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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:

Todd Jackson, Deputy District Attorney  
Shawn Overstreet, Deputy District Attorney  
Kurt Miller, Assistant Attorney General

- - -

September 23, 2021

(04:58:30)

- - -

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 3, Thursday, September 23, 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 MR. MILLER: We're back on the record with  
13 the investigation into the death of Robert Delgado,  
14 DA Case No. 2434834-1. We're resuming our third day  
15 of testimony.

16 Okay. Before you get all cozy over there at  
17 the stand, if you'd just raise your right hand. The  
18 foreperson's over here. He's going to swear you in.

19 A GRAND JUROR: Morning.

20 **SCOTT WILLADSEN**

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

23 A GRAND JUROR: Thank you. You may be  
24 seated.

25 Thank you very much.

## Examination of Scott Willadsen

1           MR. MILLER:  And once you're comfortable  
2 over there, if you'll introduce yourself, your first  
3 and your last name and spell your last name.

4           THE WITNESS:  Sure.  My name is  
5 Scott Willadsen.  That's W-i-l-l-a-d-s-e-n.

EXAMINATION

7 BY MR. MILLER:

8           Q     And where do you currently work, sir?

9           A     Right now, I work for the Department of  
10 Public Safety Standards and Training.  It's also known  
11 as the police academy.

12          Q     All right.  And prior to that, where did  
13 you work?

14          A     Before I came to the police academy full  
15 time, I worked for the Union County Sheriff's Office  
16 in eastern Oregon.  That's where La Grande is.  I  
17 worked there for ten years.

18          Q     All right.  And when you worked for the  
19 Sheriff's Office over there, what roles, if any, did  
20 you play there?

21          A     Sure.  I started as a corrections officer or  
22 corrections deputy.  I did a little bit of time  
23 working for security and then I finished my career  
24 over there.  My last -- last four-and-a-half years was  
25 on patrol.

## Examination of Scott Willadsen

1           Q     And did you have any other roles within  
2 patrol as far as side duties?

3           A     I was on -- yeah. I was on the SWAT team.  
4 I was in charge of the entire use of force training  
5 program while I was there. I was a firearms  
6 instructor, defensive tactics instructor. And I'm  
7 sure there's something else in there that I'm missing,  
8 but it's been a while.

9           Q     All right. And we'll break down those kind  
10 of terminology as we get into the further specifics of  
11 the training and what's defensive tactics and things  
12 like that.

13          A     Sounds good.

14          Q     But prior to Union County, did you have any  
15 other type of law enforcement or military experience?

16          A     I was briefly a reserve officer for the city  
17 of La Grande, the police department there. I was also  
18 a cadet for the city of La Grande for a few years.  
19 And during that time in there -- actually, it was  
20 after I was a cadet, before I was a reserve, I was in  
21 the Marine Corps for about a year.

22          Q     Now, let's bring us back forward to DPSST.  
23 You said it's Department of Public Safety Standards  
24 and Training, also housed as the police academy. So  
25 what is your current role in there?

## Examination of Scott Willadsen

1           A     For the last roughly 12 years, I've been  
2 working full-time in survival skills section. For the  
3 like, last eight-ish years, I've been running the  
4 use-of-force program. What that entails is both  
5 classroom instruction and scenario instruction.

6           Q     Okay. And have you had any other roles at  
7 DPSST?

8           A     When I was originally hired there, I started  
9 as a class training coordinator. They're,  
10 essentially, the folks that are responsible for come  
11 running with the individual groups of students, making  
12 sure that they're getting to their testing locations  
13 on time, their classroom locations on time, resolving  
14 any minor issues within the class. If you want to  
15 think of it, they're a little bit like a homeroom  
16 teacher in a school.

17          Q     And so now your current role is as a kind of  
18 coordinating on use-of-force. What does that entail?  
19 What do you do?

20          A     Well, there is a lot of hats that I wear.  
21 Obviously, I do a little bit of this. Primarily what  
22 I do is I coordinate a group of instructors who help  
23 run the use-of-force program. And like I said,  
24 that -- that really has two main sections.

25                   One section is the classroom section. That

## Examination of Scott Willadsen

1 is obviously delivering classroom instruction to new  
2 recruits, new police officers or corrections officers,  
3 parole, probation and making sure that they understand  
4 how the law -- how use-of-force law interacts with  
5 practical use-of-force issues, how it interacts with  
6 ethical use-of-force issues, things such as that,  
7 anything that we may know about it, scientific  
8 studies, research.

9           And then we -- we spend a lot of time  
10 looking and debriefing videos, discussing whether or  
11 not, you know, officers made legal decisions or moral  
12 decisions or they're understandable mistakes or they  
13 do a really -- a good job.

14           The other half of that is we have to give  
15 them experiences actually participating in those types  
16 of environments. So the scenario program for  
17 use-of-force specifically has a live component, which  
18 we call confrontational simulations and a video  
19 component, which we call Milo. That's just the name  
20 of the company that sells us the simulator. They  
21 both --

22           Q     So what is -- I'm sorry to interrupt you.  
23 We're going to break that stuff down --

24           A     Yeah.

25           Q     -- a little bit further. I was kind of

## Examination of Scott Willadsen

1 getting the broad overview.

2 A That's okay.

3 Q So it sounds like you run a team of other  
4 people that help instruct the new recruits --

5 A That's correct.

6 Q -- to certain standards. What training do  
7 you specifically have that led you to this role?

8 A What (indiscernible)?

9 Q State training, national training? Give me  
10 kind of like the broad overview.

11 A Well, I have a lot. So probably the big  
12 ones are going to be I have attended hundreds and  
13 hundreds of hours of use-of-force classes from  
14 instructors all around the country. I'm an advanced  
15 force science expert.

16 And what that means is there are different  
17 levels of Force Science Institute and they have, like,  
18 a two-day class and they have a five-day certification  
19 class and then they have essentially a six-month class  
20 (indiscernible) college credits. In addition to all  
21 that, I attend conferences all over the country.

22 And then a lot of it's also  
23 self-development. I spend a lot of time looking at  
24 new case law and looking at new case debriefs of  
25 things that have happened to police officers around



## Examination of Scott Willadsen

1 the country.

2 There's some networking involved in there.

3 And so there's a lot, probably several thousands of  
4 hours of training as far as just straight up  
5 use-of-force goes.

6 Q And so then we move into the academy itself  
7 and training, as we were talking about and we'll break  
8 down the individual classes that they get. But let's  
9 just talk about standards. Where do these standards  
10 of training come from at the academy?

11 A So the standards of training come from the  
12 Department of Public Safety board. And so the board  
13 is made up of -- in the simplest way to put it, chiefs  
14 and sheriffs and a few other individuals from all over  
15 the state of Oregon. They make up the board.

16 And the board comes together and looks at  
17 what we're doing at a state-wide level, makes sure  
18 that it's meeting the -- the basic minimum standards  
19 for every agency within the State of Oregon.

20 Q And does that board also include community  
21 members as well, too?

22 A It does. There's community members on  
23 there. I'm almost positive there's a few DAs on there  
24 or other attorneys. I -- I believe there might even  
25 be some fire chiefs on there. It's made up of public

## Examination of Scott Willadsen

1 safety professionals from all over the state and  
2 citizen members.

3 Q DPSST, do they -- they train other than just  
4 police, right?

5 A Yes. We do police officers, corrections  
6 officers, parole and probation officers. We have a  
7 fire fighting section, because that's also public  
8 safety. Although not all that training is conducted  
9 at the academy, it is coordinated from the academy.

10 Q Telecommunications people who call --

11 A Correct.

12 Q -- 9-1-1 call takers and operators and such?

13 A Yes. OLCC also and private investigators.

14 Q All right. And so now let's talk about that  
15 basic police program. You mentioned this kind of  
16 terminology, like survival skills section. What's --  
17 what's that?

18 A So survival skills is a way to lump in all  
19 the, quite frankly, police survival skills. So things  
20 like firearms training, defensive tactics training,  
21 arrest and control tactics, vehicle stops training and  
22 use-of-force is generally all lumped into survival  
23 skills.

24 Q Okay. So what I think might be helpful to  
25 kind of get a basic understanding of all the tools

## Examination of Scott Willadsen

1 that are at the disposal of an average patrol officer  
2 in the state of Oregon is just kind of go through a  
3 little of those and then focus on a few sections.

4 So let's just start with, of course, my  
5 favorite one, the legal section. In the legal  
6 section, how is that training generally provided and  
7 what's the kind of main purpose of it?

8 A So the legal section is generally provided  
9 by attorneys such as yourself who do classroom  
10 instruction to the students and really introduce them  
11 to the law and the Oregon Revised Statutes and how to  
12 apply them and read them, but also -- those classes  
13 are also looking at case law that may have been  
14 generated.

15 For example, one ORS may say that this is  
16 legally allowed, but there might be a case that  
17 specifically, Oregon has ruled on years later and that  
18 instruction is generally delivered by the -- by the  
19 attorneys in the classroom to kind of get the students  
20 on the path.

21 It's also important to know that the other  
22 instructors also need to know that information, 'cause  
23 what we don't want is a attorney to say something in  
24 the classroom, the students get that information and  
25 then they go to a venue where that is now being put

## Examination of Scott Willadsen

1 into practice and then we go, "No, you're wrong" and  
2 then they're like, "But the attorney said."

3 So we also have to know the same  
4 information, but generally that information's  
5 delivered by attorneys.

6 Q So it's some coordination then between  
7 the -- the legal instructors and the use-of-force  
8 instructors?

9 A Frequently.

10 Q And so when we're talking about use-of-force  
11 standards, those -- where do they come from from  
12 the law?

13 A So the use-of-force standards come from two  
14 main areas. Obviously, Oregon law is a big one, but  
15 also federal law. Oregon law has, up until recently  
16 with Senate Bill 4301, had two main statutes, but  
17 there are a lot of other ORS statutes specifically  
18 telling officers when they may detain someone, stop  
19 someone, use force to -- to accomplish certain tasks.

20 I think roughly there's about five or six  
21 that touch on it in some way, although there's two big  
22 ones. With 4301, that changed the game a little bit,  
23 but in essence, it's the same basic thing.

24 So Oregon law gives us the basic foundation  
25 of this is what we can do in Oregon, but we also exist

## Examination of Scott Willadsen

1 within the United States and in the Ninth Circuit  
2 Court of Appeals, so we need to know what their rules  
3 are also.

4 And we teach to both standards. We can't  
5 just teach to Oregon because the Oregon standard may  
6 not fit with a federal standard and vice versa. So we  
7 teach to what we call the stricter standard.  
8 Whichever one is stricter is the one we follow,  
9 whether it's federal or state.

10 Q Because in a nutshell, you're also -- you're  
11 looking at use-of-force from the criminal law  
12 perspective as we talked about, as well as from a  
13 civil lawsuit perspective. Is that correct or  
14 accurate?

15 A That is correct, although even when we talk  
16 about federal, we also talk about our criminal law,  
17 because there's nothing that stops the federal  
18 government from filing federal charges.

19 So we need to know all of it and we need  
20 them to follow all of it. And so those are the two  
21 main bodies that comprise what use-of-force  
22 information we give to basic officers.

23 Q So then when we focus specifically on  
24 use-of-force law, is the classroom instruction it or  
25 do they have some sort of test on their knowledge?

## Examination of Scott Willadsen

1           A     So there's -- there's classroom instruction  
2     and at this moment in time, it's roughly 22 hours of  
3     classroom instruction overall. At the end of that  
4     classroom instruction, they're going to take a written  
5     test, 25-question test and it requires them to score  
6     100 percent.

7                     Now, there's a little bit of a misnomer  
8     there because everyone says, well, if they get 99, are  
9     they kicked out of the academy? The answer's no.  
10    They're allowed to remediate by writing essentially an  
11    essay that is reviewed by a use-of-force expert or an  
12    attorney.

13                    Up until frequently, it was -- it was a  
14    use-of-force attorney that we had employed with us  
15    that would review all those. They ended up retiring  
16    and we're currently in the process of finding a new  
17    one, so right now, it's me that reviews all those.

18           Q     So I think what I took away from that is is  
19    they have to pass with a hundred percent, but if they  
20    miss a question, then they have to remediate that with  
21    a full explanation of why they missed the question  
22    until the attorney or one of the instructors is  
23    satisfied that they understand the topic.

24           A     That's correct. They have to demonstrate  
25    full understanding of that. And we're pretty strict.

## Examination of Scott Willadsen

1       Actually, the students say that.

2               Q       Now, let's talk about outside of the  
3       classroom setting and all of the different types of  
4       force that are taught at the academy.

5                       We'll kind of work from maybe lesser types  
6       of force up to higher types of force and start with  
7       kind of the basics of, like, hands-on. Are there any  
8       type of hands-on, like training at the academy?

9               A       Yes. So the defensive tactics training  
10       program is where almost all the hands-on instruction  
11       is delivered, although there are some other locations.  
12       That program is roughly 50 some-odd hours long.

13                      I'd like to give you a solid number, but  
14       we're in the middle of revising our curriculum and  
15       we've moved from, for example, 52 hours to 56 hours.  
16       But it's -- it's roughly in the 50-hour range.

17                      That program obviously can't cover every  
18       single thing a police officer may need to physically  
19       do with a -- a suspect, a subject, an arrestee, but we  
20       cover the -- some of the basics.

21                      And so on the low end of the spectrum, we  
22       teach them at the very lowest level to move semi  
23       cooperative or cooperative people around if they, for  
24       example, don't know where they want to go or we just  
25       need to gently guide them to a car or maybe put

## Examination of Scott Willadsen

1       handcuffs on a cooperative person all the way up to  
2       rolling around on the ground, ground fights where  
3       maybe simulated weapons come out of a waistband, sharp  
4       knives or simulated guns and things like that and  
5       pretty much everything in between.

6                   We have to teach joint box, take-downs, some  
7       striking, definitely how to defend against strikes,  
8       how to control people while standing up, how to  
9       control people on the ground.

10           Q       So that's like the physical part of it and  
11       that's kind of what we're working through, these  
12       physical components of it rather than the mental, so  
13       let's stick --

14           A       That's correct.

15           Q       -- with the physical. Beyond using hands on  
16       someone or other parts of the body, is there other  
17       less than lethal tactics that are taught at the  
18       academy?

19           A       Well, that depends on whether you're talking  
20       about verbal commands or less lethal tools. So if  
21       we're talking about verbal commands, there's an entire  
22       communications series that's started in the classroom,  
23       but is built upon in both scenarios and in different  
24       venues of training where we -- we have expectations of  
25       certain things they should do.



## Examination of Scott Willadsen

1           There are legal requirements for what  
2 officers should say if they have an opportunity and  
3 then there are things we would like them to say.  
4 There's deescalation training.

5           There's a whole series that covers that and  
6 it's all integrated together, so separating these  
7 things out is kind of tough, because our program's  
8 specifically designed to weave it together, make sure  
9 that, like, one scenario's not just focusing on one  
10 thing. There might be five things from three  
11 different sections that we're looking at.

12           Q     And sticking with that kind of concept of  
13 different tools until we put the package together,  
14 what other type of tools other than firearms do they  
15 teach? Do they teach, like, Tasers or bean bag  
16 shotguns, old school, or -- or 40-millimeter  
17 launchers? What kind of things do we teach?

18           A     So we stick to the basic tools that are  
19 carried on an officer's belt. I want to clarify  
20 because there's -- often there's a misconception that  
21 we, quote, unquote, certify someone to carry things  
22 like expandable baton or pepper spray or a Taser.

23                   Certification occurs at the agency level  
24 because that is done through the -- the seller of the  
25 product. So, for example, the Taser company has a

## Examination of Scott Willadsen

1 certification program that allows them to. That has a  
2 lot to do with legal liability.

3 What we're more interested in and what we  
4 train them to do is the when of the use of the tool.  
5 And so we provide those -- those tools, whether  
6 they're training Tasers to be used in a Milo simulator  
7 or inert pepper spray that squirts out some stuff.

8 We're not worried about the certification  
9 level, because every agency is different. Some  
10 agencies carry different types of tools. We're more  
11 interested in do you understand when it's okay to use  
12 that tactically and/or legally.

13 Tactically meaning it might be the right  
14 legal tool, like I'm allowed to Taser somebody, but  
15 it's the wrong decision because of what's going on  
16 around me. And so that's really where we focus our  
17 time on that.

18 Primarily, our -- our focus is spent on  
19 Tasers, pepper spray and batons. We don't get into  
20 bean bag shotguns or 40-millimeter launchers, 'cause  
21 frankly -- quite frankly, most of the agencies in the  
22 state carry a wide variety of things.

23 And training somebody on a bean bag shotgun  
24 if they don't have one at their agency doesn't make  
25 any sense to waste that kind of time in a basic

## Examination of Scott Willadsen

1 academy.

2 Q So you focus on the tools that are most  
3 available to almost all agencies first?

4 A That's correct.

5 Q All right. So what other types of things do  
6 you teach that would be in that spectrum? Are there  
7 any type of shield training or anything like that?

8 A We've just recently started in the last year  
9 or so, some very basic ballistic shield training.  
10 That is done primarily in the firearms program,  
11 although they have that ability. In some of the  
12 scenarios, we have training shields that they can use.

13 Those shields give them a, what we would  
14 consider an intermediate barrier that an officer can  
15 bring with them if they needed to try and negotiate or  
16 maybe deal with a person who is barricaded, things  
17 like that.

18 It's a very rudimentary training, though.  
19 It's some basics of if I have to shoot my handgun  
20 while holding a shield, this is how I do it. At the  
21 scenario level, it's more along the lines of is this a  
22 good time for me to go get the shield? Do I have the  
23 opportunity to do that or not?

24 Q Sounds like a lot of this is more about  
25 decision-making rather than it's about the actual use,

## Examination of Scott Willadsen

1 implementation of the tool?

2 A It depends on the section, but that --  
3 that's correct. My section primarily deals with the  
4 decision-making side. Other sections, for example,  
5 defensive tactics, they really do deal with more of  
6 the this is how as opposed to this is when and this is  
7 why.

8 Q Then let's talk about other (indiscernible)  
9 like would you consider vehicles in this section as  
10 well, like for survival skills?

11 A We do -- there's two sections that go with  
12 vehicles. One of them is integrated -- well,  
13 actually, there's four sections that deal with  
14 vehicles. But we start with basic vehicle stops.  
15 That is not considered a survival skill section.

16 Making a traffic stop, walking up to the  
17 window, letting somebody know why you stopped them and  
18 getting their ID so you can make sure that you can  
19 write a ticket or give them a warning, that's not a  
20 survival skill.

21 However, we still have to start there. Just  
22 like giving them an introduction to law, there's more  
23 then you got to start to integrate that into what you  
24 may have seen on TV, where officers believe they're  
25 making a traffic stop and then the suspect does

## Examination of Scott Willadsen

1 something unexpected.

2 For example, runs out of the car or grabs a  
3 gun and jumps out and shoots the officer. Because of  
4 that, vehicles are integrated into the firearms  
5 program. We actually have three or four police cars  
6 installed permanently on a firearms range.

7 So the officers can move around those  
8 vehicles, they can shoot from within those vehicles,  
9 they can draw from within the vehicles. We have  
10 vehicles that are used during some defensive tactics  
11 training so they can put some of those skills into a  
12 little bit more of an active environment where they  
13 can wrestle around.

14 There's a high-risk vehicle program where  
15 they learn, for example, if I know I'm pulling  
16 somebody over and I -- I have a high reasonable  
17 suspicion that that person's armed with a weapon or is  
18 incredibly dangerous, like how we conduct that traffic  
19 stop.

20 And then we use simulated vehicles in our  
21 scenario training because again, we're doing a lot  
22 more force on force and wrestling around kind of  
23 use-of-force decision-making in our live scenarios.  
24 And they need to understand how to do that around  
25 vehicles or within vehicles.

## Examination of Scott Willadsen

1           Q     Okay.  Then let's move to -- are there  
2 anything else that's less than lethal that I'm missing  
3 in that?

4           A     No.  Those are the three main tools we teach  
5 and then you include that together with verbal  
6 commands or verbal work and then defensive tactics.  
7 That's about the end of that spectrum.

8           Q     So now let's talk about the firearms.  What  
9 types of firearms are taught and what's kind of the  
10 main mission there?

11          A     We spend about 90 percent of our time  
12 teaching the students how to use their handguns for a  
13 variety of reasons.  We do spend a very small amount  
14 of time familiarizing students with patrol rifles and  
15 shotguns; but, again, it's just a familiarization  
16 course because not every agency carries the same rifle  
17 or carries the same shotgun.

18                   So it's just a basic this is how you operate  
19 a general shotgun or a general rifle.  90 percent of  
20 the time's spent on handguns, 'cause quite frankly,  
21 that's what we know all officers are carrying.  Also  
22 we know that's what most officers have on them if they  
23 were to get into shooting or a gun fight.

24          Q     And in that firearms training program, I  
25 mean, we don't have to get into specific courses, but

## Examination of Scott Willadsen

1       what -- what's the overall goal, like training  
2       standard in there?

3             A       So they have several different qualification  
4       targets they have to shoot.  The -- the generalized  
5       just really kind of broad overview is they have to be  
6       able to put rounds on target from 25 yards all the way  
7       to about three yards.

8             We're looking for different combinations of  
9       speed, either drawing out of a holster or from when  
10       they're already outside the holster, being able to  
11       reload their gun and being able to fix malfunctions.

12            Q       And do they go through just qualification  
13       rounds or is there anything else built in to have them  
14       maybe simulate some sort of stress-based firing  
15       decisions?

16            A       I wouldn't want to call it -- I wouldn't  
17       want to call it scenario training, but if you know  
18       anything about sports, the -- the kind of the easiest  
19       way to think about this is firearms training is like  
20       batting practice or like -- or like driving practice  
21       if you're a golfer.

22            You're basically just learning how to  
23       operate the mechanical parts of the gun and deal with  
24       basic problems.  We might integrate some movement.  We  
25       might integrate some different positions or using

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1 barriers, but there's no real decision-making on a  
2 firearms range because at that time, number one, it's  
3 incredibly dangerous.

4 They're firing live guns and the last thing  
5 we want is somebody to get all stressed out, trip,  
6 fall down and shoot their partner. The other reason,  
7 quite frankly, is because it's just not a good  
8 environment for it. The ground is concrete. You got  
9 to make sure the round's going to burn.

10 You'll -- we've had ricochets break lights  
11 and break sprinkler heads and stuff, so it's got to be  
12 a lot more controlled in that environment based on the  
13 danger of the weapon itself.

14 Q Is there any type of firearms training  
15 program that teaches officers to shoot a certain  
16 location on the body? Like what's the target that  
17 they are generally aiming at?

18 A Generally speaking, we only teach to shoot  
19 three general locations, which is center mass of the  
20 body, the chest area, the -- the hip area and the  
21 head, if necessary if that's the target that's  
22 available to you. We do not have a specific program  
23 teaching them specifically to shoot at arms, legs,  
24 hands and feet.

25 Q Why not?



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1           A     It's really, really hard.  It's really hard  
2     to do, especially when you start to integrate things  
3     like stress and movement.  Just to give an example  
4     which is not from the firearms range, but from my  
5     venue.  We run a video simulator program and in one of  
6     the scenarios -- in fact, I just ran this one last  
7     week.

8                     One of the scenarios of two suspects get out  
9     of the car and they both shoot at you.  It's not a  
10    very realistic scenario, but it does induce stress and  
11    we do ask them to do certain things.  And I had a  
12    student who fired 17 rounds out of their simulated  
13    laser pistol.

14                    There's no penalty if they don't -- if they  
15    don't stop the bad guys, like the computer screen's  
16    not shooting at them.  There's no electronic shocker  
17    on them.  They don't feel anything.  The student  
18    panicked so bad that they ran across the room, bounced  
19    off the wall, fired 17 rounds and didn't hit anybody.

20                    The chances of getting an officer to  
21    actually in a real-world shooting environment in a  
22    real-world shooting, to shoot a target as small as a  
23    hand that's moving as much as a hand is virtually  
24    impossible.  The average hit ratio for most police  
25    officer gun fights is roughly 30 percent.

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1 Q Say that again. What percent?

2 A 30, three zero.

3 Q Thank you. And so the purpose of shooting  
4 for center mass is why?

5 A It's a bigger target and it doesn't move as  
6 much. The hips and the torso move the least on a  
7 human body. The hands and the feet move the most on a  
8 human body, which is why those are the two targets we  
9 shoot at the most, because we're more likely to get  
10 those -- those rounds on target.

11 And our ultimate goal is to simply stop the  
12 person from doing what we think is the bad thing. The  
13 best way to do that is to get the rounds on target.  
14 Also, the more rounds that miss, the more people that  
15 are in danger in the general area.

16 Q So is it then more likely to miss an arm or  
17 a hand versus a torso?

18 A Yes.

19 Q Same thing even for a head?

20 A Yeah. Head shots are shooting of last  
21 resort. Like, for example, if a bad guy is shooting  
22 me around a car and they stick their head out and I  
23 think they're about to come out with the shotgun, that  
24 would be an acceptable target. But, generally  
25 speaking, we don't teach to shoot to the head as a --

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1 as a rule.

2 Q Anything about body armor is taught, like if  
3 a suspect is wearing body armor?

4 A Yeah. If a suspect's wearing body armor,  
5 which is incredibly rare, that is also a time when we  
6 would shoot to the head or the hips. Most people  
7 don't wear body armor on their hips. The hips is  
8 actually a better secondary target, but we teach both,  
9 because the officers never know.

10 They don't know where that person's going to  
11 be standing or moving or things like that. Quite  
12 frankly, if we can just get them to get some rounds on  
13 target, we're pretty happy, especially once we induce  
14 that stress.

15 Q And so the final qualification, though, does  
16 that involve shooting targets, as you described, kind  
17 of at 25 yards all the way into three yards? And how  
18 many rounds are shot and what's the accuracy that's  
19 required?

20 A We did recently change this so my numbers  
21 might be slightly off. It's been 25 rounds for the  
22 longest time. I believe it's still 25 rounds, but I  
23 might be off by a round or two, because like I said,  
24 it did just change with the newest curriculum, which  
25 we're literally in the process of rolling out right

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1 now.

2 Q And is there some sort of percentage or --  
3 that's required or scoring number?

4 A Correct. It -- I want to say it's 75 or  
5 80 percent is the new -- is the new standard that have  
6 to be -- so 100 percent must be on target. 75 or 80  
7 points have to be on target, which mean it's  
8 acceptable to have some kind of on the periphery, but  
9 you have to have a majority in the middle of the  
10 target. And the target is scored specifically by each  
11 individual firearm instructor.

12 Q So out of the 25 rounds, all 25 must hit the  
13 target?

14 A They must be on target.

15 Q You get more points for better, you know,  
16 regions that are more center mass; is that right?

17 A That's correct, but we don't want to mistake  
18 performance on the firearms range for performance in a  
19 real-world setting. That's like saying somebody  
20 can -- is great in the batting cage, but they can't  
21 play pro ball. And it's the same basic thing.

22 We're basically saying their performance in  
23 the batting cage is acceptable for them to go out on  
24 the street. My venue where I do it, where I run these  
25 types of scenarios, we see much worse shooting

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1 percentages, especially on the computerized screen  
2 where I can mark every single round that's fired.

3 Q And that's a great segue into the next  
4 topic. We talked about tools. Let's talk about  
5 application of tools and which tool to use, like how  
6 you make the choice. So if -- you talked a little bit  
7 about the simulator, Milo, I think you said.

8 A Correct.

9 Q And can you kind of just explain what that  
10 is and how you use it?

11 A Sure. So it's a thing you've probably seen  
12 on TV. It's the decision-making simulator that --  
13 that a lot of law enforcement agencies use. Milo is a  
14 specific company.

15 There are several different -- I want to say  
16 there's four major companies out there. Milo's just  
17 the one that the state of Oregon is using at this  
18 time.

19 Every single simulator operates the same  
20 basic way, though, which is that it projects a  
21 scenario on the screen that the officer then have to  
22 interact with, both verbally and through any types of  
23 tools on their belt.

24 There's a instructor that runs a computer  
25 that is allowed to make different choices in those

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1 scenarios based on the performance of the student  
2 going through the scenario.

3 So the only thing the scenario training is  
4 really not good for is obviously defensive tactics,  
5 'cause we can't just run up and grab a movie screen.  
6 It doesn't do anything.

7 So these scenarios are specifically designed  
8 around either verbal communication or the use of some  
9 sort of tool, like pepper spray, Taser or firearm.

10 Q Okay. And is there a cover or a simulated  
11 cover inside there that they can somewhat move to  
12 or --

13 A There used to be. We used to have some  
14 cover barrels in there. We've recently upgraded to a  
15 new system that is a three-screen wrap-around, so they  
16 get 180-degrees of coverage.

17 We can't have barrels in there because quite  
18 frankly, if they hit the barrel and it falls down,  
19 it's -- it will damage the screens and it takes a long  
20 time to fix. So --

21 Q So then how --

22 A -- they go (indiscernible) there for that.

23 Q Yep. Sorry to interrupt you there. How's  
24 an average -- give me, like, an idea of how an average  
25 scenario runs out, like what does the student come in

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1 and do and what does the instructor do in order to  
2 kind of change the scenario?

3 A So, first of all, I'd say there is no  
4 average scenario. We have a spectrum of scenarios  
5 covering things from verbal deescalation all the way  
6 to deadly force. And we want to give them that  
7 spectrum, because not every scenario is a -- is a bad  
8 guy trying to shoot you with a gun. We know that.

9 So some of them are just physical scenarios  
10 where maybe pepper spray or taser's acceptable. Some  
11 of them are those deescalation scenarios. But I'll  
12 give you an example of a scenario where there's a  
13 mentally ill person or a person with behavioral health  
14 issues in a park threatening to kill himself with a  
15 knife.

16 What we are actually looking for in that  
17 scenario is for the student to go in, use cover  
18 correctly or at least tell us they've used cover  
19 correctly.

20 We're looking for them to attempt to  
21 verbally deescalate with the suspect, still be ready  
22 in case something bad happens, so we want them to draw  
23 some sort of weapon, but we don't want them to point  
24 it directly at them.

25 And then we're looking for that verbal

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1       deescalation. We're looking for certain things like  
2       does the officer attempt to empathize with him? Does  
3       the officer give them their first name or ask them  
4       their name or offer them some sort of resources?

5               And another thing we're looking for is are  
6       they calling for the right people on the radio? For  
7       example, how soon should we get an ambulance rolling?  
8       Maybe we should call some sort of crisis intervention  
9       person or Cahoots, if we're in the Eugene area or  
10      something like that that could maybe do a better job  
11      than the officer can at the time.

12             Those are the things we're looking for. In  
13      that particular scenario, there are seven branches  
14      that the officer or the -- I'm sorry, the instructor  
15      running the scenario can select from based on what the  
16      officer does. The suspect can agree and drop the  
17      knife.

18             They can get angry and attack the officer  
19      with the knife. They can actually drop the knife and  
20      attack the officer with their fists. They can  
21      actually try to cut their own throat.

22             Or you can, if you called for a cover unit,  
23      we can actually give you on screen, another officer so  
24      the officer can, what we hope, is realize, oh, they've  
25      got a firearm. I'm going to switch to my Taser or a



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1       bean bag shotgun if we had one, but we don't. Or --  
2       or pepper spray, or something like that.

3                So those are all the things that we're  
4       looking for them to do and that's one of our more  
5       complex scenarios. But what we want is a scenario and  
6       the students in that scenario is to go to the verbal  
7       deescalation process and have that successful outcome.

8                We want to show them if you do these things,  
9       you're more likely to get compliance out of your  
10      person. That's another scenario, though. Some of the  
11      scenarios, 'cause we also know this it true in the  
12      real world.

13              The officers could say all the right things  
14      and do all the right things and the scenario will  
15      still unfold poorly and they'll still have to respond  
16      with some sort of force.

17              Q     So it sounds like some of the things that  
18      you're seeking is just having a scenario end with no  
19      force other than your voice being used?

20              A     Again, it depends on the scenario, because  
21      we do know that and we've seen it in the real world  
22      where officers show up, they say the right words, they  
23      call the right people, they do the right things and  
24      the suspects just will not comply.

25              They will attack until either the officer

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1 shoots them or fights them or gets them on the ground.  
2 Sometimes it works. Sometimes it doesn't.

3 We do know that they are more likely to have  
4 a positive outcome if they do certain things, so we're  
5 trying to encourage that. We also need them to be  
6 prepared for when those things don't work.

7 Q And so can you describe some -- another  
8 scenario where a lethal use of force is employed?

9 A Well, we have some that are -- that are  
10 really simple and quite frankly, the lethal use of  
11 force is not the important part of the scenario.

12 It's more about after action, whether they  
13 (indiscernible) the -- the officer can apply a  
14 tourniquet in a rapid amount of time to themselves or  
15 to a partner, whether they can call on the radio,  
16 whether they can reload the simulated gun.

17 But you're probably asking about one where  
18 there's a choice available and it more likely unfolds  
19 into a -- a negative outcome. It's probably the same  
20 scenario, 'cause, quite frankly, this is one where the  
21 students are all over the map, based on their previous  
22 experience, whether either with an agency or military  
23 or something like that.

24 This particular scenario that I described,  
25 we probably get shootings 50 percent of the time,

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1       either -- it's either poor performance of the student  
2       or -- yeah, it's always due to poor performance of the  
3       student.

4                    I want to say every once in a while, we  
5       forgot to click the right button in the right amount  
6       of time. It's on a time, so if you don't click the  
7       button right on that time, the officer might say the  
8       right thing, you're like, that's a success. I'm too  
9       late. But generally, it's because the officer  
10      performed poorly.

11            Q     Is it also could be that the instructor  
12      chooses that even if the officer's making the right  
13      choices to have the suspects or subjects still move on  
14      the path of aggression?

15            A     We do have scenarios like that. That's not  
16      this one. One of the scenarios we do that with is a  
17      vehicle stop scenario where they're dealing with what  
18      we would call a rolling domestic, meaning a man and a  
19      woman are having a loud argument and a physical fight  
20      in the car as opposed to in their home.

21                    The officers respond to the scene. The  
22      woman in this particular scenario jumps out, screams  
23      about the things that the man has done and runs off.  
24      And the officer then has to try to verbally engage  
25      with the -- the suspect.

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1           In this particular scenario, we generally  
2           have the -- the officers shoot, but again, depends on  
3           the performance of the officer, it depends on what  
4           they say and whether or not they're taking appropriate  
5           cover, when it was available.

6           That was before the new system. And in that  
7           one, that really was based on the -- the instructor  
8           would choose based on the officer's performance  
9           whether or not to have a suspect in the car physically  
10          attack or whether or not they would cooperate. And  
11          that's our Taser scenario specifically.

12          Q       So a lot of these scenarios are driven by  
13          the instructor based on the student's performance, but  
14          the kind of goal is is for -- for the student to make  
15          a good choice, a better choice? Like how -- what's  
16          the whole process? What's the outcome that you're  
17          expecting from some of these?

18          A       What we're looking for them to do is utilize  
19          the things that they learn in the classroom and in  
20          other training venues, whether it's how to get their  
21          Taser out and how they get the gun out and use it.  
22          We're looking for them to do those things in the  
23          scenario.

24          And this is an opportunity for trial and  
25          error. That's really the way human beings learn best

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1 is trial and error. And so in the early part of the  
2 academy, we give them an opportunity to try it and  
3 then we'll pause them at certain strategic points and  
4 give them some feedback, see if we can't kind of kick  
5 start their brain.

6 As we get later in the academy, we will let  
7 them what we call fail forward, which is we will let  
8 them continue to try things until they get the outcome  
9 they get and then we'll discuss why the outcome  
10 occurred the way it occurred.

11 The one we're talking about right now is one  
12 where we would pause it at strategic points and ask  
13 questions like, let's talk about the size of the  
14 person that you're interacting with. Let's talk about  
15 your size.

16 How close are you? Do you feel comfortable  
17 if you have to go hands-on right now? And they're  
18 like, not really. So is there something that could  
19 help you with that? Well, maybe I should get my Taser  
20 out. Okay. Let's try that. And then the officer --  
21 the instructor will continue the scenario and let the  
22 officer continue to try how to fix that.

23 Q And on this simulator, does it help with any  
24 type of teaching about reactions? I know you talked  
25 about why someone should take something out of a

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1 holster. Does that have something to do with it,  
2 how -- how quickly an officer can react to suspect  
3 actions?

4 A Yes. So we, in addition to running  
5 scenarios on the simulator, we also run just some  
6 basic shooting programs where targets pop up.

7 And the nice thing about that is we're -- it  
8 gives us an opportunity to let the officers draw  
9 their -- their different tools, whether it's pepper  
10 spray or Taser or gun.

11 And they can see how long it takes them to  
12 use it out of the holster versus it was already in  
13 their hand or if I have the wrong tool in my hand and  
14 I have to switch. We can see those time frames.

15 And we do that quite a bit while they're  
16 there, so we know on average how long it takes the  
17 average officer, for example, to draw a gun out of  
18 their holster and fire it at a target.

19 And that's in a no-stress, like the target's  
20 just going to pop up. We then give them scenarios  
21 that day and we know that one of them is going to  
22 become a deadly force scenario which maybe it'll be a  
23 total surprise.

24 I'll use the example I gave earlier of the  
25 two gentlemen jump out of the car, pull guns on the

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1 officer and they have to respond. They think they're  
2 just doing a traffic stop. We can then look at --  
3 'cause we can go frame by frame and look at how long  
4 it actually took the officer to draw and fire their  
5 guns.

6 Because the reason that's important is  
7 we're, in addition to teach them how to do things,  
8 we're trying to teach them what are some of the clues  
9 to look for, what are some of the things they have to  
10 pay attention to about decision making or about the  
11 use of their tool.

12 If they know it takes them on average two  
13 seconds to draw and fire and you're dealing with a  
14 person you know has got a gun, that means they could  
15 shoot at you a lot faster than you could shoot at  
16 them.

17 Q Why is that?

18 A Well, in essence, it's called action versus  
19 reaction. We call it response time. The reason is  
20 because if the suspect's already got a gun in their  
21 hand and they've made a decision, that process is all  
22 invisible to me as the officer, meaning the first clue  
23 that I have that they're going to shoot at me is  
24 generally that they're shooting at me.

25 If it takes an officer two seconds from that

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1 point to draw their gun and fire, that means on  
2 average eight rounds are coming in the officer's  
3 direction before they can respond and try and stop  
4 them from -- from either killing me or killing my  
5 partners or somebody else.

6 Q So does that have something to do with what  
7 you were talking about just a little bit ago about  
8 getting a tool, whether it be a weapon or a Taser, out  
9 of the holster and pointing it somewhere else?

10 A That's correct. We know that if the officer  
11 has their gun in their hand, it reduces their response  
12 time by roughly -- roughly 45 percent. Generally it  
13 goes from roughly a two-second response time to about  
14 1.2 second response time on average.

15 Some officers are a little faster, some  
16 officers are little slower, but that's -- that's a  
17 pretty good ballpark.

18 Q So you're saying the point in time that it  
19 takes from a weapon pointed down towards the ground to  
20 bring up to fire is around a second, a  
21 second-and-a-half versus a couple of seconds coming  
22 out of the holster?

23 A That's correct.

24 Q So also when we build into that kind of when  
25 you're talking about that training of reaction time,



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1     you said something like the suspect makes a decision  
2     in their mind and then the officer still has to think  
3     about it. Like how does that work?

4           A     So the way human beings make decisions is  
5     visual information has to come into my eyes or audible  
6     information has to come into my ears. That has to be  
7     picked up by the brain and interpreted somehow. Like  
8     you don't know that somebody's going to run a stop  
9     sign until they've run a stop sign.

10                  What that means is I have to actually see it  
11     happen before I can decide to apply the brakes on a  
12     car. And I'm just using this as an example. That  
13     process takes a moment because you have to then  
14     realize, number one, oh, man, that person just ran a  
15     stop sign.

16                  And then, number two, make the decision, I  
17     need to stop my car. And then three, carry out that  
18     decision of moving your foot off the gas and onto the  
19     brake.

20                  Those are the three basic things that  
21     happens with most human response time decision making,  
22     whether it's a baseball player trying to hit a  
23     baseball or it's a person driving a car and making a  
24     sudden decision to stop or a police officer going, oh,  
25     no, I'm about to get in a shooting and I don't want to

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1 get shot.

2           They have to see the thing happen, recognize  
3 what it is, make the decision I need my gun and then  
4 actually, mechanically go through the process of  
5 reaching down, unlocking the holster, drawing it out,  
6 pointing it at the suspect, getting their sights lined  
7 up and then pulling the trigger. Although side note,  
8 sometimes they don't line their sights up very well.

9           Q     But officers are at least in that process,  
10 right, like you said earlier, to check their  
11 surroundings as opposed to a person maybe who has less  
12 training or a suspect who has a different state of  
13 mind where they're just firing in a direction that has  
14 an officer at least trying to get a target.

15           A     The officer is taught that they have to be  
16 aware of their back stop. Obviously, every situation  
17 is different.

18                   If I'm in downtown Portland and a person  
19 suddenly jumps out of a car and starts shooting at me,  
20 I may not have the best backdrop in the world but at  
21 the same time, you don't expect the officers to go,  
22 well, my backdrop sucks. I guess I'm just going to  
23 stand here and take it.

24                   But what we really want officers to be doing  
25 is constantly thinking about that when they show up,

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1 so when we show up at a scene or when they show up to  
2 a scenario, they should be looking at the environment  
3 and being like, do I like where I'm standing right  
4 now? Do I like what is around us?

5 And that doesn't have to just be with  
6 shootings. That could literally just be I'd much  
7 rather have a discussion with this person without a  
8 crowd of people around. So the way we say it is  
9 contact drives tactics.

10 It depends on why I think I'm there and  
11 what's going on is going to drive what those officers  
12 are looking at and thinking about doing to the -- to  
13 the environment around them.

14 Q And so other than the video simulations, are  
15 there other type of scenario-based training then?

16 A We have three other ones, although two are  
17 really the ones we're talking about. One thing that  
18 we do is called frag drills. That stands for a  
19 fragment of a drill. Those are super short,  
20 mini-scenarios.

21 That's not really what we're talking about.  
22 Those are more designed for things like verbal  
23 interaction or dealing with a person who's upset or  
24 making a decision to handcuff. And that's usually  
25 where those scenarios end. What we're probably more

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1 looking at are what we would call full scenarios.

2 Those occur in both the confrontational  
3 simulation program. That's the other half of the  
4 use-of-force program that I run. Or scenarios in what  
5 we call our village. They're different because the  
6 scenarios in the village, the village looks far more  
7 realistic and it has actual role-players.

8 You're playing a role. And those ones are  
9 far more complicated scenarios. So, for example, let  
10 me start with a -- an officer driving around in a car.  
11 They're literally just told, like, get in your patrol  
12 car, drive around. Something's going to happen.

13 They'll get a call on the radio. They'll  
14 have to respond. They'll have to talk to a victim of  
15 a crime. They'll have to talk to another victim, try  
16 and find the suspect and maybe conduct an  
17 investigation and maybe something use-of-force happens  
18 in there.

19 In my environment, we -- we kind of  
20 eliminate the investigation part and we get down to  
21 you have to interact with this person. Something is  
22 going to happen. You have to respond appropriately.

23 We set up -- we have five different training  
24 days. We have some that are traffic stops, for  
25 example, where we say, you pull this person over for

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1 running a stop sign.

2 Go conduct a traffic stop. They'll then  
3 discover the person has a warrant and then they have  
4 to make a decision about how am I going to try and  
5 arrest them. And we're looking at things like do they  
6 call for cover or do they try to do it by themselves.

7 The role-player in that scenario can do any  
8 number of four or five things. They can simply  
9 verbally say, I don't want to, all the way up to jump  
10 out of the car with a gun and shoot the officer. We  
11 do this because we have to really focus on the  
12 use-of-force side.

13 The village is really focusing more on the  
14 procedural side of this is how we conduct an  
15 investigation. This is how we interact with people.

16 Q Okay. So it's more like a average,  
17 real-world scenario in the village and then yours is  
18 focused on decision making on application of  
19 use-of-force. Does that sound fair?

20 A Correct. That is correct.

21 Q And you said another thing called  
22 Simunitions. What's that?

23 A So we use what are called Simunition guns.  
24 The tools that we use in live scenarios -- oh, go  
25 ahead.

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1           A GRAND JUROR: Say that word again or spell  
2 it. What did you say?

3           THE WITNESS: Simunition. It's like  
4 simulation and munition together.

5           A GRAND JUROR: Okay. Thank you.

6           THE WITNESS: So that is a brand name of a  
7 company that sells a product that several different  
8 company -- just like Milo's a brand name for the  
9 computer simulator, Simunition is a brand name. It's  
10 kind of like Band-Aid or Kleenex.

11           It's just the common name that everybody  
12 uses. Essentially what these are is they're simulated  
13 weapons that are modified to only fire training  
14 rounds. They will not load and fire real bullets, but  
15 they do operate just like a real gun.

16           They're essentially a -- I'll just use a  
17 Glock, which is what most police officers carry. It's  
18 been modified so it won't fire real bullets, but it  
19 will fire these simulated projectiles. The purpose of  
20 those is two-fold.

21           Number one, it gives them a chance to  
22 actually operate their gun under stress. Number two,  
23 there's a pain penalty for both the suspect and the  
24 officer. The suspect has a gun and the officer has a  
25 gun. There is actual feedback for bad performance.

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1 They'll know if they get shot, because they -- they  
2 sting a lot.

3 One of the other things that we use, another  
4 simulated weapon is called a Shockknife. Again, it's a  
5 brand name. And that is a replica knife that actually  
6 has electronic electrodes that run along the blade.  
7 And it's kind of like a Taser, but looks like a knife.  
8 And it's very, very stingy and the students hate it.

9 Those are the types of tools that we use in  
10 confrontational simulation training because just  
11 jumping out with plastic guns saying bang, bang, I got  
12 you, number one, we don't actually know where those  
13 rounds went. And, number two, we need them to  
14 actually feel stress in the environment.

15 I need the officer to be a little concerned  
16 that if I perform badly, I'm going to pay for it in  
17 some way, 'cause in the real world, we pay for it in a  
18 really bad way. In this world, we pay for it in a not  
19 as bad way, but still creates some level of stress.

20 BY MR. MILLER:

21 Q And so how does that work in, like, an  
22 average scenario, so to speak?

23 A One of the things we do is we make sure that  
24 the students are loaded up with all the gear they  
25 need, whether it's an inert can of pepper spray that

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1 just sprays out essentially mint water instead of  
2 pepper spray. Simunition guns, things like that.

3 We have training batons that expand and they  
4 sting when you get hit, but they don't actually break  
5 anything. We give them all those tools because we  
6 don't want them to know from -- just like the real  
7 world, you don't know which call is going to unfold  
8 poorly. You don't know.

9 And so we give them the tools every single  
10 time. I'll use the traffic stop scenario. We would  
11 tell them, you pull this car over for a stop, you  
12 know, running a stop sign. And we'll just start them  
13 in their car and we'll go, okay, you pull them over.  
14 You've already called dispatch.

15 Let's go ahead and begin. And we allow them  
16 to go through the entire stop until they have to make  
17 a decision about what to do.

18 Q And in that or another scenario, is it  
19 something where they're also taught about things  
20 outside of the person, like cover or other types of  
21 mechanisms that may help them kind of judge real-world  
22 scenarios?

23 A Yes. So in this particular scenario, the  
24 car that would be available to them would be the two  
25 vehicles. Let's just jump to like the worst-case



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1 scenario where they would have to use cover, which is,  
2 they go to make the traffic stop, they walk up and  
3 before they can finish saying the words, "Good  
4 afternoon, sir, I've pulled you over for this," a gun  
5 comes out the window and shoots at them.

6 We see a very typical human response out of  
7 that. It's the same kind of responses we see in  
8 people in videos in the real world. The hands come  
9 up, they jump in the air, they yell. The officer  
10 turns around and runs.

11 And then they have to try to figure out how  
12 to use their car or the suspect's car as a cover  
13 position to try and stop bullets from hitting them  
14 while they get their gun out so they can try to stop  
15 that -- that person from quote, unquote shooting them  
16 or killing them in this scenario.

17 Q So yet another way that the academy can  
18 bring officers closer to real world missions, so to  
19 speak?

20 A This is -- this is about as close as we can  
21 get as to actual stress of an actual encounter.  
22 There's even a lot of stress when there's just a  
23 physical scenario, because they don't know what the --  
24 what the quote, unquote suspect is going to do.

25 And when a suspect just reaches out and --

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1 and they don't even have to do it very hard or punches  
2 you in the helmet a little bit, it stuns the officers.  
3 And there's actually that moment of, did that just  
4 happen to me and then they have to physically respond  
5 and get in a physical fight (indiscernible).

6 It's the best way. It's the only way to  
7 really create anything close to the real stress that a  
8 police officer will engage in.

9 Q Are there times when you discuss, like,  
10 shoot or choosing not to shoot scenario, just like  
11 they pull out some other object rather than a firearm?

12 A At least a quarter of our scenarios have the  
13 ability for the officer to either make a better  
14 decision or deescalate a deadly force encounter.  
15 Generally these are going to be with some sort of  
16 behavioral health scenario where we're looking for  
17 things like the use of cover, negotiation, calling  
18 those proper resources, things like that.

19 We do have a couple of scenarios where the  
20 officers are forced to make decisions about whether or  
21 not a suspect has a weapon on them or a cell phone on  
22 them. In those scenarios, that's generally aided by  
23 turning all the lights off and making it as dark as  
24 possible and they have to operate a flashlight.

25 In addition to that, we also have to

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1       introduce why is the officer there, context to drive  
2       their performance.  If we tell them, you're  
3       investigating a possible armed burglar and the person  
4       is acting, we'll just say, erratic and aggressive and  
5       not cooperating with the officer's commands and they  
6       grab something in their pocket and yank it out, we'll  
7       often see the person who pulls that cell phone out  
8       gets shot.

9                 If the officer is told none of those things  
10       and they're just told, you're responding to a report  
11       of a trespasser on a 7-Eleven parking lot, they will  
12       often wait a very long time before making a decision  
13       to use deadly force or even drawing a gun because they  
14       have no information that this person's armed at all,  
15       no suspicion about that, so when the gun comes out,  
16       it's a true surprise.

17                So it really depends on not only the  
18       officer's performance or the lighting conditions or  
19       the training, but also, why are they there?  Context  
20       drives all those decisions.

21                Q       So is there a distance factor too, for as  
22       far -- I mean, do you have someone 30 feet away with  
23       someone with a cell phone or do you have someone,  
24       like, up close?  Like what's the kind of the  
25       relationship there?

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1           A       We only run a couple scenarios where the  
2       suspect draws something out of the pocket. And those  
3       are usually from -- the officer kind of self-selects  
4       their range at that point, 'cause we start them at  
5       distance, 'cause they have respond to the call.

6                        They self-select to not get too close 'cause  
7       of the nature of that call. So they'll generally try  
8       and stay anywhere from 15 to 25 feet away. And  
9       they're always being -- trying to find cover to try  
10      and hide behind or use as a barrier while they try to  
11      verbally interact with that person.

12                      The scenarios where they're up close and  
13      something comes out of a pocket, those ones, usually,  
14      it's a knife or a gun or maybe it's just empty hands  
15      and they're really, really close.

16                      And those ones, again, because of the nature  
17      of the call, they've self-selected that I can be close  
18      and just have a general conversation with this person.  
19      You see very different responses.

20                      One response -- and this is due to some of  
21      our training -- when they're close and they do  
22      something, they make a furtive movement, draw their  
23      hands out, if they're within arm's reach, we're  
24      actually teaching them to try and engage the limb, to  
25      grab that arm and control the weapon if there is one

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1 or to engage the limb so they can control that person,  
2 turn them away from them.

3 Maybe that's before a take-down. Even if a  
4 weapon is produced, we're actually trying to teach  
5 that. But again, it's based on how far they are when  
6 they -- when they have that thing happen.

7 Q So we've been talking a lot about all these  
8 different methods of training at the academy. Is  
9 there, like, a set of factors that you could -- you  
10 would say is used in an average use-of-force decision?  
11 Like, what are things that you teach officers to  
12 consider before applying force?

13 A So like I said earlier, our program's built  
14 on both the state model and federal, the federal Ninth  
15 Circuit law or the federal law. There's a case that  
16 came out in 1989 called Graham v. Connor. That's the  
17 standard for use-of-force decision-making by police  
18 officers.

19 And, in that case, they've laid out the  
20 series of factors that we teach. More factors have  
21 been added on based on other case law that's come up.  
22 But the basic factors we -- we talk about, which came  
23 to us from the courts, is what's the severity of the  
24 crime or what we would also call the nature of  
25 the call.

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1           Why am I there? Obviously, the officers are  
2 going to respond very, very differently if they're  
3 responding to a school shooting than they are if  
4 they're responding to that trespass from the parking  
5 lot of 7-Eleven, based on the severity of the crime  
6 alone.

7           That's just one of the factors. Another  
8 factor and what they term the most important factor is  
9 whether or not the suspect is an immediate threat to  
10 the officer or others.

11           The standard model -- this is not from the  
12 courts. This is just from law enforcement training  
13 across the country -- is there's three basic things  
14 we're looking at. Perceived intent of the suspect.

15           And the reason we call it perceived intent  
16 is because we don't -- we're not mind readers and we  
17 don't see the future, so I never know anybody's actual  
18 intent, but what does it look like to me as a normal  
19 person, what does it look like they're trying to do?  
20 What do I perceive reasonably as their intent?

21           The next one is what is the suspect's  
22 ability? So either their physical ability, they're  
23 large and strong or they're -- they're small and weak.  
24 Maybe they're -- maybe they're on crutches. Maybe  
25 they're a football player (indiscernible) in there or

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1 ability could also mean are they armed with a weapon?

2 Obviously, having a gun changes the ability  
3 of the person, because it doesn't matter how big or  
4 small they are or how strong or weak they are. If  
5 they have a gun, their ability to cause deadly -- to  
6 use deadly force or cause serious physical injury to  
7 someone goes exponentially up because of the tool  
8 alone.

9 And the last one is opportunity, meaning am  
10 I within range of them? If it's a physical threat and  
11 I stay 25 feet away, their ability to hurt me is  
12 pretty low.

13 They'd have to sprint at me to get to me.  
14 If they were -- if they have a gun, their ability to  
15 hurt me or hurt someone else goes way up, 'cause even  
16 though I'm 25, 30 feet away, that gun's going to go  
17 much, much farther than 25 or 30 feet and still be  
18 lethal. So those are the three main things we talk  
19 about with immediate threat.

20 Q So if there are ways officers can respond to  
21 those in order to reduce or somewhat mitigate those  
22 threats that the person poses?

23 A Again, context drives tactics, so if we're  
24 dealing with a deadly threat, we're starting at the  
25 high end of the spectrum. If I know I'm responding to

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1 a person who's armed with a weapon or that's what I  
2 was told that's what I reasonably believe, we are  
3 going to teach them to have their gun out when they  
4 respond so they can respond somewhat faster, roughly  
5 twice as fast, maybe, give or take.

6 Q But could that also escalate the situation  
7 by showing force on the officer's side or what -- what  
8 would the --

9 A It could, but that's why context is  
10 important. One of the things we teach are different  
11 ready positions.

12 The reason for that is obviously -- I'm just  
13 going to use my hands, but obviously pointing a gun  
14 directly at somebody is going to have a different  
15 response out of most people than having my gun down  
16 here pointed at the ground versus having it in my  
17 holster or something like that.

18 And so you teach different ready positions  
19 based on the context of what they're going to.  
20 Generally speaking --

21 Q Is there some verbal context there, too,  
22 like something the officer can also communicate,  
23 right, as far as to the other person of like why their  
24 weapon's out or what they're doing or engaging with  
25 the subject?



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1           A     Yeah. We would teach them to say different  
2 things based on what's going on. The other thing I  
3 was going to mention before (indiscernible) verbals is  
4 obviously if they have cover available, we want them  
5 to use that, too.

6                     So if they're responding to a person on the  
7 high end, a person who's armed with a gun, the first  
8 things we want them to do is have their gun out and  
9 ready, but at a low ready position for a wide variety  
10 of reasons, which I could get into.

11                    And then find something that I can put  
12 between me and the suspect. And then that will allow  
13 me -- those two things are important because I can't  
14 start verbal communication or deescalation unless I  
15 know everything's safe.

16                    Words are third in this particular case  
17 because, you know, if I have to stand out in the open  
18 and I don't have my gun out and I'm in extreme danger,  
19 negotiation is the wrong tactic at that time.

20                    Again, it's all about context. If that  
21 person was armed with a knife instead of a gun and  
22 they're 25 feet away, I can respond very differently.  
23 I don't need -- I don't need to have a gun out or --  
24 and definitely not pointed at them. And maybe my  
25 cover could be near me as opposed to actually in front

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1 of me. And then I could start to deescalate a lot  
2 sooner.

3 Q Sounds like you have a distance factor in  
4 there, too, like how far you are from the subject. Is  
5 that something that comes into play as well?

6 A Always, because distance has to do with  
7 opportunity. But again, it always depends on the  
8 tool. If they're armed with a gun, my distance is  
9 going to have to be significant, like very, very long  
10 before I actually feel like I'm truly safe.

11 Obviously depends on the type of gun, too.  
12 If this is -- you know, I'm in eastern Oregon and I'm  
13 dealing with a rancher who's armed with a rifle, the  
14 distance that I'm going to want is going to be  
15 hundreds of yards more than I would be if I'm dealing  
16 with a -- a person at a school with a five-shot  
17 revolver, you know, and the distances are different,  
18 not necessarily because of the range of the bullet,  
19 because of the accuracy of the shooter.

20 Q Does it also matter about what tools you  
21 have, like a pistol versus a rifle?

22 A Yeah. If I have a choice and I know I'm  
23 responding to somebody with a gun, I prefer to have a  
24 rifle.

25 Q Why's that?

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1           A     Because then I can stay farther away, which  
2 makes me safer, especially if they're armed with a  
3 handgun. And if I absolutely do have to take the  
4 shot, number one, I'm going to be more accurate, which  
5 means less errant rounds flying through the air that  
6 can hit people that I don't want to shoot.

7                     But, also, if I absolutely have to stop them  
8 and I don't have a choice, then I can stop them  
9 faster. And that means less rounds coming my way and  
10 hitting me, my partners or other people.

11           Q     Is that kind of similar, though, to like a  
12 pistol as far as like should you just have your rifle,  
13 like, hanging from a sling or should you have it in  
14 your hands, like if you're dealing with a person who  
15 you don't see currently armed, but is reported to be  
16 armed? What -- what's his appropriate response there?

17           A     Again, it depends on why I was told I was  
18 going there. In all honesty, if I'm told I'm  
19 responding to a location with a person with a gun, I'm  
20 going to have the gun in my hands, because unslinging  
21 a rifle, depending on how I sling it, too, by the way,  
22 every sling is a little bit different.

23                     And the way the officer might do it. So  
24 just to use a little bit of my military experience,  
25 back in the old days, if I slung my -- my -- my M16

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1 across my back, to swing that all the way around from  
2 my back to my front and getting it into a position I  
3 could use it would actually take longer than for me  
4 getting my gun out of my holster.

5 If I have a different type of sling that I  
6 can have in front, I might be able to operate a little  
7 quicker, especially if I have my hands on it and I'm  
8 ready to go, then I can bring that gun up into the  
9 proper position. Equipment is going to drive those in  
10 addition to the, you know, the context of the call.

11 Q So it sounded like when you were talking  
12 about in context of the scenario, the very first thing  
13 is to make sure that the officer feels safe before  
14 they can even engage with the subject?

15 A That's correct. It -- the problem is if the  
16 officer is in extreme danger, he can't effectively  
17 negotiate. We got to make sure the officer's safe  
18 first. But it's not just about the officer. We got  
19 to make sure the other people in the area are safe  
20 first.

21 Again, context is always going to drive  
22 these decisions. If I'm responding to a suicidal  
23 person locked in their bathroom with a butcher knife,  
24 I feel pretty safe as long as I don't go inside the  
25 house.

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1                   If I can get a phone call into there to  
2 them, I can negotiate very effectively due to the  
3 safety of not just myself, but other people in the  
4 home.

5                   If I can assure myself that there's no one  
6 else in the house, that's -- that's a great situation  
7 for an officer to deescalate, because not only am I  
8 not in danger, but nobody else is in danger.

9                   But -- and I'm always going to use, you  
10 know, kind of -- I'm going to go from two ends of the  
11 spectrum just to give you the -- the boundaries. The  
12 worst-case scenario is you've got a person running  
13 around like a mall, a mall's a (indiscernible) thing,  
14 right?

15                   If they're running around a mall with a gun,  
16 I'm not the only person in danger here. I've got to  
17 make sure that everybody else is in danger and before  
18 I negotiate, I've got to make sure that this person  
19 doesn't start shooting, you know, shoppers at the Gap  
20 before, you know, I'm like, hey, I'd really like you  
21 to stop that.

22                   So, you know, it all depends on the context  
23 of the call. Why am I there? What's my environment?  
24 What do I believe is happening when I show up?

25                   Q     So it sounds like you're trying to establish

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1       some sort of control of the scene before you can  
2       effectively negotiate?

3             A     Definitely.

4             Q     Or deescalate, so to speak?

5             A     Yes.

6             Q     And what, if any, does mental health or  
7       intoxication play in that?  Is there any difference in  
8       the strategy?

9             A     Yes and no.  So the model we use, we've --  
10       we've -- we teach is it depends on -- again, depends  
11       on level of danger.  If someone is intoxicated or  
12       mentally ill, let's just go back to that person locked  
13       in their own bathroom.

14             We're going to -- we're going to take a long  
15       time before we finally decide to go in there and use  
16       physical force.  In fact, we may never go in and use  
17       physical force.  And we may use different negotiation  
18       tactics if I determine this person sounds like they  
19       may have some behavioral health challenges going on.

20             Based on the training that we give them at  
21       the academy and things they may have learned at their  
22       agency and through trial experience, they'll negotiate  
23       differently or they'll -- they'll try to deescalate  
24       situations differently.

25             But if people are in danger, and this has

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1       been -- this has been backed up legally.  If other  
2       human beings are in danger, the fact that they're  
3       mentally ill is a lot less relevant.  If I'm afraid  
4       that they're going to kill someone in the park,  
5       doesn't matter that they're homicidal versus having a  
6       behavioral health issue.

7                   Somebody in the park might die.  In which  
8       case, behavioral health issues are a factor, but only  
9       once we can establish the safety of the area and the  
10      fact that I'm safe enough to do deescalation or call  
11      the right people for deescalation.

12           Q       So it's something to consider, but it's in  
13      that safety spectrum that you're talking about.  Where  
14      you start from a place that's unsafe, you have to get  
15      it to safe before you can work on that issue.  Is that  
16      (indiscernible)?

17           A       That's correct.  If this person seems like  
18      their an immediate threat or they're going to be an  
19      immediate threat to others, we have to move into  
20      use-of-force issues before we move into deescalation  
21      issues.

22           Q       Okay.  And when you're working through that  
23      type of scenario, is -- are officers trained to use  
24      other tools like let's obviously talk.

25                   How about just backing away and walking away

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1 from a situation or just getting more officers and  
2 just waiting them out? Like what's -- what's kind  
3 of -- a case of contextual scenarios there when that  
4 would be appropriate versus not appropriate.

5 A It's pretty much the same context I've been  
6 giving you. Depends on the safety of -- of the area  
7 or the people in the area.

8 We definitely -- but one of the first things  
9 we started teaching many, many years ago. And you  
10 still see in (indiscernible) although not so much in  
11 Oregon is if I get a report of a suicidal person in a  
12 house and I can establish that the weapon they have is  
13 not particularly -- obviously, if it's a bomb, we have  
14 a completely different issue, but that's super, super  
15 rare.

16 So generally what we're talking about is  
17 like handguns and knives. If I can establish there's  
18 no one else in that house, there's no one other  
19 weapons in the house that I got to worry about, and  
20 that for the most part, we can secure the area, we --  
21 we always teach for them to wait. Call the proper  
22 people.

23 Do not engage that person physically, right?  
24 'Cause what we don't want to do is have an officer  
25 say, I will solve this problem, kick down the bathroom



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1 door, see them with a knife and to save their lives,  
2 stop them from killing themselves by killing them.

3 They doesn't make any sense. So in a  
4 situation like that, based on that scenario or  
5 context, we always teach for them to wait, 'cause it  
6 makes sense in that -- in that situation.

7 Again, just going back to the park or a mall  
8 or a school, in those situations, we don't have the  
9 opportunity to wait, because while I'm standing out  
10 there waiting, I may have somebody running around the  
11 school killing children.

12 While I'm talking about, like maybe we  
13 should call the negotiators. We have to stop that  
14 person from doing bad things. The unfortunate part is  
15 when they haven't done a bad thing yet and I'm like, I  
16 think they might do a bad thing, that's when second  
17 guessing comes into play.

18 And that's why we teach the basic legal  
19 standard of reasonableness, which is what did you  
20 reasonably believe was going to happen? What were you  
21 worried was going to happen? Was that a reasonable  
22 concern versus a possible? We don't teach the  
23 possible. We teach them what's likely or reasonable.

24 Q So if you think about it, if you're  
25 responding to a person in a parking lot who may have a

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1        weapon and you don't see a weapon, does that give you  
2        a little bit more time to make a decision?

3            A        Yeah. We would want them -- in that case,  
4        they still may have their weapon out, but definitely  
5        in low ready or maybe they don't even draw it at all,  
6        but we would want them to be using things like cover.  
7        Maybe a car's in the area or some trees or -- or a  
8        corner of a building.

9            And in that case, we would want to start  
10        verbal patrol before deescalation, like "Hey, I'm here  
11        to talk to you, man. I don't want anything bad to  
12        happen. Can you do me a favor and just keep your  
13        hands somewhere where I can see them?"

14            Those would be the kind of things we would  
15        want them to do. The reason for that is we want to  
16        encourage the person to not do something that's going  
17        to cause me to shoot or cause me to panic. And so we  
18        want to teach them to try and slow things down.

19            Maybe, "Real slowly, show me your hands.  
20        Just stay real still while we talk about this, okay?  
21        I heard you may have had a knife. Don't reach for it  
22        or anything, but do you have a knife on you?"

23            So we're going to want them to verbally slow  
24        that down, especially if it's a situation where I  
25        don't see the weapon and I have the ability to have

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1 some sort of distance and cover. And then we're going  
2 to want them to -- to verbally try to calm down the  
3 situation. There are a lot of reasons --

4 Q What if the person's not listening, though?

5 A Oh, go ahead.

6 Q I'm sorry, what if the person's not  
7 listening and they just keep moving around or they  
8 even -- they amp it up and get more erratic or more  
9 verbally confrontational?

10 A And so that's -- that's information that  
11 officers have to use in order to make their decision.  
12 The real key is not that they're not listening to me,  
13 but how they're not listening to me. If they're not  
14 listening to me when I say, "Hey, I want to talk to  
15 you" and they -- they tell me to F off, that's one  
16 thing.

17 But if I go, "Can you do me a favor and just  
18 leave your hands where they are" and they reach under  
19 their pockets, that's a different type of not  
20 listening, especially if I was told they have a  
21 weapon.

22 Not listening is not the thing that we  
23 teach. It's -- it's what are we looking for? What am  
24 I trying to stop them from doing? If I say, "Do me a  
25 favor, stay there and don't reach for anything. Let's

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1 have a conversation" and they don't listen to me by  
2 leaving, like walking away or sitting down, it's not  
3 the end of the world. They didn't do what I asked,  
4 but they didn't do anything that should put me in  
5 danger, so that's really what we teach here.

6 Q So is that kind of what you're referring to  
7 as far when we're talking about noncompliance or  
8 they're not complying with the directives that they're  
9 giving?

10 A Yeah. We really try to avoid the phrase  
11 noncompliance, 'cause noncompliance is so broad. So  
12 we talk about specifics, like what specifically would  
13 make you feel safer in this scenario? I want to see  
14 their hands and I don't want them to move towards me.

15 Great. Let's specifically tell them that.  
16 That's what the warning should be, as opposed to a  
17 generic warning, which we try to avoid, although the  
18 more stress that is induced, the more likely you're  
19 going to get the generic warning.

20 But what we -- what we would hope for, what  
21 our goal is for them to give specific commands, things  
22 like, "Hey, I need you to stay there and just don't  
23 move around very much, okay? Just keep your hands  
24 where I can see them. We'll have a conversation if  
25 you just stay there." That would keep me safer, and

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1 so those are the things we're looking for.

2 Q If the person then is like more aggressive  
3 and throwing their hands about and shouting at you,  
4 would the officer have to be more specific or short or  
5 louder in their commands, possibly?

6 A Every situation's completely different, but  
7 in this situation where if I give the commands like do  
8 me a favor, stay still, don't move around very much,  
9 don't reach for anything, and they start to actually  
10 become more animated, that should trigger those  
11 officers to become more concerned.

12 And in that case, what we would look for is  
13 can I get more distance? Can I use my cover more  
14 effectively? And maybe now is the time to start  
15 drawing a gun.

16 Not because I want to animate the situation  
17 any worse than it is, but words alone are not getting  
18 the response that I want and I'm a little concerned  
19 that this is just going to continue to devolve. And  
20 so in a case like that, we would expect to see the  
21 officer draw their gun.

22 Q So I guess if I'm trying to build out  
23 techniques that could be safe or feasible to use when  
24 confronting all of these different situations. So I  
25 guess really it ultimately comes down to what's the --

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1     what's safe and feasible techniques are there when a  
2     person draws what you perceive to be a gun and points  
3     it at you?

4             A     Well, the two main things that I'd be  
5     thinking of is how far away am I from this person and  
6     I do have a good piece of cover.

7                     If I'm in a park and my cover's a tree this  
8     wide and they're 15 feet away from me, the response we  
9     would expect is you're going to probably have to stop  
10    that person by shooting them.  Hopefully, they don't  
11    die.

12                    Hopefully, we can render aid and save their  
13    life, but I don't have a good -- I'm not in a good  
14    position to stop them from attacking me with that gun  
15    if -- if I'm at a shorter distance with a less good  
16    piece -- less good piece of cover.

17                    If I'm on a bullhorn in an armored personnel  
18    carrier with a rifle from, you know, 150 yards away,  
19    I'm going to wait a lot longer.  I'm going to give  
20    more current commands, but I'm going to wait longer  
21    before I use force on that person.  So context drives  
22    tactics.

23                    And that's the -- the number one lesson that  
24    we constantly are telling the officers is don't tell  
25    me about what generally works.  I want to know about

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1 this specific scenario right now. How far away are  
2 you right now? What's your cover right now? Is your  
3 car a great piece of cover or an okay piece of cover?

4 Q What if there's other people in the park?

5 A Well, where are they? Because if they're  
6 behind me, then I definitely need to stop them before  
7 they start shooting at me because they're in danger if  
8 I get shot at.

9 If the people in the park are all behind  
10 him, I'm going to be probably a little more cautious.  
11 If they're in an area where I think that they're in  
12 danger and I can't seem to get them out of there, I  
13 might have to use force faster.

14 And, in fact, there is no general rule, but  
15 my expectation in a scenario like that, which we  
16 actually do run on the video simulator, is that  
17 they're going to have to respond a little quicker than  
18 normal because there's just so much danger of all  
19 those other people around, both from my rounds that  
20 may or may not hit the suspect and maybe stop him,  
21 maybe not stop him, but his rounds if he starts  
22 shooting at me that hopefully I don't get hit at all,  
23 but boy, do I still not want anybody behind me to get  
24 hit either.

25 Q So it sounds like everything is driven by

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1 context, but --

2 A Yeah. That's pretty much the lesson for the  
3 day.

4 Q -- it changes the complete game plan when a  
5 person points a weapon at you?

6 A Yeah.

7 Q One second. One basic thing that I missed  
8 at the very, very beginning was how long is the basic  
9 police academy?

10 A It's 16 weeks, so, you know, just about four  
11 months. 640 hours. That is the basic police academy.  
12 Now, I'll throw this out there because every agency is  
13 different. When I worked in Union County, there's no  
14 additional training as far as academy went, but  
15 there's also a field training process where there's  
16 on-the-job training.

17 That really depends on the performance of  
18 the officer involved. I was done with my field  
19 training in six months, partially because I was -- I  
20 was already a corrections officer, so I knew a lot of  
21 legal aspects anyway.

22 And I became a survival skills, defensive  
23 tactics, firearms instructor while I worked at the  
24 jail. So there's a lot of, like, physical stuff they  
25 didn't need to worry about with me.



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1           If you're an officer working for, let's say,  
2 Oregon State Police, they have, I want to say, a  
3 four-week pre-academy and then they go to our 16-week  
4 academy and then I think they do a six -- it's roughly  
5 six weeks, I think -- six-week post-academy and they  
6 have their field training time. So these things vary  
7 based on the agency, but our academy training is four  
8 months.

9           Q     And that gets you the basic police  
10 certification. Is that what they call it?

11          A     Yep. That's basic police certification.

12          Q     So what's it take then to make, like, an  
13 advanced polices certification?

14          A     So we have two other levels, intermediate  
15 and advanced. The general three categories and  
16 there's a little bit of scalability in there. But is  
17 time and service, level of education and amount of  
18 training hours are the three basic things.

19                The more education and the more training  
20 hours you have, the less years of service that you  
21 need. Same thing like if you have a lot of years of  
22 service, you don't need as many hours of education.

23                MR. MILLER: I'm looking around and I don't  
24 see questions on our side of the table. Let's turn to  
25 the grand jurors. Right in front.

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1           A GRAND JUROR:  Officer has to have that  
2    basic training and then you said there's two,  
3    intermediate and advanced.  Do all officers need two?  
4    Are they required to take that immediate and advanced  
5    training or is that by choice or commander decides  
6    or --

7           THE WITNESS:  It's -- it's only by choice.  
8    And the way it works is your agency really kind of  
9    drives whether or not they want that.  What an  
10   intermediate or advanced certificate demonstrates, for  
11   example, if I have to go to trial, like I am right  
12   now, is levels are number of years of training and  
13   experience.

14           And so what it does is it demonstrates that  
15   at a pretty easy level, but it's -- it's completely  
16   subjective.  Some agencies, like I work -- I'm a  
17   certified police officers that works for the police  
18   academy.

19           There is zero incentive for me to get my  
20   advanced.  And so I never bothered to apply for it  
21   'cause it doesn't do anything for me.  I don't get any  
22   extra pay for it.

23           The City of Salem, for example, they give  
24   you a -- I think it's a five-percent pay step for  
25   every level of certification plus every degree.  And

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1 so for them, they can get darn near 20 percent in pay  
2 increase for having their advanced certification plus  
3 a bachelor's degree. So some agencies really  
4 incentivize that, but there's no requirement that  
5 anybody does that.

6 A GRAND JUROR: Okay. Thank you.

7 THE WITNESS: You bet.

8 BY MR. MILLER:

9 Q The minimum level to be a police officer in  
10 Oregon is the basic certification?

11 A Basic certification and then you have to --  
12 you don't really reapply. You have to maintain  
13 certification by attending a certain minimum number of  
14 hours of training in certain subjects every three  
15 years.

16 MR. MILLER: Other grand juror questions?

17 A GRAND JUROR: Yeah.

18 A GRAND JUROR: Go ahead.

19 A GRAND JUROR: No, no. I'll go last. Go  
20 ahead.

21 A GRAND JUROR: All right. Well, thank you  
22 so much for being here.

23 THE WITNESS: Of course.

24 A GRAND JUROR: We really appreciate it. I  
25 know that you said content always drives decisions and

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1       tactics.  And I know you said they always look at harm  
2       to officers and others.

3               THE WITNESS:  Correct.

4               A GRAND JUROR:  So if someone is pointing a  
5       gun at officers and behind them are civilians, they  
6       have to take that into huge consideration?

7               THE WITNESS:  Behind the officer or behind  
8       the suspect?

9               A GRAND JUROR:  Both.

10              THE WITNESS:  Okay.

11              A GRAND JUROR:  But I'm just thinking, so if  
12       an officer's there, someone's pointing a gun at them  
13       and behind them, there are civilians --

14              THE WITNESS:  Yes.

15              A GRAND JUROR:  -- they have to take that  
16       into consideration with the suspect that's pointing  
17       the gun at them, 'cause if that suspect shoots at  
18       them --

19              THE WITNESS:  Sure.

20              A GRAND JUROR:  -- and they miss, it's going  
21       to hit the civilian behind them?

22              THE WITNESS:  Yes.

23              A GRAND JUROR:  So that is very important  
24       when it comes to the content -- or the context, I  
25       mean.

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1 THE WITNESS: Sure.

2 A GRAND JUROR: And the decisions they have  
3 to make?

4 THE WITNESS: Yeah. I would change that  
5 from always to should. And here's the reason why.  
6 People don't make rational decisions when their life's  
7 on the line.

8 And the reason I say that is because we  
9 would like an officer to make a rational decision when  
10 they're getting in a gun fight that they recognize  
11 where all the civilians are; but the truth is, if I'm  
12 making a traffic stop, let's just say here in downtown  
13 Portland.

14 And I'm near a city park and there is people  
15 on sidewalks and stuff, if a bad guy jumps out of a  
16 car and starts shooting at me immediately, that  
17 officer literally may not even recognize the fact that  
18 there are other humans around.

19 They may only be paying attention to the bad  
20 guy trying to kill them. So the response is, they  
21 should do that when time permits, but it depends on  
22 the scenario, 'cause if I, like, think I'm about to  
23 contact somebody about, you know, a bad park, you  
24 know, park job and (indiscernible) go, hey, man, can I  
25 talk to you, and he shoots at me and hits me in the

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1 face, I may not even realize there's another human  
2 around me. So that's -- that's one thing I would like  
3 to throw out there.

4 A GRAND JUROR: And if they did know that  
5 there were people behind them?

6 THE WITNESS: People behind the suspect or  
7 the officer?

8 A GRAND JUROR: The officer.

9 THE WITNESS: I would probably be more  
10 likely to try to protect the people around me, so if  
11 I -- you know, if I knew there were people behind me  
12 and I was worried about it, then yeah, I would  
13 probably act faster.

14 A GRAND JUROR: Thank you.

15 THE WITNESS: You bet.

16 MR. MILLER: Do you have some?

17 A GRAND JUROR: Sorry, I got to move on so  
18 I'm not looking (indiscernible).

19 THE WITNESS: (Indiscernible).

20 A GRAND JUROR: That training right there,  
21 that's not very -- it's not very (indiscernible).  
22 Thank you so much. One (indiscernible) I forgot. I  
23 didn't catch how long have you been at the department?

24 THE WITNESS: So full time, I've been there  
25 for a little over 13 years.

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1 A GRAND JUROR: Okay.

2 THE WITNESS: But I started there part time  
3 in 2000.

4 A GRAND JUROR: Okay. All right. I just  
5 didn't get it then, 'cause you had -- you're listing a  
6 lot of other trainings and certifications, so I  
7 just -- I wanted to -- it's not that -- it's good. My  
8 question is going to jump around a little bit, but --  
9 but I --

10 THE WITNESS: Okay.

11 A GRAND JUROR: Thanks. So the people, the  
12 officers right now in Oregon have to have the basic,  
13 which is the 52 hours of class and -- or excuse me, 22  
14 hours of class, 52 hours of more the live scenario  
15 kind of work. Is that correct?

16 THE WITNESS: We have to have 640 hours of  
17 training overall.

18 A GRAND JUROR: Well, I mean, just --

19 THE WITNESS: Are you talking about the  
20 survival skills?

21 A GRAND JUROR: Yes, the use-of-force type  
22 of survival skills.

23 THE WITNESS: So that doesn't include -- you  
24 didn't include it, so we didn't talk about it. The  
25 firearms training program is roughly 60 hours. The

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1 vehicle stops program is roughly another 20. And then  
2 the use-of-force scenario program is another 20 hours.

3 A GRAND JUROR: And everybody has to have  
4 that?

5 THE WITNESS: That's correct.

6 A GRAND JUROR: Okay. Do you guys talk at  
7 all in the trainings about unconscious bias?

8 THE WITNESS: Yes.

9 A GRAND JUROR: Have you happened to have  
10 seen the unconscious bias video that the court system  
11 puts out?

12 THE WITNESS: Not the one this court system  
13 has put out, but I've watched probably 40 by now.

14 A GRAND JUROR: Actually, the Oregon court  
15 system with the Supreme Court justices, DAs on --

16 THE WITNESS: (Indiscernible) no.

17 A GRAND JUROR: I recommend it. It's really  
18 good.

19 THE WITNESS: Okay.

20 A GRAND JUROR: Just FYI. When -- okay. So  
21 let's -- we've talked around this a little bit, but I  
22 want you as an expert, kind of, you know, speak to  
23 your opinions, also your train -- basically looking at  
24 training and how people are trained and things like --  
25 this scenario, can you tell -- this involves a rifle.



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1           So let's talk about not handguns, but -- but  
2 rifles. How is -- what's the best way in training for  
3 an officer to enter a situation where they have been  
4 told this person might have a gun?

5           They have eyes on him, but he does not  
6 visibly have a gun. What's the best way for somebody  
7 to use, to deploy, to carry, whatever, their rifle?

8           THE WITNESS: There is no best way. There's  
9 a bunch of different ways.

10          A GRAND JUROR: Well, what are the ways  
11 that'd you would -- that they would do that?

12          THE WITNESS: Ah --

13          A GRAND JUROR: And -- and let me put a  
14 distance --

15          THE WITNESS: Yeah.

16          A GRAND JUROR: -- in here. 90 feet. And  
17 there's a large tree for cover.

18          THE WITNESS: Okay. The two ways that I  
19 would expect to see it in training would be either  
20 slung across the front with the sling going across the  
21 officer's back, the officer holding onto the rifle to  
22 keep it from bouncing around or they would just be  
23 carrying it, like you would see like a military person  
24 carrying it. Those would be the two ways that I would  
25 expect to see that happen.

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1           A GRAND JUROR:   Okay.   And you said  
2   you're -- you're pointing down, not at the person --

3           THE WITNESS:   Yes.

4           A GRAND JUROR:   -- but pointing down.

5           THE WITNESS:   Well, while I'm approaching,  
6   yes.  Now, once I arrive on scene, whether I point at  
7   them or not is going to -- is going to be based on  
8   things like backdrop and actions and things such as  
9   that.

10          A GRAND JUROR:   And in context, again, when  
11   there are bystanders around and they are at least  
12   another hundred, 200 feet behind you and you have  
13   somebody that's 90 feet ahead of you --

14          THE WITNESS:   Okay.

15          A GRAND JUROR:   -- so that's the context  
16   here.

17          THE WITNESS:   Okay.

18          A GRAND JUROR:   There's also what appears to  
19   be obviously mental health issues, intoxication  
20   issues, erratic behavior, lot of movement just right  
21   over here.  No sign of a gun at this point, but  
22   information that there could be a gun.

23          THE WITNESS:   Sure.

24          A GRAND JUROR:   What is a -- what is a  
25   reasonable scenario for the officer to be doing at

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1       that point about how to engage with this person? Do  
2       they start immediately issuing commands? Do you talk?  
3       Do you -- could you walk us through that kind of a  
4       scenario? Have I painted enough of a kind of a  
5       factual picture there?

6               THE WITNESS: Sure. Well, it's going to  
7       depend on a few factors, which is it's -- here's the  
8       thing. It's really easy to talk about in a courtroom.

9               A GRAND JUROR: Absolutely. Totally  
10       understand that. In the moment, right, things are  
11       different.

12              THE WITNESS: Yeah. And in all this -- the  
13       reason I say that is because this happens at the  
14       academy all the time where students say even in the  
15       briefing room when they're looking at another officer  
16       going through the scenario, "I wouldn't do that" and  
17       then they go out there and they do something  
18       different.

19              A GRAND JUROR: Absolutely.

20              THE WITNESS: Because, you know, there's  
21       stress and there's emotions and things like that. So  
22       with that understanding that, you know, I don't know  
23       the emotions and stress of the officer, I don't know  
24       the specific things that he's seeing or perceiving the  
25       suspect doing.

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1           A GRAND JUROR: Right.

2           THE WITNESS: Generally speaking, and if I  
3 have, like, some -- we would hope that they would  
4 respond with some other people with them.

5           A GRAND JUROR: Yes.

6           THE WITNESS: We would not want this to be a  
7 solo officer response.

8           A GRAND JUROR: It's not. It's not.

9           THE WITNESS: Impossible. Generally  
10 speaking, our expectation would be if there's cover  
11 available, to take it and if they could see and  
12 communicate with the person to begin doing that, but  
13 the first thing I would want to do is give some sort  
14 of commands to establish some sort of safety, whether  
15 that's, hey, I need you to stop moving, show me your  
16 hands, that would be the generalized way we would want  
17 them to do that.

18           There's obviously some variations in there.  
19 And then observe the response and start making  
20 decisions based on that.

21           A GRAND JUROR: Okay. Let's talk about  
22 time. If the interaction has gone on for, let's say,  
23 three minutes --

24           THE WITNESS: Sure.

25           A GRAND JUROR: -- with lots of commands and

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1 yelling back and forth --

2 THE WITNESS: Okay.

3 A GRAND JUROR: -- does that change -- how  
4 does that change the context? I mean --

5 THE WITNESS: Well, it demands on what the  
6 yelling is, doesn't it? It depends on what the  
7 commands are. If the commands are, "Hey, I need you  
8 to stop moving." And the guy says, "F you, I'm going  
9 to do whatever I want, you know. You guys can all  
10 die," and -- and whatever, that's going to be very  
11 different than, "Why are you bothering me? I'm not  
12 doing anything wrong yelling."

13 It depends on what the words are. On top of  
14 that, what other things are being said around them?  
15 What other things are coming in on the radio? What we  
16 see in scenario training when this happens is the  
17 officers will start to get into a -- a situation where  
18 they don't -- they're running out of options.

19 They're like, okay, words are supposed to  
20 work. They're not working. I don't feel safe going  
21 forward and grabbing this person.

22 A GRAND JUROR: Correct.

23 THE WITNESS: I got a whole bunch of other  
24 people around. My only option is to stand here and  
25 continue to try and give some form of commands and get



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1 different way. Has -- has the training been shifting  
2 to -- to deal with those kinds of scenarios more or  
3 less?

4 THE WITNESS: Yes.

5 A GRAND JUROR: It has.

6 THE WITNESS: Yes.

7 A GRAND JUROR: In what -- in what way? How  
8 much? Is it just a little bit? Is it 20 percent  
9 more?

10 THE WITNESS: Oh, no. It's -- it's a lot.  
11 Roughly five years ago, we started a partnership with  
12 a doctor from Washington State university. His name  
13 is Dr. Steven James and his wife Lois James. They do  
14 a lot of research into police decision-making.

15 They started in sleep science. I can tell  
16 you the whole path they took, going from sleep science  
17 all the way to like why officers make the decisions  
18 they make.

19 A GRAND JUROR: Sure.

20 THE WITNESS: But we started a partnership  
21 with them years ago. And in that partnership, we've  
22 gotten not only feedback and advice on how to change  
23 our curriculum to have better encounters overall,  
24 'cause we can never eliminate all bad encounters.

25 A GRAND JUROR: Right.

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1           THE WITNESS: But to try and improve the  
2 number of good encounters and reduce the number of bad  
3 encounters. A lot of that had to do with  
4 deescalation, recognition of implicit bias, but also  
5 recognition of people suffering from some sort of  
6 behavioral health issue.

7           I can't give you specific numbers, 'cause  
8 it's not my program, but I know that from when I went  
9 to the academy 'til now, we've significantly increased  
10 the amount of time on deescalation and in behavioral  
11 health training.

12           A GRAND JUROR: Okay. Thank you.

13           THE WITNESS: Working with them, we have  
14 started integrating far more deescalation tactics and  
15 techniques, become a lot more specific about those.

16           And that -- that has all happened over the,  
17 I want to say the last definitely five years, we've  
18 been working with them, but we recognized that for a  
19 good year or two before that started on our own,  
20 before we -- we got really formal with it and really  
21 kind of locked that down. So it's been five to seven  
22 years we've been working on that.

23           A GRAND JUROR: Okay. Thank you. I  
24 think -- there was one other, but I can't --

25           MR. MILLER: Well, while you're thinking,



## Examination of Scott Willadsen

1 I'll have --

2 A GRAND JUROR: Keep it -- yeah, go ahead.

3 (Indiscernible).

4 MR. MILLER: I think I'll ask one. Just do  
5 a couple follow-ups before --

6 A GRAND JUROR: Sure. Go ahead.

7 BY MR. MILLER:

8 Q Just a couple follow-ups on that --

9 A You bet.

10 Q -- Mr. Willadsen. When we're talking about  
11 training, obviously the academy's doing a lot more, as  
12 you testified, now in mental health and intoxication,  
13 but had you taught that in the past as well as like if  
14 an officer went through six years ago versus ten years  
15 ago, was there still courses that taught recognizing  
16 mental health issues, recognizing intoxication and how  
17 to respond to that?

18 A Yeah. We -- we've taught things such as how  
19 to identify behavioral health issues since when I went  
20 through as a corrections officer back in, I want to  
21 say 1999. So -- and I'm sure it was being taught  
22 before that. We've been teaching behavioral health,  
23 intoxication, drug-use issues, the whole time.

24 The real focus now isn't so much on this  
25 happens and this is what it looks like, but more on

## Examination of Scott Willadsen

1 the what do we do about it. But that's been an  
2 evolution, not a revolution. We started teaching on  
3 that years ago.

4 We just really increased the number five or  
5 six years ago, but it doesn't mean we weren't doing it  
6 before. We just weren't doing it in the same way or  
7 maybe to the number of hours, but that's also because,  
8 you know, we realized there were some things we were  
9 really focusing a lot on and we could shift some of  
10 those hours around.

11 But when we talk about a change, we're  
12 talking about going from 12 hours of training to 16  
13 hours of training. So is it an increase? On our end,  
14 that seems huge, because that's a whole other  
15 four-hour block.

16 On your end, you might be like, that's not a  
17 huge increase. We know. It's a 640-hour academy when  
18 we have to teach everything. So that's the increase  
19 we're talking about.

20 Q So when you have 640 hours, that's the --  
21 that's the number that you have to be at. And then,  
22 if you add six -- you know, four hours to another  
23 program, that means four hours comes away from another  
24 program?

25 A That's right.

## Examination of Scott Willadsen

1           Q     Now, let me just build a little bit off of  
2     the scenario that the juror was asking you, if you're  
3     in the park in that same situation.

4                     Let's just throw in an additional factor to  
5     see if it changes the context of the scenario.  What  
6     if someone in the park told you he had a gun, the  
7     subject that you're contacting had a gun, would that  
8     change your response?

9           A     For sure.  That's -- those are the kind of  
10    things that we want officers to be paying attention  
11    to, is what information do I have before I arrive on  
12    scene.  That can be the only information we -- we get  
13    because we also discuss the fact that dispatch often  
14    gets poor information.

15                    You know, they're -- it's like a game --  
16    it's literally a game of telephone.  Somebody calls  
17    dispatch and tells them something and then the  
18    dispatch tells the officer something.

19                    And then depending on where you work, that  
20    might actually go through two levels of dispatch,  
21    because you might have a 9-1-1 center and then a  
22    police dispatch center.

23                    The reason I say all that is because, yes,  
24    it's something we want officers to pay attention to.  
25    If I'm told I'm responding to an armed bank robber, we

## Examination of Scott Willadsen

1 don't want them to go, I'm not going to pay attention  
2 to any of that 'til I show up and see what I'm seeing.  
3 They should show up ready for a bank robber.

4 At the same time, we also need them to  
5 understand that mistakes are -- you know, happen and  
6 bad information sometimes comes across. So there's a  
7 balance of readiness and caution that we -- we expect.

8 Q So it'd be reasonable for an officer to try  
9 and go to the source, like call the person who called  
10 the dispatchers and get information from them?

11 A That's preferable, if it's possible. That's  
12 always -- you know, sometimes it's not possible. But  
13 yeah, if they can talk to the reporting party directly  
14 either live and in person when they show up on scene  
15 or by phone before they get there, that's really,  
16 really good.

17 But at the same time, it's not -- there  
18 still has to be some weighing of caution versus  
19 readiness because they -- they may be mistaken. So it  
20 really is going to depend on a lot of factors, but  
21 yeah, we -- we definitely want them to be thoughtful  
22 about that ready effect.

23 One of the things we grade them on at the  
24 academy is we give them a, hey, you just stopped a guy  
25 who is wanted for -- this is a scenario we give

## Examination of Scott Willadsen

1       them -- wanted for a restraining order violation, is  
2       known to carry weapons.

3               The stalking order says he threatened the  
4       ex-wife with a gun and he's to be considered armed and  
5       dangerous. And then we want to see how they respond.  
6       And when they just, they up and walk up like,  
7       (descriptive sound), they -- they aren't -- we're  
8       going to criticize them.

9               We're going to say, did you not hear any of  
10       the information that you were given? That is factual,  
11       reasonable information. Like, why did you not  
12       approach that more cautiously? That is a lesson we  
13       give them. But be also give them other lessons where  
14       we have them do a high-risk traffic stop. It's  
15       another scenario.

16               And all they know is this car was stolen  
17       nine months ago. That's all they're told. And they  
18       will jump out of the car and point guns at people and  
19       scream at them. We have to stop them. We go, what --  
20       what are you doing?

21               And they're like, it's a stolen car. We're  
22       like, are there any known weapons? Were you told  
23       there were any weapons? Do cars sometimes just get  
24       driven out of driveways? We're like, well, then why  
25       are you pointing guns at them?

## Examination of Scott Willadsen

1           So we're really trying to calibrate the  
2 officer as far as which information I should use  
3 versus which information I should be a lot more  
4 thoughtful about is one of the things we really strive  
5 for, because I don't know if it's TV or what that  
6 teaches them, but man, do they sometimes trigger on  
7 the wrong things.

8           Q     So then let's build upon that. Not only do  
9 you have that caller that you talked to that says he  
10 has what looks like a gun. You have somebody in the  
11 park that's telling you he's got a gun.

12                   And now you see an object in his pocket,  
13 back pocket that looks like a gun. Does that change  
14 your approach and your tactics and how you hold a  
15 weapon and what kind of commands you're giving?

16           A     For sure. We -- again, we run scenarios  
17 very much like that where we have a suspect who is  
18 identified as -- as waving a gun around in a park.  
19 You show up and the reporting party says, it's that  
20 guy and then you can actually see the gun in the  
21 waistband.

22                   Now, it does not mean that we -- we just  
23 start shooting at them. It does not mean that we  
24 point guns at them and scream at them to get on the  
25 ground, but we definitely want them to be more

## Examination of Scott Willadsen

1 tactically ready, cover, weapon out, the proper  
2 commands at the proper time.

3           And again, you know, we talk about in the  
4 classroom like this is the perfect command, knowing  
5 that when they get in the scenario, I'm going to get  
6 up an okay command or even a mediocre command because  
7 of the stress and the fact that they're trying to  
8 figure things out as they're happening, as opposed to  
9 being able to look at the situation on the video and  
10 go, "Let me think about that, I guess I'd do this" is  
11 different than trying to figure it out on the fly.

12           Q     Sure. Well, if you're in that scenario that  
13 you're describing and -- and you show up and you're  
14 like, "Hey, can I talk to you" and the person  
15 immediately starts screaming at you, cursing at you,  
16 flailing his hands about, would it be reasonable to  
17 respond with something like, "Show me your hands"?

18           A     Oh, for sure. Some version of "Show me your  
19 hands" is what we would expect. There are, you know,  
20 better ways to say that and then there are adequate  
21 ways to say that and then there are less optimal ways  
22 to say that.

23                   The only thing that we don't want is the  
24 officer to give a verbal command that would also be  
25 misconstrued. This is the one that we'll -- we'll

## Examination of Scott Willadsen

1 immediately stop the scenario and tell them, like, no,  
2 you cannot do that, which is we don't want them to  
3 give a command that is -- could be mistaken for a what  
4 we would call a pre-assault indicator.

5           So, for example, if I got a suspect with  
6 their hands in their pockets and I'm pointing a gun at  
7 them and I go, show me your hands right now and I'm  
8 screaming it and I tell them to do it as fast as  
9 possible and they whip their hands out and I shoot  
10 them and they go, they made a furtive movement, it's  
11 because you told them to make a furtive movement.

12           So those are the things we would immediately  
13 stop and go, "Nope, you cannot do that. This is the  
14 problem you just caused." And so we're -- we're very  
15 much trying to teach them that optimal, like, "Slow  
16 down, I need you to stop moving for a minute. Just  
17 show -- real slowly, show me your hands. Don't reach  
18 for anything. Real slow." That's perfect.

19           Q     That depends on whether or not the person's  
20 complying and listening to you.

21           A     Right. That's the perfect words the officer  
22 can say, but the words the officer could say may not  
23 have any result on the other end, which is now they  
24 have to start making a plan on the fly, which is  
25 always the worst way to do it.



## Examination of Scott Willadsen

1           Q     Okay. Last factor -- two factors I'll add.  
2     One, what if the person -- you still don't see a  
3     weapon. You think there's a weapon in a back pocket,  
4     but then the person while they're moving around and  
5     waving their arms screaming says things like, "I'll  
6     shoot you, I'll kill you."

7                     Does that change your response?

8           A     Oh, for sure. My expectation in that case  
9     based on words that I would be -- again, we run  
10    scenarios very much like this. If the officer -- and  
11    like I said, we teach different ready positions.  
12    Let's just say just for the sake of argument, there's  
13    four basic positions for the handgun, which is, I'm on  
14    target, ready to shoot or shooting.

15                    I'm at what we call extended low ready,  
16    meaning my arms are out and the gun is pointed in a  
17    downward direction, so if I accidentally fire a round,  
18    it wouldn't, you know, accidentally hit the person I  
19    didn't want to shoot.

20                    What we would call a compressed or relaxed  
21    or close ready, which is, the gun's in close. And  
22    this can all work with -- with rifles, too, 'cause I  
23    know we were talking about that, which is on target,  
24    extended low ready, close ready where it's in close to  
25    my body, muzzle's down and then either holstered or

## Examination of Scott Willadsen

1 slung. Those are the four basic positions.

2 If somebody was -- if I was told and we --  
3 like I said, we run this scenario. They have a gun.  
4 You've been told they have a gun. That person  
5 identified that was a person with a gun. You would  
6 expect to have that gun out of the holster and in the  
7 complex -- a compressed or a close ready, whether it's  
8 a rifle or a handgun.

9 If I show up and the person's not listening  
10 to anything that I'm saying and they're jumping around  
11 and they're saying, I'm going to shoot you or kill you  
12 or any iteration thereof, our expectation would be for  
13 the officers to start to get more firm with their  
14 verbal commands and push that gun out to that extended  
15 low ready so if they had to shoot, all they would have  
16 to do is bring that gun up and on target, whether  
17 that's a rifle from here to here or a handgun.

18 That would be our expectation in scenarios  
19 based on actual, factual information coming in. The  
20 words that we're hearing, the actions that I'm seeing,  
21 the information I was given.

22 Q So it would be appropriate then for, like,  
23 an officer with a rifle at -- as was pointed out,  
24 about 90 feet away, to point the -- the rifle towards  
25 the person who says something like, "I'll kill you"?

## Examination of Scott Willadsen

1           A     For sure.

2           Q     To take a knee to try and get a more stable  
3 platform?

4           A     Yes.

5           MR. MILLER:   And that's the only follow-ups  
6 I have. Did you have any follow-ups to my follow-ups?

7           A GRAND JUROR:   I will, but let Kevin.

8           MR. MILLER:   Go ahead.

9           A GRAND JUROR:   To add onto this scenario,  
10 another officer right next to the officer with the  
11 rifle has a nonlethal, further distance weapon.

12                  When -- when they're having their hands up  
13 and their erratic behavior and then they start to  
14 move, make a sudden movement to go further away or  
15 whatever, would it be appropriate given the scenario  
16 with the people behind and so forth, to use that  
17 nonlethal before using a lethal?

18           THE WITNESS:   So I can -- I can only talk  
19 about that theoretically based on the classes we  
20 teach, 'cause like I said, we don't physically train  
21 with less lethal at the academy.

22           A GRAND JUROR:   Right.

23           THE WITNESS:   We do have them show up with  
24 cover officers that might be armed with Tasers and  
25 things, so in general, maybe. I mean, there's a lot

## Examination of Scott Willadsen

1 of variables there.

2 And, you know, the real issue legally that  
3 we see and we talk about in the classroom with bean  
4 bag shotguns is that sometimes you just do not get the  
5 response you want.

6 I will say that our general rule when we  
7 discuss this in the classroom is less lethal weapons,  
8 like bean bag shotguns and things like that are  
9 much -- a much better selection for a person at range  
10 with a edged weapon or a blunt force weapon like a  
11 knife or machete or a baseball bat, something like  
12 that, than somebody with a gun.

13 And one of the reasons is just because --

14 A GRAND JUROR: You could escalate it?

15 THE WITNESS: Number one, you can escalate  
16 it and number two, bean bags are notoriously bad at  
17 stopping people from doing things. They're a  
18 discouragement only.

19 They don't knock anybody down. They  
20 don't -- like a Taser will actually lock up the  
21 muscles on most people and make them fall down and  
22 they won't be able to function very well for five  
23 seconds.

24 Bean bags just hurt. And so there's been  
25 video after video after video, people being able to

## Examination of Scott Willadsen

1 run away or continue to charge or continue to operate  
2 whatever their -- their car or whatever they're doing.  
3 And we watch those in training.

4 And so quite honestly, if -- if we were  
5 running a scenario where we knew the person had a gun,  
6 we would probably not even want them to fire that  
7 thing unless we were like, okay, the gun is out of  
8 play. Now we just got to get this guy in handcuffs  
9 and he's not listening to us. That's where the bean  
10 bag would be a far better option.

11 A GRAND JUROR: Okay. Thank you.

12 THE WITNESS: You bet.

13 MR. MILLER: Any other questions from the  
14 grand juror members?

15 A GRAND JUROR: (Indiscernible) let me  
16 reformulate it in my head, see if it's -- if it's  
17 that -- oh, to digress off the scenario for a moment  
18 here. And I'm just asking your opinion as somebody  
19 who trains and has been in the training for a long  
20 time. Is the -- is the current amount of training  
21 sufficient?

22 THE WITNESS: I can't answer that question.

23 A GRAND JUROR: Okay. That's fair enough.  
24 I was going to put you on the spot, so, I mean, I  
25 understand.

## Examination of Scott Willadsen

1 THE WITNESS: Well, I can't answer that  
2 question 'cause there's actually a policy I have to  
3 follow, which is I'm not allowed to give my -- my  
4 opinion.

5 I can always talk about what our training is  
6 and what we (indiscernible) training. But the other  
7 reason, quite frankly, is I think that's a question  
8 probably better left for -- for other people.

9 A GRAND JUROR: Well, so you guys -- you're  
10 familiar with the concepts of muscle memory?

11 THE WITNESS: Of course.

12 A GRAND JUROR: Okay. And is -- is that  
13 part of the design, that part of your work is to try  
14 and help change existing muscle memories into newer,  
15 more -- well, newer and more appropriate muscle  
16 memories given the job?

17 THE WITNESS: Sure. So what you're talking  
18 about is an autonomic response, meaning an automatic  
19 response. Muscles don't have memories. They -- but  
20 we act in a way based on experiences.

21 Here's the problem. There's too much --  
22 even if we tripled the academy length, there's too  
23 much variability in what police officers have to do.

24 A GRAND JUROR: Right.

25 THE WITNESS: Because of that, you can't

## Examination of Scott Willadsen

1 build an automatic response to a lot of those things.  
2 There's an automatic response that I can build because  
3 I don't have to build it.

4 It's already innate, which is a suspect  
5 points a gun right out of a car window. I don't have  
6 to build a narrative that the officer will turn their  
7 heads and run away, because that's programmed.

8 As far as programming, like, a better  
9 response, which is diving forward, grabbing the  
10 weapon, fighting for limbs, that requires a lot of  
11 training hours and every officer's going to be  
12 different.

13 Now, if you're asking would I like more  
14 training hours? The answer to that question is yes,  
15 very much so. Is it the right number of training  
16 hours? That is, you know, a question that I think  
17 would be debated in the scientific community for a  
18 really long time.

19 A GRAND JUROR: Well, and funding.

20 THE WITNESS: Yeah, I was going to say --

21 A GRAND JUROR: I was going to say and don't  
22 forget funding.

23 THE WITNESS: I'll just (indiscernible) --

24 A GRAND JUROR: Someone's got to pay for it.

25 THE WITNESS: The governor just had a task

## Examination of Scott Willadsen

1 force from all over the state looking at this  
2 question --

3 A GRAND JUROR: Mm-hmm.

4 THE WITNESS: -- that they've worked on for  
5 almost a year. And their ultimate response was to add  
6 three hours of training to our program. Three.

7 A GRAND JUROR: Right. I understand. I  
8 don't want to get into politics and the dynamics and  
9 the (indiscernible).

10 THE WITNESS: Exactly. So, I mean --

11 A GRAND JUROR: It's more --

12 THE WITNESS: Would I like it? Yes, I  
13 would. I can tell you that.

14 A GRAND JUROR: Of course.

15 A GRAND JUROR: It's just --

16 A GRAND JUROR: We all would.

17 A GRAND JUROR: -- we're trying, as you  
18 know -- I mean, I'm not (indiscernible) -- is to -- to  
19 look at the -- you know, justification of the use of  
20 lethal force.

21 And the reasonable standard and what's in  
22 the -- what's in the officer's mind at the time and  
23 all that and trying to crack and understand -- for me,  
24 understand what goes into the training of those  
25 officers --



## Examination of Scott Willadsen

1 THE WITNESS: You bet.

2 A GRAND JUROR: -- and the -- and the  
3 decision process -- that was really helpful to  
4 understand -- breaking that down. And so I guess  
5 I'm -- I'm using the term muscle memory kind of really  
6 in a broad sense, but you're trying to --

7 THE WITNESS: (Indiscernible).

8 A GRAND JUROR: -- create a way of thinking  
9 and looking at things that is different than -- than a  
10 carpenter does.

11 THE WITNESS: Correct.

12 A GRAND JUROR: Because the jobs are  
13 different.

14 THE WITNESS: Yes.

15 A GRAND JUROR: So that's why I'm -- so it's  
16 been very helpful to kind of understand that whole  
17 process. And so that we can look at, you know,  
18 compress some time. This is what led up. This is  
19 what happened. Is it justified under the law and  
20 under the facts and scenarios that are going on here.  
21 So --

22 THE WITNESS: And it's funny that you bring  
23 that up because time compression is a major issue as  
24 far as human decision-making goes. Meaning the more  
25 time compression there is, not overall, like at the

## Examination of Scott Willadsen

1 moment where I have to make a critical decision, we  
2 don't make optimal decisions.

3 We make good enough decisions, right? So  
4 that's called (indiscernible). When we talk about  
5 that at the instructor level, perfection isn't --  
6 isn't the answer. It's is it good enough for this  
7 particular situation and does that meet the standard.

8 And that's what we teach our students to do,  
9 'cause there's always a we could have done this  
10 better. And we are striving for that. We have  
11 training for that, but there also has to be a this is  
12 the standard that the law allows and even though we  
13 wish it was different, that's what we got.

14 A GRAND JUROR: Thank you very -- I'll stop.

15 THE WITNESS: You bet.

16 A GRAND JUROR: I'll stop there.

17 MR. MILLER: So the short version of that  
18 was, was it subjectively reasonable for the officer to  
19 make that decision and was it objectively reasonable  
20 to all officers in that similar situation to make a  
21 similar decision, not the exact same decision?

22 THE WITNESS: That's correct.

23 MR. MILLER: That's all I have. Anybody  
24 else have anything? Sounds like it's probably a  
25 pretty good time for us to go off the record and take

## Examination of Scott Willadsen

1 our morning break.

2 A GRAND JUROR: Thank you -- thank you very  
3 much.

4 THE WITNESS: You're welcome.

5 A GRAND JUROR: Thank you. We appreciate --

6 (**TRANSCRIBER'S NOTE:** The audio record ends  
7 midsentence.)

8 (Recess taken, 10:54 a.m. - 11:12 a.m.)

9 MR. OVERSTREET: Okay. We're back on the  
10 record after a short morning break. We are ready for  
11 our next witness. And the State will be calling  
12 Brad Clark.

13 Up around there and I'll have you stand by  
14 that chair and raise your right hand.

15 **BRADLEY CLARK**

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

18 A GRAND JUROR: Thank you. You may be  
19 seated.

20 THE WITNESS: Thank you.

21 MR. OVERSTREET: And once you're seated, go  
22 ahead and state your full name and spell your last  
23 name, please.

24 THE WITNESS: My full name is Bradley Clark.  
25 I go by Brad. My last name, Clark, is spelled

## Examination of Bradley Clark

1 C-l-a-r-k.

2 EXAMINATION

3 BY MR. OVERSTREET:

4 Q And where are you currently employed?

5 A I'm currently employed as a Portland police  
6 officer, working at the training division.

7 Q And how long have you been in law  
8 enforcement?

9 A For 16 years. Well, closer to 20 years,  
10 because I was a law enforcement officer in the United  
11 States Coast Guard before coming here.

12 Q Okay. And what is your educational  
13 background?

14 A Well, I went through the military, the  
15 United States Coast Guard; became a customs officer  
16 there. When I got out of the Coast Guard, I obtained  
17 an associate's degree from Portland Community College  
18 and I quickly became a Portland police officer after  
19 that.

20 I've been through the Force Science  
21 Institute analyst course, which is a course that  
22 specializes people to analyze force events. And --  
23 and human performance is really what it's about, what  
24 a human can -- can do under a lot of stress.

25 Q And how long is that course?

## Examination of Bradley Clark

1           A     It's a week long.

2           Q     Okay.  And when did you go through that  
3 course?

4           A     I went through it in 2019.

5           Q     Okay.  And what are some of your -- what has  
6 been your assignments over the course of your career?

7           A     I worked patrol for 13 years.  I was a  
8 mounted patrol officer, so I rode a horse in town for  
9 a couple years.  And now it's been three years that  
10 I've been at the Training Division.

11                   And I was a -- I've been a satellite  
12 instructor as a trainer for -- since 2011, so that's  
13 about ten years of being involved in the training of  
14 Portland police officers.  But I wasn't specifically  
15 assigned to the Training Division during that time.

16           Q     And you've been in the Training Division for  
17 about three years, you said?

18           A     Yeah, full time.

19           Q     And what is -- what have some of your  
20 responsibilities been in the Training Division?

21           A     My main responsibility is control tactics.  
22 And I teach officers how to physically control someone  
23 that is not cooperating.

24                   I am also a firearms instructor.  I help  
25 with the patrol procedures program, which is

## Examination of Bradley Clark

1 scenario-based training, putting officer into actual  
2 scenarios with role-players and in critical incidents.

3 I also assist with the rifle program, the  
4 less lethal program and also driving, our patrol  
5 vehicle operation program. So everything that goes on  
6 at training, I have a little bit of knowledge of, at  
7 least.

8 Q Okay. And we've already taken testimony  
9 from somebody from the basic police academy. And I  
10 want to -- is it fair to say that everybody that comes  
11 to you, every police officer that comes to Portland,  
12 they've been through the police academy, correct?

13 A Yes. Everyone's been through the -- well,  
14 there are lateral officers that might have gone  
15 through a basic academy in another state --

16 Q Sure.

17 A -- that don't have to go through the full;  
18 but the majority of the Portland police officers have  
19 been through the basic academy.

20 Q Okay. Thanks for the clarification, too.

21 And then once somebody arrives, say they --  
22 assuming they've been through the basic police  
23 academy --

24 A Yeah.

25 Q -- in Oregon, when they arrive in Portland,

## Examination of Bradley Clark

1 are they just sent out to the street to work or how  
2 does Portland handle that?

3 A After the basic academy, the recruits come  
4 back and they're at the Training Division for a couple  
5 weeks, just getting some fundamental basic, different  
6 training than what they got from the basic academy,  
7 the way Portland does things differently, handcuffing,  
8 a little bit of firearms training.

9 I'm not sure where CIT comes in. It might  
10 be in those two weeks. But then they go to the street  
11 with a coach and they enter the field training  
12 program. So they're with another experienced officer  
13 who's taking them through basically job shadowing and  
14 figuring out how to deal with the calls that we deal  
15 with.

16 Q Okay.

17 A They're usually -- that occurs from -- it's  
18 usually 12 weeks. It may be a couple of months that  
19 they're on the street and then they come back to the  
20 Training Division for an advanced academy. So it's  
21 another full academy that they go through that we  
22 specifically put on for our officers.

23 Q Okay. So I just want to break that down a  
24 little bit. So after they come to you, you said they  
25 do a couple weeks of really just familiarizing with

## Examination of Bradley Clark

1 Portland-specific tactics.

2 A Yes, mm-hmm.

3 Q Building -- is that building on what they've  
4 learned at the academy or is that different than what  
5 they learned?

6 A Some of it's building and some of it is --  
7 is just minor variations from what the basic academy  
8 is doing is Portland is doing, just so that they  
9 might -- they might do something in handcuffing  
10 specifically that the basic academy's telling them to  
11 do, but an officer here in Portland isn't used to or  
12 hasn't ever seen that, so they're wondering what this  
13 officer's doing. They -- they don't know how to  
14 respond appropriately, 'cause they're not -- they're  
15 on two different pages.

16 Q Okay.

17 A But it's minor things like that, like  
18 handcuffing.

19 Q Okay. And then after that, they go on to  
20 that field training?

21 A Yeah, they start their field training. So  
22 they begin their field training in between the basic  
23 and the advanced academy. Like I said, it's a couple  
24 weeks to a couple months where they get some actual  
25 street experience, which is really, really beneficial



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1 to actually having -- to go out and do the job a  
2 little bit before you get the training, because then  
3 it's very applicable. You understand it.

4 When you go to the basic academy, a lot of  
5 the information that you get, you have no context for  
6 really understanding it. Once you've been on the  
7 street for a little bit, it makes a lot more sense, so  
8 we see a big advantage to being on the street for a  
9 little bit before going into that advanced academy.

10 Q I think that's probably the answer to my  
11 question is why do you have somebody going out to the  
12 field --

13 A Yeah, that's --

14 Q -- before they receive that advanced  
15 training?

16 A That's why. Trying to give them context.

17 Q And so after they do that field training,  
18 however long it is, you mentioned the advanced  
19 academy.

20 A Yeah.

21 Q What is the advanced academy?

22 A The advanced academy's just a -- it's  
23 another academy. It's mostly building on skills they  
24 learned at the basic academy; but, again, there -- we  
25 do things a little bit different sometimes than --

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1 than maybe an officer that's out in the middle of  
2 Eastern Oregon that's alone and has no cover and has  
3 no resources available to them.

4 We're not -- we're not in that same  
5 environment, so our training's a little bit different  
6 and it might not be as applicable to them. So we go  
7 through a whole new firearms program, a whole new  
8 control tactics program. And this is building a lot  
9 on skills they've already learned.

10 A driving program where they learn some  
11 pursuit intervention techniques that they don't get at  
12 the basic academy. And then they go through a lot of  
13 law and class -- classwork and deescalation training,  
14 CIT training, which is Crisis Intervention Training,  
15 dealing with people in mental health crisis. A lot  
16 of -- they get a lot in the ten weeks that they're  
17 there.

18 Q And that was my next question is how long is  
19 that course?

20 A It's ten weeks now. It has in the past been  
21 upwards of eighteen weeks. But again, budgets and  
22 bodies have shrunk it down to about ten weeks.

23 Q Okay. And, you know, it's been as long as  
24 eighteen weeks. Has it ever been shorter than  
25 ten weeks?

## Examination of Bradley Clark

1           A     I don't -- not to my knowledge.

2           Q     Okay.  And during that advanced academy, how  
3 is that training conducted?  Does it involve  
4 classroom, hands-on?

5           A     Both.  Some --

6           Q     Playing out scenarios?

7           A     Yes.  Yes, absolutely.  So they might go to  
8 the mat room and learn control tactics for two hours,  
9 which is a lot of wrestling and grappling; and then go  
10 to the range and do two hours of firearms training.

11                     And then in the afternoon, they might go out  
12 to -- we have a scenario village, which is an indoor  
13 little town where you'll have role-players acting out  
14 incidents that they might see on the street and they  
15 have to go and respond to that with all the tools that  
16 they would have on their person and -- and the skills  
17 that they've developed to that point.

18           Q     And how are students or, I guess, police  
19 officers at that point in the academy, how are they  
20 evaluated?  Is there a testing process?

21           A     There are tests.  There are debriefs.  There  
22 are -- it's documented.  The performance is  
23 documented.  If it's below par or people aren't  
24 responding in the way that they've been trained to  
25 respond, that will be documented.

## Examination of Bradley Clark

1                   And if that doesn't change, then that might  
2                   lead to separation for that person. So that's it,  
3                   pretty much. Documentation of -- of performance  
4                   testing and debriefing.

5                   Q     Okay. Can you explain -- well, I guess back  
6                   to the advanced academy. So once they've gone through  
7                   that advanced academy is there -- do they receive any  
8                   sort of certification from that? Is there --

9                   A     There's not like a certificate that you get  
10                  for it. There's credits hours towards DPSST that they  
11                  get for it. So it is a permanent record, but it's not  
12                  like a certification necessarily.

13                  Q     And so is that -- is that separate from the  
14                  basic academy's program for intermediate and advanced?

15                  A     It would contribute to that.

16                  Q     It would contribute to it.

17                  A     The hours would contribute to that.

18                  Q     Okay. Gotcha. So could you explain the  
19                  concept of a police officer's duty to act and their --  
20                  their legal duty to move towards danger instead of  
21                  away, just in a generalized --

22                  A     Absolutely. I mean, that's --  
23                  fundamentally, the job is a police officer's called  
24                  when there's a situation that society can't resolve on  
25                  its own. And this might be dangerous or chaotic.

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1 It's the fundamental job of the police officer to take  
2 action in those instances, appropriate action.

3 So our policy says that an officer shall  
4 take appropriate action in the case of crime, disorder  
5 or any circumstance that might be necessary for an  
6 officer to address.

7 Q Okay. And when dealing with those dangers,  
8 an officer has numerous tools available to them; is  
9 that correct?

10 A Sure, yeah. A lot of -- a lot of tools.

11 Q And, specifically, I want to discuss first  
12 -- we'll get into the more lethal tools, but  
13 specifically less lethal.

14 A Less lethal.

15 Q Is it -- does PPB have the option of  
16 selecting which less lethal tools they issue to their  
17 police officers?

18 A The only less lethal tool that's optional at  
19 this point for an officer to carry is an expandable  
20 baton. We just got that passed. Specifically, my --  
21 well, my program's doing.

22 We are a lot more interested in physical  
23 control than hitting somebody with a stick to try to  
24 gain control of them. So that's the only tool that we  
25 have now allowed officers to choose whether they want

## Examination of Bradley Clark

1 to carry or not.

2 Q And what are the less lethal tools that an  
3 officer must carry?

4 A Must carry the pepper spray or aerosol  
5 restraints, sorry. That just irritant to your eyes.  
6 It's something that will cause somebody -- it's a pain  
7 compliance tool. It's not an incapacitating tool.

8 It's something that I think everyone's  
9 probably familiar with what pepper spray is. It's  
10 just a mist that has effectively pepper in it that  
11 makes people -- it's painful for their eyes. Some  
12 people can't open their eyes very effectively if it's  
13 in there. And it -- for the most part, it's just pain  
14 compliance. If it hurts enough, somebody will stop  
15 doing behavior that they do, so --

16 Q What's the effective range of pepper --

17 A 18 feet is the effective range of our pepper  
18 spray.

19 Q And sticking with the tools that an officer  
20 must carry, is a Taser one of them?

21 A Yes, yeah. Electronic control weapon, we  
22 call it, but it's commonly known as a Taser. That has  
23 an effective range of 25 feet. It also has a -- it  
24 has the ability to incapacitate. It's the only less  
25 lethal tool that we -- that we have on our person that

## Examination of Bradley Clark

1 has the ability to incapacitate, to actually stop  
2 somebody from taking an action.

3 It does that by the way that a Taser works.  
4 It fires two, basically, needles on a metal cord and  
5 they deploy at an angle and try to separate as they  
6 go. And when they enter the body, the area between  
7 those two needles, electric current will go through  
8 and it will make the muscles contract and effectively  
9 make those muscles unable for you to use them.

10 So wherever those strikes are, the muscles  
11 will shut down in between there. And it will --  
12 actually can incapacitate someone. It has a maximum  
13 range of 25 feet. It has a high rate of failure.

14 The -- the problem is it's very difficult to  
15 get two solid strikes with one trigger pull. It's  
16 hard enough to strike a target in a stressful incident  
17 with one projectile, let alone two. That's one of the  
18 big things that we see in its failure.

19 The other is baggy clothing. We're in the  
20 Pacific Northwest. A lot of people have a lot of  
21 clothing on. That can defeat the needles completely  
22 and then won't even get a connection, even if you got  
23 two good hits with them.

24 Q And you said the Taser, the barbs, they  
25 deploy at an angle?

## Examination of Bradley Clark

1           A     Yeah.

2           Q     So is it safe to say that the farther away  
3     that those are fired, the farther the distance between  
4     the two will be?

5           A     Exactly.  So if you're very close with the  
6     Taser, you might only get a probe spread of a few  
7     inches.  That -- that will not incapacitate someone.  
8     It'll be a pain compliance tool.

9                     We say from about 10 feet to 25 feet is  
10    where you can possibly incapacitate someone with a  
11    Taser if all the circumstances are -- are -- are good  
12    for you, if they -- if it all works out.

13          Q     Last thing on the Taser.  Is it a permanent  
14    incapacitation when it's effective?

15          A     No, it only lasts for five seconds.  So the  
16    pulsing occurs for five seconds per trigger pull.  So  
17    you'll get five seconds of incapacitation during that  
18    time.  That's when officers would be moving in and  
19    trying to physically control that person and get them  
20    in handcuffs.

21          Q     Okay.  After that five seconds has passed is  
22    the person unaffected?

23          A     Completely unaffected, yeah.

24          Q     The next less lethal tool I want to talk  
25    about is the 40-millimeter launcher.  Can you explain,



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1 first of all, what that is.

2 A Sure. It's a single-shot, breech-loading  
3 launcher, so every time you fire it, you have to open  
4 the thing up and put another round in. It fires a  
5 sponge around that's -- it's about two inches in  
6 diameter. And it -- it is a pain compliance tool.

7 Again, this will not incapacitate someone.  
8 All it will really do is cause a little bit of pain  
9 and maybe gauge their behavior. I've seen it used  
10 numerous, numerous times. I've never seen it ever do  
11 any real damage to someone.

12 If you're familiar with paintball at all,  
13 the impact of a paintball is probably pretty similar  
14 to what you'd get with the impact of a 40-millimeter.  
15 It's going to cause a welt. It might cause a bruise.  
16 But it will not -- it will not stop someone from  
17 committing a behavior. Really, it's just a gauge of  
18 compliance.

19 Q Okay. And what is the effective range of a  
20 40-millimeter?

21 A It can be effective up to about 40 yards.  
22 We do not qualify outside of 20 yards, so 20 yards is  
23 where our qualification limit is. It can possibly be  
24 effective out to 40, but that's -- that's really on  
25 the limit of -- of the ability of that round.

## Examination of Bradley Clark

1           Q     Okay.  And then I'm going to switch over to  
2 more lethal options.  Does Portland police officers  
3 have access to shotguns?

4           A     They do, yes.  Every officer -- well, that's  
5 changing now; but over the last -- since I've been  
6 employed, every officer is qualified in every  
7 qualification session, which is quarterly -- we  
8 qualify quarterly with the firearms.

9                     Everyone qualifies with a shotgun and can  
10 take one out if they so choose, so some officers take  
11 them out and some don't.

12          Q     Okay.  We're not going to really -- unless  
13 the grand jurors have any more questions on that  
14 later --

15          A     Sure.

16          Q     -- I'm not going to really touch any more on  
17 shotguns.

18          A     Sure.

19          Q     But moving to handguns.  What kind of guns  
20 do Portland Police Bureau utilize?

21          A     We carry a Glock 17 nine-millimeter pistol.  
22 It's a pretty standard caliber for -- for a handgun,  
23 actually the most standard caliber for a handgun.

24          Q     Okay.  And then rifles.  Do Portland police  
25 officers have access to rifles?

## Examination of Bradley Clark

1           A     Some Portland police officers have access to  
2 rifles. You have to go through a special school to be  
3 a rifle operator. And I think there aren't as many on  
4 the street as there used to be, given just -- with  
5 staffing issues.

6           Q     Okay. And why have these different options?  
7 Why have shotguns, handguns and rifles?

8           A     Well, the long guns, the shotguns and the  
9 rifles are -- they give you the advantage of accuracy  
10 at distance, so that's the big advantage of these long  
11 guns is if you're a little bit further away, you can  
12 be more accurate with the tool, not throw rounds where  
13 you don't want them and put them out into public in a  
14 place that you didn't intend, which is more likely  
15 with a handgun.

16                     Not that handguns can't be effective at  
17 range, but rifles are much more accurate the further  
18 back you go than -- than a handgun is. Beyond that,  
19 the rifle, specifically the round that we use, is a  
20 frangible round, so anything that it hits, it's going  
21 to break apart and not penetrate through and go  
22 beyond.

23                     That's a -- that's a big advantage, too,  
24 particularly being in the city, that this round is  
25 going to stop when it hits something and it's not

## Examination of Bradley Clark

1 going to keep moving past whatever it is that you  
2 might be shooting at.

3 Q Okay. And does the Portland Police Bureau  
4 have what would be referred to as a rifle program?

5 A Yes. They have a rifle program. So it's a  
6 six-day program, six 10-hour day program. The first  
7 four days is dedicated to range operation. It's a lot  
8 of, lot of shooting and learning the function of the  
9 weapon. The qualification is difficult.

10 It's a difficult week. It's a difficult  
11 standard. It's one of the classes that you might go  
12 through in the Portland police -- or you see people go  
13 through in the Portland Police Bureau and don't pass.  
14 It's not the easiest class to get through and they  
15 take it pretty seriously, because that is the  
16 dedicated tool for a deadly force scenario.

17 So if you have a situation where you know  
18 there's a deadly force threat, you're going to want to  
19 have a rifle there, because that's the -- the most  
20 efficient tool and the safest tool that we could bring  
21 into that situation that is deadly force.

22 Q And so is -- is the program -- you talked  
23 about officers maybe not, you know, finishing or maybe  
24 even not wanting to complete it.

25 A Sure, yep.

## Examination of Bradley Clark

1           Q     But to just get into the program, is it a  
2 selective program?

3           A     Yes.  It's just like applying for a job.  
4 There will be spots open up and -- and any police  
5 officer in the bureau can apply for these jobs.

6                     Typically, a 360 review is done where  
7 everyone that's in -- in contact with that officer is  
8 questioned about their integrity, what they -- how  
9 they think this officer performs, are they a hard  
10 worker, that sort of thing.

11                    And they choose the people that they think  
12 are at the top of the class, effectively, to bring  
13 them in and allow them to go through the rifle school.

14           Q     Okay.  And once they are selected in the  
15 program, I know you talked a little about the range  
16 and having to go and shoot a lot.  Is there also  
17 classroom and scenario training that goes into that?

18           A     There's classroom and scenario.  That's what  
19 the others two days consist of is -- is specifically  
20 that policy and scenario-based training.

21           Q     And you talked a little bit about this when  
22 you were talking about the advanced academy in general  
23 and even those two weeks right after the basic  
24 academy, about more Portland-specific training as  
25 opposed to, you know, rural Oregon.

## Examination of Bradley Clark

1           A     Sure.

2           Q     Is one of the -- how does the rifle play  
3 into that? Is the rifle a tool that it seen as a  
4 better use in a urban environment or -- or not  
5 so good?

6           A     I would say it's a better use anywhere  
7 you're at, because of those advantages, because of  
8 your ability to have accuracy at range and that the  
9 round will not over-penetrate.

10                   That's going to be -- that's going to be the  
11 same no matter where you're at. Definitely provides,  
12 I'd say, almost a bigger advantage in the city because  
13 the backstop is more difficult.

14                   There's -- there are things everywhere and  
15 there are people everywhere, so you have to really be  
16 aware of -- of that they're aren't people behind the  
17 thing that you might be shooting at. And the rifle,  
18 it solves that problem a little bit.

19           Q     And can as far as Portland's policy  
20 regarding the use of a rifle in a deadly force  
21 situation, is there a different policy or a different  
22 standard for using the rifle as opposed to a handgun?

23           A     No, there's no difference in the -- in the  
24 deadly force policy when it comes to the tool that is  
25 used.

## Examination of Bradley Clark

1           Q     Okay.  And I meant that to be the segue into  
2     the next section, which is about using deadly force.  
3     And so we've already had some testimony, but could you  
4     just kind of briefly describe what is -- what do you  
5     mean when we say the term "deadly force"?

6           A     Deadly force is -- is any action that might  
7     kill you or cause serious physical injury to you.  So  
8     that would be, you know, permanent damage to your body  
9     or deforming scars, things like that.  That would be  
10    serious physical injury; and, obviously, the other one  
11    would be death.

12          Q     Okay.  And we've already heard about the  
13    basic academy, but in the advanced academy, what is  
14    the training that goes into regarding deadly force?

15          A     Deadly force, they get very familiar with  
16    the policy, because our policy is more restrictive  
17    than state law.  And I believe state law is what's  
18    trained to at the basic academy, but we train to a  
19    little bit higher of a standard at Portland.

20                The standard for state law is that you have  
21    to have reasonable belief that a person poses an  
22    imminent threat of death or serious physical injury.  
23    Our standard is an immediate threat of death or  
24    serious physical injury.  And this is a  
25    Portland-specific standard.

## Examination of Bradley Clark

1                   And so the way we describe that to someone  
2                   is that there has to be an action taken to make a  
3                   threat immediate. So imminent, that is about to  
4                   happen. Immediate is happening now.

5                   So there has to be action taken. So someone  
6                   standing maybe across the street from you and they  
7                   have a knife in their hand and they say, "I'm going to  
8                   kill you," this might be an imminent threat.

9                   All right. This might be within the state  
10                  standard, a time where you're legally justified in  
11                  using deadly force, but that's not okay for Portland.  
12                  We have to have action.

13                  So they say "I'm going to kill you" and now  
14                  they begin to advance on you across the street. You  
15                  now have action and now you meet the -- the Portland  
16                  police standard for deadly force. So the immediate  
17                  and imminent. It's just a one-word difference, but  
18                  it's a pretty significant difference.

19                  Q       And --

20                  A GRAND JUROR: Those words again, sorry.

21                  THE WITNESS: It's imminent.

22                  A GRAND JUROR: It's imminent versus what?

23                  THE WITNESS: Immediate.

24                  A GRAND JUROR: Thank you.

25                  ////



## Examination of Bradley Clark

1 BY MR. OVERSTREET:

2 Q And just to, you know, make sure we all  
3 clearly understand the difference, you're saying first  
4 of all that the policy that Portland police have,  
5 that's a further restriction as opposed to what state  
6 law allows?

7 A Yes.

8 Q Okay. And the distinction being that the  
9 state law requiring it to be an imminent threat.  
10 Portland Police Bureau policy requiring an immediate  
11 threat?

12 A Yes.

13 Q And could you just briefly explain again  
14 what the differences between those two.

15 A It would be the action. So there has to be  
16 an action taken. So you're obviously going to have  
17 somebody that's making a threat. You have a weapon  
18 involved and then the person takes an action with that  
19 weapon that leads the person to believe that they are  
20 intent on using deadly force.

21 So if that action is there, this threat has  
22 now become immediate. And that might be, again,  
23 advancing on you with a knife as opposed to standing  
24 and just saying, "I'm going to kill you."

25 Or it might be there's a gun beside them and

## Examination of Bradley Clark

1 they say -- same scenario, "I'm going to kill you."  
2 The gun's there, but they haven't taken any -- "I'm  
3 going to kill you" and now they've grabbed the gun.  
4 There's an action there that -- that makes that threat  
5 immediate. So the action is the key part -- part  
6 for us.

7 Q And is it possible for someone, an officer  
8 to sort of violate the policy without violating state  
9 law?

10 A Sure, absolutely.

11 Q And that part of the advanced academy  
12 training?

13 A Yes.

14 Q Okay. Thank you.

15 A And we go through that every year and I've  
16 gone through it every year that I've been out there  
17 for the last three years, at in-service as well, so  
18 everyone hears that over and over again --

19 Q Okay.

20 A -- in case they forget.

21 Q And I don't know if you can answer this  
22 question, but why has the Bureau set a standard that  
23 is higher than what's legally allowed?

24 A Well, no one's ever specifically told me  
25 that; but I think it's just that this is probably the

## Examination of Bradley Clark

1 most serious thing that an officer might ever have to  
2 do or experience and we take it very seriously.

3 We have a sanctity of life policy that says  
4 that we value all human life regardless of their  
5 actions or their behavior. We treat everyone the  
6 same. So we don't want to be in the gray of the grand  
7 standard with -- and we -- and we take it very  
8 seriously when we're talking about using deadly force.

9 So I think it's -- I think that's why --  
10 what it boils down to is just that we -- we really  
11 value the sanctity of human life and we just put that  
12 standard a little bit higher in Portland.

13 Q Okay. And with that, is a police officer in  
14 the advance academy trained to be subject to the use  
15 of deadly force prior to actually using deadly force?

16 A No. That's -- it's -- it's do they  
17 reasonably believe that the person posed an immediate  
18 threat -- threat of deadly force. It's not they're  
19 using deadly force on you, you're being killed right  
20 now, you can't use force until that happens.

21 It's that there is that immediate threat  
22 that you believe. Officer reasonably believes that  
23 this is happening. And that -- the totality of the  
24 circumstance goes into that. And everything that an  
25 officer knows, everything that they observe, how they

## Examination of Bradley Clark

1 feel, this all goes into that.

2 But there is no -- it would be unreasonable  
3 to say that you have to be the subject of deadly force  
4 before you use it or you have to basically be dead  
5 before you can respond to someone's attack.

6 Q Okay.

7 A That doesn't -- we would be very ineffective  
8 in doing our job if that were the case.

9 Q And by way of example, I know you talked  
10 about, of course, being killed before you could use  
11 deadly force. But other examples being even just  
12 being shot at or -- or being stabbed?

13 A Exactly, yeah.

14 Q Are you saying it's the -- the training does  
15 not require them to actually --

16 A Actually not.

17 Q -- have those actions taken against them?

18 A Yeah.

19 Q Okay.

20 A And knives -- knives specifically are good  
21 examples that we train officers to, if they end up in  
22 a situation where they are going to be entangled with  
23 someone with a knife that has -- that it threatening  
24 with that knife, that they -- that they should be  
25 using deadly force before that occurs, because that is

## Examination of Bradley Clark

1 so dangerous and unwinnable if you become entangled  
2 with somebody that has a knife. You've lost -- you've  
3 lost and you're probably not going to be able to deal  
4 with that threat and you're probably going to lose it.

5 Q Okay. And when officers get in these  
6 situations and they -- whether there's a gun or a  
7 knife, could you kind of explain a concept of a threat  
8 assessment?

9 A As in you have to take into account the  
10 tool, the --

11 Q Right. And I guess I'll be more specific  
12 with the question. How -- how are officers trained to  
13 deal with a situation, specifically involving a gun?

14 A A gun. So if there's a gun present and they  
15 know that a gun is present, we would -- we really go  
16 off the idea of reactionary gap or action versus  
17 reaction. I know that you've heard a little bit about  
18 that.

19 But the way we deal with it in Portland is a  
20 couple ways: Using distance, using barriers that will  
21 stop bullets. And those are the -- really the two  
22 primary ways that you can give yourself an advantage  
23 that you won't lose if that person decides to use  
24 deadly force at that time.

25 So distance and barriers are -- are going to

## Examination of Bradley Clark

1 be what I expect any officer in Portland to use if  
2 they know there's a deadly threat there. Same thing  
3 with a knife. You're going to use those -- those same  
4 controls.

5 If you're up on top of somebody and you're  
6 so close that you're already within those reactionary  
7 gaps, the only other option is physical control. We  
8 put a lot of time into that where we try to teach  
9 officers how to control someone physically, so maybe  
10 they can't get to the weapon if they haven't accessed  
11 it yet.

12 Q Okay.

13 A So those are the three ways that we deal  
14 with reactionary gap: Distance, barriers and physical  
15 control if they're -- if you're so close that you have  
16 no other option.

17 Q Okay. And then, you know, that, where you  
18 sort of said it's the same with a knife, those same  
19 three principles, but --

20 A Mm-hmm.

21 Q -- is there anything -- is there a different  
22 type of threat, I guess. Maybe not how you deal with  
23 it, but just a different type of threat when you're  
24 encountering somebody with a gun as opposed to  
25 somebody with a knife?

## Examination of Bradley Clark

1           A     Sure, yeah. That reactionary gap becomes  
2 greater, so obviously, if somebody has a knife, they  
3 have to get to you to use it. They have to be within  
4 arm's length to use it. So maybe your reactionary gap  
5 is not as far.

6                     But a firearm effectively is -- if you can  
7 be seen with it, you can be hit with it. So the more  
8 distance, the better with a firearm.

9                     And if you're up close, a lot of the  
10 advantages that you might have, even using a rifle  
11 that is more accurate, the closer you are, the less  
12 that is an advantage in any way. Firearms, obviously  
13 distance -- the greater the distance, the greater the  
14 advantage that you have.

15           Q     Okay. And -- and what are the force options  
16 available or what are officers trained in regards to  
17 what force options are available when they're dealing  
18 with a subject with a gun?

19           A     With a gun? Typically, the only force  
20 options you're going to have are the 40-millimeter and  
21 either your firearms, whatever's on scene at the time.  
22 If you have a rifle, it would be the rifle; but a lot  
23 of times, you don't have a rifle available, so that  
24 would be a pistol or a shotgun.

25                     Those are really the only tools that's we

## Examination of Bradley Clark

1 can -- that we have that will -- that you can even  
2 deploy that ranges above, you know, 25 yards.

3 Q Okay.

4 A Or 25 feet, actually, because Tasers are the  
5 next one.

6 Q 25 feet. And when officers are being  
7 trained -- and I classify it as sort of a threat  
8 assessment, kind of taking all these principles that  
9 you've talked about, when they're doing that, what --  
10 how is an officer trained in determining when they  
11 perceive a gun, are they trained to determine, make a  
12 determination on whether that gun is real or not?

13 A Well, that's a very difficult thing to do at  
14 range. And there's not a specific training. It would  
15 -- that would go back to the totality of the  
16 circumstance. What are you seeing? What is reported  
17 to you? What do you believe?

18 Because you're not going to be able to  
19 identify at range if it's a real gun or not. How is  
20 that person using it? What is -- yeah, what are the  
21 totality of -- what is the totality of the  
22 circumstance?

23 Q What are some of the methods that an officer  
24 could use, say in any given scenario, to determine  
25 whether a gun was real our not?



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1           A     The only -- the only way that you're ever  
2 going to know if a gun is real or not is by handling  
3 it, especially if it's a replica gun. They're  
4 designed and made specifically to look exactly like a  
5 real gun.

6                     So you can have somebody that's very  
7 familiar with firearms and you can set a real pistol  
8 and the replica right beside it and if he's sitting  
9 back from it as far as I am and not be able to tell  
10 you which one is the replica unless they pick it up  
11 and handle it physically. It's -- to do that at  
12 distance is just not possible.

13           Q     And would that -- would your opinion on that  
14 change if one of the firearms had an orange tip?

15           A     Ah --

16           Q     In making a determination?

17           A     That would be something you'd take into  
18 account. If -- if -- first, if you could see that the  
19 thing had a orange tip, you'd say, oh, okay, well,  
20 maybe this is not a real gun, but that -- just because  
21 it has an orange tip does not necessarily mean that it  
22 is a fake gun.

23                     We have seen and there have been flyers go  
24 around in the Portland Police Bureau of people that  
25 have taken actual firearms and painted the tip orange

## Examination of Bradley Clark

1 so that people believe that they're fake. And for  
2 that very reason, just to make people hesitate in  
3 these moments, so you can't even count on that.

4 Again, that would be the totality of the  
5 circumstances. What -- what is being -- what's the  
6 person doing? How are they behaving? And everything  
7 that goes into that. You have to determine -- and  
8 only the officer on scene at the time can really make  
9 that determination whether they believe that's a real  
10 gun or not.

11 Q Okay.

12 A But I would expect that that might make an  
13 officer hesitate a little bit, but I don't expect that  
14 that would -- that doesn't mean that deadly force is  
15 -- would not be an option if that person became -- if  
16 that person became an immediate threat to that officer  
17 and they perceived that.

18 Q And from a training perspective, I mean,  
19 could it potentially be more dangerous that an officer  
20 could hesitate?

21 A Absolutely. Well, that's where, I mean, you  
22 become ineffective. If you -- if you lose that --  
23 that incident where, okay, you now -- this person has  
24 a gun. You know they have a gun. You allow it to go  
25 too far. You're no longer in the equation because

## Examination of Bradley Clark

1 you've been shot; or, you know, injured or killed.

2 And now everyone else is subject to -- to  
3 that person; that person's behavior or whatever their  
4 intent is. And then effectively, the whole thing  
5 falls apart. We don't have an effective way to deal  
6 with these situations if we have to wait for the  
7 officer to be gunned down before they react.

8 Q Okay. And a final question on this point.  
9 You talked about, you know, if there's an orange tip,  
10 that being a factor in determining whether or not  
11 that's a real gun and what level of force might need  
12 to be used or would that be entirely dependent on the  
13 officer seeing the orange tip and recognizing that was  
14 an orange tip?

15 A Of course. That's -- you know, the only way  
16 that that would be a factor is if you recognized that  
17 that was the situation, if that was -- if it had a red  
18 tip, right.

19 Q Okay. And you already sort of touched on  
20 this and mentioned that we've already heard a little  
21 testimony on action, reaction. But I want to talk  
22 about it in -- in terms of the advanced academy. Is  
23 action-reaction something that is trained at the  
24 advanced level?

25 A Yes. Everybody that goes through, goes

## Examination of Bradley Clark

1 through a reactionary gap class. And we do  
2 demonstrations and show video footage of actual events  
3 and so everyone kind of gets a really good grasp of  
4 what we're -- what we mean and how difficult it is  
5 to -- or impossible to react to someone else when  
6 they're acting.

7 Q And is part of that training understanding  
8 the physical and physiological limitations of the  
9 human body?

10 A Yes. Yes, it sure is.

11 Q And in the advanced academy, what -- how  
12 much time -- I'm asking what is trained in the -- in  
13 the academy. How much time do actions take to  
14 perceive a threat, decide to act, actually act,  
15 perceive the threat as ended, decide to stop --

16 A Well, your typical action --

17 Q I was walking through, yeah. What --

18 A Yeah, yeah. Your typical action that  
19 someone takes. So if their hand's down by their side  
20 and they raise their hand up, that's going to take  
21 about .14 seconds, so about a tenth of a second to  
22 take any action.

23 It takes our brains a third of a second,  
24 .33 seconds, to even recognize that something has  
25 changed. So the action alone is three times faster

## Examination of Bradley Clark

1 than your ability to even perceive that something has  
2 happened.

3 And then your brain has to decide, okay,  
4 this action has happened. What does that mean and how  
5 do I respond? And, typically, you're looking at  
6 upwards of a second to get a positive response from  
7 someone to any given action.

8 And what that means is that you cannot  
9 respond quickly enough to deal with a given threat.  
10 That's the whole idea of reactionary gap is how much  
11 distance or barriers do I need to effectively react to  
12 any given threat at this time? And if I don't have  
13 those things, I'm within the reactionary gap and I  
14 will not be able to effectively respond.

15 Q So when it comes to the -- the training  
16 aspect of it, officers are trained this way?

17 A Yes.

18 Q And does that help guide the training in how  
19 officers are to not only pull out their weapon or  
20 whatever to react, but --

21 A Yeah.

22 Q -- just in that -- going to that threat  
23 assessment, understanding what is happening around you  
24 and understanding how long it's going to take them to  
25 respond to those, if something negative were to

## Examination of Bradley Clark

1       happen?

2           A       Absolutely.  And that's why you'll see  
3       officers at distance from cover, communicating, you  
4       know, with as little of their person showing as  
5       possible when there's a gun involved, because they  
6       understand that those are -- the slight advantage that  
7       I have now is this distance and these barriers and if  
8       I don't have that, I will not be able to respond to --  
9       to the threat that's presented.

10                  And that's just the reality.  And that's  
11       just a basic human reality.  Police officers aren't  
12       super human.  I -- you and I, we're all the same.  I  
13       just do a different job.

14                  My reaction time is no faster than anyone  
15       else's.  My ability to judge someone's actions is no  
16       better than anyone else's.  So we have to take every  
17       advantage that we can, based on that fact that we're  
18       all just human.

19                  Q       Okay.  And just by way of an example, could  
20       you sort of talk about, you know, say like in a --  
21       where somebody's standing there holding a gun pointing  
22       it at somebody, somebody's got -- the other person has  
23       a gun, they're pointing at the ground, what kind of  
24       actions would take place and how long would it take  
25       somebody to react?

## Examination of Bradley Clark

1           A     Like I said, it's probably -- we actually do  
2 this drill. This is one of the very first drills we  
3 do with reactionary gap. We have one officer stand  
4 with -- we have with of the new officers stand with a  
5 pistol, point it directly at one of the instructors.

6                     And these are blank guns, so they're not  
7 actually firing projectiles. And we have the officer  
8 stand with a gun at his side and say, "Okay. Well,  
9 you can -- you can shoot this instructor once they  
10 raise their hand to fire at you."

11                    And so that's the first drill we do. And  
12 you finds consistently, because, you know, we all have  
13 our human performance abilities that no one can fire  
14 or beat that person to the punch. Every time that  
15 trigger is pulled by the instructor, the shot comes  
16 after, every time.

17                    And this can be -- and then we do it from  
18 the side. We have them turn to the side and do it and  
19 then we have them turn all the way to the back.  
20 "Okay. When they turn around, you can shoot."

21                    And still, the officers cannot, with their  
22 gun, finger on the trigger, pointed at the person,  
23 cannot fire before that person fires. It's just not  
24 humanly possible, because of that reactionary gap  
25 principle when you have to assess -- you know, even

## Examination of Bradley Clark

1 knowing exactly what you're going to do, you have to  
2 assess what's happening before you take that action.  
3 They decide to take the action, happens like that, and  
4 you're unable to respond to it.

5 Q Okay. And this is by way of a controlled  
6 settling and that -- and --

7 A Controlled setting with everything known.

8 Q And as you said, the person --

9 A No decision-making at all.

10 Q -- with the gun pointed straight up knows  
11 what's going to happen. They're just -- they're just  
12 told, you cannot fire until you see a movement?

13 A Yeah. And the last drill we do is we have  
14 the instructor turn around and they replace the gun  
15 with a cell phone. And then they turn around and  
16 present the cell phone as -- as if it were a firearm.  
17 And everyone shoots, even the citizens academy.

18 Everyone then shoots the person with the  
19 cell phone. They're not able to process that this was  
20 a cell phone in their hand and not a firearm, because  
21 they believe it's a firearm and that person is  
22 behaving like it's a firearm.

23 So it's -- that is a consistent standard  
24 that we see every time that we do this drill, with  
25 police officers and non-police officers. We do it



## Examination of Bradley Clark

1 with both.

2 Q Okay. And in that scenario, just to be  
3 clear, everything's the same, meaning --

4 A Everything.

5 Q -- told that the person has a gun.

6 A Yep.

7 Q But they actually present a cell phone?

8 A Yes.

9 Q Okay. So in talking about action-reaction  
10 time, how's that principle applied when you're  
11 assessing what a reasonable response to a threat is?

12 A The behavior of the person, your knowledge  
13 of them being armed. If this is somebody that is  
14 just, hey, we want to check this person out, there's  
15 no indication that they're armed and they're not  
16 acting erratically, the officers probably just walk up  
17 and talk to them in a conversational manner.

18 If the situation is different where the  
19 person is acting erratically and they're told, "Okay.  
20 Now this person has a machete and they're acting  
21 erratically," you would -- you would see officers use  
22 the reactionary gap to their advantage by using  
23 distance, trying to contain the situation, use  
24 distance, use barriers and communicate from a safe  
25 position or safer position.

## Examination of Bradley Clark

1           Q     Okay.  And just two quick questions on  
2     that'd same issue.  Would it be consistent with the  
3     training that is provided at Portland for an officer  
4     just to walk up to a person who has a gun or at least  
5     has been relayed to the officer that that person has a  
6     gun through 9-1-1 calls?  Would it -- would it be  
7     reasonable for that officer just to walk up to that  
8     person?

9           A     No.  I would never expect to see an officer  
10    just approach someone and engage them in a  
11    conversation if they believed they were armed with a  
12    firearm.

13          Q     And then on the flip side of that, would it  
14    be reasonable or expected that the officer would allow  
15    that person to approach the officer?

16          A     No.

17          Q     In the same scenario?

18          A     It would not be.

19          Q     Okay.  So when an officer gets called to  
20    some of these types of situations, we've already heard  
21    about deescalation techniques a little bit, but I want  
22    to get your take on that as well and what is taught at  
23    the advanced academy regarding deescalation.

24                 So, first of all, does the Portland Police  
25    Bureau have training in the advanced academy regarding

## Examination of Bradley Clark

1 deescalation?

2 A Yes. There's specific deescalation training  
3 and everyone goes through CIT, which is crisis  
4 intervention training, dealing with people in mental  
5 health crisis.

6 And -- and they also go through many, many  
7 scenarios in the advanced academy where they're  
8 dealing with people in crisis or just having a bad day  
9 and -- and isn't very cooperative. So they get a lot  
10 of training in advanced academy about those -- those  
11 things.

12 Q And what are some of the deescalation  
13 techniques or tactics that are taught?

14 A Same as reactionary gap. Well, first of  
15 all, developing a plan, getting your resources  
16 together, maybe having a single communicator. You  
17 have less lethal options. You communicate from a  
18 distance behind barriers. The same thing as  
19 reactionary gap would be the thing that you'd see with  
20 deescalation.

21 Talking to somebody in a calm voice, if the  
22 situation -- if you -- if the -- if the situation is  
23 stable, then you would likely see that and try to  
24 develop rapport with the person and hopefully resolve  
25 the situation safely through developing of a rapport.

## Examination of Bradley Clark

1           Q     Okay.  And then what is expected of the  
2 officers if their own safety or the safety of others  
3 becomes jeopardized while using deescalation tactics?

4           A     Well, it just depends on what that -- what  
5 that looks like.  I would accept -- I would expect the  
6 officer to protect themselves or protect other people  
7 from whatever threat might arise in there.

8                     Deescalation, it's absolutely a tool that we  
9 all wants to work all the time; but the thing is, that  
10 depends on the other person.  If the person that  
11 you're trying to deescalate now escalates and becomes  
12 an immediate threat to you or to someone else, that  
13 has to be addressed.  You can't talk somebody out of a  
14 deadly force action or a less lethal force action.  
15 Maybe they're just punching someone.

16                     That's where deescalation is -- is -- you're  
17 probably not going to see officers using deescalation  
18 techniques at that point, because they have to react  
19 to this immediate threat.  The scene has to be safe  
20 and there has to be some level of cooperation from the  
21 other person for deescalation to work.

22           Q     In response to attempting to better equip  
23 officers with deescalation tactics or techniques, did  
24 the Portland Police Bureau adopt the CIT and ECIT  
25 program?

## Examination of Bradley Clark

1           A     Yes.

2           Q     And could you just tell us what that is.

3           A     So the CIT program, which everyone goes  
4 through now, is a one-week program. It's just  
5 understanding. It's not to diagnose people in mental  
6 health crisis. That takes a lot of time and -- and  
7 study to really do that.

8                     And you have to be with that person for a  
9 long time to actually know if this is mental health,  
10 this is drug -- if they're affected by drugs or  
11 alcohol, whatever it might be. Maybe they're just  
12 tired and having a bad day.

13                    But that takes time. So it's just to  
14 recognize behaviors that are associated with mental  
15 health issues. And then to, again, communicate and  
16 deescalate.

17                    A lot of the training is dedicated to just  
18 building rapport with the other person. And that's  
19 when a person is -- is going to be deescalated, that's  
20 the best way to do it.

21           Q     And all Portland police officers receive  
22 the CIT?

23           A     All Portland police officers.

24           Q     Now, what is ECIT?

25           A     An ECIT is just another week-long training

## Examination of Bradley Clark

1 course which will, basically, make that officer a  
2 resource to everyone else. So they have a little bit  
3 more training, a little bit more scenarios that they  
4 go through and drilling and studying to just be that  
5 person.

6 And, typically, people that are good at  
7 communicating with people in mental health crisis  
8 become ECITs because they're already pretty proficient  
9 at that, if they've had a lot of experience or  
10 practice at it. Then they become a resource to  
11 everyone else.

12 So if you have a call where somebody's in  
13 mental health crisis, if they're armed or they're  
14 suicidal or they're on a bridge threatening to jump,  
15 we'll have an ECIT officer go to that call and  
16 specifically communicate with that person and try to,  
17 you know, end it in a positive outcome if we can.

18 Q Okay.

19 A So they're a resource like -- like the rifle  
20 in a deadly force scenario. If you have a deadly  
21 force situation, you're going to want a rifle. If you  
22 have somebody in mental health crisis, you're going to  
23 want an ECIT.

24 MR. OVERSTREET: Okay. So I'm just looking  
25 at the clock, everyone. It's about noon. I have some

1 more questions for Officer Clark. What do we think  
2 about continuing or taking our break now and resuming  
3 at 1 o'clock with Officer Clark?

4 A GRAND JUROR: I'd like to continue.

5 A GRAND JUROR: Yeah. How much -- well, how  
6 much longer do you think you have?

7 MR. OVERSTREET: I'm thinking probably 10 to  
8 15 minutes at the most.

9 A GRAND JUROR: If we can do -- if we could  
10 take our break at noon.

11 MR. OVERSTREET: Of course. And we could  
12 even start up, you know, slightly later, too, to make  
13 sure you have a sufficient break. Does that work for  
14 everybody?

15 A GRAND JUROR: I prefer to take our break  
16 now from 12:00 to 1:00 and continue after.

17 MR. OVERSTREET: Oh, okay. I thought you  
18 said continue on. Okay.

19 A GRAND JUROR: We'll continue on at  
20 1 o'clock.

21 MR. OVERSTREET: Oh, 1 o'clock. So you  
22 wants to take a break and come back?

23 A GRAND JUROR: Yeah.

24 MR. OVERSTREET: Okay. We -- we can do  
25 that. I want to do --

## Examination of Bradley Clark

1           A GRAND JUROR: I have a plan for noon. I  
2 just -- I would say it's okay.

3           MR. OVERSTREET: It's totally fine. Why  
4 don't we go ahead and go off the record? We'll resume  
5 at 1 o'clock with Officer Clark. You can come back,  
6 correct?

7           THE WITNESS: Oh, of course.

8                           \* \* \*

9           (Noon Recess taken at 11:59 a.m.)

10

11                           **AFTERNOON SESSION**

12           (Whereupon, the following proceedings were  
13 held before the Grand Jury, 1:04 p.m.):)

14           MR. OVERSTREET: Okay. We're back on the  
15 record after taking a short lunch break. Officer  
16 Clark is still on the stand.

17           And I'll just remind you, Officer Clark,  
18 that you're still under oath from the oath that you  
19 took earlier. And we'll kind of pick up where we  
20 left off.

21                           EXAMINATION

22 BY MR. OVERSTREET:

23           Q     And the last thing we talked about was  
24 commands and kind of when to use commands and -- and  
25 stuff like that.



## Examination of Bradley Clark

1           I actually had one more question on that.  
2           And that was, is part of the training -- do you  
3           include in part of the training who should issue  
4           commands, meaning is it ideal to have just one person  
5           issue commands or multiple people and from who,  
6           meaning the people who are engaged with the individual  
7           or not?

8           A       It's definitely ideal to have one  
9           communicator, one person giving commands. And that  
10          typically happens when you have a planned response and  
11          you have a set communicator.

12          So if you have time to -- to make a plan and  
13          say this is the person that's going to communicate,  
14          you would hope that that person it would be the one  
15          giving the commands or the warnings that that point.

16          But what you see is when something  
17          materializes quickly and the plan hasn't really been  
18          set, you might get multiple people giving commands  
19          just because that hasn't really been laid out.

20          Q       Okay. And besides giving commands, just in  
21          communicating with a subject, in an ideal scenario,  
22          would it be good to have somebody who is ECIT trained?

23          A       Yes. It would be preferable, obviously, if  
24          you had an ECIT speaking to just anyone, really, you  
25          know.

## Examination of Bradley Clark

1           Q     Okay. Thank you. And so I wanted to move  
2     on to give you a scenario and some -- some facts about  
3     a potential scenario that could occur and how you  
4     would -- what kind of options would make be available  
5     to a police officer during each step of the scenario.

6           A     Okay.

7           Q     And so to start off, we'll start with a  
8     normal police call or a police call to dispatch being  
9     reported from a civilian that somebody's in a park  
10    with a firearm, at least a perceived firearm from that  
11    caller.

12                    Just with that information alone, what kind  
13    of options from a training perspective would you  
14    expect an officer to have in responding to call  
15    like that?

16           A     First of all, get resources available, see  
17    if they're -- the plane is available -- well, do we  
18    know if the call came in from someone in the park?

19           Q     Yes. I would say a call from somebody, at  
20    least in or near the park --

21           A     Okay.

22           Q     -- that has personally observed they  
23    perceived to have a firearm.

24           A     Yes. So initial officers that are  
25    responding, they'd probably begin to set the stage,

## Examination of Bradley Clark

1 ask for a rifle, and for additional units and begin to  
2 contain that area. That's the first step is to --  
3 well, first step to try to get eyes on this person, so  
4 get someone there.

5 And that would typically be the rifle  
6 operator to, from a distance, get eyes on the person  
7 and make sure that they are not -- they're not  
8 attacking someone or posing an immediate threat at  
9 that time. So get eyes on the person.

10 The next officers in, you would begin to  
11 contain the scene and try to limit any access or  
12 exposure from anyone else to that person and then  
13 develop a plan.

14 Bring in less lethal, maybe K9, maybe the  
15 plain and designated role as communicator, less  
16 lethal, rifle and -- and set up your -- your plan,  
17 after containment is -- and making sure that that  
18 person is not a threat at the moment.

19 Q And just to reiterate, the way I'm phrasing  
20 these questions are what kind of options are available  
21 to a police officer. And so to clarify with you,  
22 you're not necessarily saying these are what somebody  
23 should do or will do --

24 A Sure.

25 Q -- but just some options that are available?

## Examination of Bradley Clark

1           A     Exactly.  This is -- in a perfect world,  
2     this would be, you know, maybe what's available  
3     to you.

4           Q     Okay.  And so if that call was updated that  
5     the individual in the park was acting erratically,  
6     waving the gun around, pointing it, doing quick draws,  
7     maybe referenced somebody is like a cowboy or James  
8     Bond-type moves, does that alter some of the options  
9     or are you expecting sort of that same sort of  
10    response --

11          A     Expect the same --

12          Q     -- or the same options available?

13          A     -- sort of response, but -- and that goes  
14    into the -- that just goes into the bank of totality  
15    of the circumstance.  Now we have somebody in the  
16    park.

17                    They're armed with a firearm and they're not  
18    acting like what you'd expect a normal people -- a  
19    person to be acting like in a park that might have  
20    other people in it.

21                    Like, doing quick draws or waving a gun  
22    around, that's not maybe normal behavior, so now that  
23    takes the whole thing, makes it a little bit more  
24    dangerous possibly.

25          Q     Okay.  And so you talked about having one of

## Examination of Bradley Clark

1 the options that's calling for a rifle --

2 A Mm-hmm.

3 Q -- and possibly less lethal. If both of  
4 those showed up on scene, the first two officers on  
5 scene, one being on a rifle and one being on less  
6 lethal, you already talked about sort of setting up  
7 containment. And so would you expect or is one of the  
8 options then to not only set their own position, but  
9 to call in backup?

10 A Absolutely, yeah. Then it would be from  
11 there, you'd expect those people to stay together.  
12 The lethal rifle cover would protect the less lethal  
13 cover because we know that tool isn't going to  
14 necessarily be effective if this person turns violent.

15 And then they could direct the response from  
16 there. But they also -- I would expect them to be in  
17 a position to be able to intervene if this person  
18 becomes an immediate threat to someone.

19 Q And --

20 A So it couldn't be -- I wouldn't have them  
21 sitting so far off that they're -- they're not able to  
22 address this -- this person if they're now focused on  
23 some other people in the park.

24 Q And what kind of options would be available  
25 to a police officer in that situation where they have

## Examination of Bradley Clark

1 found cover and were about 90 feet away from the  
2 subject? What kind of options would they have to use  
3 to address the situation?

4 A Really, the only options there are  
5 containment, trying to make sure that no one else can  
6 enter or make -- get everything out and not allow  
7 anyone to enter the area, which is very difficult in a  
8 large park.

9 You would need a lot of resources to do  
10 that. So that's one thing you could do. As far as  
11 options to deal with the person, really all you have  
12 at that point is your rifle, your less lethal  
13 40-millimeter and communication. That's it.

14 Q Okay. And to expand on that, make this  
15 helps pick which option you may use, but now the fact  
16 is that you've communicated with the original caller  
17 directly and just confirmed what they had initially  
18 told dispatch, that the person had a gun in the park.

19 Now you have somebody inside the park or  
20 near the park, additionally another person telling the  
21 same police officer that this individual has a  
22 firearm.

23 A Okay.

24 Q So what would you do with that information?

25 A Obviously, let everybody know. And that

## Examination of Bradley Clark

1 pretty much is going to confirm most likely that he  
2 definitely does, indeed, have a firearm if you have  
3 two dependent sources telling you the same thing that  
4 haven't communicated with each other and have no point  
5 of contact that that is what's happening or that's  
6 what's perceived to have happened.

7 Q Okay. And then additionally to that, the  
8 officer, at least the lethal officer -- the lethal and  
9 nonlethal officer observe that the subject, at least  
10 at that point that they encounter does not have a gun  
11 in their hands.

12 A Does not have a gun.

13 Q What would -- what would their training tell  
14 them what their options were at that point?

15 A At that point, it would be to communicate  
16 with that person, try -- try to get them to keep their  
17 hands where they could see them; move away from any  
18 property that they might have; and just gain voluntary  
19 or verbal compliance from that person to get them to a  
20 point where you can make sure that they don't have a  
21 gun or that they do have a gun and you can get  
22 it safely.

23 Q Okay. And assuming that the verbal commands  
24 are attempted here in the scenario, if the officer  
25 observes then what he perceives to be a firearm in the

## Examination of Bradley Clark

1 individual's back pocket, but not being reached for,  
2 does that change things?

3 A No. You still have -- all the resources  
4 stay the same, but now you -- okay, now he's  
5 definitely armed. He's just not suspected to be  
6 armed. We see it. It doesn't change our response.

7 It's still -- the only options we have are  
8 to communicate and if that person becomes an immediate  
9 threat or lethal and I -- I hate to even say less  
10 lethal at that point. If they become an immediate  
11 threat with a -- with a pistol at that point, would  
12 not be -- the less lethal would not be the appropriate  
13 tool.

14 Q Okay. And at this point in the scenario,  
15 we're talking about somebody who continues to act  
16 erratic; waving hands in the area; shirtless, so you  
17 can observe their waist band. But not reaching for  
18 the perceived firearm in the back pocket at this  
19 point.

20 A Sure.

21 Q Now, what if the individual is yelling back  
22 towards the officers who are giving commands and  
23 saying things like, "I will kill you, I will shoot  
24 you." What are --

25 A So now you're into that imminent threat



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1 area, we're you're in the state law standard of -- of  
2 potentially this person has risen to the point of  
3 being an imminent threat of death or serious physical  
4 injury.

5 But, again, he's just saying that. So it's  
6 just like what I described earlier. There's a gun  
7 next to the person and they say, "I'm going to kill  
8 you," but they have -- they haven't reached for that  
9 or -- or taken an action towards making that happen.  
10 So we're in the realm of that imminent threat at that  
11 point.

12 Q Okay.

13 A So it's -- it's very serious.

14 Q And so you've talked about Portland Police  
15 Bureau's policy regarding its more restrictive policy  
16 in requiring the immediate threat.

17 A Yep.

18 Q In a training scenario, would you classify  
19 this as an immediate threat?

20 A Just from what I'm hearing, I'm -- I'm -- I  
21 think this falls into the realm of an imminent threat.

22 Q Imminent threat, okay. And then the final  
23 sort of piece to my scenario here and what reaction  
24 would be trained in this scenario would be if that  
25 same individual then, whether it comes from a back

## Examination of Bradley Clark

1 pocket or the ground or anywhere, but then presents  
2 that firearm, not only holding it in their hands, but  
3 pointing it directly at the police officers with arms  
4 outstretched, what -- what, at that point, is training  
5 telling you the appropriate response is?

6 A That that person is an immediate threat of  
7 death or serious physical injury to the officer or  
8 others and that lethal force is the appropriate  
9 response to that.

10 Q Okay. Now, you touched on the less lethal  
11 just real briefly there. In that scenario I gave you,  
12 at any point in there would you expect that  
13 40-millimeter to be deployed?

14 A That would be the decision of the officer  
15 on -- on scene at the time making that -- taking it  
16 all in. Our standard for the use of the 40 millimeter  
17 is active aggression. Active aggression is an active  
18 attack.

19 If somebody's coming at you with their fists  
20 up and "I'm going to -- I'm going to beat you up." Or  
21 something like that, that's active aggression. That's  
22 the standard we have to have for that -- to deploy  
23 that 40-millimeter.

24 So someone running around in the park and  
25 acting erratically is not -- does not necessarily rise

## Examination of Bradley Clark

1 to that level. There is another stipulation that to  
2 avoid a higher level of force, you can use the  
3 40-millimeter.

4 So that would be if you were going to use  
5 deadly force on this person, you were certain of that,  
6 you could use the 40-millimeter to prevent that from  
7 happening.

8 At the point that someone goes from being an  
9 imminent -- so he says -- I can see a 40-millimeter  
10 being deployed if he's in the park with a gun in his  
11 waistband and he's saying, "I'm going to kill you," I  
12 could -- that would probably fall in policy to do  
13 that. But it's in that gray area, so I wouldn't -- I  
14 wouldn't be surprised to not see a less lethal  
15 deployed either.

16 Q Okay. And what about just a practical  
17 matter of the individual who is holding the  
18 40-millimeter to switch over from that to a lethal  
19 option? Is that feasible in that sort of split-second  
20 decision-making?

21 A No. Again, that would -- you're already  
22 behind the curve. Now you're going to have to  
23 transition to another weapon system. And that takes  
24 too much time. We --

25 Q So -- and in that scenario then, would it be

## Examination of Bradley Clark

1 reasonable to, even though it's now risen to this,  
2 what you've described as an immediate threat --

3 A Mm-hmm.

4 Q -- to still deploy the 40-millimeter --

5 A Sure.

6 Q -- 'cause that's all you have?

7 A Yes, absolutely. You -- that would  
8 definitely be reasonable. In that situation, we -- we  
9 teach our less lethal operators to rely on their  
10 lethal cover in that situation, so if this becomes an  
11 immediate threat.

12 It's not that they're transitioning to their  
13 firearm, just physically a difficult thing to do; but  
14 also you're not going to be able to do that with the  
15 time and you have that lethal cover that is expected  
16 to intervene if you're not able -- if it rises to that  
17 level. So they're kind of -- we consider the rifle as  
18 the cover for the less lethal officer at that point.

19 Q Understood.

20 A And the other practical -- when you said  
21 just in practicality, the use of the 40-millimeter,  
22 again, the 40-millimeter will not incapacitate. It's  
23 not going to stop somebody's behavior.

24 It's just going to be a little bit jarring,  
25 a little bit of a slap, you know. It's -- it's -- so

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1       you can't expect to stop someone's behavior with a  
2       40-millimeter.

3             Q       Okay.

4             A       It's not likely.

5             Q       And going back to -- and maybe even  
6       considering the scenario that we've laid out for you,  
7       but and going back to sort of the deescalation  
8       techniques.

9                     And you talked about this before the lunch  
10       break, but who really is in control of how this plays  
11       out and -- and in what time frame? Meaning does the  
12       officer have control in which order things happen and  
13       what time they happen?

14            A       Absolutely not. They're only responding to  
15       actions of that individual and it really depends on  
16       what they decide to do. They're dictating the whole  
17       situation.

18                     If they communicate with the person and  
19       they -- that person chooses to listen to the commands  
20       and chooses to engage with them in conversation,  
21       that's -- that's up to them.

22                     On the either side of that, if they choose  
23       to now present a firearm and point it at police  
24       officers, there's nothing you can do to stop that.  
25       There's no deescalation that will deal with that. You

## Examination of Bradley Clark

1 have to have some cooperation from that person, some  
2 willingness to engage in this process for deescalation  
3 to even be reasonable.

4 Q And I think that you maybe sort of were  
5 touching on this a little bit, but I'll be a little  
6 bit more specific to it. Once that gun is pointed at  
7 police or others, is it ever appropriate to just try  
8 less lethal first to see if the person lowers the gun?

9 A No. I think the appropriate -- if it were  
10 to be deployed, it would have been before the  
11 presentation of the firearm and having it pointed at  
12 someone.

13 Q Okay. So --

14 A That would not be the appropriate  
15 response --

16 Q Okay.

17 A -- from training, as -- as far as our  
18 training goes.

19 Q And -- and just -- and, again, thinking  
20 about it in a training perspective, is it possible  
21 that if you were to -- if an officer were to shoot  
22 somebody with -- with a less lethal, like a  
23 40-millimeter and they have a gun, that could  
24 possibly --

25 A Absolutely. And --

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1 Q -- cause a response of that person shooting?

2 A Absolutely. And that -- that should be  
3 effective if the officer's thinking about, okay, this  
4 person's acting erratically. They're not obeying my  
5 commands. I see that they're armed with a pistol.

6 If I fire this 40-millimeter and it strikes  
7 in their lower extremities or in their waistline, is  
8 that going to cause them to each into that area now,  
9 making other officers perceive that they're going for  
10 that weapon?

11 That's certainly a concern and something  
12 that I would hope an officer took into account before  
13 he -- and that's why you -- you might not have seen it  
14 deployed in this situation.

15 Q And, again, with this scenario, just a  
16 couple more questions regarding other officers for  
17 less lethal. You talked about the effective distance  
18 of a Taser being 25 feet. In our scenario, I give you  
19 90 feet. Is the Taser even feasible in this scenario?

20 A Taser is not. Completely ineffective at  
21 that range.

22 Q And what about pepper spray?

23 A Pepper spray is a max of 18 feet. And  
24 again, completely ineffective.

25 Q And although not required for all officers

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1 to carry anymore, the Asp, expandable baton. Any  
2 reason that would be an option in this scenario?

3 A To me, that's never an option for anything.  
4 I don't like that.

5 Q And are there other less lethal that we  
6 didn't talk about that Portland police officers would  
7 have available to them, at this point, in this  
8 scenario?

9 A Possibly a K9 unit and that's it, but we  
10 don't typically deploy our K9s into somebody that's  
11 armed with a firearm.

12 Q Okay. And I guess I should specify at what  
13 point in the scenario, meaning the point at which the  
14 individual's pointing the gun at a police officer.

15 A There's no other option. There's nothing  
16 else trained or taught that we have available to deal  
17 with that situation. And if had something, we'd use  
18 it. If we had a tool that we could use at distance  
19 that would reasonably incapacitate someone at a less  
20 lethal level, we'd use it all the time.

21 We don't have it. We've done a lot of  
22 research and development and tried a lot of these  
23 tools that people tout as the next big thing and they  
24 -- they're just highly ineffective. If we had the  
25 tool, we'd use it. We don't. And this is the only



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1 effective tool we have with dealing with this kind of  
2 situation.

3 MR. OVERSTREET: Okay.

4 Okay. I think that's all of my questions.  
5 I'll turn it over to grand jurors now.

6 The one in the back at least. Go ahead.

7 A GRAND JUROR: From a control  
8 perspective --

9 THE WITNESS: Yes, sir.

10 A GRAND JUROR: -- in a situation -- so  
11 you'd mentioned previously in a situation like one  
12 that's being described where someone's in a park  
13 brandishing a weapon, flailing, you would not expect a  
14 single police officer to respond, is that correct,  
15 that you would expect multiple?

16 THE WITNESS: Yes. So expect multiple.  
17 There might be a single officer that gets to a point  
18 of observation where they can see the person and just  
19 get eyes on them and make sure that if he became that  
20 immediate threat, that he'd be able to intervene and  
21 save people from being harmed. That's the only time.  
22 But never communicate or go and try to deal with that  
23 person on their own.

24 A GRAND JUROR: Sure. So in that -- going  
25 off of that, so in a situation where multiple police

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1 officers arrive -- and you've also stated that it's  
2 not feasible for someone who's on a less lethal option  
3 to maneuver into a different weapon system, which  
4 would be like a less lethal weapon system --

5 THE WITNESS: In a -- in a quick -- yeah,  
6 yeah. Yeah, quickly.

7 A GRAND JUROR: So in a situation where you  
8 have, let's say someone who's on a less lethal option  
9 and someone who's using a lethal weapon system --

10 THE WITNESS: Mm-hmm.

11 A GRAND JUROR: -- in that scenario from a  
12 control perspective, would you expect someone on the  
13 lethal option to be giving commands to the individual  
14 brandishing the weapon, since they're holding a lethal  
15 option? Or would you expect someone on the less  
16 lethal? Just what is your perspective?

17 THE WITNESS: It would be optimal to have  
18 someone that is not filling any other role being the  
19 communicator, but you have to have enough people and  
20 resources on scene. I would expect the ECIT to be the  
21 communicator.

22 And sometimes that ends up the ECIT is in a  
23 dual role of maybe the less lethal cover and the  
24 communicator. Optimally, we'd like to have everybody  
25 in their own roles, but that -- we don't always get

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1 that. We just don't have that available to us all  
2 the time.

3 A GRAND JUROR: Sure. Thank you.

4 A GRAND JUROR: Now, I have kind of a policy  
5 question.

6 THE WITNESS: Sure.

7 A GRAND JUROR: In the State versus what  
8 Portland allows, what would be the penalty on a  
9 Portland officer using lethal -- lethal action with  
10 the minimum that the State allows rather than --

11 THE WITNESS: Oh, potential termination.

12 A GRAND JUROR: -- and below the -- below  
13 the Portland standard.

14 THE WITNESS: Yeah. Potential termination,  
15 so they might get fired.

16 MR. OVERSTREET: Anybody else have a  
17 question?

18 A GRAND JUROR: This is an unfortunate and  
19 complicated situation.

20 THE WITNESS: 100 percent.

21 A GRAND JUROR: For everybody involved.

22 THE WITNESS: Yes, sir.

23 A GRAND JUROR: And so there's this  
24 structure right there between the two of us. I --  
25 you -- you were saying that, you know, when something

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1 is developing quickly --

2 THE WITNESS: Mm-hmm.

3 A GRAND JUROR: -- okay, before you give you  
4 any facts, how do you -- what -- how do you define  
5 kind of quickly? Give me a time. Is that like one  
6 minute, five minute, 20 minute? What's quickly?

7 THE WITNESS: Well, I'd say quickly is when  
8 you don't have your resources in place to deal with  
9 whatever it is that's being presented to you. So if  
10 you're not prepared for what is about -- what is  
11 happening and you haven't had any of your plan put  
12 together, I would say that's developing quickly.

13 A GRAND JUROR: Okay.

14 THE WITNESS: So the thing happens and you  
15 weren't prepared for it, that would -- I guess that's  
16 how I'd define it.

17 A GRAND JUROR: All right. So the scenario,  
18 continuing on what was presented. Adding in some  
19 other -- some other elements of that that we know of.  
20 Two officers appear within seconds of each other --

21 THE WITNESS: Mm-hmm.

22 A GRAND JUROR: -- in the same general area,  
23 eyes on and all that.

24 THE WITNESS: Yep.

25 A GRAND JUROR: Conversation prior to that

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1 en route with the caller that said that there's this  
2 person in the park acting erratically, doing quick  
3 draws, whatever. I think they said a quick draw or I  
4 think he actually said a James Bond-type move.

5 A GRAND JUROR: Cowboy.

6 A GRAND JUROR: Cowboy thing.

7 A GRAND JUROR: Don't forget cowboy.

8 A GRAND JUROR: Not threatening, not  
9 pointing the gun at anybody. The officer -- you know,  
10 that's the communication between the person calling it  
11 in and the officer verifying it. Unknown handgun,  
12 whatever.

13 THE WITNESS: Sure.

14 A GRAND JUROR: Pointing at the baseball  
15 field, though.

16 A GRAND JUROR: Yeah. He's pointing it, not  
17 at people. He just pointed something. Okay? So then  
18 the officers arrive. And -- and other (indiscernible)  
19 the person is continuing to behave erratically,  
20 responds verbally aggressively to officers here,  
21 doesn't like officers, whatever continue to -- taking  
22 his shirt off, so he's got pants and he's behaving  
23 erratically.

24 THE WITNESS: Sure.

25 A GRAND JUROR: So the -- the time frame now

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1 is going to be four minutes. And all the time, I kind  
2 of sit there and watch the clock up there. Four  
3 minutes, you know, can be a very long time. Lots of  
4 things happening on. Things are escalating.

5 So that's -- that's the scenario is -- and  
6 at the time also out on the radio by the officer --  
7 officers are that the gun's in the back pocket.  
8 They've identified something --

9 THE WITNESS: Okay.

10 A GRAND JUROR: -- in the back pocket in  
11 pants.

12 THE WITNESS: So the officers knew that  
13 before they arrived?

14 A GRAND JUROR: So they knew something  
15 beforehand and then they see -- and it's 90 feet.

16 THE WITNESS: Mm-hmm.

17 A GRAND JUROR: I paced this off. This is  
18 60 feet from door to door, so it's further away than  
19 this.

20 THE WITNESS: Mm-hmm.

21 A GRAND JUROR: There's something there.

22 THE WITNESS: Yeah.

23 A GRAND JUROR: All right. So training --  
24 from a training perspective and all and a  
25 deescalation -- oh, and then what essentially happens

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1 is multiple commands from officers.

2 THE WITNESS: Mm-hmm.

3 A GRAND JUROR: And yelling back and forth.

4 THE WITNESS: Okay.

5 A GRAND JUROR: Louder and louder and such.

6 THE WITNESS: Sure.

7 A GRAND JUROR: So could you talk about that  
8 in a deescalation scenario. In training, what --  
9 what -- how would you --

10 THE WITNESS: Well, the thing with  
11 deescalation is and it's written in our policy that if  
12 time and circumstances reasonably permit, deescalation  
13 should be attempted. Right?

14 A GRAND JUROR: Right.

15 THE WITNESS: What that means from a  
16 training perspective is that this scene is safe for  
17 the officers, it's safe for others around.

18 A GRAND JUROR: Right.

19 THE WITNESS: So you can begin to develop  
20 that communication and rapport with the person to try  
21 to get them to calm down. If that's not the case, you  
22 might not see deescalation techniques being used other  
23 than what's already been used, like we didn't walk  
24 right up to the person.

25 We used barriers. We used distance in

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1       trying to give this person time to follow our commands  
2       or even engaging in communication at all in a  
3       reasonable way.  So that's what --

4                A GRAND JUROR:  I mean, the officers are --  
5       they're there.  They're behind a tree.

6                THE WITNESS:  Mm-hmm.

7                A GRAND JUROR:  Large tree.

8                THE WITNESS:  Mm-hmm.

9                A GRAND JUROR:  Weapons deployed.

10              THE WITNESS:  Okay.  So that's the barrier.  
11       The tree is a barrier.

12              A GRAND JUROR:  The tree is the barrier.  
13       90 feet away, subject behaving erratically, yelling --

14              THE WITNESS:  Mm-hmm.

15              A GRAND JUROR:  -- screaming, waving his  
16       hands around.  Officers at least are at, I guess,  
17       extended low ready.  The weapons are extended at low  
18       ready.  And -- and then the yelling continues and --  
19       and commands are given by multiple people.

20              THE WITNESS:  Mm-hmm.

21              A GRAND JUROR:  Meanwhile, there are now  
22       other officers appearing that are getting on site.

23              THE WITNESS:  Sure.

24              A GRAND JUROR:  The standards that we have  
25       to look at is reasonable in the minds of the -- of the



## Examination of Bradley Clark

1 officer at the time.

2 THE WITNESS: Exactly.

3 A GRAND JUROR: All things -- you know, all  
4 (indiscernible) in the context they're working in.

5 THE WITNESS: Yes.

6 A GRAND JUROR: So I'm just kind of sorting,  
7 think that through of what's the training, because  
8 again, this isn't a carpenter. This is a police  
9 officer who has particular standards and training and  
10 thinking of how their best way to deal with this. So  
11 far, you said -- I think you said earlier, that was an  
12 imminent threat, but not an immediate threat.

13 THE WITNESS: Sure. I would consider  
14 that -- well, specifically when he says, "I'm going to  
15 kill you," which I don't know that was -- that was  
16 theoretical. I don't know if that actually happened.

17 A GRAND JUROR: Yeah.

18 THE WITNESS: But you know he's armed. He's  
19 acting erratically. He says, "I'm going to kill you."  
20 Now I would say, okay, this meets the criteria of an  
21 imminent threat.

22 A GRAND JUROR: Yeah. We're at imminent,  
23 State standard.

24 THE WITNESS: State standard.

25 A GRAND JUROR: Not Portland

## Examination of Bradley Clark

1 (indiscernible), but State standard.

2 If he pulls his weapon out, waves it around,  
3 points it and puts it back in his pants, does that --  
4 how would that change things?

5 THE WITNESS: Well, I would say that he --  
6 immediacy happens as soon as he goes and reaches for  
7 that weapon.

8 A GRAND JUROR: Okay.

9 THE WITNESS: He's in the park. He says,  
10 I'm going to kill you. And now he reaches for the  
11 gun. I would expect that's when you'd see less --  
12 lethal force used.

13 And then if he gets the gun out and is  
14 waving it around, those officers maybe have not caught  
15 up to the situation that they've lost that reactionary  
16 gap advantage. And they just didn't use force when  
17 they probably should have at that point from the  
18 training, from a training standpoint.

19 A GRAND JUROR: From a training standpoint.

20 THE WITNESS: Yeah.

21 A GRAND JUROR: Yeah, I -- okay. Okay.

22 Okay. That -- that helps. Thank you.

23 BY MR. OVERSTREET:

24 Q I kind of want to just build on that last  
25 question there, which is the scenario where the gun is

## Examination of Bradley Clark

1 presented but then put away.

2 A Mm-hmm.

3 Q If the officers hadn't caught up to that yet  
4 and had the time to observe, okay, he's put it away.  
5 His hands are empty again, does that then take it back  
6 to possibly an imminent threat, away from an immediate  
7 threat?

8 A I would say if he no longer has the gun in  
9 his hand and he's still acting erratically, but that  
10 action hasn't been taken that creates the immediacy,  
11 yes, I'd say we're back into the realm of imminent.

12 Q As long as he's not touching the firearm?

13 A Yes.

14 Q Okay. And so from a State law standpoint,  
15 we've already understood that -- that might meet the  
16 criteria, but from a Portland Police Bureau policy  
17 standpoint, that -- if that gun is returned, hand's  
18 removed, it might not meet or would not meet the  
19 policy --

20 A Yeah, yeah.

21 Q -- of the Portland Police Bureau?

22 But I do wants to then clarify the moment  
23 that it does become an immediate threat is not the  
24 moment -- at least according to your testimony, so  
25 correct me if I'm wrong -- not the moment that he

## Examination of Bradley Clark

1 points the firearm, but actually the moment where he  
2 grabs the firearm or at least he even reaches --

3 A He takes the action to obtain the firearm is  
4 when the immediacy would start. The action has  
5 occurred. He's taken the action to -- to introduce  
6 that weapon. And -- and if you believe -- if there's  
7 reason to believe that's his intent, to introduce the  
8 weapon and use it, as soon as he goes for that weapon,  
9 it becomes immediate.

10 Q And this may be obvious just based on your  
11 testimony, but is it because of the action-reaction  
12 time --

13 A Absolutely.

14 Q -- that you're not expecting an officer to  
15 wait for the gun to actually be pointed either way?

16 A Yes, exactly.

17 MR. OVERSTREET: Okay. Thank you.

18 Does that cause any other questions or  
19 generate any other questions?

20 Okay. Okay. I think that's it,  
21 Officer Clark. Thank you.

22 THE WITNESS: All right. Thank you all.

23 A GRAND JUROR: Thank you. Thank you very,  
24 very much.

25 A GRAND JUROR: Thank you, Officer Clark.

## Examination of Samantha Wuthrich

1 (Whispered discussion, off the record,  
2 1:35 p.m.)

3 MR. JACKSON: Okay. All right. Our next  
4 witness is Samantha Wuthrich.

5 Keep standing for a moment over here.

6 A GRAND JUROR: I'll swear you in once you  
7 get -- oh, you're -- okay. We're on the record.

8 **SAMANTHA WUTHRICH**

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

11 A GRAND JUROR: Great. Thank you very.  
12 Have a seat. Be seated.

13 MR. JACKSON: And could you please state and  
14 spell your name.

15 THE WITNESS: My name is Samantha Wuthrich,  
16 S-a-m-a-n-t-h-a; Wuthrich, W-u-t-h-r-i-c-h.

17 **EXAMINATION**

18 BY MR. JACKSON:

19 Q All right. Are you a Portland police  
20 officer?

21 A Yes, I am.

22 Q How long have you been a police officer?

23 A In November, it will be 13 years.

24 Q Did you have any law enforcement experience  
25 before becoming a Portland police officer?

## Examination of Samantha Wuthrich

1           A     No, sir.

2           Q     Did you go through the basic academy in  
3 terms of your training when you became a police  
4 officer?

5           A     Yes, I did. I went through basic and then  
6 Portland's advanced academy.

7           Q     Okay. Did you also complete the field  
8 training program for the Portland Police Bureau?

9           A     Yes, I did.

10          Q     All right. And what have been your  
11 assignments over that 13-year career?

12          A     I've worked at East Precinct. I've worked  
13 with our Domestic Violence Unit. I did a little stint  
14 with our Gang Team and now I'm back at east day shift.

15          Q     Okay. And are those are patrol-oriented  
16 assignments?

17          A     The domestic violence was not patrol. It  
18 was investigations; but everything else, yes.

19          Q     Okay. And so how long were you an East  
20 Precinct patrol officer once coming back from your  
21 last other assignment?

22          A     I've been there about three years now.

23          Q     Okay. And what are the times for day shift?

24          A     7:00 a.m. to 5:00 p.m.

25          Q     All right. Do you have any -- aside from

## Examination of Samantha Wuthrich

1 the basic and advanced academies that you completed,  
2 do you have any other certifications related to your  
3 official duties?

4 A Yes. I am trained in the 40-millimeter less  
5 lethal launcher.

6 Q And how did you get into that program?

7 A They opened the position and then I applied  
8 for it and my sergeant recommended me to go. And so I  
9 ended up going to the training and getting certified  
10 in it.

11 Q Do you remember when that was?

12 A Oh, man. Ah, I do not.

13 Q Do you know approximately how many years  
14 you've been certified to operate the 40-millimeter  
15 less lethal launcher?

16 A Probably at least three years.

17 Q Okay. So a while. It wasn't like a moth  
18 ago.

19 A Yes, yeah. I was certified on the bean bag  
20 prior to the 40-millimeter, which is also a less  
21 lethal launcher.

22 Q Okay. So do you have a sense of whether the  
23 Portland Police Bureau transitioned from the bean bag  
24 to the 40-millimeter launcher?

25 A Oh, man, I do not. That's a good question.

## Examination of Samantha Wuthrich

1           Q     Okay. Having been trained on both of those,  
2     is there one system that's superior to the other, in  
3     your opinion?

4           A     The 40-millimeter has more distance to it.

5           Q     Okay. What about in terms of accuracy? Is  
6     it a more accurate system than the --

7           A     Yes. It has a scope on it with a red dot  
8     laser.

9           Q     Okay. Is that the kinds that actually  
10    projects out onto the target where you would actually  
11    see a red dot, like, on your body?

12          A     You see the red dot through the scope  
13    that's -- that's on the 40-millimeter.

14          Q     Okay. So not projected out onto --

15          A     No.

16          Q     -- the wall or something?

17          A     Yes.

18          Q     Okay. All right. So I want to take you  
19    back to April 16th, 2021.

20          A     Okay.

21          Q     Were you working that day?

22          A     Yes, I was.

23          Q     And what -- in what capacity were you  
24    working?

25          A     I was in a patrol uniform in a patrol car



## Examination of Samantha Wuthrich

1 working 981, which is my assigned district.

2 Q Okay. And were you 40-millimeter operator  
3 that day, certified?

4 A Yes, yes.

5 Q Did you have your 40-millimeter launcher  
6 with you for that shift?

7 A I had forgotten it.

8 Q Okay. When you went out that morning?

9 A Yes. In the morning, yeah.

10 Q Okay. So what tools did you have with you?

11 A I -- I had my handgun.

12 Q Any other less lethal options?

13 A We are all assigned our own leg holster with  
14 extra ammunition for a 40-millimeter, so I always have  
15 that, like, in my duty bag, so that was with me as  
16 well, but I didn't actually have my 40 with me.

17 Q The launcher itself?

18 A Yes.

19 Q Okay. What about Taser, pepper spray, those  
20 things?

21 A I had Taser. I had pepper spray, yeah.

22 Q All right. Any other tools that you had  
23 brought with you for your shift?

24 A No.

25 Q Okay. Were you in a -- you already said you

## Examination of Samantha Wuthrich

1 were in a marked patrol car. Were you by yourself in  
2 the car or did you have a partner?

3 A I was by myself.

4 Q Okay. And is that normal for the Portland  
5 Police Bureau?

6 A Yeah. It just depends. Usually, I'm by  
7 myself or occasionally, Zach and I are partnered up.

8 Q Okay. When you say Zach, do you mean  
9 Officer Zach DeLong?

10 A Yes, sir.

11 Q And how long have you two worked together?

12 A Probably about two years.

13 Q And when you say you have a partner, as a  
14 practical matter, what does that mean? Do you guys  
15 respond to every call together? Do you ride next to  
16 each other?

17 A Yes. We're in the -- the same patrol car.  
18 When we're -- I still refer to him as my partner when  
19 he's his own patrol car; but when we are partnered up,  
20 we're in the same patrol car going to calls together.

21 Q Okay. On this day, though, April 16th --

22 A Mm-hmm.

23 Q -- you were not partnered with him?

24 A We were not.

25 Q Was he working, though?

## Examination of Samantha Wuthrich

1 A Yes.

2 Q Okay. So his own patrol car?

3 A Yes.

4 Q Different patrol district or same one?

5 A So he's 980s. So we're both Lents officers,  
6 but I go from 92nd east and he goes from 92nd west.

7 Q Okay. For the two different patrol areas?

8 A Yes.

9 Q So if a call comes out within one of those  
10 areas, would it be that particular patrol district  
11 officer's primary responsibility?

12 A Yes.

13 Q And what do you do if two calls come out in  
14 one patrol district?

15 A We just split it.

16 Q Okay. So other officers would come out of  
17 their patrol districts to respond?

18 A Yes.

19 Q Okay. Is that a fairly common occurrence?

20 A Yes.

21 Q Okay. You guys would be going out of  
22 district to respond to calls?

23 A Mm-hmm, yeah.

24 Q Okay. And what about a situation that  
25 requires multiple officers to deal with one particular

## Examination of Samantha Wuthrich

1 call? Is that a common occurrence?

2 A Yes.

3 Q Okay. As a result, do you tend to listen to  
4 dispatch for calls that are happening all around your  
5 precinct?

6 A Yes.

7 Q And how does that work exactly in terms of  
8 deciding whether to respond to a call that's outside  
9 of your district or not?

10 A So we could either be dispatched to it by a  
11 dispatcher or if it sounds like something where they  
12 would need more help on the call, usually we just go  
13 and attach ourselves.

14 Q Okay. And so going back now to April 16th,  
15 2021 and the shift you were just describing, do you  
16 recall a call for service coming out in the area of  
17 Lents Park?

18 A Yes, I do.

19 Q And do you remember about how far into your  
20 shift you were when that call came out?

21 A It was about 9:30.

22 Q In the morning?

23 A Yes.

24 Q And, again, sorry, you started your shift at  
25 7:00?

## Examination of Samantha Wuthrich

1           A     Yes.

2           Q     Okay.  Was this one of the first calls you  
3 had that day?  Had you had a lot of calls already?

4           A     We had had a few, if I recall right.  
5 Usually, it's just like kind of cleaning up calls from  
6 night shift that they weren't able to get to.  And so  
7 we each had a couple of those.

8           Q     Okay.  Do you remember where you were  
9 exactly when the call for service at Lents Park  
10 came out?

11          A     Yes.  Zach and I were parked car to car is  
12 what we say at 108 and Holgate, which is a fenced-in  
13 church where they have a bathroom for us to use.

14          Q     Okay.  Were you guys taking a break there  
15 or --

16          A     Yes.

17          Q     All right.  And so what was the initial  
18 information you received regarding this call at  
19 Lents Park?

20          A     The call came out and it said that there was  
21 a white male with a handgun in Lents Park and that he  
22 wasn't threatening people with it, but he was  
23 holding it.

24          Q     All right.  What did you decide to do when  
25 that call came out?

## Examination of Samantha Wuthrich

1           A     Officer DeLong was primary, so he pulled out  
2 first and he called the -- the caller who had called  
3 in the -- the male. And we stopped at the -- the  
4 entrance onto Holgate.

5                     And Officer DeLong told me that the caller  
6 had said the male was kind of doing like James Bond  
7 type of moves, like practicing drawing his gun and  
8 kind of like rolling around with it. And so we came  
9 up with a game plan that we would approach east to  
10 west to Lents Park and then we asked for more officers  
11 to come up from the west.

12           Q     Okay. So you mentioned once the call came  
13 out --

14           A     Mm-hmm.

15           Q     -- and you decided to respond --

16           A     Yes.

17           Q     I guess I'll first ask, did you just decide  
18 to respond or were you dispatched to respond?

19           A     We were both dispatched.

20           Q     Okay. You said that Officer DeLong was  
21 primary. What does that mean?

22           A     He was -- he's the officer in charge, so  
23 it's in his district.

24           Q     Okay. So he's the -- he's primarily  
25 responsible for the call?

## Examination of Samantha Wuthrich

1           A     Yes.  So at the end of the call, he would be  
2     the one that writes the police report.  He would be  
3     the main person that talked to all the people on the  
4     call and I would be there to provide cover for him,  
5     just to make sure he was safe.

6           Q     Okay.  So when you say that Officer DeLong  
7     made this phone call to the reporting party, were you  
8     in the car with him or were you in your own car?  Were  
9     you guys driving while that happened?

10          A     I was directly behind him and he had stopped  
11     the car and hopped out and I had my window down.  And  
12     that's when he told me, "Like, the caller says he's  
13     doing James Bond moves.  Let's just kind of slow  
14     roll," is what we call it, slowly drive in.

15                 And then I said, "Okay, I'll just follow  
16     you."  And he got on the air and advised all the other  
17     officers and set up the -- the containment.

18          Q     Okay.  So couple of things you talked about  
19     there I want to follow up on.

20          A     Okay.

21          Q     So when you're having this conversation with  
22     Officer DeLong, could you see Lents Park or the person  
23     that was being called about?

24          A     Not yet.

25          Q     Okay.  When you say you were going to slow

## Examination of Samantha Wuthrich

1 roll --

2 A Yes.

3 Q -- and could you describe not only what  
4 specifically that means, but also why you would  
5 approach it that way?

6 A Slow rolling in would be approaching where  
7 the subject is and being able to get eyes on this  
8 person and see what they're doing instead of racing  
9 into a scene and kind of abruptly getting there, if  
10 that makes sense.

11 Q So in a, quote, slow roll type of approach,  
12 would you have lights, sirens on, that's type of thing  
13 as you're coming into the area?

14 A No, we did not.

15 Q Okay. And what -- what difference does that  
16 make?

17 A It's a good deescalation tool. A lot of  
18 folks get amped up when they see police lights and  
19 they hear sirens. And so we were able to see him and  
20 just slowly kind of pull in, like, nonchalantly, this  
21 isn't a deal type of thing.

22 Q Okay. Rather than a big huge police  
23 response?

24 A Rather than a big to-do, yeah.

25 Q Okay. And was that al conscious decision



## Examination of Samantha Wuthrich

1 you guys made based on the information you had  
2 received --

3 A Yes.

4 Q -- relating to the call or was it like you  
5 always do that?

6 A No, it was a conscious decision. He hadn't  
7 been pointing it at anyone. He was just, you know,  
8 doing James Bond moves, as we were told. And so we  
9 thought, well, let's just kind of approach this  
10 slowly. There's no need to rush what we're doing.

11 Q Okay. You also said that as part of this,  
12 Officer DeLong had put out the information from the  
13 reporting party --

14 A Yes.

15 Q -- that he'd learned over the radio?

16 A Yes.

17 Q And requested additional officers for  
18 containment?

19 A Yes.

20 Q What is containment?

21 A So containment is we wanted Lents Park kind  
22 of surrounded by police, so if he were to run with the  
23 gun, there would be officers on the other side ready,  
24 if that makes sense.

25 There was a lot of people in the park and so

## Examination of Samantha Wuthrich

1 one of the worries was, well, he's going to see us  
2 pull up and it's going to freak him out and he's going  
3 to immediately run.

4 So you kind of -- you keep the park kind of  
5 surrounded, so that he's not able to get out. Does  
6 that make sense? And not able to, like, threaten any  
7 other park goers.

8 Q Okay. And is that what the concern was?

9 A Yes.

10 Q Of him getting -- may seem obvious, but --

11 A Yeah.

12 Q What was your concern if he were to see the  
13 police and just run away into the park?

14 A Because clearly, you know, he's doing these  
15 moves in the middle of this large park. We were  
16 worried that he would just, you know, end up running  
17 off and going over to the playground or going over,  
18 you know, although we were told they were like the  
19 James Bond move and he wasn't pointing it at anyone,  
20 it's hard to really know what was -- what was going  
21 through his mind when he was doing these things with  
22 his gun.

23 Q Okay. And, again, all of this, if I'm  
24 understanding you correctly, was being set up and  
25 decided before you even like --

## Examination of Samantha Wuthrich

1           A     Yes.

2           Q     -- put eyes on this person?

3           A     Yes.

4           Q     Okay.  And is it common for patrol officers  
5     to coordinate in this fashion as they're responding to  
6     a call or in advance of responding to a call?

7           A     Yes, it is.

8           Q     Okay.  And why is that important?

9           A     It's for everyone's safety.  If you, like,  
10    running into something that you're not familiar with  
11    or not aware of can be devastating for not only you,  
12    but also the subject that you're dealing with.

13                    So a lot of times, we stage before and we  
14    all talk and figure out what our plan is before going  
15    forward.  So Officer DeLong stated that over the  
16    radio, since we had people coming from the west side  
17    of Lents Park.

18           Q     Okay.  And if you look on the screen to your  
19    right there, do you see -- is that an overhead image  
20    of basically the north end of Lents Park?

21           A     Yes.

22           Q     And do you see Holgate and 92nd on the map  
23    there?

24           A     Yes, I do.

25           Q     Could you indicate for us how it was that

## Examination of Samantha Wuthrich

1 you and Officer DeLong came into the area?

2 A Okay. So Officer DeLong and I were about in  
3 this turn signal or turn lane when we saw him.

4 Q And, for the record, you're indicating the  
5 turn, so westbound on Holgate turning left onto  
6 southbound 92nd?

7 A Yes.

8 Q Okay.

9 A When we saw him just walking around in  
10 this area.

11 Q Saw who?

12 A The subject.

13 Q Okay. And, "in this area," are you  
14 indicating this grassy field here --

15 A Yes.

16 Q -- to the west of 92nd?

17 A Yes.

18 Q Okay.

19 A So we went south on 92nd and then we pulled  
20 into the first driveway of the parking lot.

21 Q Okay. Right down here?

22 A Yes.

23 Q All right. And you're each in separate  
24 patrol cars, so you're just --

25 A Yes.

## Examination of Samantha Wuthrich

1 Q -- following Officer DeLong in?

2 A Yes.

3 Q Okay. And then when you said initially the  
4 request was that other officers come in from the  
5 west --

6 A Yes.

7 Q -- what -- do you have an understanding of  
8 what the concept was there?

9 A What did he mean, like --

10 Q Like coming in through the baseball field or  
11 through the field above?

12 A No, they would just come up Holgate. And so  
13 if he were to flee west in the park, they would be  
14 just in the area.

15 Q Got it. Okay. So not necessarily like  
16 right there --

17 A Yes. Just --

18 Q -- but just in that area?

19 A In that area, mm-hmm.

20 Q Got it. So once you pulled in to the  
21 parking lot there, you said you'd already seen the  
22 subject?

23 A We saw -- we saw a white male in the area  
24 matching the description saying he wasn't wearing a  
25 shirt at this time, but we saw him in that area and

## Examination of Samantha Wuthrich

1       figured that that was probably who we were going to  
2       contact.

3               Q       Okay.  What else did you notice as you came  
4       into that location?

5               A       We parked our cars and we found a large tree  
6       there to kind of get behind as cover.  And as we were  
7       walking up, there was a male that was in a Suburban  
8       parked in the area.  And he --

9               Q       In the parking lot?

10              A       In the parking lot, yes.  And he yelled,  
11       "Hey, hey."  And I looked over and he said, "He's got  
12       a gun."  And so I --

13              Q       For the record, you're kind of making a  
14       gesture like --

15              A       Yep.

16              Q       Did he actually do that or --

17              A       Yes.  Yep.  And I told him, "I know."  And I  
18       relayed that info to Officer DeLong.  And I can't  
19       remember if it was myself or Officer DeLong that put  
20       that over the radio, that we're being told that he has  
21       a gun.

22              Q       Okay.  So, at this point, you've heard the  
23       initial dispatch --

24              A       Yes.

25              Q       -- a man kind of waving a gun around in the

## Examination of Samantha Wuthrich

1 park, brandishing a gun in the park. Officer DeLong  
2 has called the reporting party directly --

3 A Yes.

4 Q -- and to -- assuming in an effort to  
5 confirm that information?

6 A Yes.

7 Q And then now separate people in the park are  
8 telling you further confirming information, right?

9 A Yes.

10 Q So what -- what's going on in your mind now  
11 as you're, basically, with one other officer  
12 responding to this call?

13 A Yes. So Officer DeLong has a rifle and we  
14 approached this large tree and tried -- pretty much  
15 got skinny and used that kind of as a shield. And at  
16 that time, I had my handgun out. And Mr. Delgado was  
17 in the -- in the grass, shirtless, just screaming at  
18 us, just angry.

19 Q Now, you just referred to him as  
20 Mr. Delgado.

21 A Yes.

22 Q At the time, did you know who he was?

23 A No idea.

24 Q Okay. So did you learn his name after the  
25 fact?

## Examination of Samantha Wuthrich

1           A     Yes.

2           Q     Okay.  You mentioned you guys took cover  
3 behind this tree that was there?

4           A     Yes.

5           Q     I mean, why -- why are you approaching the  
6 situation the way that you are, taking cover behind  
7 this tree, gun out?  Officer DeLong's got a rifle.  
8 Why are you guys approaching this that way?

9           A     So he -- he's in a park with a handgun, so  
10 we're told.  And so we want to keep our distance from  
11 him.  We don't want to excite him by our presence, but  
12 we also want to keep ourselves safe.

13                     So that is why we got behind the tree.  We  
14 tried to give ourselves distance from Mr. Delgado so  
15 that we could figure out what was going on.  Why was  
16 he behaving the way he was behaving?

17           Q     Okay.  And why, specifically, given all of  
18 the different options you had, did you decide to take  
19 your firearm out at that point?

20           A     Because I did not know if he was armed or  
21 not.  And I was worried that he was very upset and  
22 that he might try and shoot us.

23           Q     Okay.  And did you, in your mind as you're  
24 processing the scene -- the scene and making decisions  
25 about what to do, did you find the information you



## Examination of Samantha Wuthrich

1 were receiving to be credible?

2 A What do you mean?

3 Q In other words, as you're being told by  
4 these various people that this person in the park has  
5 a gun --

6 A Yes.

7 Q -- did you believe this person is armed or  
8 did you not believe that this person was armed?

9 A So when we arrived on the scene, he didn't  
10 have his shirt on and he was at a distance that I  
11 could see that he didn't have anything that was in his  
12 waistband at the time. I could see something black in  
13 his back pocket, but I am not sure what it was.

14 So he's out there yelling, "Fuck you, kill  
15 me, fuck you guys, you're going to have to shoot me,"  
16 screaming, throwing his arms up, making fists, walking  
17 towards us, but like stopping and then turning around.

18 So I could kind of see on his person that he  
19 maybe didn't have a firearm on him at the time, but I  
20 also knew that I had Officer DeLong there with me in  
21 case he -- he did and I just didn't see it.

22 Q Okay. And so as you're trying to process  
23 all of this, what concerns were you having as you're  
24 watching this event unfold?

25 A He seemed as though something was awry.

## Examination of Samantha Wuthrich

1 He -- he was very upset. I mean, we hadn't even  
2 talked to him before he was already telling us, you  
3 know, "Fucking kill me, fuck you." He was sweating  
4 profusely. He's, like, balling up his fists like he's  
5 going to try and fight with us, throwing things  
6 around.

7 Q Okay. And so what did you decide to do at  
8 that time?

9 A At that time, I told Officer DeLong that I  
10 was going to grab the 40-millimeter launcher from  
11 his car.

12 Q And is Officer DeLong, as far as you know,  
13 less lethal certified?

14 A Yes.

15 Q Okay. So you knew he had one in his car?

16 A I knew he would have his, yes.

17 Q All right. So did you do that, go get it?

18 A I did, yes. I grabbed his.

19 Q And why did you think at that point it was  
20 appropriate to transition from your handgun --

21 A Mm-hmm.

22 Q -- to the 40-millimeter launcher?

23 A At the time, I didn't see anything that I  
24 believed to be a handgun, but I also knew that  
25 Officer DeLong was there in case he were to pull one

## Examination of Samantha Wuthrich

1 out. But it appeared as though this guy was going to  
2 try and fight us.

3 He kept walking towards us with his fists  
4 balled, yelling at us. And so I believed that a  
5 40-millimeter would be better at that point when I did  
6 not think that there was a handgun in play.

7 Q Okay. And if Officer DeLong had gone back  
8 at that point to get his own 40-millimeter --

9 A Yes.

10 Q -- would you also have transitioned to a  
11 less lethal weapon system?

12 A No.

13 Q Why is that?

14 A I would have stayed lethal, because there's  
15 still a gun somewhere in play. Multiple people have  
16 told us that there is a gun and so one of us needs to  
17 be ready in case he were to produce that.

18 Q Okay. So was the fact that Officer DeLong  
19 stayed there with his rifle ready is that what --

20 A Yes.

21 Q -- actually freed you up to transition --

22 A Yep.

23 Q -- to a 40-millimeter less lethal?

24 A Yes.

25 Q Okay. Once you did that, what happened

## Examination of Samantha Wuthrich

1       then?

2           A       We continued to give him commands. DeLong  
3       and I communicated a little bit at the tree. And he  
4       was at a distance that I wasn't sure that the 40 would  
5       be effective. And, also, it was like a lot of time  
6       police officers, we draw, like, a line in the sand.

7                    It's like we're just going to hang out here  
8       unless he comes and tries to fight with us. And so I  
9       told Officer DeLong, "If he gets any closer to us,  
10      then I will use the 40."

11                   But he kept stopping and spinning around and  
12      throwing his hands and making his fists and yelling  
13      things at us and he never crossed that -- that line  
14      that DeLong and I had discussed.

15           Q       Okay. Do you recall what specifically that  
16      discussion entailed beyond what you've just described?

17           A       I just -- pretty much it was me just telling  
18      that, like, "Hey, if he comes any closer to us acting  
19      like this, I'm going to 40 him." And Zach said,  
20      "Okay."

21           Q       And is that sort of the colloquial term for  
22      deploying the 40-millimeter is to say, "I'm going to  
23      40 him"?

24           A       Yes.

25           Q       Okay. If you look here, let's see.

## Examination of Samantha Wuthrich

1 Obviously, it wasn't a real line that was --

2 A Yes.

3 Q -- drawn anywhere or anything, right?

4 A Yes.

5 Q Do you remember approximately how far out in  
6 your mind you were gauging, "If he gets within this  
7 range, I'm going to deploy the 40-millimeter"?

8 A I'm not super good at distance, but in my  
9 head, it was -- I wanted to be able to stop him before  
10 getting too close to us, if that makes sense. And so  
11 it was like a couple feet further towards us was when  
12 I would have deployed the 40.

13 Q From where he was?

14 A From where he was.

15 Q Okay. So we're not talking like you'd let  
16 him get all the way up to where he could grab you or  
17 something?

18 A Yes. Yeah, that would not have happened.

19 Q Okay.

20 A Yeah.

21 Q And it sounds like from your description, he  
22 never -- he never got close?

23 A He -- yeah, he never got to the point where  
24 I was -- I felt like he needed to be addressed with  
25 the 40, if that makes sense.

## Examination of Samantha Wuthrich

1           Q     Sure.  Okay.  And so at that point, where I  
2     think you said that you and Officer DeLong was issuing  
3     commands?

4           A     Yes.

5           Q     Do you remember what kind of commands you  
6     used first and then you were hearing from  
7     Officer DeLong?

8           A     Officer DeLong -- we try and have only one  
9     officer give commands because it gets confusing for  
10    the subjects.  And Officer DeLong is also ECIT  
11    trained.  He's very calm.  He's got a calm demeanor  
12    about him.

13                     So he was the one giving the subject  
14    commands, which was, "Keep your hands up," which the  
15    subject kept dropping his hands, "Get on the ground,"  
16    which he also didn't do and things of that such.

17           Q     Okay.  Now, you said Officer DeLong has a  
18    calm demeanor and tone.

19           A     Mm-hmm.

20           Q     Was he using that --

21           A     Yes.

22           Q     -- when he was addressing the subject?

23           A     Yes.

24           Q     Okay.  And did you see any compliance or  
25    response from the individual that is going to follow

## Examination of Samantha Wuthrich

1 the commands or the requests?

2 A No. It seemed as though every time  
3 Officer DeLong told him to do something, he would kind  
4 of do the opposite. You know, "Put your hands in the  
5 air" and he would drop his hands or put them in fists  
6 or "Fuck you, kill me, you're going to have to shoot  
7 you," that kind of thing.

8 Q Okay. And do you recall at any point in  
9 this you yourself issuing commands to him?

10 A There were a couple times where I advised  
11 him, like, "If you come any closer, I'm going to shoot  
12 you with my less lethal" and that kind of thing, but  
13 for the most part, it was Officer DeLong that did all  
14 the commands.

15 Q Okay. As the -- as you saw the person not  
16 responding to the commands, did you hear whether or  
17 not Officer DeLong changed tactics, or he just  
18 continued same approach of trying to talk to the guy?

19 A He continued to tell him to get on the  
20 ground. "We believe you have a gun. Get on the  
21 ground." And the subject just continued to throw his  
22 hands in the air.

23 Eventually, he ended up walking over to this  
24 pile of tents and he began, like, throwing them, like  
25 he was looking for something in the tents.

## Examination of Samantha Wuthrich

1           Q     Okay.  Were you aware of whether or not --  
2     you mentioned that it's a park and there are people  
3     around and --

4           A     Yes.

5           Q     At that specific time, were you aware of  
6     other people in the immediate area?

7           A     Yes.  It actually was a very busy day and  
8     there was, like, an entire bicycle club in the parking  
9     lot just right behind us.  And there was also multiple  
10    vehicles that folks were living out of that were also  
11    parked there.

12          Q     Okay.  And you had seen those people?

13          A     Yes, as I was walking up to the tree.

14          Q     Okay.  And so as you're assessing the  
15    situation and trying to make decisions about what to  
16    do next, did the fact that those people were there and  
17    you knew that play a role in -- in your  
18    decision-making or level of concern?

19          A     Yes.  We -- we didn't want him to start  
20    engaging those folks, if that makes sense.

21          Q     Okay.  And, like, in what way?  When you say  
22    engaging them, what do you mean?

23          A     It appeared as though that maybe he was  
24    having something going on -- on in his life, maybe  
25    mental health.  And so we didn't want -- not knowing



## Examination of Samantha Wuthrich

1 if he actually had a firearm and his behavior caused  
2 concern that he may try and do the same thing with  
3 these other folks that were in the parking lot.

4 Q Okay. Do you know, was there any attempt  
5 for you to get those people to leave the area or move  
6 away or do anything like that?

7 A I didn't do anything like that, but there  
8 were multiple officers there, so I can't say if anyone  
9 else did.

10 Q Okay. And what -- why did you not deviate  
11 from your position to go try to get them to leave  
12 or --

13 A Because I was focused on the subject and I  
14 didn't want to turn my back to him, which would have  
15 been -- I would have had to do that to tell all of  
16 those other folks that they needed to leave.

17 Q Okay. Were you aware of whether or not  
18 there were other officers on scene at this point?

19 A I knew that there were officers on 92nd  
20 towards Holgate, but I didn't know exactly where.

21 Q Okay. Not with you and Officer DeLong?

22 A Not with us. It was just Officer DeLong and  
23 myself.

24 Q Okay. So even if you wanted to try to tell  
25 those people they needed to get out of there or move

## Examination of Samantha Wuthrich

1       them out of there, either you or Officer DeLong would  
2       have had to do that?

3             A       Yes.

4             Q       Okay. Did you feel like that was a safe  
5       thing for either of you to do at that point?

6             A       No, I did not.

7             Q       Okay. As -- as this sort of continued,  
8       sounds like the way you're describing is you've got  
9       your imaginary line that if he can crosses, you're  
10      going to deploy your 40-millimeter?

11            A       Yes.

12            Q       The commands are occurring, but he's not  
13      cooperating with them?

14            A       Yes.

15            Q       So what happens? Are you kind of at a  
16      stalemate?

17            A       He ends up walking over towards, it looked  
18      like a tent that he had disassembled. And he was just  
19      pulling pieces of it and throwing sleeping bags and  
20      garbage and still yelling, like "Fuck you, you're  
21      going to have to kill me," but not -- he wasn't  
22      looking at us when he was doing it.

23                    It was like he was looking for something  
24      that was in this pile of stuff. And he was even  
25      farther away from us at that time going through the

## Examination of Samantha Wuthrich

1 tent.

2 Q Did -- did the fact that he was now  
3 apparently looking for something among -- amongst his  
4 belongings raise your level of concern?

5 A At the time, it didn't. I kind of just  
6 thought he was maybe having some mental health things  
7 and he was just throwing stuff around, because that  
8 happens often.

9 Q Okay. What happened then?

10 A He started to walk behind a tree and I  
11 watched him -- we -- we could see him bend over, but  
12 we couldn't see what exactly he was bending over for.

13 Q When you say we could see, you mean you  
14 could see and who else could?

15 A Officer DeLong and I.

16 Q Okay.

17 A So --

18 Q Are you communicating about that?

19 A Not at the time, no.

20 Q Okay. You're just assuming he could see  
21 what you were seeing?

22 A Yes.

23 Q Okay.

24 A So it's hard to tell, but -- so this tree  
25 right here is where we are.

## Examination of Samantha Wuthrich

1 Q Different photograph.

2 A There we go. This tree right here is where  
3 we were standing. Officer DeLong was on the right  
4 side of this tree and I was on the left side of this  
5 tree. And so he bent over behind this tree kind of  
6 where the male was standing in all black.

7 Q Well, here, let me -- I can get a better --  
8 so if we look at this image, which tree were you  
9 standing behind?

10 A Right here.

11 Q Okay. This one here where the cursor is?

12 A Yep.

13 Q You're on the -- from this perspective, the  
14 right side of the tree?

15 A Yes.

16 Q And Officer DeLong's on the left side of the  
17 tree?

18 A Yes.

19 Q And then where -- where's the tree that you  
20 were describing Mr. Delgado?

21 A Right next to the patrol car.

22 Q This one over here?

23 A Yes.

24 Q Okay.

25 A GRAND JUROR: So much closer at a

## Examination of Samantha Wuthrich

1 different perspective.

2 THE WITNESS: Yes.

3 BY MR. JACKSON:

4 Q Okay. And so you -- you saw him go behind  
5 the tree?

6 A He went behind the tree and he bent down and  
7 we couldn't see what he was doing when he bent down.  
8 And he stood back up behind the tree and he stepped  
9 around the tree and was just standing there with a gun  
10 pointed directly at me.

11 Q Okay. Could you see -- I mean, you  
12 demonstrated for us, but could you see how exactly he  
13 was standing with the gun?

14 A So he had his arms out in like a triangle  
15 stance and he was just standing with his -- his feet  
16 shoulder width apart like he was ready to -- to  
17 shoot us.

18 Q Did you think you were about to be shot?

19 A I did, yes. I -- I braced for impact.

20 Q Okay. What did you do?

21 A I fired my 40.

22 Q Okay. Could you see whether or not you hit?

23 A I could not. After I shot my 40, he  
24 immediately fell to the ground.

25 Q Did you have a sense of what caused that?

## Examination of Samantha Wuthrich

1           A     I would guess it was Officer DeLong's shot.  
2     We both fired at the exact same time.

3           Q     Did you hear Officer DeLong shoot?

4           A     Yeah.

5           Q     Okay.  As he came around the tree, could you  
6     see whether his hand had anything in it at that point?

7           A     When he came to the left of the tree after  
8     bending down?

9           Q     Yeah.

10          A     Yes.  I could see a black handgun.

11          Q     Okay.  And was it already up when he came  
12     around --

13          A     Yes.

14          Q     -- or was he raising it up?

15          A     No, it was up.  He had the drop on us for  
16     sure.

17          Q     Okay.  Could you tell anything  
18     distinguishing about the firearm?

19          A     I could not.

20          Q     What was it that made you think it was  
21     a gun?

22          A     It was black.  It looked like the handgun  
23     that I carry.

24          Q     Okay.  Was there anything about the way he  
25     was holding it and standing that made you think that

## Examination of Samantha Wuthrich

1 it was a handgun?

2 A He was standing, you know, how we're trained  
3 to stand with his arms out in a triangle; holding the  
4 gun, pushing the gun out with his, you know, feet  
5 shoulder width apart. It was like he was bracing  
6 himself for the recoil of his gun after he shot.

7 Q Okay. Why did you decide to shoot your  
8 40-millimeter at that point?

9 A Because that was the tool that I had in my  
10 hands at the time. I wouldn't have been able to put  
11 it down and get my handgun in time.

12 Q If you had had your handgun out at that  
13 point, would you have fired it?

14 A Yes, I would have.

15 Q After the shot, you said you -- well, you  
16 said your sense was you shot at the same time as  
17 Officer DeLong?

18 A Yes.

19 Q Did you know whether or not he had fired one  
20 round or multiple rounds?

21 A I did not.

22 Q What happened immediately after the  
23 shooting?

24 A The subject stumbled backwards and fell  
25 behind the tree and I was unable to see him.

## Examination of Samantha Wuthrich

1           Q     Okay.  What concerns did you have at that  
2 point?

3           A     That he was still armed with the firearm and  
4 that I couldn't see any of him, so I -- kind of going  
5 in blind.  I had no idea what was going on behind the  
6 tree.

7           Q     At the point that you saw him pointing the  
8 gun at you, did you have concern just for yourself?  
9 Were there other concerns that you had at that moment  
10 of time?

11          A     When he was pointing the firearm at me?

12          Q     Mm-hmm.

13          A     I believed he was going to shoot me.

14          Q     Okay.

15          A     I had no doubt in my mind that if he could  
16 have, he would have shot me.

17          Q     Okay.  So you said that he fell down behind  
18 the tree and you couldn't see him.  Were you aware at  
19 that point of whether other officers were able to  
20 see him?

21          A     So Officer DeLong and I stayed, so I emptied  
22 my 40, because the -- the cartridge stays in it, so  
23 you have to open it, pull out the cartridge and put  
24 another one in.  So I emptied it and reloaded and we  
25 stayed on him until other officers came to us and said



## Examination of Samantha Wuthrich

1 -- checked on us and then said that they were going to  
2 go and see if they could get a better eye on him.

3 Q Okay. Then what did you and Officer DeLong  
4 do?

5 A Once enough officers were there to make  
6 contact with him, we removed ourselves.

7 Q Okay. Is that per police policy and  
8 protocol when there's been an officer-involved  
9 shooting?

10 A Yes, for the most part.

11 Q Okay. Were you still there when the police  
12 officers approached?

13 A Yes.

14 Q Okay. Why did you not just immediately run  
15 up and begin rendering aid to the individual?

16 A Because I believed he was still alive and  
17 still armed with the gun. And not being able to see  
18 him behind the tree, I didn't want to run up and be  
19 surprised with him there with a handgun pointed at me  
20 again.

21 Q Okay. I imagine, you know, it's now  
22 September and this occurred in April.

23 A Mm-hmm.

24 Q Imagine you've thought about this day  
25 numerous times over that time period?

## Examination of Samantha Wuthrich

1           A     Yes.

2           Q     As you go back through in your mind the  
3     sequence of events, is there anything you think you  
4     should have done differently in how you approached the  
5     situation or the actions that you took?

6           A     I do not.

7           MR. JACKSON:   Okay.  Those are all the  
8     questions that I have.  See if the grand jury has any  
9     questions.

10          A GRAND JUROR:  I have one.

11          MR. JACKSON:  Yes, sir.

12          A GRAND JUROR:  You said that the suspect  
13     picked up the gun and pointed with his arms in a  
14     triangle?

15          THE WITNESS:  Yes.

16          A GRAND JUROR:  So did he hold the gun with  
17     one hand or two?

18          THE WITNESS:  Two.  From what I remember, it  
19     was two.  It was both -- sorry -- both out like that.

20          A GRAND JUROR:  Okay.  Thank you.

21          A GRAND JUROR:  Thank you for coming in.

22          THE WITNESS:  Yeah.

23          A GRAND JUROR:  I know what your job is, not  
24     really a job for all this, so thank you.  You were  
25     saying a little bit about what he was -- he was

## Examination of Samantha Wuthrich

1 saying, so it wasn't -- it was not I'm going to  
2 fucking kill you, it's fucking kill me?

3 THE WITNESS: Yes. It was him saying "Fuck  
4 you, shoot me, kill me," which is why we kept our  
5 distance. We never approached him, so that he  
6 could -- we're not trying to get involved in anything  
7 like that.

8 A GRAND JUROR: Sure. Have you been  
9 involved in other situations where, you know, I think  
10 it's called suicide by police?

11 THE WITNESS: I have, but not like that.

12 A GRAND JUROR: Okay. Did that thought  
13 occur to you?

14 THE WITNESS: Not at the time, to be honest.

15 A GRAND JUROR: So you said you thought  
16 he -- he seemed to be distressed. I forgot the exact  
17 word. Erratic, distressed. Of course, he -- so at  
18 that time you actually roll in and then you start  
19 walking up, does his behavior already -- he saw you  
20 guys, or when did he start acting out, let's just say?

21 THE WITNESS: So when we could see him from  
22 the turn lane at 92 and Holgate, we could see that he  
23 was throwing things around, throwing his arms around;  
24 but we obviously we couldn't hear anything he was  
25 saying.

## Examination of Samantha Wuthrich

1           A GRAND JUROR: Right.

2           THE WITNESS: So he seemed to be --  
3 something was going on. We could see that from 92 and  
4 can Holgate. And then when we parked and got out of  
5 the car, we could hear what he was saying.

6           A GRAND JUROR: Okay. And the -- the  
7 gentleman in the -- actually, his name is Hernandez  
8 that was in the Suburban.

9           THE WITNESS: Yes.

10          A GRAND JUROR: I'm trying to confirm. So  
11 he told you, he said, "He's got a gun?"

12          THE WITNESS: Yes.

13          A GRAND JUROR: Okay. All right. Thank  
14 you.

15          MR. JACKSON: I have one additional  
16 follow-up question for you.

17          THE WITNESS: Okay.

18 BY MR. JACKSON:

19           Q     You described the firearm when you saw him  
20 standing in a shooting stance, pointing it at you?

21           A     Yes.

22           Q     Described it as a black handgun, looked just  
23 like the one that you carry?

24           A     Yes.

25           Q     Could you see whether or not it had an

## Examination of Samantha Wuthrich

1 orange tip on the end of it?

2 A I could not.

3 Q Was there anything about the firearm as you  
4 observed it that led you to conclude it was anything  
5 other than a real firearm?

6 A No.

7 MR. JACKSON: That generate any questions  
8 from the grand jury?

9 A GRAND JUROR: Just one quick question.

10 MR. JACKSON: Of course, yes.

11 A GRAND JUROR: First, thank you. I'm  
12 grateful and thankful for all you do.

13 And when he pulled the firearm -- back to  
14 this -- you said he pulled the firearm and then you  
15 said, quote, "I braced to be shot"?

16 THE WITNESS: Mm-hmm.

17 A GRAND JUROR: All right. Thank you very  
18 much.

19 THE WITNESS: Mm-hmm.

20 A GRAND JUROR: That's it.

21 MR. JACKSON: Okay. Any other questions?

22 Okay. I don't see any. Why don't we go off  
23 the record? We can take our afternoon break for  
24 ten minutes and we'll resume.

25 (Recess taken, 2:22 p.m. - 2:38 p.m.)

## Examination of Zachary DeLong

1 MR. MILLER: Okay. We are back on the  
2 record after our afternoon break. And the State's  
3 going to call its next witness, which is Officer  
4 Zachary DeLong.

5 Right by that screen. Go ahead and stand by  
6 that chair and raise your right hand.

7 **ZACHARY DeLONG**

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

10 A GRAND JUROR: Great. Thank you. And you  
11 may be seated.

12 MR. MILLER: And, sir, once you're all  
13 comfortable over there, if you will say your complete  
14 name and spell your first and last name.

15 THE WITNESS: Zachary DeLong, Z-a-c-h-a-r-y,  
16 D-e-L-o-n-g.

17 **EXAMINATION**

18 BY MR. MILLER:

19 Q All right. And before we jump into this, I  
20 just want to make this part of it clear, is that  
21 you're not under subpoena here, correct?

22 A Correct.

23 Q You're here at your own choice?

24 A I am.

25 Q And you know that at any point in time that

## Examination of Zachary DeLong

1       you could stop and take a break?

2           A     I do.

3           Q     Or just stop communicating altogether?

4           A     Yes.

5           Q     Perfect.  So, now, let's jump in.  Where do  
6       you work?

7           A     I am a Portland police officer.

8           Q     And how long have you worked for Portland  
9       Police?

10          A     I worked here for eight-and-a-half years.

11          Q     And have any other experience in police work  
12       outside of Portland Police?

13          A     I do not.

14          Q     And have any other type of experience, prior  
15       jobs, prior to Portland Police?

16          A     Prior to being a police officer here in  
17       Portland, I was in the U.S. Army for four years and  
18       then the National Guard for a year and a half after  
19       that.

20          Q     Okay.  And what was your job in the Army?

21          A     I was an infantryman.

22          Q     All right.  And is that the whole time that  
23       you're in there?

24          A     It was.

25          Q     Okay.  Let's work ourselves forward from

## Examination of Zachary DeLong

1 Portland Police. You said you've been here how many  
2 years? I'm sorry.

3 A Eight and a half.

4 Q Eight and a half. And we heard from another  
5 witness about kind of the basic academy. Did you go  
6 through the basic academy?

7 A I did, yes.

8 Q 16 weeks, I think it is?

9 A That sounds right to me, yeah.

10 Q After you got out of the basic academy, did  
11 you come back for the Portland Police training?

12 A I did. We had a Portland Police-specific  
13 advanced academy after that.

14 Q All right. And we heard from another  
15 witness on describing all of that as well, too. We  
16 just want to make sure that hadn't changed, that you  
17 went through that same advanced program.

18 A I did.

19 Q And then, eventually, after that, you got on  
20 the road on your own?

21 A I did, after a year and a half of an FTEP or  
22 training program.

23 Q Perfect. And do you have any other duties  
24 that are outside of patrol? I'm assuming you started  
25 in patrol?



## Examination of Zachary DeLong

1           A     I started in patrol. I bounced around from  
2 different precincts. I've worked Central here  
3 downtown, both patrol and on the entertainment detail,  
4 which was specific to the nightclub scene in the  
5 entertainment district. And then I'm currently at  
6 East Precinct, where I've been for most of my career.

7           Q     Okay. And are you familiar with the East  
8 Precinct area?

9           A     I am.

10          Q     And why are you familiar with it? Is it  
11 just from working there?

12          A     It's from working there, but it's also  
13 because it's where I grew up. I grew up in southeast  
14 about a mile from Lents Park near 112th and Flavel  
15 Street.

16          Q     Okay. And so is that, like, "grew up" grew  
17 up your whole life there or --

18          A     The first --

19          Q     -- bounced around?

20          A     -- 16 years of my life.

21          Q     Okay. And so while you're a patrol officer  
22 moving around to those different precincts and duties,  
23 did you ever get any type of additional certifications  
24 or additional type of training?

25          A     I did. I've actually been lucky enough to

## Examination of Zachary DeLong

1 go get certified in quite a few different things. I  
2 am a member of the Enhanced Crisis Intervention Team,  
3 which is extra training in crisis intervention, on top  
4 of the training that every Portland police officer  
5 receives in the advanced academy in that aspect.

6 I'm certified to use the 40-millimeter  
7 less-lethal launcher, which launches these sponge  
8 bullets. I am certified to carry an AR-15 patrol  
9 rifle. I'm certified to carry a FLIR, which is a  
10 thermal optic that we use at nighttime to look for  
11 suspects or missing people, things like that.

12 I've had training in interview and  
13 interrogation, domestic violence specific  
14 investigations, many other things that I can't even  
15 remember off the top of my head.

16 Q Okay. And then other than the  
17 40 millimeter, we heard from the training from PPB  
18 that there's also other less-lethal options that  
19 nearly every other police officer carries, like Tasers  
20 and pepper spray. Do you carry those as well?

21 A I do. I'm certified and carry both pepper  
22 spray and a Taser.

23 Q All right. So we're going to jump forward  
24 to this particular event. The focus that we have here  
25 today is on April 16th, 2021. Do you recall if you

## Examination of Zachary DeLong

1 were working that day?

2 A I was working that day.

3 Q And where were you working at?

4 A I was working the 980 district of East  
5 Precinct. It's my district that I work every single  
6 day. It's Holgate to Foster/Woodstock and then 82nd  
7 to 104th and everywhere in between there.

8 Q And what was your shift that day?

9 A I worked day shift, so I was working from  
10 7:00 a.m. to 5:00 p.m.

11 Q And I've heard that Portland Police has some  
12 kind of on duty, off, like, exercise time or something  
13 to that effect. Was -- was anything that -- thing  
14 like that going on that day?

15 A There was, yes. I had -- they call it a  
16 wellness hour that we get every so often where we just  
17 get to either work out, stretch, meditate, anything  
18 along those lines just for health. And I had a  
19 wellness hour at the beginning of my shift there. And  
20 I spent that stretching and working out in the gym.

21 Q Okay. So that's from 7 o'clock to around  
22 8 o'clock?

23 A Yes.

24 Q And, now, we know what happened when you  
25 first got there. Let's just back us up just a little

## Examination of Zachary DeLong

1 bit. How about the night before? Did you get a full  
2 night's rest?

3 A I did, yeah.

4 Q Any stressors going on in your personal life  
5 at that point in time that could have caused some sort  
6 of impact on your work performance?

7 A No. I was actually very well rested that  
8 morning.

9 Q Okay. And nothing going on that would have  
10 affected your kind of ability to think clearly  
11 that day?

12 A No.

13 Q And -- and no type of substances that you  
14 were taking that was impairing your judgment or  
15 ability to think?

16 A Nope.

17 Q All right. And on April 16th, you -- after  
18 your wellness hour, did you get dressed up in a  
19 uniform?

20 A I did. As soon as I got dressed, I had a  
21 malfunction with my radio, so I spent about the first  
22 hour just replacing that and getting that fixed.

23 Q So about 8:00 to 9:00? Is that what you're  
24 talking about?

25 A About 8:00 to 8:30.

## Examination of Zachary DeLong

1           Q     8:00 to 8:30? So you're trying to figure  
2 out what's going on with your radio and how to get  
3 it fixed?

4           A     Yep.

5           Q     Eventually, did you get that fixed?

6           A     I did. And then I hit the street at  
7 approximately 8:30.

8           Q     So around 8:30 in the morning is -- is when  
9 you initially hit the road. And were you in a car?  
10 Were you on foot patrol? What were you doing?

11          A     I drive a marked police car and I wear,  
12 like, a full, marked uniform. And then my police car  
13 is just one of the SUVs that you see driving around  
14 every day with "Portland Police" on the side and  
15 lights and sirens and everything.

16          Q     All right. And I know sometimes that people  
17 went solo and sometimes they were with other people.  
18 Were you by yourself or with someone else that day?

19          A     So this day, I was working by myself.  
20 However, in -- in my car. However, I have an adjacent  
21 district partner that drives a separate police car,  
22 which was Officer Wutherich.

23          Q     Okay. And do you know Officer Wutherich?

24          A     I do.

25          Q     Have you worked with her prior to that day?

## Examination of Zachary DeLong

1           A     So I've known her on a professional level my  
2 whole career, but the last year prior to this date, I  
3 had been on day shift and I had been working closely  
4 with her every day.

5           Q     So the same -- you switched over to the same  
6 shifts in the same area?

7           A     Yes.

8           Q     All right. And I'm going to pop up a  
9 picture on the screen to your right there. Is that  
10 you?

11          A     That is me.

12          Q     And is that the uniform that you were  
13 wearing on that day?

14          A     Exactly.

15          Q     All right. And you said you went on shift  
16 at 8:30. And did you get any calls that morning, any  
17 other calls or what was your first call of the day?

18          A     So I can't remember all of the calls that I  
19 took, but I actually had a pretty proactive and kind  
20 of motivating morning. When I first got out there,  
21 because I got out about an hour and a half after my  
22 shift started, a lot of my coworkers were busy with  
23 priority calls.

24                   And there was a lot of what we call cold  
25 calls or -- or low-priority calls that were kind of

## Examination of Zachary DeLong

1 stacking up. And so instead of being dispatched over  
2 the radio to take calls, I have the option to just  
3 pick them up on my computer and just go take them by  
4 myself.

5 And so I -- I probably took, I'd estimate,  
6 seven calls right off the bat, just low-priority  
7 things just trying to clear the board, is what it's  
8 called, or our computer system, just kind of find a  
9 resolution for these.

10 One I do remember probably about 9 o'clock,  
11 I'd approximate, I went there and it was at the  
12 Portland Nursery, I believe is what it's called, at  
13 92 and Division.

14 And they had a problem with a -- a transient  
15 male who had been -- I don't know if he was camping  
16 there or if he had just wandered onto their property,  
17 but he was being kind of aggressive towards people.

18 He had a open, uncapped syringe in his mouth  
19 and was kind of yelling and causing problems there.  
20 And they'd asked him to leave and he was aggressive  
21 with them and wouldn't leave.

22 And when I showed up there, he and I had,  
23 like, a -- probably just a 60-second conversation,  
24 very casual, and he agreed to leave and walked off and  
25 that was the end of that.

## Examination of Zachary DeLong

1           Q     Okay.  So any of those calls that affected  
2     kind of your mood or your -- were they other than  
3     routine?

4           A     No?  They were all very, very much routine.

5           Q     All right.  And so then later on in that  
6     morning, did you get a dispatch call over the air?  
7     And if you can just explain the difference between  
8     calls that are popping up in your queue, as you  
9     described it, and dispatch calls.

10          A     Yes.  So, like I said, lower-priority calls  
11     will just be on our computer system and I can just  
12     click on them and grab that call without having to  
13     talk on the radio or be dispatched to it and go to it  
14     of my own accord.

15                     And then priority calls where, you know,  
16     someone's in danger or -- or just something that's  
17     higher priority usually gets dispatched over the  
18     radio.  And the dispatcher will select units who are  
19     close to go to that right away.  And those take  
20     precedent over those cold calls, obviously.

21          Q     So did you get a priority call at some point  
22     in time in the morning?

23          A     I -- I did.  About 9:30, I got a call at  
24     Lents Park of a man standing in the field by the  
25     Pickles field or what was -- it was described as the



## Examination of Zachary DeLong

1       batting cage. I don't believe it is actually a  
2       batting cage, but by the Pickles field -- who was  
3       standing there holding a gun in his hand.

4               And the dispatcher relayed the initial info  
5       from the caller to me that he was just standing there.  
6       He wasn't threatening anybody with it, but he was just  
7       holding a gun.

8               Q       Okay. And when you got that initial  
9       information, what were your first thoughts about  
10      the call?

11              A       Well, the first thing that pops into my head  
12      is that, you know, standing somewhere, not threatening  
13      anybody, just holding a firearm, isn't necessarily a  
14      crime in and of -- of itself.

15              You know, this is a -- a Friday morning in a  
16      very busy public park with lots of people, lots of  
17      neighbors. I have -- you know, I have to do my  
18      diligence and -- and make sure that a crime isn't  
19      being committed and I have to at least, you know,  
20      contact this guy.

21              But, at this point, that's -- that's all I  
22      have, is just to go and try and talk to this guy. So  
23      before I go to that, what I like to do is gather as  
24      much information as I can before I go and talk to  
25      this guy. So what I did is I called the caller on my

## Examination of Zachary DeLong

1 cell phone right away and --

2 Q Why'd you do that?

3 A Well, to get as much information, maybe  
4 narrow down the description of this guy to make sure  
5 that when I get there, I'm contacting the right  
6 person.

7 And I'd like more information about the  
8 firearm. I'd like more information about his actions.  
9 Those are all, you know, really, really important in  
10 my decision making and how I approach this.

11 Q If the -- if the caller had given you  
12 different information, could it have changed your  
13 tactics, your approach, your -- your -- your choice of  
14 tools to approach the situation?

15 A Absolutely, it could have.

16 Q Okay. And so what -- what kind of  
17 information did you get from the caller?

18 A So I'm going to be paraphrasing here because  
19 I can't remember exactly what he said; but the caller,  
20 who was great, he told me that the man was standing,  
21 again, by the Pickles field, that he was wearing a red  
22 shirt and black pants and he was holding a handgun.

23 And I didn't even ask him. He volunteered  
24 and he said, "I -- you know, I didn't get a good look  
25 at the gun." He said that he was doing quick draws

## Examination of Zachary DeLong

1 with this. He was acting like James Bond or a cowboy  
2 and he was drawing the gun and leveling it and, like,  
3 pointing it and not at anybody in particular. He was  
4 just kind of practicing drawing the gun.

5 Q And -- and what did that make you think when  
6 you heard those kind of descriptions of quick draws  
7 and James Bond?

8 A It concerned me.

9 Q Why is that?

10 A This is a very populated park that I'm very,  
11 very familiar with. I mean, I -- I grew up playing  
12 tee-ball at this park and I take my family there to  
13 this day. And I know there's soccer fields. There's  
14 a running track. There's a baseball field. There's  
15 basketball courts. There's houses 360 degrees around  
16 this park.

17 And, you know, there's gas stations and  
18 stores and -- and on a morning like this -- and it was  
19 a -- it was a nice day. There was a lot of people out  
20 and about.

21 And I know that if I lived in that  
22 neighborhood, my expectation would be that the police  
23 would investigate this and just make sure that  
24 everything was legal and safe and -- and --

25 Q Had you --

## Examination of Zachary DeLong

1           A     -- so --

2           Q     -- been past that park yet that day or  
3     you're just kind of going off your memory of what that  
4     park is like on Fridays?

5           A     That's just going off my memory.  I don't --

6           Q     Mm-hmm.

7           A     -- remember if I had been by there.  I kind  
8     of -- taking all those calls earlier, I'd kind of  
9     zipped all around my district.

10          Q     Mm-hmm.  And were you by yourself when you  
11     were there getting this information from the caller or  
12     was anybody else around?

13          A     No.  I was sitting what's called door to  
14     door with Officer Wutherich.  It's where we park kind  
15     of parallel to each other facing different directions  
16     so that we can talk and catch up and so I was  
17     with her.

18          Q     And was she also dispatched on the call?  
19     Did you hear that over the radio?

20          A     I did.  She was.

21          Q     Okay.  Did you guys kind of come up with any  
22     type of plan or some sort of ideas on how you were  
23     going to approach the situation?

24          A     We did.  So after I finished talking to the  
25     caller on the phone, I told Officer Wutherich, I said,

## Examination of Zachary DeLong

1 "Well, I guess we'll just drive up there and stop, you  
2 know, quite a ways away and just see if we can see the  
3 guy from our car."

4 Q Mm-hmm.

5 A And that was our plan, so we --

6 Q Did you think you were going to kind of roll  
7 in, like, lights and siren going quickly? What --  
8 what -- what was the kind of idea, the approach?

9 A So the idea behind the approach is to come  
10 in very quietly, no lights, no sirens; drive up very  
11 slowly, park, you know, as many -- as far away as I  
12 can, honestly, with the ability to still see him.

13 Q Oh, why is that?

14 A Well, I need to take my time. I need to  
15 observe this -- this guy to be able to make decisions  
16 about how I'm going to handle this call and how I'm  
17 going to approach him, how I'm going to talk to him  
18 and to just kind of weigh the risks.

19 Q From the call information and from the  
20 follow-up information from the caller, did you kind of  
21 get any ideas of any type of imminent or immediate  
22 kind of threats in the park?

23 A Well, he told me specifically that he  
24 wasn't -- he didn't see him pointing this firearm at  
25 anybody. He wasn't menacing anybody with this gun.

## Examination of Zachary DeLong

1 He wasn't, you know, drawing at somebody. But, again,  
2 like I said, you know, I -- this is my neighborhood.  
3 This is where I work. I'm accountable to the  
4 residents of this neighborhood to at least go check  
5 this out.

6 Q Okay. So is that why you had that kind of a  
7 -- kind of a lower-presence approach so that you're  
8 not showing, like, a lot of force coming in with fast  
9 cars and lights on, et cetera?

10 A Exactly.

11 Q All right. So, now, I'm guessing you went  
12 over towards the park.

13 A I --

14 Q I'm going to pop up a map there. Do you  
15 recognize that?

16 A I do.

17 Q And do you see on this map the -- the route  
18 that you took in the streets?

19 A I do. So I -- I drove in westbound on  
20 Holgate.

21 Q Mm-hmm.

22 A And as I approached 92nd Avenue --

23 Q So you're coming from Holgate. I -- I  
24 can --

25 A Everybody --

## Examination of Zachary DeLong

1 Q If you look at that --

2 A -- can see this --

3 Q -- and point, I'll point --

4 A Okay.

5 Q -- and you --

6 A So the -- the Arco on the right side of the  
7 screen --

8 Q Right.

9 A -- just out of screen --

10 Q Mm-hmm.

11 A -- to the right of that would be where I  
12 stopped.

13 Q Gotcha.

14 A And I was able to look through the gas  
15 station parking lot and saw this man that was  
16 described in the park.

17 Q And where did you see him?

18 A So he was in the vicinity, maybe a little  
19 more to the right. He was in the vicinity of right  
20 there.

21 Q Okay.

22 A And when --

23 Q So kind of towards the -- the left side of  
24 the screen, which is kind of closer towards the  
25 baseball field there?

## Examination of Zachary DeLong

1           A     Yes.  Yep.

2           Q     Looks like the outfield, doesn't it?

3           A     It is, yep.

4           Q     Okay.

5           A     This is on the right-field line of Walker  
6     Stadium and the -- the Pickles' field.

7           Q     Okay.  And what did you see -- what did the  
8     person look like when you first saw them?

9           A     So he didn't have a shirt on at this point,  
10    as he was originally described, but he was wearing the  
11    black pants.  He was a white male.  He was standing  
12    there by himself.

13                     One thing that I forgot to mention when  
14    talking with the caller is the caller actually gave me  
15    an incredible description of where this -- this man  
16    was standing.

17                     And he told me that he was, you know, right  
18    on the right-field line and he was out in the field  
19    next to a tent.  And described that pretty thoroughly.  
20    So this was the only person that was in that area.  
21    And I noticed that next to him, there was stuff strewn  
22    about.  I don't know what.

23                     I know that there was a tent and then I  
24    could see stuff on the ground, clutter, clothes.  I --  
25    I couldn't tell you exactly what it was, but there was



## Examination of Zachary DeLong

1 just stuff all over the ground around him.

2 Q Did the tent look like it was set up, that  
3 someone would normally have it set up for sleeping or  
4 did it seem like --

5 A You know, I -- I don't know. It -- it was  
6 maybe not completely set up, but it wasn't flat on the  
7 ground.

8 Q So other than not wearing a shirt, was there  
9 anything else off on the description between what you  
10 had heard from the call and the caller?

11 A No, no. He -- white male and he was wearing  
12 the black pants and in the area described. One other  
13 thing I did observe or I did see when I was on Holgate  
14 looking through the gas station is I saw something in  
15 his back pocket. He had something black and then I  
16 think I saw, like, a hint of lime green on it just in  
17 his back, you know, butt pocket.

18 Q And you're saying you saw that from where  
19 you first stopped over by the Arco?

20 A Yeah.

21 Q All right.

22 A Yeah.

23 Q And, now, what about his actions? What were  
24 his actions like when you first saw him?

25 A So I could see both of his hands and they

## Examination of Zachary DeLong

1 were empty. And that was very relieving to me. And  
2 he was standing there not really walking around or  
3 anything, just sort of standing and staring.

4 Q Okay. And, now, you got eyes on him. Did  
5 you check out the surrounding park?

6 A I did. I did. I saw that --

7 Q What's it look like?

8 A You know, there -- this parking lot here in  
9 the bottom left of this picture, this parking lot day  
10 in and day out is full of cars with other people,  
11 houseless people living in these cars. I -- at -- at  
12 all times of the day. I think they might close it at  
13 night and they might have to leave.

14 But I know that when my shift starts, it's  
15 always full. And so there were some people and some  
16 vehicles here that were parked. And I noticed that  
17 some of them were occupied. And then around him, I  
18 didn't see anybody else.

19 Q Okay. See any type of people walking  
20 around, like, kind of foot traffic, bicycle traffic?

21 A Yeah. I can't, you know, specifically, you  
22 know --

23 Q Sure.

24 A -- say, but I did see a lot of people in the  
25 park. I was kind of fixated on him at this point, but

## Examination of Zachary DeLong

1 I know that there were a lot of people in the area.  
2 The gas station, there was plenty of people in the gas  
3 station that I was looking through and then --

4 Q How about --

5 A -- on the --

6 Q -- vehicle traffic on, like, 92nd or  
7 Holgate?

8 A A lot of vehicle traffic. Holgate's a big  
9 thoroughfare in Southeast Portland and so is 92nd.  
10 And on the north side of the intersection here,  
11 there's a -- a food cart, which they usually get --  
12 they open up later than this when this was occurring,  
13 but they're usually there earlier working. And then  
14 it's also in the parking lot of a mini mart that I  
15 believe was open at the time, too.

16 Q Okay. So with those initial observations,  
17 did anything in those initial observations kind of  
18 change the game plan in your mind?

19 A Yeah. So he's in this park where he's  
20 described. He's standing there and his hands are  
21 empty and there's nobody else around him. And like I  
22 said earlier, you know, I -- I feel a responsibility  
23 to at least go and talk to this guy. He may not be  
24 committing a crime. There may be nothing going on  
25 here at all.

## Examination of Zachary DeLong

1                   There may not even be a gun. But I -- I  
2                   have a responsibility to go check it out. That's my  
3                   job. And I think that the neighbors and people that  
4                   live there would -- would want me to do that. So his  
5                   hands --

6                   Q     Did you --

7                   A     -- were empty.

8                   Q     I'm sorry to interrupt you, but did you have  
9                   any kind of -- with the actions that he was taking,  
10                  did you have any kind of initial thoughts about maybe  
11                  there's any type of mental health issues or any type  
12                  of concerns or -- or was that not even on your mind?

13                  A     Not yet. I mean --

14                  Q     Okay.

15                  A     -- when I drive to a call in general --

16                  Q     Mm-hmm.

17                  A     -- especially one with somebody who's  
18                  reported to be armed, that is something that pops into  
19                  my head as a hypothetical scenario.

20                  Q     Mm-hmm.

21                  A     To be an effective and professional police  
22                  officer, when you go to any call, you have to really  
23                  think of the hypotheticals. You have to think of the  
24                  what-ifs. You have to be prepared for something that  
25                  will catch you off guard that's outside of the norm.

## Examination of Zachary DeLong

1 That's just part of it.

2 And so, you know, being on the crisis team,  
3 working this district where there's a lot of houseless  
4 people who suffer from mental health issues, you know,  
5 it is something that I'm always -- it's always in the  
6 back of my mind. But based on his actions, when I see  
7 him, there's nothing that's making me think that he's  
8 in crisis or something along those lines.

9 Q Okay. So what'd you do?

10 A So, at this point, I was able to see that  
11 several other police cars were coming from further  
12 away aside from Officer Wutherich and myself.

13 Q And when you --

14 A And --

15 Q -- say, "see," do you -- do you physically  
16 see them or do you see kind of on the computer or hear  
17 on the radio?

18 A I see them on my computer. We have --

19 Q Gotcha.

20 A -- GPS so we can what -- where all our  
21 fellow officers are. And so I could see that they  
22 were getting closer. And that's something that goes  
23 into my thought process, too, to make sure that I have  
24 enough police officers there to handle a problem if  
25 something does happen.

## Examination of Zachary DeLong

1                   So these other officers had started getting  
2 closer to Lents Park. His hands were empty. And  
3 because of this, I thought, you know, he's standing  
4 there. He's not -- he doesn't look enraged. He's  
5 just -- he's just standing with his hands empty. That  
6 seems like the perfect opportunity to go and try to  
7 talk to this guy.

8                   Q     So what'd you do?

9                   A     So I got on the radio and I said, you know  
10 -- I put out all the information I just said about his  
11 hands being empty. And I said, "We're going to pull  
12 into the parking lot and try to" -- I said, "address  
13 him from a distance," but what I mean is I'm just  
14 going to try to talk to him from a ways away.

15                  Q     So is that the parking lot that you pulled  
16 into, like you mentioned earlier, on the bottom side  
17 of the screen?

18                  A     It is. So I -- I made a left turn off of  
19 Holgate to go south on 92nd there. And when I made  
20 that, I had a red light.

21                         And so I turned on my lights for a quick  
22 second so that traffic would stop and then I went  
23 through the red light. It's -- we call it bumping a  
24 light. It's just to get through one light to get  
25 somewhere quickly.

## Examination of Zachary DeLong

1 Q Mm-hmm.

2 A And --

3 Q Did you shut them off after you got  
4 through --

5 A Yeah.

6 Q -- the intersection?

7 A My lights were probably on for one second,  
8 just enough to stop the traffic in the intersection.  
9 And then I make the turn and then I turn them off.

10 Q Okay.

11 A And when I made this turn and had turned my  
12 lights on for a second, I saw that this man looked up.  
13 He -- he -- his head had been down. And he looked up  
14 at me and then looked back down. And so I knew that  
15 he -- he saw me and knew that I was -- I was there.

16 Q What happened next?

17 A So then I pulled into the parking lot. I  
18 made a right turn into the parking lot. And right  
19 about where your mouse is, maybe just a little bit to  
20 the right, I stopped and parked my police car right  
21 there.

22 Q All right.

23 A Yeah, right there.

24 Q Got another photo up there with a picture of  
25 two patrol cars parked kind of behind a tree. Is one

## Examination of Zachary DeLong

1 of those your cars?

2 A The car on the right is mine.

3 Q All right. And what's -- I'm assuming, is  
4 that where you parked?

5 A That's exactly where I parked, yep.

6 Q And after you parked, what did you see  
7 or do?

8 A So Officer Wutherich was behind me and she  
9 -- I saw her pull in right next to me. And that's her  
10 car on the left. At this point, I'm much closer to  
11 this man and I can see that his hands are still empty.  
12 However, he had that black object in his back pocket  
13 that had the lime green on it.

14 And I didn't think it was a gun, but I  
15 couldn't rule out that it wasn't. And that -- that  
16 was just something that was just on my mind. And so I  
17 got out of my car at this point and --

18 Q When you got out of the car, did you have  
19 anything in your hands?

20 A Yeah. So I -- I pulled my rifle out  
21 preemptively at this point.

22 Q Why'd you do that?

23 A Because I have a very credible caller who I  
24 spoke to personally who gave me very detailed  
25 information about this man and about what he was doing



## Examination of Zachary DeLong

1 and that he was armed with a gun.

2 I'm in a very busy, populated city park  
3 surrounded by peoples' homes and I have to, like I  
4 said, rehearse and just kind of think of all these  
5 hypothetical situations.

6 And I'm worried that this man could either  
7 retrieve what could have been a gun in his back pocket  
8 or something from the ground and he could start  
9 shooting anybody. There's people everywhere.

10 And I need to be prepared for that. So I  
11 had to kind of balance this. I pulled my rifle out  
12 and I stood by the front-left tire of my car there.  
13 And, at this point, the -- the man, he's off to the  
14 right in the field.

15 Q I'll just kind of move one picture. Is that  
16 what you're referring to there? Your front-right  
17 tire?

18 A Yeah. And probably to the right of that  
19 police car in the distance is where he was standing at  
20 this point.

21 Q Okay. So he's down here on the other side  
22 of that car?

23 A In that area, yes.

24 Q Okay.

25 A And so I stood at that front tire that you

## Examination of Zachary DeLong

1 can see in this picture and I held my rifle down at my  
2 side. Like, I held it down out of sight behind the  
3 tire and the -- the hood of this car.

4 And I did that because I -- I want to have  
5 it ready and accessible in case I need it, but I also  
6 don't want to -- I don't want to spin this guy up. I  
7 -- you know, I -- I don't want to think, oh, here  
8 comes a cop with a rifle and -- and I don't want to  
9 freak him out.

10 I -- I want to keep it out of sight. And,  
11 you know, I -- I had done this on many calls. And --  
12 and if the guy is cooperative and -- and calm and --  
13 I'll literally just open my door and throw it back in  
14 there and then I'll walk out and go talk to them. And  
15 they -- nobody has any idea.

16 Q So to pause you there, why the rifle instead  
17 of your pistol?

18 A So, as I was saying, being worried that he  
19 could turn into an active shooter or something and --  
20 and with all these people and these houses, as a  
21 police officer, I'm very responsible with where, you  
22 know, my bullets could potentially go. I have to  
23 think about that.

24 I don't want to just, like -- if I get into  
25 some horrific situation like that, I don't want to

## Examination of Zachary DeLong

1 just indiscriminately fire and families, you know,  
2 around and -- and I don't know where my bullets are  
3 going.

4 My rifle and my abilities with my rifle far  
5 exceed my handgun. I'm much more accurate. I can  
6 stay further away. It's -- it's just something that  
7 I'm much more comfortable with and it's much safer for  
8 everybody at this point.

9 Q So one follow-up on that. Why would you  
10 want to be further away if you're trying to have a  
11 conversation with someone?

12 A Well, if he's armed with a handgun, I don't  
13 want to just walk out into the middle of an open  
14 field. And -- and, like I said, these hypothetical  
15 situations that are going through my head, if he does  
16 have a gun, if he tries to hurt someone in the park,  
17 if he tries to hurt me.

18 I don't want to be standing out in the  
19 middle of this field, you know, with no cover, with  
20 nowhere to go and -- and have some, you know, wild  
21 west shootout in the middle of this city park. That  
22 -- that sounds terrible.

23 So when I encounter this guy, something  
24 that's important that gives me time to think, time to  
25 make decisions, is having distance between myself and

## Examination of Zachary DeLong

1 him. When I was trained, it's called a reactionary  
2 gap. And the more distance that you have, the more  
3 time, although not much more time, but the more time  
4 that you have to make those decisions.

5 And so I wanted to keep my distance from  
6 this guy when I first initially talked to him 'cause  
7 that's what's most important, is the initial  
8 interaction to see if he's going to be cooperative and  
9 cool and, you know, calm or if it's going to go a  
10 different way.

11 Q And --

12 A GRAND JUROR: Can I ask something?

13 MR. MILLER: Just one last question on that  
14 part of it.

15 BY MR. MILLER:

16 Q So why rifle, gun versus a less lethal? Why  
17 not pull out your 40 or some other type of less-lethal  
18 tool?

19 A Because, at this point, I'm dealing with  
20 somebody that's armed with a handgun, like, a lethal  
21 handgun. And I'm worried that, you know, a less  
22 lethal is not something that you want to bring to a  
23 fight where you're being shot at or somebody else is  
24 being shot at. If he is armed with a handgun, as is  
25 -- as was described, I don't want to shoot sponge

## Examination of Zachary DeLong

1 bullets at this guy.

2 My Taser is only effective to a certain  
3 range. And even when I'm within that range, it fails  
4 all the time. I've had it personally fail in the  
5 past. It's -- it's not the most reliable tool.

6 Pepper spray won't stop somebody from  
7 shooting. I -- you know, I -- I need to be armed with  
8 lethal means at this point just in case.

9 Q Okay. So, now, we went through the  
10 decision-making process. You're standing at the front  
11 of your car with the rifle kind of at least partially,  
12 if not fully concealed, behind the quarter panel  
13 there. What happens next?

14 A So, at this point, like I said, you know,  
15 several times, I'm just talking to this guy. I don't  
16 know who he is. I don't know if he's actually armed.  
17 I just have to talk to him. And I have a lot of  
18 experience in crisis intervention as a police officer.

19 And I -- I'm sorry, I don't like to talk  
20 about myself too much, but I've been very successful  
21 at talking to people, you know, from all walks of  
22 life, in all situations and my kind of methodology  
23 that I use across the board is I just talk to people  
24 like people. I talk to people like a normal dude.

25 Like, I just -- I don't use cop lingo. I

## Examination of Zachary DeLong

1 don't -- I just talk to them calmly. And so, at this  
2 point, I called out to this man and --

3 Q Do you remember what you said or how you  
4 tried to first make contact with him?

5 A I did. I said, you know, "Hey, man, can you  
6 put your hands up and walk over to me?" And I said it  
7 in that demeanor, a little bit louder because, at this  
8 point, we are a little ways away. But I -- I said it  
9 very calmly, just like that.

10 And, at this point, he turned and looked at  
11 me and he went through the roof right off the bat.  
12 And it -- it, you know, caught me off guard big time.  
13 He -- he was almost catatonic when I first called out  
14 to him.

15 And he just went ballistic, started  
16 screaming, "Get the fuck away from me," and, "Fuck  
17 you," and -- and -- and I can't even -- you know, I'm  
18 paraphrasing. I can't remember what all it was 'cause  
19 it -- it didn't stop. It just -- he kept screaming  
20 at me.

21 And he tensed his arms and flipped me off  
22 and just yelled and he started marching around kind of  
23 aimlessly. He -- in this field kind of where that  
24 police car is, he was just walking.

25 Like, he'd walk a little bit closer to me

## Examination of Zachary DeLong

1 and then he'd turn around and walk away from me. And  
2 then he --

3 Q Are you still by your car at this time?

4 A I am.

5 Q And just to be very clear on this, now that  
6 you've got a good view of this person, have you ever  
7 seen him before in your life prior --

8 A I haven't.

9 Q -- to this day?

10 A I haven't.

11 Q Okay. Now, move us forward. He's out there  
12 in the middle of the field walking around. And what  
13 -- what'd you do next? What'd you try to do to change  
14 the situation?

15 A So I -- I just want to say really quick, I  
16 found out later -- or later through the news that his  
17 name was Robert Delgado.

18 Q Mm-hmm.

19 A So I'm just going to call him Mr. Delgado.  
20 But, at this point, Mr. Delgado, he's walking around  
21 and screaming and just through the roof excited. And  
22 -- and then I'm very concerned. This is --

23 Q Were his --

24 A -- not --

25 Q -- hands still empty at the point, though?

## Examination of Zachary DeLong

1           A     They were empty at this point.

2           Q     Okay.

3           A     Yes.

4           Q     So what's concerning you?

5           A     What's concerning is this behavior, I don't  
6     see very often. Based on my training and experience,  
7     to see somebody go from zero to 100, from just nothing  
8     to completely enraged like this, what I'm thinking at  
9     this point is drugs, meth, some sort of stimulant.  
10    Something has got him spun up. I don't know, but  
11    that's what I'm thinking. And --

12          Q     How does that change your reaction to the  
13    situation?

14          A     Well, people that are high on meth are  
15    unpredictable. I mean, I -- especially when -- you  
16    know, I've seen people who are high on meth who are  
17    very calm, but this -- this rage that just comes out  
18    of nowhere just immediately, it's concerning to me.  
19    He's also got that unknown black object in the back of  
20    his pocket that I'm concerned about.

21                 And then I had to change my demeanor at this  
22    point. I tried to go into the situation just cool,  
23    calm and collected, like, "Hey, let's just talk. Do  
24    me a favor and just keep your hands where I can see  
25    them and just walk towards me," to, I need to be



## Examination of Zachary DeLong

1 authoritative now.

2           And I told him, I said, "Listen, man, if you  
3 reach for a gun, I'm going to fucking shoot you."  
4 That sounds rough. I get that. But a -- it's a  
5 tactic. Part of the reason why I say it like that is  
6 to convey the seriousness of this to him.

7           I want him to know that, you know, I -- I  
8 came in kind of calm and I don't -- want him to know  
9 that I am very, very serious and -- and that, you  
10 know, "You need to watch your movements and what you  
11 do." So I said that.

12           And I know he heard me because immediately  
13 after that, he said something to the effect of, "Oh,  
14 you're going to fucking shoot me? Well, fucking shoot  
15 me. Fucking shoot me." And --

16           Q     So what'd you do then?

17           A     So I'm --

18           Q     Did you still stay by your car? Did you  
19 move anywhere else? Did you get any other info?

20           A     I moved up to this tree in the picture at  
21 this point. I kind of did it subconsciously. It  
22 wasn't really, like, a conscious decision. I -- I --  
23 I know that trees, like, a big, thick tree like this  
24 is much better at stopping potential bullets than my  
25 car is. You know, some parts of my car might stop a

## Examination of Zachary DeLong

1 bullet, but this tree is -- is stout. And so --

2 Q We've -- we've heard --

3 A -- I wanted --

4 Q -- from other Portland police officers that  
5 they have, like, ballistic panels and stuff in cars.  
6 Does yours have those?

7 A I don't remember if mine did. Most of  
8 them do.

9 Q Okay. But you think a tree's still a better  
10 choice?

11 A At this point, I did.

12 Q All right.

13 A And then I think, you know, based on the way  
14 he was walking around, I was kind of concerned that I  
15 was going to lose view of him. So I wanted to move up  
16 just a little bit closer to be able to maintain, you  
17 know, like, the ability to see him.

18 So I moved up to this tree. I know I got on  
19 the radio a couple of times and, again, I'll have to  
20 paraphrase. I don't remember exactly what I said on  
21 the radio, but I said that, you know, "This guy is  
22 very uncooperative. He's got something in his back  
23 pocket." And, I'm sorry, I have to back up just a  
24 little bit.

25 Q Go ahead.

## Examination of Zachary DeLong

1           A     So when I first called out to him and he  
2 started going ballistic, I didn't see, but I heard a  
3 guy in a car that was parked nearby --

4           Q     What kind of car?

5           A     It was a maroon Suburban. And I'd seen it  
6 when I pulled in. But I'm watching Mr. Delgado. And  
7 I -- I heard this man sort of, like, whisper loud  
8 enough so that we could hear him. He said, "Hey, man,  
9 he's got a gun."

10                   So, now, I have my caller, who I thought,  
11 you know, my read on him was he was super credible,  
12 very detailed, saying this guy has a gun and what's  
13 doing with it.

14                   And, now, I have somebody that's been here  
15 in this park who says he has one. So I -- I know, at  
16 this point, there's -- there's got to be a gun  
17 somewhere around here to have two people tell me that.  
18 So, I'm sorry, I'm at the tree now. And I had got on  
19 the radio. And I said, you know, "I need some more  
20 police cars here now." And --

21           Q     Why did you need more police cars?

22           A     Because the more police officers that I have  
23 at my call, the more options that we have. A big  
24 thing that concerned me was containment, is what we  
25 call it, but just keeping him in this area. I don't

## Examination of Zachary DeLong

1 want him to run off into peoples' yards. I don't want  
2 him to run off towards people that are playing sports  
3 or walking.

4 I want to keep him right here and just keep  
5 this -- the situation isolated to one area. So that  
6 was my main concern there, is getting enough police  
7 officers there. Also, other police officers have  
8 different skills.

9 Somebody might know this guy from a previous  
10 contact and might be able to talk to him. I just need  
11 -- you know, the more officers you have there, the  
12 more decisions open up to you, the more abilities to  
13 -- to do different things open up to you.

14 Q So when you're said -- you said you're  
15 standing by the tree; but are you, like, kind of close  
16 to the tree, behind the tree? Like, where exactly are  
17 you in relation to the tree?

18 A So I'm behind the tree, but I'm kind of  
19 standing just off to the right side, so I'm peeking  
20 off the right side of the tree. And Officer Wutherich  
21 was next to me on the left side of the tree at this  
22 point.

23 Q Still have your rifle?

24 A I do.

25 Q Where is that?

## Examination of Zachary DeLong

1           A     It's slung in front of me and it's at a --  
2 well, it's -- it's slung, pointed down at the ground  
3 at this point.

4           Q     Okay. And how far away is the subject when  
5 you're -- when you're contacting him at the tree?

6           A     So, you know, approximately 30 yards. I --  
7 I don't know. I obviously heard from news articles  
8 later, like, a specific number that I can't remember  
9 off the top of my head, but it's --

10          Q     I want you to --

11          A     -- in the ballpark --

12          Q     -- focus on what you remember from the time  
13 rather than what you maybe had heard later on.

14          A     Got it. It was in the ballpark of 30 yards.

15          Q     About 30 yards? And is that a comfortable  
16 range for you with your pistol?

17          A     No, it's not.

18          Q     Is it a comfortable range for you with your  
19 rifle?

20          A     It is.

21          Q     All right. And so you're kind of sitting  
22 there by the tree. What are you seeing from the  
23 subject, Mr. -- Mr. Delgado? What's he doing?

24          A     So he's still screaming, flexing, yelling  
25 incoherently. He, at one point, walked over to where

## Examination of Zachary DeLong

1 that tent was, which is next to this tree that's in  
2 front of the police car right there. And I remember  
3 he picked up this tent. I don't remember how, but he  
4 picked it up and he just hucked it to the wind.

5 And --

6 Q Is that over here behind the police car?

7 A I believe that's it. I --

8 Q Okay.

9 A I can't say for sure. So he picked that up.  
10 And, at this point, I'm -- I'm super concerned  
11 because, again, that object in the back of his pocket  
12 and then there's all that stuff on the ground around  
13 the tent. I won't --

14 Q You saying anything? You -- you trying to  
15 establish some sort of rapport?

16 A So this is where it gets kind of crazy for  
17 me because this is my call. I'm in charge of this --  
18 this situation and so I have a lot of things going on.  
19 One is I'm thinking about what could happen and I'm  
20 watching his actions.

21 Two is I'm on the radio and I'm coordinating  
22 other police officers who are arriving and where I  
23 want them to be and what I'm seeing and what's  
24 happening so that they know when they show up. And  
25 then, three, I'm also trying to give out commands to

## Examination of Zachary DeLong

1 Mr. Delgado and tell him what to do.

2 And I can't -- again, paraphrasing. I -- I  
3 told him, I think, you know, "Get on the ground and  
4 keep your hands up," several times. I warned him  
5 exactly how I had prior -- another time.

6 I know I said that at least twice, you know,  
7 "If you reach for a gun, I'm going to fucking shoot  
8 you." And so I did give out some commands. I -- I  
9 don't remember exactly what they all were.

10 Q Any reaction from Mr. Delgado, that is?

11 A No. He -- he continued exactly as he had  
12 been. He was walking back and forth, screaming,  
13 flipping me off, yelling incoherently. I couldn't  
14 even make sense of what he was yelling most of the  
15 time.

16 Q Did you try and coordinate with  
17 Officer Wutherich for any type of planning here as far  
18 as what would happen if you did certain things or did  
19 you just kind of roll with it?

20 A We -- we kind of just rolled with it. I --  
21 I -- you know, we're -- we're next to each other.  
22 We're hearing and saying the same things. We work  
23 together often.

24 Q Mm-hmm.

25 A We are, you know, a great team. And she

## Examination of Zachary DeLong

1 hears what I'm saying on the radio about, you know,  
2 there was a police car that was arriving.

3 And I asked them to stop on the northern  
4 corner of the park to be able to prevent Mr. Delgado  
5 from going to 92nd and Holgate where there were more  
6 people. So he -- I didn't specifically tell her  
7 anything, but we were on the same page.

8 Q While he's kind of moving around erratically  
9 out there, did you ever think to ask Officer Wutherich  
10 to use the 40? And, I'm sorry, I'm letting -- I'm  
11 putting a fact there that we haven't talked about yet.  
12 Did you --

13 A Yeah.

14 Q -- know whether or not Officer Wutherich had  
15 a 40?

16 A So I can't say for certain --

17 Q Mm-hmm.

18 A -- whether or not I knew at the time she had  
19 her 40 millimeter.

20 Q Okay.

21 A And to answer what you said before that is  
22 hindsight's 20/20. Had I known that there was a gun  
23 and where it was and I would have loved to have tried  
24 to have used the 40-millimeter launcher early, right  
25 on, just to prevent him from grabbing that --



## Examination of Zachary DeLong

1 Q Yeah. And I'm --

2 A -- this -- this --

3 Q -- not looking in hindsight here. I'm still  
4 stick -- we might go to hindsight later, but we're  
5 going to stick in the moment now.

6 A Okay.

7 Q At the moment that he's wandering around out  
8 there and doing the things that you've been describing  
9 as kind of somewhat erratic or aggressive behavior,  
10 did you think that, maybe we should try a 40 rather  
11 than the tactics that you had been using as  
12 communication and things like that?

13 A At this point, I didn't, no.

14 Q Okay. So then -- now, move us -- move us a  
15 little bit forward in the scenario here as far as what  
16 happened as he's moving around out there that caused  
17 change in the approach.

18 A So, at this point, Mr. Delgado walked back  
19 towards where the tent initially was, where he had  
20 thrown it.

21 Q And is that by the tree to the front left of  
22 the patrol car there or to the right side? Where is  
23 it at?

24 A It was by the front of the patrol car in  
25 that picture.

## Examination of Zachary DeLong

1 Q All right. So in this area?

2 A Yep. And Mr. Delgado bent over, squatted  
3 down, reached down with one hand and in the mental  
4 movie of this incident that I have, if you can  
5 imagine, like, frames in a video, he was reaching down  
6 on the ground.

7 And the very next frame that I can remember  
8 is him standing upright with his arm outstretched with  
9 a gun in his hand and I'm staring down the barrel of  
10 it. And it wasn't pointed at anybody else. It was  
11 pointed right at me.

12 And it happened that fast. I -- it's the  
13 weirdest thing. He went from bent over. I didn't see  
14 him get up. He was just up already with this thing.  
15 And I know about action versus reaction and I'm sure  
16 you've heard about it.

17 And I've been in some crazy scenarios in my  
18 life where I've seen action versus reaction and this  
19 just was crazy to me how quickly this happened and how  
20 quickly this just escalated to the point where I'm  
21 staring down the barrel of a gun. And I thought --

22 Q How'd that make you feel?

23 A I thought, I'm going to get fucking shot.  
24 It scared the shit out of me. And -- and I -- I  
25 thought, you know, I -- I just remember thinking, oh,

## Examination of Zachary DeLong

1 boy.

2 And so, at this point, my rifle -- I was  
3 behind the tree and my rifle was at what's called a  
4 low ready where it's not pointed at Mr. Delgado, but  
5 it's not hanging straight down. I kind of have it at  
6 a 45-degree angle. And so it's ready to just be  
7 quickly raised.

8 And, at this point, I'm staring down at this  
9 gun that's pointed at me. And I lifted my rifle up  
10 and fired two rounds as quick as I could. And I aimed  
11 just right in the middle of his chest because, you  
12 know, this was startling.

13 I mean, this caught me off guard. Even  
14 mentally preparing for the situation on the way to  
15 this call, it still catches you off guard. You're not  
16 ready for it. There's just no way to be ready for it.  
17 It's just how the human brain works, I guess. You  
18 just -- you just can't keep up. You're always behind  
19 the curve when you're reacting.

20 Q Now, you just said you saw what you thought  
21 was a gun. Describe it. What did it look like? Why  
22 did it make you think it was a gun?

23 A All I can say is that it's -- it was a black  
24 handgun. And I -- you know, I -- the stance had  
25 something to do with it, I'm sure, you know, the way

## Examination of Zachary DeLong

1 that he was standing, holding it out outstretched.

2 Q Just to be clear for the record here, you're  
3 holding up one hand outstretched?

4 A Yeah.

5 Q Okay.

6 A Yeah. He -- he held it with one hand and it  
7 was pointed right at my chest.

8 Q Mm-hmm.

9 A And that's all I can describe it. But I --  
10 I knew it was a gun.

11 Q At that moment in time when the gun was  
12 pointed at you, do you think you had a chance to do  
13 something else, like tell him, "Point that somewhere  
14 else. Drop the gun," you know, get somebody to use a  
15 less lethal? What -- what else could you have done at  
16 that point?

17 A Absolutely nothing.

18 Q Could -- no waiting, no -- no other  
19 resources?

20 A I -- I -- it's -- it's a miracle that I  
21 wasn't shot. There was nothing else to be done there.  
22 I -- had he fired at me, I would have been shot before  
23 I had a chance to react. There -- there's just no if,  
24 and or buts. I was so mentally behind the curve in  
25 the split second that I -- I was going to get shot.

## Examination of Zachary DeLong

1           Q     After you fired two shots, what -- what did  
2 you see?

3           A     So I fired two shots as quickly as I could.  
4 Mr. Delgado -- I took a second to kind of assess. He  
5 fell down.

6                     I can't really remember or describe how he  
7 fell down, but I know that once he had fallen, he fell  
8 behind that tree that's at the front of the police car  
9 and I could only just see one leg sticking out from  
10 the side of that -- of that tree.

11          Q     Did you announce anything on the radio?

12          A     Yeah. I -- I said, "Shots fired," something  
13 to the effect of, "He's down on the ground. I can't  
14 see the gun anymore."

15                    And I noticed that Officer Le and another  
16 officer showed up after -- like, simultaneous -- I --  
17 I don't know, right about this exact same time. And  
18 they were just to the north of me. And so from where  
19 they were, I knew that they could probably --

20          Q     Is that, like -- on this picture, is that  
21 over here to the right side of the picture?

22          A     It is, yeah.

23          Q     Okay.

24          A     Yep. And maybe even just a little bit  
25 further to the right.

## Examination of Zachary DeLong

1 Q Gotcha.

2 A But based on, you know, the angle of where  
3 they parked, they would be able to see him a lot  
4 better than I could 'cause I could only see his leg  
5 from there. And so I said something to the effect of,  
6 you know, "Hey, can you -- I can't see him anymore, so  
7 you kind of have to run the show now."

8 Q And did you do anything else to -- like, why  
9 not, at that moment -- or, actually, let me back up  
10 that one question.

11 Did you see the rounds hit him or did you  
12 just fire and then he fell down to the ground?

13 A I fired and he fell down. I -- I honestly  
14 didn't know if I hit him. You know, I -- I assume  
15 because he fell down, but I -- I couldn't see any  
16 of that.

17 Q So if you thought that you might have hit  
18 him, why not go up to him and -- and render some aid  
19 immediately?

20 A Because I don't know if I hit him. If I did  
21 hit him, I don't know where I hit him. If I hit him,  
22 I don't know if I have stopped him -- his violence  
23 towards me. I don't know if he's still capable of --  
24 of shooting me. I don't know if he's still willing to  
25 shoot me.

## Examination of Zachary DeLong

1           I -- I have to take just a little bit of  
2 time to assess and to make sure that I'm safe and my  
3 coworkers are safe and -- and the people in the park.  
4 I have to take a second to make sure that this  
5 threat's stopped.

6           Q     And so you mentioned there not just you, but  
7 everybody else, taking you back to the moment that you  
8 saw the barrel pointed at you. Were you only thinking  
9 about him shooting yourself or -- or were there any  
10 other thoughts that could go through your mind of him  
11 hurting someone?

12          A     So at the moment that he grabbed that gun  
13 off the ground and pointed it at me, I'm only thinking  
14 that he's shooting me. However, I'm shoulder to  
15 shoulder with Officer Wutherich and bullets can go  
16 anywhere if you're wildly firing.

17                 And so I'm worried that she's going to get  
18 shot. I mean, I'm -- I'm friends with her and her  
19 family outside of work. I'm accountable to her. I'm  
20 scared for her life. And -- but I'm -- I'm worried  
21 that one of us is going to get shot.

22          Q     Were you aware about anybody else in the  
23 park, in the parking lot behind you or anything?

24          A     At this exact moment, no. I --

25          Q     Okay.

## Examination of Zachary DeLong

1           A     I kind of had tunnel vision. I don't -- I  
2     can't really describe anything outside of Mr. Delgado.

3           Q     And so after you kind of passed it off to --  
4     to Ken, did you stay there at the tree? Did anything  
5     else happen that you were involved with?

6           A     Officer -- well, I -- I stayed at the tree  
7     at this point. Other officers began arriving seconds  
8     later, kept coming. And they made sort of a team to  
9     go approach Mr. Delgado and render aid or -- or, you  
10    know, approach him --

11          Q     Were you --

12          A     -- from --

13          Q     -- part of that team?

14          A     I was not. I stayed at the tree and --

15          Q     Okay. Did you stay at the tree the whole  
16    time that the team approached or did you kind of pull  
17    back from the tree at any point?

18          A     I can't remember exactly. It was either,  
19    you know, when they approached or -- or shortly  
20    before.

21          Q     And so, at some point in time, you're aware  
22    that a team moves up and tries to render some aid?

23          A     Yes.

24          Q     Did you have, like, any other kind of  
25    significant part in -- in that investigation or



## Examination of Zachary DeLong

1 followup afterwards?

2 A I didn't.

3 Q Now, a couple other questions, one being, at  
4 the moment, from the entire time that you spoke with  
5 Mr. Delgado, from everything that you saw from the  
6 moment that you got there as well as all the  
7 information that you had coming from the dispatch, the  
8 caller, the people in the park, your observation of  
9 him, his movements, the stuff in his pocket, what he's  
10 grabbing, a tent, everything, totality --

11 A Yeah.

12 Q -- is there anything that ever led you to  
13 believe that that was other than a gun that he was  
14 pointing at you?

15 A Absolutely not.

16 Q Obviously, it's -- I'm sure this is kind of  
17 replayed often in your mind. Looking back at that as  
18 often as you have, is there anything else that you  
19 think that you could have done differently at  
20 that day?

21 A Like I said earlier, you know, hindsight's  
22 20/20. Had I known that that was a gun; that he was  
23 going to pick it up, you know, I wish we could have  
24 used that 40-millimeter launcher, you know, earlier,  
25 before he reaches, you know, but that's it.



## Examination of Zachary DeLong

1 quick? Is that --

2 A GRAND JUROR: Of course.

3 THE WITNESS: -- okay?

4 A GRAND JUROR: Yes.

5 A GRAND JUROR: Of course.

6 A GRAND JUROR: Yeah. You had your --

7 A GRAND JUROR: Yes. But you go ahead  
8 first.

9 A GRAND JUROR: No. You had a question  
10 specifically you wanted to ask him, so --

11 A GRAND JUROR: Well, no. I guess I was --  
12 I just wanted to ask for a number of pictures so when  
13 I do have a specific question, I knew what picture  
14 number it was.

15 MR. JACKSON: We don't have the numbers.

16 A GRAND JUROR: And then Kent was like,  
17 "Don't say anything," so I just, like -- "I won't say  
18 anything."

19 MR. MILLER: If you describe --

20 A GRAND JUROR: I just wanted --

21 MR. MILLER: -- the picture --

22 A GRAND JUROR: -- a picture --

23 MR. MILLER: -- I can put it up, though.

24 A GRAND JUROR: -- number so when I do ask  
25 my question, I knew what picture it was.

## Examination of Zachary DeLong

1           MR. MILLER: I don't have numbers, but if  
2 you describe the picture, I can put it up.

3           A GRAND JUROR: So you go and then I can go.  
4 I just wanted a picture number --

5           MR. MILLER: Mm-hmm.

6           A GRAND JUROR: -- just to put on my notes.  
7 So I put a picture number.

8           A GRAND JUROR: Does anybody -- anybody else  
9 have questions?

10          A GRAND JUROR: Just ask.

11          A GRAND JUROR: No.

12          A GRAND JUROR: Thank you for coming in,  
13 going through all this. As -- as you said, we know  
14 you've been through this in your mind many, many, many  
15 times, so we're just trying to get a good picture and  
16 understanding of what all is going on at the time.

17                 When you got -- when you arrived and you  
18 said, you know, one or more -- you had radioed out  
19 more police. I think the things were to come to the  
20 north, come to the -- wherever, give instructions out.  
21 And -- and all this yelling and things are happening  
22 now.

23                 He's gone from zero to 100. But you -- you  
24 made this comment that you were doing three things at  
25 the same time. You were watching him closely to see

## Examination of Zachary DeLong

1 what he's going to be doing. You were on the radio.  
2 You're also giving commands to him.

3 Is that common to be -- you be doing all  
4 that at the same time by your -- with yourself when  
5 you have somebody standing next to you or how --  
6 describe that --

7 THE WITNESS: So --

8 A GRAND JUROR: -- to me.

9 THE WITNESS: -- I believe Officer Wutherich  
10 was giving commands to Mr. Delgado as well, but I  
11 don't --

12 A GRAND JUROR: Okay.

13 THE WITNESS: -- know. But, at this point,  
14 there's only the two of us and I'm getting --

15 A GRAND JUROR: Yeah.

16 THE WITNESS: -- pulled many different  
17 directions mentally, which is another reason why I  
18 need more police officers there --

19 A GRAND JUROR: Mm-hmm.

20 THE WITNESS: -- 'cause when we have more  
21 police officers, then I can disseminate these -- these  
22 roles to a different police officer. I can have one  
23 who is focused on giving commands and talking to  
24 Mr. Delgado. I can have one person who's updating  
25 people on the radio.

## Examination of Zachary DeLong

1                   And I can have one that is, you know, a  
2                   less-lethal operator or something. But, at this  
3                   point, it's just the two of us and so I'm doing the  
4                   best that I can to kind of fill these roles by myself.  
5                   And, like I said, I -- I try to be a professional and  
6                   -- and --

7                   A GRAND JUROR: Mm-hmm.

8                   THE WITNESS: -- be square and level headed  
9                   and -- and -- but this all caught me off guard big  
10                  time. And so I -- I really had tunnel vision on  
11                  Mr. Delgado. And I can't speak to what Officer  
12                  Wutherich did. I believe she gave some commands, but  
13                  I -- I don't know.

14                 A GRAND JUROR: Okay. When you guys rolled  
15                 up and you were waiting and watching, is that a good  
16                 time to just continue to wait and watch or what  
17                 triggered the -- I mean, what -- what instigated your  
18                 -- in your thinking, okay. I need to now start, you  
19                 know, engaging with this guy 'cause he's, you know --  
20                 he's 90 feet away, 30 yards away --

21                 A GRAND JUROR: (Indiscernible).

22                 A GRAND JUROR: -- and this stuff is  
23                 happening. So when -- what -- at what point -- what  
24                 instigated you to take -- to, you know -- to step out  
25                 and start engaging with him?

## Examination of Zachary DeLong

1           THE WITNESS:  So are you -- do you mean from  
2 when I parked my car or when -- when I'm initially  
3 watching him from through the Arco --

4           A GRAND JUROR:  Where you --

5           THE WITNESS:  -- parking lot?

6           A GRAND JUROR:  -- come in and you parked  
7 your car.  Well, actually, let's go back to when you  
8 see him from the Arco station.  And --

9           THE WITNESS:  Okay.

10          A GRAND JUROR:  -- here's this guy.  What's  
11 your thinking at that point to, okay.  Now, we should  
12 move down on site?  And then let's walk through that.

13          THE WITNESS:  So, you know, I -- I had  
14 looked on my map on my computer.

15          A GRAND JUROR:  Mm-hmm.

16          THE WITNESS:  And I knew that there were  
17 other police officers that were arriving.  I had seen  
18 Mr. Delgado.  He was standing still, almost catatonic,  
19 with nothing in his hands and nobody around him.  And,  
20 like I said, it's a struggle to stay ahead of the  
21 curve in -- in this job.

22          A GRAND JUROR:  Sure.

23          THE WITNESS:  And so I felt -- you know, I  
24 -- I -- as a police officer, I have to make small  
25 decisions, big decisions every day.  And that felt

## Examination of Zachary DeLong

1 like the best time to approach him.

2 A GRAND JUROR: Okay.

3 THE WITNESS: And like I told you, when I  
4 approach people, you know, quietly, no lights and  
5 sirens, drive up, casually get out of my car, speak in  
6 a calm tone, I've had a phenomenal success rate, a --  
7 such a good success rate with just being normal and  
8 calm and -- and relaxed with people.

9 And -- and it didn't work this time, but it  
10 just felt like the right time to approach him, when  
11 his hands were empty and he was just standing there.

12 A GRAND JUROR: All right. So you hit the  
13 light for -- very briefly, get through the  
14 intersection. You get down there and then you're out  
15 of the -- you -- you started (indiscernible) get out  
16 of the car, you're going to get out of the car. What  
17 are you thinking next in terms of when and how and why  
18 you're going to engage with him?

19 THE WITNESS: So, like I said, I -- I -- I  
20 go through all these kind of hypothetical scenarios in  
21 my --

22 A GRAND JUROR: Sure.

23 THE WITNESS: -- head when -- from the  
24 moment I get dispatched to a call to the moment I  
25 arrive. And on top of all these scenarios of, he's



## Examination of Zachary DeLong

1 got a gun and there's people in the park and he could  
2 shoot them, I also think, you know, maybe I just get  
3 out and I say, "Hey, man, can you just put your hands  
4 up and walk over to me?" and he does that.

5 And -- and then we talk. And -- and, you  
6 know, he -- maybe he's not even armed. I kind of  
7 think, you know, on top of the negative scenarios, I'm  
8 also thinking the positives ones. And so I -- I got  
9 out of the car and I thought, you know, I'm just going  
10 to call out to this guy.

11 I'm going to keep my rifle out of sight.  
12 And I'm going to talk calmly and I'm just going to  
13 call him over to me and -- and see if he's willing to  
14 -- to talk with me for a second.

15 And that -- that's what was going on in my  
16 head and what I was -- that was my objective. That's  
17 what I was trying to do and it just didn't go  
18 that way.

19 A GRAND JUROR: And how was he acting at  
20 that moment when you -- you did call out to him? You  
21 said, "Hey, man." I think you said, "Listen, man, if  
22 you're not" -- you said, "Hey, man, can -- can you put  
23 your hands up and walk over to me?"

24 THE WITNESS: So it --

25 A GRAND JUROR: And what was the response

## Examination of Zachary DeLong

1 again?

2 THE WITNESS: So as soon as I said that, he  
3 went from just standing there almost catatonic to  
4 going ballistic. He just immediately perked up and  
5 had a rage about him, just started screaming, flipping  
6 me off, just -- just -- just like that. From -- from  
7 nothing to everything just like that.

8 And it was as soon as I called out to him,  
9 that first sentence that I spoke to him. And that's  
10 why I was saying it -- it really caught me off guard.  
11 You know, it -- it didn't build up. It just happened  
12 just like that.

13 A GRAND JUROR: Okay. The -- you said, at  
14 some point, I think, right about then, you said,  
15 "Listen, man, if you reach for a gun, I'm going to  
16 fucking shoot you," yelled at -- that at him.

17 Has -- have you ever used -- have you used  
18 that type of language or term -- or with somebody who  
19 is -- I -- I'm -- I assume that in -- in the years  
20 that you've been a police officer, you've encountered  
21 people, like you said, on -- that are on meth or -- or  
22 mental health issues, whatever they're kind of -- or  
23 that are reacting.

24 Did you use that type of a -- not language,  
25 but intentionality and -- and forceful language in

## Examination of Zachary DeLong

1 that -- in those situations?

2 THE WITNESS: Not often. My read on  
3 Mr. Delgado here, is the way that he's acting, this  
4 rage, is, A, have to speak up and be authoritative and  
5 I have to use some language, A, because I have to talk  
6 over him 'cause he's going ballistic and screaming.  
7 And so --

8 A GRAND JUROR: Sure.

9 THE WITNESS: -- I need to make sure that he  
10 hears me. And then, like I said before, sometimes I  
11 just get this feeling that something's going south  
12 and -- and I need to be -- I need to convey the  
13 seriousness of this situation to this man, the  
14 seriousness of his actions and his choices.

15 I don't want to be here. This isn't how I  
16 thought my day was going to go when I was suiting up  
17 in the morning. And -- and I'm telling him, like,  
18 "Please don't or I'm going to fucking shoot you."

19 And I need him to know that I'm not messing  
20 around, like, I'm serious. I -- I have people to  
21 protect. I have my partner to protect. I have me to  
22 protect. Like, this is --

23 A GRAND JUROR: Sure.

24 THE WITNESS: I don't -- I can't think of  
25 another way to say it other than just --

## Examination of Zachary DeLong

1 A GRAND JUROR: No. I -- I --

2 THE WITNESS: -- conveying --

3 A GRAND JUROR: Yeah.

4 THE WITNESS: -- how serious this is.

5 A GRAND JUROR: Yeah, yeah. Now, was this  
6 all just in -- I don't remember. Was this over the --  
7 your PA or you were just yelling at each other, I  
8 mean, vocally?

9 THE WITNESS: This wasn't over the PA. This  
10 was just me talking to him.

11 A GRAND JUROR: Okay. I think I -- I think  
12 that's all I have for him.

13 A GRAND JUROR: I have a quick --

14 A GRAND JUROR: That helps.

15 A GRAND JUROR: -- quick --

16 MR. MILLER: Go ahead.

17 A GRAND JUROR: -- question.

18 Now, you said when you first -- you just hit  
19 your lights for a second and that he looked up at --  
20 looked up 'cause he saw the light. And then you  
21 looked back down at the ground.

22 And so as you were driving down 92nd, just  
23 as you were going to pull into the parking lot, did he  
24 watch you drive? Did he make contact? Did he see you  
25 at all?

## Examination of Zachary DeLong

1           THE WITNESS: I can't say with 100-percent  
2           certainty because I also have to keep my eyes on the  
3           road as I'm driving up.

4           A GRAND JUROR: Mm-hmm.

5           THE WITNESS: But I -- I saw him look up,  
6           look down and then he was in that position when I was  
7           getting out of my police car.

8           A GRAND JUROR: Okay. So when you got out  
9           of the car, he wasn't even looking at you even though  
10          he probably -- most people would have heard you --  
11          seen you or seen the motion or heard you pull in and  
12          stop your car?

13          THE WITNESS: Yes. Yeah.

14          A GRAND JUROR: But he didn't move. He just  
15          stood there looking --

16          THE WITNESS: He just stood --

17          A GRAND JUROR: -- at the ground?

18          THE WITNESS: -- there.

19          A GRAND JUROR: Okay. That's all. Okay.  
20          Thanks.

21          A GRAND JUROR: Just to follow up to that,  
22          but it was lights, no siren?

23          THE WITNESS: Yes.

24          A GRAND JUROR: So it was just lights?

25          A GRAND JUROR: Just a flash of light.

## Examination of Zachary DeLong

1 A GRAND JUROR: Just --

2 A GRAND JUROR: Yeah.

3 A GRAND JUROR: Just, like, a --

4 THE WITNESS: Yeah. Just for one to two  
5 seconds just to get through that intersection safely.  
6 And -- and then I turned them right off.

7 A GRAND JUROR: Thank you very much. And I  
8 just wanted to see if I could get that picture again.

9 MR. MILLER: Which one?

10 A GRAND JUROR: Where he --

11 A GRAND JUROR: Which picture?

12 A GRAND JUROR: -- parked his car. That's  
13 what I was trying to do when it was there. Yeah, that  
14 one. And then was there one --

15 MR. MILLER: Back within the park.

16 A GRAND JUROR: No.

17 MR. MILLER: And then forward would go --

18 A GRAND JUROR: Okay.

19 MR. MILLER: -- in between it.

20 A GRAND JUROR: That's the one. That's the  
21 one I was looking for just to give a perspective.

22 MR. MILLER: Okay.

23 A GRAND JUROR: Thank you. And I don't know  
24 what is Picture 3. It makes no difference.

25 And, Officer DeLong, thank you so very much

## Examination of Zachary DeLong

1 for -- for being here and having to go through this  
2 again. We really appreciate -- well, I appreciate it.  
3 I can't speak for anyone else, but I -- I -- I'm  
4 thankful and grateful that you're here. Thank you  
5 very much.

6 THE WITNESS: Thank you.

7 MR. MILLER: I'll check in one more time for  
8 the grand jurors.

9 A GRAND JUROR: Yeah. I just -- I just  
10 wanted to say also thank you and -- and sorry you have  
11 to live through this again and --

12 THE WITNESS: I appreciate it.

13 BY MR. MILLER:

14 Q I'm going to finish up with just two final  
15 follow-ups from the questions that we had from the  
16 grand jurors.

17 Thinking back through it at the point of the  
18 time when you first got the call, when you made the  
19 call to the caller, Arco station pulling in, first  
20 contact, et cetera, is there any point in time in the  
21 entire scenario was ever an option to just leave and  
22 never make contact, walk away from it?

23 A It's difficult to describe, you know, in  
24 hindsight, but I don't think so. I -- like I said  
25 earlier, you know, these -- this is my neighborhood.

## Examination of Zachary DeLong

1 This is my park. I -- I feel -- that's how I feel,  
2 you know, that this is my area. And to get a district  
3 where you work every day, you have to earn it in the  
4 Police Bureau.

5 When you're new, you bounce all over the  
6 place. And so I -- I fought to work where I live --  
7 or lived, I'm sorry. And I -- I love the neighborhood  
8 and I just feel, like, accountable to the people that  
9 live there to go and check on this guy, to go to this  
10 call. I -- I think I would be negligent, derelict if  
11 I didn't. I -- I think that they expect that of me to  
12 do that.

13 Q Is that 'cause of safety concerns for people  
14 in that --

15 A Yeah.

16 Q -- park?

17 A Yeah, yeah. And -- and I put myself in, you  
18 know, a hypothetical person's shoes that lives there  
19 or is in the park and I hope the police would show up.  
20 So I -- I -- I just -- I don't think so.

21 Q Okay. And -- and final one I have is, at  
22 any moment in time during that day, did you ever see  
23 an orange tip on the gun that Mr. Delgado --

24 A Absolutely --

25 Q -- brandished?



## Examination of Zachary DeLong

1           A     -- not.

2           MR. MILLER:   Okay.  Does that spark any  
3 other questions from the grand jury?

4           A GRAND JUROR:  No.

5           A GRAND JUROR:  No.

6           MR. MILLER:  Thank you, Officer DeLong.  I  
7 very much appreciate you coming in.

8           THE WITNESS:  Thank you.

9           A GRAND JUROR:  Thank you.

10          MR. MILLER:  Oh, and that concludes the --

11          MULTIPLE GRAND JURORS:  Thank you.

12          MR. MILLER:  -- evidence.

13          A GRAND JUROR:  Have a good night.  Thank  
14 you.

15          A GRAND JUROR:  Thank you very much.

16          MR. MILLER:  That concludes the evidence, so  
17 we can go off the record.

18                                   \* \* \*

19                   (Conclusion of Grand Jury B proceedings,

20                                   9-23-21 at 3:43 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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