 respond to the scene. They have life-saving  
13 capabilities above their -- what we have and what we  
14 carry in our car. They also receive more training.  
15 We requested medical. We also requested more officers  
16 and a shield to come up.

17 Even though, yes, I'm using my vehicle as --  
18 as a piece of cover, I can't drive my vehicle on top  
19 of him, so there's that last few yards and feet where,  
20 you know, especially if we don't know where the weapon  
21 is, we're going to use a shield as cover.

22 A shield is also ballistic. It can stop  
23 rounds similar to what we have in some of our police  
24 cars. So we were waiting for a shield to arrive on  
25 scene, which is typically carried in the patrol

## Examination of Richard Bailey

1 vehicles of supervisors. And once that arrived, we  
2 quickly came up with a plan and approached the  
3 individual.

4 Q And it sounded like you drove the vehicle on  
5 the approach to the subject who was down?

6 A That's correct. After other officers  
7 arrived and moved near my vehicle and with the shield,  
8 I drove my vehicle west, as they used my vehicle as  
9 cover.

10 Q Did you continue giving any type commands or  
11 updates or discussion on the PA?

12 A I did. I don't remember exactly what I  
13 said, but it was still along those same lines as we  
14 want to render him aid, we want to get him help. And  
15 I continued to do so.

16 Q Did you ever get a response from the  
17 subject, like hands coming up or any type of movements  
18 that you could see that seemed to be in compliance?

19 A Initially, again, it looked like he was  
20 moving around, but I -- it didn't seem like any  
21 deliberate movement, so some sort of compliance, so  
22 like even in the -- in the slightest bit, it seems  
23 like he wasn't listening to me or God forbid, you  
24 know, just ceased.

25 Q As you moved closer to him, at some point in

## Examination of Richard Bailey

1 time, did you hear the discharge of another less  
2 lethal round?

3 A Yes. We moved a little bit closer, I want  
4 to say maybe 15, 30 yards away. I'm not sure exactly  
5 how far. But there was discussion to launch a  
6 40-millimeter at him, again, 'cause we didn't know  
7 where his hand was, we didn't know where the gun was.  
8 Sometimes people feign injury and discussion was --  
9 was made.

10 I don't know exactly what was said; 'cause  
11 again, I'm giving commands in my PA. And then a  
12 40-millimeter was launched towards him.

13 Q Any response?

14 A No. I saw it -- I saw it impact him and  
15 there was nothing significant (indiscernible).

16 Q Did you see where on his body it impacted  
17 him?

18 A I want to say like in the -- his waist-hip  
19 area. He was laying, again, on his back from what I  
20 recall. Think he still had his shirt off, if I  
21 remember correctly. It's been a long time. But there  
22 was no significant response.

23 Q So the right side hip, left hip?

24 A Ah, I can't -- I don't remember which way he  
25 was facing. I don't know.

## Examination of Richard Bailey

1 Q And so did you move in closer towards him  
2 then?

3 A Yes. After that -- that was launched, as a  
4 team, again using my vehicle as cover, we continued to  
5 move closer once we were maybe 10 yards away from him,  
6 somewhere thereabouts. I stopped my vehicle. A team  
7 of officers moved towards the male with the shield, a  
8 40-millimeter, I believe, an IFAK, I believe, to  
9 render him aid.

10 Q And did you participate in any type of  
11 contact with the subject or did you stay in the car?

12 A No. No, I stayed in -- there was a lot of  
13 officers. I didn't want to -- I wasn't part of the  
14 initial plan to approach him, so the responding  
15 officers and I stayed with the car.

16 Q And did you ever see the subject have, like,  
17 officers rendering aid to him or anything?

18 A I did, yes. I believe someone was giving  
19 CPR. And I don't know. I was, again, a little ways  
20 away. I don't know what they did with the contents of  
21 the IFAK, but I believe someone was giving him CPR.

22 Q And did you ever see again that object that  
23 you had seen in his hands earlier that you described  
24 as a handgun?

25 A I never approached the subject. I -- I

## Examination of Richard Bailey

1 looked south towards the parking lot as they were  
2 rendering him aid and that's when I saw, again, like I  
3 spoke about earlier, the group of bicyclists, other  
4 park goers, I knew that we needed to -- to establish  
5 the crime scene, so I grabbed some crime scene tape  
6 and moved south towards the parking lot.

7 Q And so that you helped establish the crime  
8 scene tape around the area?

9 A Yes.

10 Q Did you have any other significant role in  
11 the investigation after that?

12 A No. Once I established the crime scene, I  
13 notified one of my supervisors that I was a witness to  
14 the -- to the incident. And due to our protocol, I  
15 was sequestered in the vehicle and I didn't speak to  
16 anyone about the -- about the incident.

17 MR. MILLER: That's all the questions I  
18 have. Anything from the grand jury?

19 A GRAND JUROR: No.

20 A GRAND JUROR: No.

21 A GRAND JUROR: No questions.

22 MR. MILLER: Seeing heads shaking all  
23 around, all right. Well, thank you, Officer. We very  
24 much appreciate your testimony here today and that  
25 will be all.

## Examination of Richard Bailey

1 A GRAND JUROR: Thank you.

2 THE WITNESS: You're very welcome. Thank  
3 you.

4 A GRAND JUROR: Thank you.

5 A GRAND JUROR: Thank you.

6 MR. MILLER: We can break and go off the  
7 record while we check and see if our next witness is  
8 outside.

9 A GRAND JUROR: Do you want to pause?

10 MR. MILLER: What?

11 A GRAND JUROR: Did you want to pause or  
12 continue?

13 MR. MILLER: We can just go off the record  
14 momentarily while we check to see if our witness is  
15 here.

16 (Recess taken, 1:49 p.m. - 1:54 p.m.)

17 A GRAND JUROR: Okay.

18 MR. MILLER: And we are --

19 A GRAND JUROR: That's Kent.

20 MR. MILLER: -- back on the record. We're  
21 going to be in with Officer Letter.

22 If you can swear him in.

23 **JOSHUA LETTER**

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

## Examination of Joshua Letter

1           A GRAND JUROR: Thank you very much. You  
2           can be seated.

3           MR. MILLER: And once you're comfortable, if  
4           you will introduce yourself, your first and your last  
5           name.

6           THE WITNESS: Yeah. Josh Letter,  
7           L-e-t-t-e-r.

8                                   EXAMINATION

9           BY MR. MILLER:

10           Q       And I can see from the uniform that you're  
11           wearing, you work for the Portland Police Bureau; is  
12           that --

13           A       Yes.

14           Q       -- correct?

15           A       Yes.

16           Q       And how long have you worked there?

17           A       I'm in my 24th year.

18           Q       24th year. So I'm guessing you have a lot  
19           of training and experience that leads to the position  
20           that you're at today?

21           A       I believe so, yes.

22           Q       I'm going to jump us forward to April 16th,  
23           2021. Were you working on that day?

24           A       Yes.

25           Q       And in what capacity were you working on on



## Examination of Joshua Letter

1 that day?

2 A I was in patrol taking calls.

3 Q Which precinct?

4 A East Precinct.

5 Q What shift?

6 A Day shift.

7 Q All right. And at some point in time during  
8 your shift, did you get involved with a call that  
9 happened at Lents Park?

10 A I did.

11 Q And do you remember around what time that  
12 happened that you went there?

13 A No, I don't. I don't recall the time.

14 Q Did you get initially dispatched on the call  
15 or did you get --

16 A No.

17 Q -- attached later on?

18 A I attached later on.

19 Q And how'd that happen?

20 A The call came out and I was listening to it.  
21 I was on another call, actually. And as it progressed  
22 on the radio, I could hear that it was getting more  
23 and more complicated. And then at one point, the --  
24 an officer got on the air and said, "Shots fired."

25 Q So after you heard an officer call, "Shots

## Examination of Joshua Letter

1 fired," what'd you do?

2 A I got in my car and immediately went there  
3 with my partner.

4 Q All right. And who was with you on  
5 that day?

6 A Officer Nagy, N-a-g-y.

7 Q All right. And I'm assuming that -- you  
8 said you went there -- you went to Lents Park? And --

9 A Correct.

10 Q -- how'd you approach the park?

11 A We were told to come in off of 92nd and we  
12 came in from the north.

13 Q All right. And so if you look to your right  
14 there on the screen, you can see a picture of what we  
15 would believe is the Lents Park area. Does that seem  
16 fair and accurate to you?

17 A That is correct.

18 Q And so can you just tell us about how you  
19 approached the park?

20 A We were at the north. Here's Holgate. And  
21 we came --

22 Q Yep.

23 A -- in. 92nd is right here and we came in  
24 from up there and we -- I parked pretty much right in  
25 this corner area.

## Examination of Joshua Letter

1 Q Where I'm circling with the mouse --

2 A Yeah.

3 Q -- there?

4 A A little bit closer in --

5 Q Okay.

6 A -- down further.

7 Q Gotcha.

8 A There you go. Right in that area, somewhere  
9 around there.

10 Q Perfect. So --

11 A Yeah.

12 Q -- after you got to that location of the  
13 park, I'm just moving to a different picture. Is --  
14 am I pointing at the same place on the picture?

15 A Yes.

16 Q All right.

17 A Yeah.

18 Q So what'd you do from there?

19 A I immediately grabbed -- I didn't know what  
20 the situation was, so I immediately grabbed the  
21 medical kit in our car.

22 Q Mm-hmm.

23 A And I went over and I saw that  
24 Officer DeLong and someone else -- I believe it was  
25 Officer Wutherich -- were standing over by a tree. So

## Examination of Joshua Letter

1 I went over there to see if they needed any help.

2 Q Okay. And where were they at on the  
3 picture?

4 A They were right in the -- the two tree --  
5 right in that area, yes.

6 Q Okay.

7 A Yeah. Yeah. And --

8 Q All right. So you checked on their well  
9 being with the medical kit. Did they need any  
10 attention?

11 A No, they did not.

12 Q And you did say you heard shots fired,  
13 suspect down. Was the second portion of the medical  
14 kit for somebody else?

15 A Yeah. Of course, yeah, we went to DeLong  
16 and -- and -- and, I think, Wutherich. They said they  
17 were fine. And then I said, "Where is the -- the  
18 person?" and he -- they pointed over there.

19 And I -- and they said, "I think the  
20 custody" -- they -- DeLong said, "I think the custody  
21 team is going to be over there," which means over  
22 where I first initiated into the park -- sorry --

23 Q Okay.

24 A -- to the north of the -- north --

25 Q Somewhere in --

## Examination of Joshua Letter

1           A     -- of where --

2           Q     -- this area?

3           A     -- they were.  Yeah, right in that area.  So  
4  I went back over there.

5           Q     And what'd you do when you got over there?

6           A     There was a group of officers forming a  
7  plan.  I think Sergeant Anderson was there also.  And  
8  it was determined that we were going to go and  
9  approach the individual on the ground and see if he  
10 needed life-saving and -- life-saving medical  
11 attention.

12          Q     Did you have a role in that?

13          A     Yes, I did.

14          Q     Okay.  What was your role on the team?

15          A     I handed off my medical kit and became an  
16 off -- I got the shield, which is a bulletproof  
17 shield, from the sergeant and I was going to be the  
18 shield walking up on the person.

19          Q     Is that something you had extra training in  
20 or is that just something of, like, hold this thing in  
21 front of you?

22          A     We've had training on it, yes.  Yeah.

23          Q     Okay.  Does it also involve things like how  
24 to use a firearm behind a shield and -- and --

25          A     Yes.

## Examination of Joshua Letter

1 Q -- things of that nature?

2 A Correct, yes.

3 Q So do you have to be trained to handle the  
4 shield or can anybody --

5 A Yeah. I believe we all -- we've all gotten  
6 trained on them, yeah.

7 Q Perfect.

8 A So, yes.

9 Q And so your role was the shield handler.  
10 And so did you assist in moving up on the subject who  
11 was down?

12 A Yes.

13 Q And what'd you do as you were moving up?

14 A It was determined that a -- that an officer  
15 would use a less-lethal round before we made our  
16 approach to see if the individual was just waiting for  
17 us to get close enough to possibly hurt us, see if he  
18 -- so that was done. Officer Cameron Smith, I  
19 believe. From about -- from a distance.

20 Q You were --

21 A Left --

22 Q -- pointing --

23 A Yeah.

24 Q -- kind of in this area?

25 A Right in around -- yeah. Right in around

## Examination of Joshua Letter

1 that area where you're --

2 Q Okay.

3 A -- got the thing.

4 Q Okay. And that's where --

5 A We --

6 Q -- you said Officer Smith used a less-lethal  
7 round?

8 A Less-lethal round.

9 Q Okay.

10 A A 40-millimeter launcher. We had moved the  
11 car up. We had a car and a -- and a couple other  
12 officers. I was standing outside the driver's-side  
13 door, adding more protection 'cause our doors are --  
14 also have a bulletproof panel in them. I was actually  
15 using the shield as an extension of that as we  
16 approached the individual.

17 And once the less-lethal round was launched  
18 and we didn't see any movement, we approached by  
19 cautiously moving forward with the car.

20 Q Okay. And do you remember who was driving  
21 the car or --

22 A I don't remember who was driving the car. I  
23 do remember who I was standing by.

24 Q A lot of other people going on --

25 A Yes.

## Examination of Joshua Letter

1 Q -- involved there? So did the car stop at  
2 some point?

3 A Yeah. We -- we -- we got pretty close to  
4 the individual, probably within about 15, 20 feet --

5 Q Mm-hmm.

6 A -- and stopped the car. And we were giving  
7 the individual commands and he was not doing anything.

8 Q You guys say, "We." And --

9 A An --

10 Q -- was -- was there an officer on a PA or  
11 was there somebody else --

12 A Yes.

13 Q -- there?

14 A I believe the guy -- the person that was  
15 driving was doing that. Yes, I'm sorry.

16 Q All right. And so after the vehicle  
17 stopped, did you move forward? Did you stay there?  
18 What'd you do?

19 A We did move forward eventually after we'd  
20 given enough commands and believed that we needed to  
21 get up there. We did see that the weapon that he had  
22 mentioned in the call previously before I got there it  
23 was off to the side of him.

24 Q Yeah. I'm going to timeout there again --

25 A Okay.



## Examination of Joshua Letter

1 Q -- for you 'cause you keep saying, "We."

2 And I'm just trying to figure out --

3 A I'm sorry.

4 Q -- this is something you specifically saw or  
5 somebody else saw and --

6 A I'm sorry.

7 Q -- told you. Did you see a weapon as you  
8 moved closer?

9 A Yes, I saw a weapon. Yes.

10 Q So you had your shield in front of you,  
11 you're moving closer towards the subject.

12 A Correct.

13 Q Officers behind you?

14 A Yes.

15 Q And when did you first notice a -- a weapon  
16 that you --

17 A I saw it when we stopped the car. So it was  
18 within --

19 Q And what did you see and how far away  
20 from you?

21 A It was -- it was about a -- about a foot or  
22 so away from his head --

23 Q Mm-hmm.

24 A -- well within arm's reach if he moved up --

25 Q Okay.

## Examination of Joshua Letter

1           A     -- and got it.

2           Q     And how far were you from the object that  
3 you saw?

4           A     Hmm, when I first stopped, probably, like I  
5 said, 15 feet or so.

6           Q     And when you first saw it when you were  
7 about 15 feet away, what did it look like to you?

8           A     It looked like a handgun.

9           Q     Okay. Did you notice any colors or any  
10 distinctive marks on it?

11          A     I believe it had an orange tip on it.

12          Q     And could you see that from 15 feet away or  
13 could you only see that when you got closer? How did  
14 that happen?

15          A     I didn't -- I can't recall when I saw the  
16 orange tip.

17          Q     All right. And so you move up on him with  
18 the shield.

19          A     Mm-hmm.

20          Q     What happens after that?

21          A     Officers went to -- as I held the shield,  
22 officers went around the shield to take control of his  
23 hands. We saw that he wasn't moving. And I handed  
24 the shield off to someone behind me and it was  
25 determined that we would try to do CPR on him.

## Examination of Joshua Letter

1 Q Did you notice any immediate type of  
2 injuries on him?

3 A Yeah. He had a bullet wound to the side. I  
4 don't remember what -- call what side -- what side it  
5 was.

6 Q Okay. And did somebody check for a pulse  
7 or --

8 A Yeah.

9 Q -- breathing?

10 A I checked. I do believe Officer Stroh  
11 checked at one point, but I did -- I did check for a  
12 pulse.

13 Q Okay. And did you feel a pulse?

14 A No.

15 Q Did you notice whether or not he was  
16 respirating [sic], he was breathing?

17 A No, he was not.

18 Q So what did you do after you didn't feel a  
19 pulse or see breathing?

20 A Well, in the little kit that I had  
21 previously that I handed off to an officer, we have  
22 chest wound sealers.

23 Q Mm-hmm.

24 A And that was applied to him on the seal.

25 Q Somebody else did that or did you do that?

## Examination of Joshua Letter

1           A     I can't recall.

2           Q     Did you do anything else, kind of  
3 life-saving measures?

4           A     Yes.  Once that was done, I started CPR, the  
5 compression part of it.  And Officer Stroh and I took  
6 turns doing that until paramedics got there.

7           Q     And other than that, did you have any other  
8 type of kind of active role in the investigation?

9           A     No.

10           MR. MILLER:  I have no further questions.  
11 Does the grand jury have any questions?  I'm seeing --

12           MULTIPLE GRAND JURORS:  No.

13           MR. MILLER:  -- head shakes all around.

14           A GRAND JUROR:  Oh, I just had a --

15           THE WITNESS:  Oh, sure.

16           A GRAND JUROR:  -- quick question.

17           MR. MILLER:  Oh, one question from the  
18 alternate foreperson.

19           A GRAND JUROR:  Sorry.  Thank you so much  
20 for being here.

21           THE WITNESS:  You're welcome.

22           A GRAND JUROR:  So I just wanted to just  
23 double check.  So you said when you got there and --  
24 and you could see the subject, you said that the --  
25 the gun was approximately one foot --

## Examination of Joshua Letter

1 THE WITNESS: Mm-hmm.

2 A GRAND JUROR: -- from his head.

3 THE WITNESS: Mm-hmm.

4 A GRAND JUROR: Great. Thank you.

5 THE WITNESS: Yeah.

6 MR. MILLER: Thanks, Officer --

7 THE WITNESS: Sorry for the --

8 MR. MILLER: -- Letter. You're excused.

9 THE WITNESS: -- delay in me getting here.

10 I was at a different place.

11 A GRAND JUROR: Thank you.

12 A GRAND JUROR: Thank you very much.

13 A GRAND JUROR: Thank you.

14 THE WITNESS: Yeah.

15 A GRAND JUROR: Have a great day.

16 MR. MILLER: All right. And we'll call our  
17 next witness.

18 (Whispered discussion, off the record,  
19 2:04 p.m.)

20 MR. MILLER: Oh, thank you.

21 We'll call our next witness, Cameron Smith.

22 All right. Stand in the witness box over  
23 there and raise your right hand.

24 **CAMERON SMITH**

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

## Examination of Cameron Smith

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

2 A GRAND JUROR: Thank you. You can be  
3 seated.

4 MR. JACKSON: Could you please state and  
5 spell your name.

6 THE WITNESS: My name is Cameron Smith,  
7 C-a-m-e-r-o-n, S-m-i-t-h.

8 EXAMINATION

9 BY MR. JACKSON:

10 Q All right. And where are you currently  
11 employed?

12 A With the Portland Police Bureau as a police  
13 officer.

14 Q How long have you been a police officer?

15 A Four-and-a-half years.

16 Q And did you go through the basic and  
17 advanced academy training?

18 A That's correct.

19 Q Okay. And what is your specific assignment  
20 as a patrol officer?

21 A Patrol at East Precinct, day shift.

22 Q Okay. Were you working as a patrol officer  
23 on April 16th, 2021?

24 A I was.

25 Q And what -- what was your shift that day?

## Examination of Cameron Smith

1 Just a normal day shift?

2 A Normal day shift, 7:00 a.m. to 5:00 p.m.

3 Q Okay. Do you have any other certifications  
4 or qualifications as a police officer?

5 A Yes. I'm certified to carry the  
6 40-millimeter less-than-lethal impact munition  
7 launcher, commonly known as the 40. It's our less --  
8 one of our less-lethal tools.

9 Q And do you have to receive special training  
10 to be able to carry one of those?

11 A Yes, you do.

12 Q Can you describe for us what that training  
13 entails?

14 A Certainly. The training entails  
15 familiarizing yourself with the tool, itself, and also  
16 tactical considerations for when and how it's  
17 appropriate to deploy it and when and how it fits into  
18 our use-of-force policy to use the tool.

19 Q Okay. Before we go into some of those  
20 principles, how does the 40-millimeter -- how does  
21 it work?

22 A It is a -- it -- a good way to describe it  
23 is like a big Nerf gun. It is a single shot break  
24 action, which means that it's a tube and -- with a --  
25 with a handle on it and a lever that opens it. So it

## Examination of Cameron Smith

1 pivots in the middle to allow you to insert one round,  
2 one 40-millimeter round, close it and then pull the  
3 trigger to -- to fire the round.

4 Q And then how do you reload it to fire  
5 another round?

6 A You would press that same lever to open it  
7 up, remove the spent cartridge and then put a new one  
8 in, close it and then it's ready to be deployed again.

9 Q So you actually manually have to do that?  
10 It's not a -- an automatic function of discharging the  
11 spent fire -- casing?

12 A That's correct. Those do exist, but we  
13 don't, in Portland, use those. We use a single -- a  
14 single shot where you have to manually load, unload  
15 and load another one in.

16 Q Okay. And how many rounds do you typically  
17 carry when you go out on a shift?

18 A Six. There's a side saddle, which is a  
19 small pouch of two, that is on the stock of the  
20 40 millimeter. And then there's a leg holster with  
21 four additional.

22 Q Okay. And do you carry it around with one  
23 loaded, ready to go or --

24 A No, it's --

25 Q -- do you carry --



## Examination of Cameron Smith

1           A     -- carried empty. In its -- the -- the  
2 deployment on patrol is in the locked rack in the car,  
3 so it's in between -- vertically in between the  
4 passenger and driver seat and it's stored unloaded.

5           Q     Stored unloaded?

6           A     Correct.

7           Q     Okay. When you are carrying the  
8 40-millimeter launcher, how do you do that? Is it  
9 holstered somehow or do you have to carry it in your  
10 hands or how does that work?

11          A     No. It is -- you -- you wear it on a sling  
12 over your shoulder. It is two feet long about. The  
13 stock is collapsible so that it can move forward and  
14 back. So it can -- the size is probably between two  
15 and three feet depending on -- on the configuration.

16                    But when you deploy it, take it out of the  
17 rack, out of -- and out of the vehicle to use it, you  
18 take it out and then throw the strap over your  
19 shoulder. And then it folds kind of cross-ways across  
20 your body.

21          Q     Is there anything unique about the strap  
22 that would alert other officers that you are carrying  
23 a 40-millimeter launcher?

24          A     It's bright orange.

25          Q     And -- and is that by design to note -- or

## Examination of Cameron Smith

1 signify that you are carrying a 40-millimeter  
2 launcher?

3 A That's correct. It's bright orange. It's a  
4 loud, visible signal to everybody around that the tool  
5 that you're carrying is less lethal and not a lethal  
6 tool.

7 Q Okay. You talked about some of the training  
8 involving when it is appropriate to bring the  
9 40-millimeter launcher out during a call.

10 A Mm-hmm.

11 Q Could you talk a little bit about that?  
12 What are the considerations?

13 A Certainly. So the considerations are the  
14 aggressiveness of the subject that you're -- that  
15 you're dealing with; the necessity to keep distance.  
16 The 40 millimeter has a larger -- much larger  
17 effective range than our other common less-lethal  
18 tools, which would be the Taser, which is only good  
19 out to about 20 feet; and pepper spray, which is only  
20 good to about ten. The 40 goes out to about 40 yards,  
21 is accurate and effective to about 40 yards. So  
22 considerations --

23 Q What do you think --

24 A -- for --

25 Q Sorry to interrupt, but real quick. When

## Examination of Cameron Smith

1       you say, "effective out to that range," what does that  
2       mean?

3             A       So when you pull the trigger and fire a 40,  
4       it fires a foam-tipped projectile.  So, I mean, like,  
5       it's a big kind of -- you -- it could be described as  
6       a large Nerf gun.  So it fires a foam-tipped  
7       projectile.

8             The projectile isn't very heavy, so the  
9       farther it goes away from the barrel, the more it  
10      slows down.  And as it slows down, it drops.  After  
11      about 40 yards, it drops into a place it -- the round  
12      will drop into a place where you can't control -- or  
13      you -- you -- you can't be too for sure about the  
14      accuracy.

15            It becomes too inaccurate to -- to count on  
16      where your shot's going to land and it slows down so  
17      that it impacts with less force than may be necessary  
18      to -- to change the behavior of whoever you're using  
19      it on.

20            Q       Okay.  Before I interrupted, you were  
21      talking about some of the considerations in deciding  
22      to bring that system --

23            A       Mm-hmm.

24            Q       -- into a call or a scenario.

25            A       Certainly.  If a person is armed, then it

## Examination of Cameron Smith

1 becomes more important to have a longer -- a larger  
2 distance in between them and the officers that are  
3 trying to address that threat. And there, a 40 would  
4 be the most appropriate less-lethal tool.

5 Q Okay. Because it's -- it operates at the  
6 largest distance of the less-lethal option?

7 A Correct.

8 Q Okay. Do you -- could you explain what the  
9 concept is in calling these weapon systems less-lethal  
10 options?

11 A Certainly. They are tools that are not  
12 designed to be lethal, although it's in all the  
13 training that if used improperly, they could result in  
14 -- in a lethal injury. But they are not designed to  
15 and if used properly -- properly, the likelihood of  
16 them resulting in a lethal injury to somebody is low.

17 Q Okay. And so that's why they're called less  
18 lethal as opposed to nonlethal or --

19 A Correct. It -- it is possible, but if used  
20 as directed, it is unlikely that they will be lethal.

21 Q And so what is the specific training around  
22 the 40-millimeter launcher to use in that less lethal  
23 or nonlethal capacity?

24 A It mostly has to do with target area. And  
25 so you are not to target the head, throat or spine of

## Examination of Cameron Smith

1 -- of somebody. In that case, if it impacted one of  
2 those areas, it could cause a significant injury.

3 So we are trained to -- to deploy that  
4 beltline or below or navel or below. So that's lower  
5 center of mass, lower parts of the body where the  
6 likelihood of a serious injury is -- is also  
7 quite low.

8 Q Okay. And so the -- those are the target  
9 areas you're trained to focus on?

10 A Correct.

11 Q Okay. When the round actually impacts --

12 A Mm-hmm.

13 Q -- a person, is it designed to penetrate in  
14 the same way like a bullet does? Does it actually go  
15 into the body?

16 A No, not at all. It's foam and -- and quite  
17 large. 40 millimeters is -- is relatively large. For  
18 comparison, the sidearm that we use on patrol is nine  
19 millimeters, so it's several times larger than that.  
20 It is not designed to penetrate. And the foam deforms  
21 when it hits something solid, making it even less  
22 likely to penetrate.

23 Q Have you been hit by a 40-millimeter  
24 launcher round?

25 A I have.

## Examination of Cameron Smith

1 Q At what range?

2 A At about 30 yards.

3 Q Do you remember how that felt?

4 A It hurt.

5 Q It hurt?

6 A Yes.

7 Q Okay. What -- what result did it have on  
8 your ability to continue moving around or to continue  
9 engaging in directed activities?

10 A It hampered my ability to continue moving  
11 around, although it didn't completely stop it. I was  
12 hit in the back of the thigh, which resulted in, like,  
13 a knot in the muscle. And so it would be difficult to  
14 run, but not impossible to walk.

15 Q Okay. Kind of like getting hit with a  
16 baseball?

17 A Yeah. That would be a good -- a good  
18 analogy.

19 Q Okay. And is the resulting injury similar  
20 to that in terms of a bruise, maybe some abrasion?

21 A That's correct.

22 Q Okay. All right. So going back now to  
23 April 16th, 2021 and your shift that day, did you  
24 become aware of a call for service occurring at Lents  
25 Park that morning?

## Examination of Cameron Smith

1           A     Yes.

2           Q     When did you become aware of that?

3           A     I heard the call broadcast by dispatch over  
4     the radio and I heard two units assigned to that call.

5           Q     Okay.  And did you immediately respond?

6           A     No, I did not.  I was not in that patrol  
7     district.  I was actually several districts away.  I  
8     heard the call and made a mental note of it --

9           Q     Okay.

10          A     -- that that had the potential to be a  
11     serious call if the broadcast information was  
12     accurate.

13          Q     And -- and what was your recollection of the  
14     information provided?

15          A     It was a man brandishing a gun in -- in  
16     Lents Park.

17          Q     Okay.

18          A     And then a description of the person.

19          Q     Okay.  At what point did you decide to  
20     actually respond to Lents Park?

21          A     The dispatched officers put out on the  
22     radio, broadcast over the radio that they had made  
23     contact with the caller to clarify some points and  
24     said that it sounded -- it -- it -- it sounded  
25     legitimate, not their exact words, but the caller --

## Examination of Cameron Smith

1 what the caller described did, indeed, sound like a  
2 man brandishing a gun in the park.

3 Q That was your impression from the updates  
4 you were hearing?

5 A Correct, that was my impression.

6 Q Okay.

7 A And that they were going to go and get eyes  
8 on, which they were going to get a vantage point so  
9 they could look into the park and see what was  
10 going on.

11 Shortly after that transmission, another  
12 transmission came up. The officer said the guy was  
13 confrontational, not obeying commands. And he  
14 requested more officers to arrive on -- to -- to start  
15 heading towards the scene. And then I started move --  
16 driving my patrol car towards Lents Park.

17 Q Okay. And were you just kind of making your  
18 way over there or were you lights and sirens, Code 3,  
19 getting there as fast as you could?

20 A I was still just kind of making my way over  
21 there. And I looked at the map in the computer -- on  
22 our computer that's mounted in the cars. In -- on  
23 that, you can see the GPS location of the other police  
24 units in your area.

25 And I was still pretty far away and noted



## Examination of Cameron Smith

1 that there were several other units that were closer  
2 than me. So I was still going; but, at that point, I  
3 wasn't going lights and sirens.

4 Q Did that change?

5 A That did. When the officers on scene  
6 broadcast that shots had been fired, I responded  
7 Code 3, so that's activated my lights and sirens and  
8 was getting down there as fast as I could while being  
9 safe to the -- to the other people on the road.

10 Q Okay. When you got to the park, what did  
11 you see?

12 A When I got to the park, I saw other units  
13 were arriving as well. So there were patrol cars  
14 parked on the grass on the east side of Lents Park.  
15 There were patrol cars parked kind of in the parking  
16 lot south of -- about in the middle of the park  
17 adjacent to the -- to the baseball field.

18 Q And where did you go?

19 A I pulled onto the grass on the east side of  
20 Lents Park just off --

21 Q If you --

22 A Oh, yes.

23 Q If you look on the monitor there, do you  
24 see --

25 A Mm-hmm.

## Examination of Cameron Smith

1 Q -- is that a map of -- overhead map of Lents  
2 Park?

3 A Yes, it appears to be.

4 Q And so did you come in off of Holgate or  
5 92nd or some other route?

6 A I came in off of 92nd.

7 Q From the north?

8 A Correct.

9 Q Okay.

10 A From the north, crossed Holgate, continued  
11 south on 92nd and then pulled into the park in between  
12 the -- the line of trees there.

13 Q And you're talking about these trees here?

14 A About -- I think I came in in between those  
15 trees and then parked --

16 Q Okay.

17 A -- about where you were first indicating.

18 Q Down here in this gap?

19 A Yeah. But it would have been maybe a little  
20 north and west of there, probably around there.

21 Q Right in here? Okay.

22 A Yeah.

23 Q And then did you stay in your car or get out  
24 or what did you do?

25 A No, I immediately got out of the car. I

## Examination of Cameron Smith

1 pulled the 40 millimeter out of the rack and I pulled  
2 my IFAK, which is the -- our first aid trauma kit that  
3 we keep in the cars, out of the car, and brought both  
4 of them with me to another car where we were  
5 assembling a contact and custody team.

6 Q And why did you decide to bring the  
7 40-millimeter launcher at that point?

8 A At that point, the information that we had  
9 -- that I had was that the subject was armed. I knew  
10 that there had been a shooting or that shots had been  
11 fired. I didn't know from -- from whom or if they  
12 were coming from him or just from the police toward --  
13 you know, towards him. I know the suspect was --

14 Q But you didn't -- you didn't know if -- if  
15 the subject shot or the police shot --

16 A Or both.

17 Q -- or both?

18 A Correct. At that --

19 Q Okay.

20 A -- point, we didn't know that --

21 Q Okay.

22 A -- or I didn't know that. I brought the  
23 40 millimeter out of the car. As I was arriving,  
24 other officers who were arriving began to -- over the  
25 radio, I could hear that we were beginning to assemble

## Examination of Cameron Smith

1 a contact and custody team.

2 And that's a team of a group of officers  
3 that we bring together to contact -- to contact  
4 somebody and take them into custody. That team is  
5 comprised of specific officer -- or of officers with  
6 specific roles.

7 So there's somebody who's going to take the  
8 role of lethal who's going to have a firearm, less  
9 lethal, somebody who's going to use a less-lethal  
10 tool.

11 Communications, so there'll be one officer  
12 that communicates with the -- the subject. Hands,  
13 which is somebody who will physically take that person  
14 into custody. In this case particularly, we -- we  
15 believed that the suspect was shot.

16 And so there would also be at least one  
17 person who would be in that -- that group is called a  
18 stack -- who would be providing medical care. And so  
19 that's the trauma kits that we would bring.

20 And because we believed the subject to be  
21 armed, we would also bring a ballistic shield. It's a  
22 large bullet-resistant and bulletproof shield that  
23 would move at the -- be at the front of that to  
24 protect the officers as they were approaching the  
25 subject.

## Examination of Cameron Smith

1           Q     And is the ballistic shield large enough  
2     that you could just stand upright behind it and it  
3     would completely cover from the -- beyond the top of  
4     your head all the way down to the ground and your  
5     feet?

6           A     No, it is not.  It stands maybe  
7     three-and-a-half feet by about two-and-a-half feet  
8     wide.  So if you're holding it at head level or if --  
9     if I were holding it at head level, my legs would be  
10    exposed below it.

11          Q     Okay.  All right.  Nevertheless, it's -- is  
12    that the best option you have in terms of a shield to  
13    be able to approach a potentially armed subject?

14          A     Yes.  It's -- it's the best option we have  
15    to -- to approach.  Our -- you can also use, as we did  
16    in this case, a police vehicle, themselves.  Police  
17    vehicle has armor in the doors and also the engine  
18    block, you have a reasonable chance of stopping a  
19    bullet coming straight through.

20          Q     Okay.  Now, these different roles you  
21    described, are they assigned prior to beginning to  
22    approach the subject?

23          A     Yes and no.  So any officer -- every officer  
24    is trained to be able to take any of those roles.  
25    But -- so as we were arriving, officers were taking

## Examination of Cameron Smith

1 different roles. Those are not preassigned, like, in  
2 the morning briefing, you'd say, "Okay. If this  
3 happens, you're going to be one or the other."

4 Anybody can take any of those roles. But  
5 before you'd actually approach a suspect or a subject,  
6 you would assign those roles and make sure that every  
7 job was filled and that everybody knew what their job  
8 was. So not --

9 Q Why --

10 A -- to --

11 Q Why is that important?

12 A It's important to have every job filled  
13 'cause you don't want to need something and not have  
14 it or have two people think that they're going to  
15 fulfill the same role; and, you know, one role  
16 unfilled and one role double filled.

17 It's a -- it's a coordination issue.  
18 Everybody needs to be knowing what everybody else is  
19 doing and what they can expect the other persons'  
20 roles to be.

21 Q Okay. And so what was your role in the  
22 stack, as you described it, for this call?

23 A As I got out of the car, as I said, I  
24 brought the medical kit and the 40, not knowing which  
25 roles were already filled as I was -- as I was getting

## Examination of Cameron Smith

1       there.

2                   And as I approached, the -- the location of  
3       the car that we were setting this up at, I saw that  
4       nobody else had a less-lethal tool -- or every officer  
5       carries a Taser, but nobody else had a 40 millimeter,  
6       which would have been appropriate for this -- more  
7       appropriate for this situation.

8                   And so I let the other officers that were  
9       there know that I've got the -- the less lethal.  
10       That's going to be my job for this. And as other --  
11       another officer approached also carrying an IFAK, the  
12       trauma kit, I passed that off to them 'cause that was  
13       going to be their role to provide medical care.

14                Q     Okay. What happened then?

15                A     We continued assembling the team. Somebody  
16       arrived with a shield. Somebody was giving -- trying  
17       to communicate with the -- with the subject.

18                   The lethal -- the officer who was going to  
19       be taking the -- the -- the role of lethal cover was  
20       already there, so we checked to make sure we had all  
21       the roles covered. Everybody knew what they were  
22       going to do. One officer carried a shield.

23                   Then next to them was the lethal cover  
24       officer, then me with the less lethal and then the  
25       officer driving the car, who was also communicating.

## Examination of Cameron Smith

1 We communicated over the radio to the other officers  
2 who were on scene 'cause we weren't the only officers  
3 who were there that we were going to begin our  
4 approach.

5 Q And did you?

6 A We did. The communication officer was  
7 trying to engage -- was -- was over the PA system  
8 trying to engage with -- with the subject; trying to  
9 tell him what to do; you know, "Show us your hands,"  
10 giving -- give him directions to follow.

11 And he was not -- not compliant. And so we  
12 approached and decided that we were going to deploy  
13 the 40-millimeter less lethal to gauge compliance.

14 Q And so if you look on the -- on the map  
15 there --

16 A Mm-hmm.

17 Q -- I think you had previously said the --  
18 the team was assembling sort of down in this area here  
19 of the grass on the east side of the park near 92nd?

20 A Yes, I believe so.

21 Q And so had you guys already started moving  
22 from that location toward the subject's location when  
23 a decision was made to deploy the 40 millimeter at him  
24 or did you do that from back where you were  
25 setting up?



## Examination of Cameron Smith

1           A     That was a contingency.  So we decided that  
2     -- or we made the plan that we're going to continue to  
3     try to engage him verbally and if he did not -- and if  
4     he didn't comply, that we were going to move forward,  
5     deploy the -- and if he continued to not -- you know,  
6     to not comply, we were going to deploy the 40 and then  
7     reassess, the idea being we don't know the reason for  
8     his noncompliance.

9                     We don't know if he is playing possum and  
10    trying to -- to -- to draw us into an ambush.  We  
11    don't know if he is simply just ignoring us or if he  
12    is unconscious.  We don't know and we have to  
13    ascertain that.

14                    And we have to do that quickly.  We have to  
15    address the threat that he posed to the community, but  
16    we also have a duty to render aid and so all that  
17    stuff has to happen quickly.  If he needs aid, he  
18    needs it quickly.  If he is still a threat, we need to  
19    address that threat quickly.  And --

20            Q     So how does deploying a 40 millimeter at him  
21    at that stage accomplish that goal of determining what  
22    condition he's in?

23            A     So, as I said and as previously discussed,  
24    it's like getting hit with a baseball.  Somebody who  
25    is alert would react to that in some way.

## Examination of Cameron Smith

1           The point is that we don't want to find  
2 ourselves in a situation where we have to shoot him  
3 again. We don't want to get within a few feet of him  
4 and then all of a sudden he produces a gun; and, now,  
5 we're in a -- a deadly force situation again.

6           Also, if he doesn't respond, that's an  
7 indicator -- it's just a data point that he may need  
8 -- he may need medical attention very quickly and that  
9 it may be safe to approach -- safer to approach.  
10 You're -- you're trying to collect data points  
11 altogether to build a risk assessment of how safe is  
12 it that we can get down there and take him into  
13 custody and start rendering aid.

14           So all of the -- the 40 by itself is not the  
15 end all and be all, but it's another data point trying  
16 to figure out what kind of risk this person still  
17 poses or not.

18           Q     Okay. I'm assuming if he is struck with the  
19 40 millimeter and there is no reaction whatsoever,  
20 that's an indication that he's not playing possum  
21 or --

22           A     Correct.

23           Q     -- faking --

24           A     That --

25           Q     -- this?

## Examination of Cameron Smith

1           A     That would be an indication -- that would be  
2     an indication that he is -- that's a lower-risk threat  
3     -- that's a lower threat, a lower level of threat if  
4     there's no reaction at all.

5           Q     Okay.  When you deployed -- so did you  
6     deploy the 40 millimeter at him at that point?

7           A     I did.  We stopped about halfway -- half the  
8     distance between where we were and where he was.  
9     Again, addressing him the whole time, still -- still  
10    no compliance.  Told everybody, "Hey, I feel  
11    comfortable taking -- taking the shot," and I put that  
12    out on the air, let everybody know, "Hey, we're about  
13    to do this."

14                    We don't want anybody to hear a pop and  
15    think, oh, there's more gunshots going off.  So we let  
16    everybody know what we're about to do and then I  
17    deployed the 40 millimeter.

18          Q     Could you see whether or not it impacted  
19    him?

20          A     Yes.  And --

21          Q     Did you see --

22          A     -- yes, I believe it -- yeah.  Yes.

23          Q     Could you see where?

24          A     I was aiming for just over his hip and I  
25    believe it impacted in that -- in that area.

## Examination of Cameron Smith

1           Q     Do you recall if it was the left side or  
2 right side of his body?

3           A     I believe it was the right side if he was  
4 laying -- and I -- no, I don't -- I don't recall which  
5 side. I'd have to see maybe a photograph to see what  
6 his orientation was.

7           Q     Okay.

8           A     Mm-hmm.

9           Q     But that is the location -- the part of his  
10 body you were aiming for was just above the hip?

11          A     That's correct. It's not -- he was laying  
12 on his back. I can't recall at this moment which --  
13 which side; but he was laying on his back sideways, so  
14 his feet were on one side and his head was on the  
15 other.

16                   And as a target, that's not a great target.  
17 There's only about six inches vertical that you try to  
18 -- that you'd have to -- to hit your target area. And  
19 that's why we had to close that distance to make that  
20 a -- more reasonably sure that we'd hit that or impact  
21 on the target area.

22          Q     Okay. And so you saw it impact. Did you  
23 see any response from him?

24          A     No response at all.

25          Q     What did you do at that point?

## Examination of Cameron Smith

1           A     I let everybody know that there was no  
2 response at all and reloaded the 40 in case we were  
3 going to need another -- another round. And so I  
4 deployed, watched impact, said, "No response," and  
5 then I'm looking down into the area right in front of  
6 me as I'm operating the -- the action of the -- of  
7 the tool.

8           Q     Taking out the expended cartridge, putting  
9 in the new one?

10          A     Correct.

11          Q     Okay. What happened then?

12          A     The other officers were still looking,  
13 confirmed, "Hey, I didn't see any movement. I still  
14 don't see any movement. Let's approach further.  
15 Let's go closer and -- and reassess," which we did.

16          Q     Okay. And then what?

17          A     We moved closer to maybe ten feet away from  
18 him, looked again. Didn't see him move -- he was  
19 still not moving. At that point, we could see --  
20 somebody said, "I don't think he's breathing." I  
21 could see over and past him at that point and I had  
22 said, "I can see the gun," and that it had an orange  
23 tip.

24                     And, at that point, I said, "It's got an  
25 orange tip." And so, again, when we're talking about

## Examination of Cameron Smith

1 the -- the threat assessment, doesn't look like he's  
2 breathing and it looks like the gun has an orange tip.  
3 The threat level was pretty low at that point.

4 And so we made the decision, we're going to  
5 -- we feel comfortable approaching. So we approach  
6 with the shield. We move -- the shield moved up and  
7 past him towards the gun and then the people who were  
8 assigned to start giving aid began giving medical aid.

9 Q When you first saw the gun --

10 A Mm-hmm.

11 Q -- where -- about how far away from -- how  
12 far away from it were you?

13 A I was maybe -- I was maybe ten feet from him  
14 and maybe 12 or 13 feet from the gun.

15 Q Okay.

16 A It was --

17 Q And --

18 A -- just on the other side of where he was  
19 laying.

20 Q Just on the other side of where he was  
21 laying?

22 A Correct.

23 Q Okay. And from that distance, you were able  
24 to see the orange tip on the end?

25 A Correct.

## Examination of Cameron Smith

1           Q     Could you see any other characteristics of  
2 the -- of the gun?

3           A     It looked like a Colt .45. I could see that  
4 it was a -- it -- it -- it looked as -- like a gun I  
5 recognized and that I could recognize from different  
6 types of guns. So it looked like -- it looked like a  
7 firearm that I had seen, a Colt .45.

8           Q     Okay. So aside from the orange tip that you  
9 saw on the end, was there anything else about the gun  
10 that would indicate to you that it may not be a real  
11 firearm?

12          A     No, not that I could see at that time.

13          Q     Okay. And you said it was just past his  
14 body.

15          A     Mm-hmm.

16          Q     Was it, if you recall, near his feet, near  
17 his head, his hands, his -- other parts of his body?  
18 Do you remember --

19          A     I --

20          Q     -- where it was?

21          A     I recall it being near his shoulder, near  
22 his torso. And close enough that if he were to move  
23 his -- his arm, he could have manipulated it. He  
24 could have grabbed it. It was close enough that he  
25 could have touched it if he were able and -- and

## Examination of Cameron Smith

1 wanted to.

2 Q Okay. And did you play any role in the  
3 medical aid that was rendered to him?

4 A Once he -- once we moved up past him and  
5 another officer addressed the gun -- I believe he  
6 moved it farther away from -- from the subject to make  
7 it all -- you know, more safe for the -- for the other  
8 officers to begin giving medical aid, my job as less  
9 lethal is essentially done.

10 The chances that we're going to use a 40  
11 millimeter at that distance and after -- and in that  
12 situation is -- is very low. So I looked back and I  
13 saw what I believed to be a bullet hole in his chest.

14 And I pointed that out to the officers who  
15 were giving medical aid and suggesting that they apply  
16 a chest seal to that, which is a nonporous dressing  
17 that seals a penetrating wound to the chest, is when  
18 you would use that.

19 Q Okay. To your recollection, did that occur?

20 A I believe so.

21 Q Okay. And did you play any further role in  
22 the -- in the incident from that point forward?

23 A No. At that point, I -- I moved away and  
24 made contact with a sergeant who was there. And they  
25 told me to go -- to -- to go sit in my car and



## Examination of Cameron Smith

1 separate myself 'cause I was going to be an involved  
2 member in this officer-involved shooting and to just  
3 sit and wait for further direction.

4 Q Okay. And was that because you had deployed  
5 this 40 millimeter after the fact?

6 A That's correct.

7 MR. JACKSON: Okay. All right. I don't  
8 have any other questions. I'll see if the grand jury  
9 has any questions.

10 A GRAND JUROR: I don't.

11 A GRAND JUROR: No.

12 A GRAND JUROR: Nope.

13 MR. JACKSON: I don't see any. Okay. Thank  
14 you very much. I think --

15 THE WITNESS: Thank you.

16 MR. JACKSON: -- that's all we have.

17 Yeah. So why don't we go off the record and  
18 take our ten minute afternoon break.

19 A GRAND JUROR: Okay. Thank you.

20 A GRAND JUROR: Thank you.

21 A GRAND JUROR: We appreciate your time.

22 A GRAND JUROR: Thank you.

23 THE WITNESS: Thank you very --

24 (TRANSCRIBER'S NOTE: Audio record ends  
25 midsentence.)

## Examination of Delton Stroh

1 (Recess taken, 2:36 p.m. - 2:50 p.m.)

2 MR. JACKSON: All right. We're back on the  
3 record following our afternoon break. Start with our  
4 next witness, Delton Stroh.

5 All right. Could you stand in the witness  
6 stand there and raise your right hand?

7 A GRAND JUROR: Raise your right hand.

8 **DELTON STROH**

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

11 A GRAND JUROR: Thank you. You may  
12 be seated.

13 MR. JACKSON: All right. Could you please  
14 state and spell your name for us?

15 THE WITNESS: My name is Delton Stroh. That  
16 is D-e-l-t-o-n, S-t-r-o-h.

17 **EXAMINATION**

18 BY MR. JACKSON:

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

21 A I am.

22 Q How long have you been a police officer for  
23 Portland?

24 A A little over 21 years.

25 Q Okay. Did you have any law enforcement

## Examination of Delton Stroh

1 experience before that?

2 A No, did not.

3 Q Okay. And what is your current assignment?

4 A I am a patrol officer.

5 Q For which precinct?

6 A East Precinct.

7 Q And was that true on April 16th, 2021

8 as well?

9 A Yes, it is.

10 Q Okay. What shift do you work or did you  
11 work then?

12 A I worked A shift, which is 7:00 in the  
13 morning 'til 5:00 in the evening.

14 Q Okay. So back on April 16th, 2021, did you  
15 hear about or become aware of a call occurring at  
16 Lents Park?

17 A I did, yes.

18 Q And do you remember approximately what time  
19 it was that morning that the call came out?

20 A Can I refer to --

21 Q Sure.

22 A -- my sheet?

23 Q Yeah.

24 A I don't think it's written in here. I do  
25 not recall exactly what time it was, no.

## Examination of Delton Stroh

1           Q     Okay.  But you became aware that a call was  
2     occurring there?

3           A     Yes.

4           Q     And what was the nature of the call as you  
5     understood it?

6           A     It was an individual in the park waving  
7     a gun.

8           Q     And did you immediately respond?

9           A     I did not, no.

10          Q     Why is that?

11          A     It's my -- the district I work borders  
12     Gresham, which is really far away.  They had already  
13     dispatched two officers to it.  Typically speaking,  
14     you would wait until they would ask for more cover  
15     to show up.

16          Q     Did that occur?

17          A     Yes.

18          Q     How did you become aware of that?

19          A     Officer DeLong stated that he'd located the  
20     suspect and he was being uncooperative and he asked  
21     for more cars.

22          Q     Is that over the radio, you were  
23     hearing this?

24          A     Yes.

25          Q     Okay.  At that point, did you start --

## Examination of Delton Stroh

1           A     I did.

2           Q     -- making your way over towards Lents Park?

3           A     Yes.

4           Q     Were you going lights and sirens, Code 3, or  
5 were you just driving in that direction?

6           A     Lights and sirens, Code 3, yes.

7           Q     Okay.  And why did you decide to respond on  
8 that manner?

9           A     Well, again, I was coming from 174th and  
10 Powell going to Lents Park, which is basically 91st,  
11 92nd and Holgate, so it's pretty -- a pretty long  
12 distance, so I wanted to make up some time.

13          Q     Okay.  Get there quickly?

14          A     Yes.

15          Q     All right.  And so did you continue  
16 receiving updates regarding that call as you were  
17 driving in that direction?

18          A     Yes.

19          Q     What were those updates?

20          A     I heard Officer DeLong say, "Shots fired,"  
21 followed by Officer Wutherich announcing, "Shots  
22 fired."

23          Q     Okay.  That's your memory of how the calls  
24 came out over the radio?

25          A     Right.

## Examination of Delton Stroh

1           Q     Okay. Was it shortly thereafter that you  
2 arrived at Lents Park or was it a fair amount of time  
3 later on before you got there?

4           A     It was a matter of minutes.

5           Q     Okay. And when you got there, what did  
6 you see?

7           A     There were several other officers on scene,  
8 cars parked in the park, like, on the grass facing to  
9 the west off of 92nd.

10          Q     Okay. And if you look at the monitor there,  
11 is that an aerial photograph of Lents Park?

12          A     It looks like it, yes.

13          Q     Okay. Are you able to see there where you  
14 came into the scene?

15          A     Yes.

16          Q     And where was that?

17          A     Look -- should I point to it or will it --

18          Q     It won't, but I can see it and I can kind of  
19 use the cursor to indicate.

20          A     It was right about there.

21          Q     Okay. And you're indicating right around in  
22 this area?

23          A     Yes.

24          Q     Off of 92nd?

25          A     Off 92nd, yes.

## Examination of Delton Stroh

1 Q On the east side of the park?

2 A Yes.

3 Q Okay. Did you pull your patrol car off the  
4 road or park it on the street?

5 A I pulled it off the road and parked it on  
6 the grass, yes.

7 Q Okay. As you looked out at the scene in  
8 front of you, could you describe what you saw?

9 A It was an open field, trees in front of me.  
10 Officers were facing to the west, so as I looked to  
11 the -- I -- I -- another officer was making an  
12 arrangement to have a -- to form a -- a team to make  
13 a -- to make contact with the individual.

14 So I got out of my vehicle and went over  
15 there to the -- to the group to -- to join the team.

16 Q Okay. And it looked like you were just  
17 pointing kind of --

18 A Yeah, it was right --

19 Q -- in this --

20 A -- right across there. Yeah, correct.

21 Q -- grassy area in the gap between the trees?

22 A Yes.

23 Q Okay. And so were you a part of the actual  
24 approach team?

25 A I was, yes.

## Examination of Delton Stroh

1 Q What was your role in that?

2 A I was lethal cover.

3 Q Okay. What did you have to effectuate  
4 lethal cover?

5 A I had my firearm out, depressed, ready.

6 Q Okay. And you're talking about a handgun --

7 A Yes.

8 Q -- rifle?

9 A A handgun, yes.

10 Q Handgun. Okay. Was there anyone else that  
11 you were aware of assigned to lethal cover for that  
12 approach?

13 A Not that I'm aware of, no.

14 Q Okay. When you say, "depressed, ready,"  
15 what does that mean?

16 A More or less, the gun is pointed at the  
17 ground, but ready to come up on target if you need it  
18 to be.

19 Q Okay. How did you approach?

20 A We approached behind a shield and with a  
21 vehicle with the door open. The vehicles have  
22 ballistic capabilities on the doors, so the -- it was  
23 more or less two shields, a ballistic door and a  
24 shield. We -- we approached that way.

25 Q Okay. At some point during the approach,



## Examination of Delton Stroh

1 was the decision made to fire a 40-millimeter sponge  
2 round at the subject?

3 A Yes.

4 Q And were you involved in that decision?

5 A I was not involved in that decision, no.

6 Q Do you recall that occurring, though?

7 A Yes, I do.

8 Q And what happened after that?

9 A Subject laying on the ground did not move.  
10 We continued our approach until we -- until we made it  
11 up to where he was.

12 Q Okay. And what did you see as you  
13 approached the subject on the ground?

14 A He was laying -- his body was  
15 north-and-south direction. His head was to the south.  
16 His feet were towards the north. There was a gun off  
17 to his left side, which would have been west of him,  
18 about three or four feet away.

19 He was not moving. Once we determined that  
20 the scene was safe and he could not reach for the gun,  
21 we -- we -- we began doing the life saving measures.

22 Q Okay. And was there anything in particular  
23 at that point that you noticed about the gun?

24 A No.

25 Q Other than it looked like a gun?

## Examination of Delton Stroh

1           A     It looked like a gun, yes.

2           Q     Okay.  What -- what kind of gun, could  
3 you tell?

4           A     It looked like a semiautomatic handgun.

5           Q     Okay.  About how far away from it were you  
6 as you were making that assessment?

7           A     About three or four feet; but, again, I --  
8 my -- my focus wasn't on the gun.  It was -- I see the  
9 gun, but my focus was on the individual.  So I  
10 wasn't -- I wasn't examining the gun at that point.

11          Q     Okay.  But you saw it?

12          A     I did see it, yes.

13          Q     Yeah.  Okay.  At that point, when you said  
14 your focus was on the individual, what role did you  
15 play in contacting him?

16          A     Myself and Officer Josh Letter took turns  
17 giving -- providing CPR.

18          Q     Okay.  And how long did you and  
19 Officer Letter perform CPR on the individual?

20          A     We continued until medical arrived.  And  
21 I -- I don't know the exact amount of time that  
22 would -- that would have been.

23          Q     Are we talking seconds, minutes --

24          A     It would have been --

25          Q     -- hours?

## Examination of Delton Stroh

1 A -- minutes, yeah.

2 Q Minutes?

3 A Yeah --

4 Q So --

5 A -- several minutes, yes.

6 Q Okay. After medical personnel arrived and  
7 took over -- well, I guess I'll ask, did they take  
8 over performing medical aid to him --

9 A Yes, they did.

10 Q -- once they arrived?

11 A Yes, they did.

12 Q And then what did you do at that point?

13 A I took a few pictures of the overall scene  
14 with my Bureau-issued cell phone to capture as much of  
15 the evidence in place as it was before everything got  
16 destroyed by people walking through the crime scene.

17 Q Okay. And did you further examine  
18 the firearm --

19 A I --

20 Q -- that you had seen at that point?

21 A I did, yes.

22 Q How did you go about doing that?

23 A I walked over to it and -- and looked at it.  
24 I didn't touch it. I just looked at it.

25 Q Okay. And what, if anything, did you notice

## Examination of Delton Stroh

1 about it when you looked closely at it in that  
2 context?

3 A It had either a red or an orange tip on it.

4 Q Okay. And, at that point, are you basically  
5 standing right over it looking straight at it --

6 A Yes.

7 Q -- focusing on it?

8 A Yes.

9 Q Okay. Do you recall being able to see that  
10 when you first approached and saw a gun laying there  
11 as you were --

12 A No.

13 Q -- looking?

14 A No.

15 Q Okay. Did you play any further role in the  
16 investigation in this incident after that point?

17 A I helped maintain the scene security there  
18 as the crowds began to form.

19 Q Okay. And then, at that point, once the  
20 scene -- detectives had finished processing the scene,  
21 did you leave the area?

22 A Once they released me from the scene, I -- I  
23 left the area, yes.

24 MR. JACKSON: Okay. I think those are all  
25 the questions I have. Let me see if anybody has any

## Examination of Delton Stroh

1 additional questions.

2 No? Grand jury, do you have any questions  
3 for Officer Stroh?

4 A GRAND JUROR: No.

5 MR. JACKSON: No?

6 A GRAND JUROR: Hmm-mm.

7 A GRAND JUROR: No.

8 THE WITNESS: Okay.

9 MR. JACKSON: I don't see any. Okay. Thank  
10 you very much.

11 THE WITNESS: Thank you.

12 MULTIPLE GRAND JURORS: Thank you.

13 MR. JACKSON: Okay. And I believe our last  
14 witness for the day is --

15 A GRAND JUROR: Thank you.

16 MR. JACKSON: -- Mina Cavalli-Singer.

17 (Whispered discussion, off the record,  
18 3:01 p.m.)

19 A GRAND JUROR: If you'd raise -- if you'd  
20 raise your right hand, please. Okay.

21 **GELSOMINA CAVALLI-SINGER**

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

24 A GRAND JUROR: Thank you.

25 MS. KIMBERLY: Could you please state your

## Examination of Gelsomina Cavalli-Singer

1 full name and spell your last name for the record,  
2 please?

3 THE WITNESS: Gelsomina Cavalli-Singer,  
4 C-a-v-a-l-l-i, hyphen, S-i-n-g-e-r.

5 EXAMINATION

6 BY MS. KIMBERLY:

7 Q And how are you employed?

8 A With the Portland Police Bureau.

9 Q Okay. And do you serve as a police officer  
10 for the Portland Police Bureau?

11 A Yes.

12 Q Okay. And how long have you been a  
13 police officer?

14 A Three years.

15 Q Okay. And what division are you assigned to  
16 of PPB?

17 A I work for East Precinct, night shift.

18 Q Okay. And so what are the -- your -- the  
19 hours of your shift?

20 A 10:00 p.m. to 8:00 a.m.

21 Q Okay. Now, were you working then the  
22 morning -- or were you still on shift on the morning  
23 of April 16th of this year?

24 A Yes, I was working overtime for day shift.

25 Q Okay. And did you receive information that

## Examination of Gelsomina Cavalli-Singer

1 there was a call out to Lents Park that morning?

2 A Yes.

3 Q Where were you when you first were alerted  
4 to that call?

5 A I was with my partner. We were driving I-84  
6 to get onto I-205 back towards the area in which the  
7 call came out.

8 Q Okay. And who -- what's your partner's  
9 name?

10 A It was Colin Smith.

11 Q Okay. And I understand there's also an  
12 Officer Cameron Smith as --

13 A Correct.

14 Q -- well. Okay.

15 A Yes.

16 Q So your partner is Colin Smith. Did you --  
17 when you received that call, did you and your partner  
18 start heading towards the location of Lents Park?

19 A We did. We attached and then dispatch asked  
20 us to go as well.

21 Q Okay. And do you know how long it took you  
22 approximately to get to Lents Park?

23 A It probably took us five minutes or less.

24 Q Okay. And were you listening to radio  
25 traffic as you responded to the call?

## Examination of Gelsomina Cavalli-Singer

1           A     Yes.

2           Q     Okay.  And so what did you hear on the radio  
3 traffic prior to arriving at Lents Park?

4           A     We were hearing that a plan was being formed  
5 to contact the subject and that he was not being  
6 compliant once they were making contact from quite a  
7 great distance and that, eventually, there was a shot  
8 fired.

9           Q     Okay.  So did the shots fire occur before  
10 you arrived to Lents Park?

11          A     Yes.

12          Q     Okay.  So if you look to the screen to your  
13 right, do you recognize that as being an overview of  
14 Lents Park?

15          A     Yes.

16          Q     Okay.  And what -- what road or what area  
17 did you approach when you arrived to the park?

18          A     We came off of 92nd Avenue.

19          Q     Okay.  From Holgate or from below -- south  
20 of Holgate?

21          A     From Holgate.

22          Q     From Holgate.  So you came down southbound  
23 on 92nd?

24          A     Yes.

25          Q     And then did you stop at some point on 92nd



## Examination of Gelsomina Cavalli-Singer

1 or near there?

2 A Yeah, Colin was driving. I was in the  
3 passenger seat and he went up a curb. There was a  
4 bunch of cars --

5 Q Okay.

6 A -- parked and we were on the grass.

7 Q Grass. Okay. Could you just point in the  
8 general area and I'll move my cursor to see if --

9 A Are you able to see (indiscernible)?

10 Q -- I can match it. Yeah.

11 A Yeah, right here.

12 Q So this treeline here?

13 A Yes.

14 Q Okay. Here? Okay. So when you arrived  
15 there, was there a team setting up?

16 A Yes. They were setting up kind of multiple  
17 teams so they could see the subject best.

18 Q Okay. And did you, for lack of a better --  
19 join one of these teams or get assigned to one of the  
20 teams that were being formed?

21 A I did.

22 Q Okay. And which team was that?

23 A The one that was on the east side here  
24 on 92nd.

25 Q Okay. And what was the -- you know, once

## Examination of Gelsomina Cavalli-Singer

1 you kind of drive -- what was your role in the -- the  
2 team that was being formed?

3 A I was to provide medical aid.

4 Q Okay. And did you grab anything to be able  
5 to provide medical aid?

6 A Yes. Each car has an IFAK kit, which is a  
7 first-aid kit. I grabbed ours and then I was  
8 eventually handed two more.

9 Q Okay. And so were you part of the team that  
10 made the approach to the subject?

11 A Yes.

12 Q Okay. And as you made that approach, did  
13 you make any observations of the individual?

14 A It had to be until we got very close. I am  
15 significantly shorter than every single person on that  
16 team and I was behind all of them --

17 Q Okay.

18 A -- standing behind, actually, Cameron Smith  
19 and I think one other person who are, like, at least a  
20 foot taller than me, so they were kind of giving up --  
21 updates --

22 Q Okay.

23 A -- until I was able to contact him.

24 Q Okay. So when you finally -- so you didn't  
25 get eyes on the subject 'til you actually got up onto

## Examination of Gelsomina Cavalli-Singer

1 the individual?

2 A Correct.

3 Q Okay. And then -- so when you did, what did  
4 you observe?

5 A I observed that he was unconscious, not  
6 breathing, partially obstructed by a tree, not wearing  
7 a shirt. And I looked for the bullet impact and I  
8 found one on his left side high up in his ribcage  
9 area.

10 Q And you kind of just did a motion. So we're  
11 only audio recording, you're pointing to kind of your  
12 ribcage area on the left side?

13 A Yes.

14 Q Okay. So you looked for injuries. Did you  
15 do anything when you saw the injuries?

16 A We looked for an injury. I saw that it was  
17 bleeding just a little. We looked for an exit wound  
18 first --

19 Q Okay.

20 A -- and any other injuries. And then I  
21 placed a HyFin chest seal on the injury. There was no  
22 exit wound.

23 Q Okay. So you placed the chest seal. Did  
24 you do anything else to render first aid?

25 A I did not. I was kind of a third person in

## Examination of Gelsomina Cavalli-Singer

1 a rotation of CPR.

2 Q Okay. So other officers were  
3 performing CPR?

4 A Correct.

5 Q Okay. And were you asked to do anything  
6 else with regard to the scene or the investigation  
7 besides provide first aid?

8 A I was asked to take photos of the scene as  
9 medical was assisting --

10 Q Okay.

11 A -- so we could get what was going on in  
12 place.

13 Q Okay. And while you were doing that, did  
14 you make any observations of the scene as you were  
15 taking photos?

16 A I saw the subject's items everywhere, like,  
17 I think his living items, tent, sleeping bag, things  
18 like that --

19 Q Okay.

20 A -- and the firearm that had been slightly  
21 moved away from his body so we could render aid  
22 for him.

23 Q Okay. And what's your recollection of how  
24 that firearm looked?

25 A It was black with an orange tip.

## Examination of Gelsomina Cavalli-Singer

1 Q Okay. And then other than taking the photos  
2 while medics continued on the scene, did you  
3 participate any further in either processing the scene  
4 or the investigation of the incident?

5 A No. They immediately had us all kind of  
6 step away.

7 MS. KIMBERLY: Step away? Okay.

8 I -- I don't have any other questions.

9 Does the grand jury have any questions? No?

10 All right. Thank you, Officer  
11 Cavalli-Singer.

12 THE WITNESS: Thank you.

13 MR. JACKSON: That's it. Thank you.

14 A GRAND JUROR: Thank you.

15 A GRAND JUROR: Thank you.

16 A GRAND JUROR: Thanks.

17 MR. JACKSON: And that concludes the  
18 evidence for today, so we can go off the record.

19 A GRAND JUROR: Thank you.

20 A GRAND JUROR: Thanks again.

21 A GRAND JUROR: Thank you.

22 \* \* \*

23 (Conclusion of Grand Jury B proceedings,

24 Volume 2, 9-22-21 at 3:09 p.m.)

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REPORTER'S CERTIFICATE

I certify, by signing below, that the foregoing is a correct transcript, of the audio record in the above-entitled cause, as recorded on CD and transcribed to the best of my ability and in accordance to the quality of the audio CD.



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