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

GRAND JURY No. 1 PROCEEDINGS

Conducted by:

Dave Hannon, Deputy District Attorney

Nicole Bockelman, Deputy District Attorney

- - -

February 21, 2019

4:41:53

- - -

DDA Case No. 2395300

PPB Case No. 19-6556

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

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

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1 DA Case No. 2395300
2 PPB Case No. 19-6556
3 Deceased: Andre Gladen
4 Date of Incident: Sunday, 1-6-19
5 Location: 9610 Southeast Market Street, Portland, Oregon

6 * * *

7 (Thursday, February 21, 2019, 8:45 a.m.)

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

9 (Whereupon, the following proceedings were
10 held before the grand jury:)

11 A GRAND JUROR: Okay.

12 MR. HANNON: Good morning. We are here in
13 DA Case No. 2395300. This is a death investigation
14 involving an officer-involved shooting. On behalf of
15 the State, Dave Hannon, H-a-n-n-o-n. I'm joined by my
16 colleague.

17 MS. BOCKELMAN: Good morning. This is
18 Nicole Bockelman, B-o-c-k-e-l-m-a-n.

19 MR. HANNON: And we are now on the record
20 ready to call our first witness. And the State will
21 call Detective Erik Kammerer.

22 A GRAND JUROR: You ready?

23 **ERIK KAMMERER**

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

Examination of Erik Kammerer

1 A Since 2007, so four years.

2 Q And have you had -- been -- participated or
3 undergo training to become a detective in the homicide
4 unit?

5 A Not specifically to the homicide unit. When
6 I was promoted to detective, I attended a detective
7 academy that was put on.

8 Q And do you do ongoing trainings as a
9 detective?

10 A Yes.

11 Q And just briefly, do some of those trainings
12 include trainings in forensics, witness interviews and
13 other aspects of what are typical in a homicide
14 investigation?

15 A Yeah.

16 Q And if you could brief -- please outline,
17 what are some of the functions or duties of a homicide
18 detective?

19 A So we respond to not just homicides, but we
20 take kidnappings as well; officer-involved shootings;
21 serious uses of force that result in injury or death.
22 So if someone is -- is injured to the point where the
23 doctor's saying they might die, we'll get involved at
24 that point.

25 Q And turning your attention to

Examination of Erik Kammerer

1 officer-involved shootings, does that -- is that
2 limited to just officer-involved shootings that result
3 in a homicide?

4 A No. Any time a police officer discharges a
5 firearm; or, you know, like, an in-custody death or
6 any kind of injury that would result in someone either
7 dying or potentially dying, we'd respond to.

8 Q And how -- how are you typically called to
9 those types of investigations or locations when such
10 an incident arises?

11 A Generally, I'm off-duty, so I either get a
12 phone call or a page.

13 Q Are the page or call for officer-involved
14 shootings -- is the protocol the same as it would be
15 for, say, a homicide -- a homicide call or page?

16 A Yeah. It's -- it's a -- we call it a
17 call-out. So my pager goes off or my phone goes off
18 and I answer the phone or check the pager. And,
19 usually, I'm directed to respond to a certain location
20 for whatever it is we're going to be deploying for.

21 Q And when you arrive at that location, not
22 going into this particular case just yet, what is the
23 typical protocol when you first arrive?

24 A For --

25 Q A --

Examination of Erik Kammerer

1 A -- officer-involved shooting?

2 Q -- homicide call.

3 A So a homicide, we'll respond to the scene.
4 I'll verify that we -- that I have a contained crime
5 scene; that it's all secured; that we've located
6 witnesses; make sure that we have just one point in
7 and out of the crime scene, thus ensuring that it's
8 secure.

9 I'll talk to officers and the sergeants that
10 are there to try and figure out what it is we have,
11 what more needs to be done to secure the scene, to
12 help locate witnesses, to help locate evidence.

13 Q And is that kind of response similar or
14 exactly the same as the response to an
15 officer-involved shooting or are there other factors
16 or personnel involved in an officer-involved shooting?

17 A Yes and -- yes.

18 Q Okay.

19 A So the protocol's the same whether it's an
20 officer-involved shooting or homicide, you know;
21 whether the person shot by the police is dead or not;
22 or, I mean, the bullet didn't even hit him, they, you
23 know, shot a closet. The response is the same. Our
24 actions are the same.

25 In an officer-involved shooting, you get a

Examination of Erik Kammerer

1 lot more people responding. There's a great deal more
2 oversight, if you will, into the investigation.

3 On a homicide, just a standard homicide,
4 we'll have between six and eight detectives that show
5 up and a homicide sergeant. We'll have criminalists
6 from the Forensic Evidence Division that respond to
7 document the scene via photographs and video and
8 collect evidence.

9 We usually have a representative from the
10 District Attorney's Office that responds that we can
11 work with at the scene. And that's just on a -- a
12 regular homicide.

13 And then on an officer-involved shooting, in
14 addition to that, we also get representatives from the
15 City Attorney's Office, from the Independent Police
16 Review, IPR. We'll have members of the union. We'll
17 have attorneys for the union.

18 Members from the Department of Justice will
19 also come out or send a representative. There's a --
20 a great deal more people that show up on an
21 officer-involved shooting.

22 Q And in addition to those personnel, unlike a
23 typical homicide investigation, do you also receive
24 outside agency investigators to assist in the
25 investigation of an officer-involved shooting?

Examination of Erik Kammerer

1 A Yeah. We partner with the East County Major
2 Crimes Team, which is comprised of Multnomah County,
3 Gresham. Now, the Port of Portland as well. And
4 they'll send, at a minimum, two representatives from
5 -- from their agency to assist us.

6 Q And with all that personnel, though, there
7 is still the maintaining the integrity of the scene
8 and -- and maintaining -- maintaining the integrity of
9 the evidence; is that accurate?

10 A That is the number one priority, yes.

11 Q So when you first arrive at a -- an
12 officer-involved shooting scene, is there an initial
13 briefing to get an idea or a sense of what the initial
14 information is that came out?

15 A Yeah. Once the investigative team has
16 arrive, we'll assemble and we'll receive a briefing
17 from everybody that has knowledge of what occurred.

18 Q And after that briefing, is there a
19 delegation of tasks, so to speak, to interview other
20 witnesses or locate other evidence involved in the
21 investigation?

22 A Yeah. Detective teams will be assigned to
23 work the crime scene; to find additional witnesses; to
24 interview the witnesses that have already been
25 located; to canvas for video.

Examination of Erik Kammerer

1 constitutionally protected area, we have to comply
2 with the Constitution and make sure that we're
3 permissible under law to be there. So if it's
4 someone's house, we need to get permission or we need
5 to apply for a search warrant to go in.

6 Q Turning your attention to also more
7 officer-involved shootings, is there a protocol also
8 in place in dealing with the officer in question, to
9 photograph, examine that particular officer at --
10 immediately after the incident?

11 A Yes. The officer will be photographed to
12 show what the officer looked like at the time of the
13 incident. So, you know, if they were wearing a coat
14 -- a coat and gloves, whatever, to show that they are
15 the police. Or if it's an -- an off-duty officer, to
16 show what he was looking like, if their badge was
17 displayed or not.

18 And then we'll collect their firearm. We'll
19 conduct a countdown of the firearm to see how many
20 rounds they're missing and see if that matches up with
21 what we're finding at the scene as far as number of
22 rounds fired.

23 Q When all of that is finished and the -- the
24 evidence has been sufficiently maintained, the
25 integrity of the scene is established, at some point

Examination of Erik Kammerer

1 in the initial investigation, do the primary
2 investigators or other personnel involved in the
3 investigation do a walk-through of the scene and
4 examine what it -- what it looked like?

5 A Absolutely.

6 Q Is there also technology or scanning
7 equipment used by the Portland Police Bureau called
8 Leica?

9 A Yes.

10 Q And what is that?

11 A Or Leica system. It's a -- I'm not that
12 technically proficient in it, but it's a 3D scanner.
13 It sits on a -- a tripod and it's a laser system and
14 millions of measurements a second.

15 It scans the whole scene in a 360 degree
16 with a camera that also captures video of the scene.
17 So you have measurements and a -- a recreation of
18 the scene.

19 Q And as a -- as an investigator, how helpful
20 is that for you in trying to understand how different
21 pieces of evidence fit within your crime scene?

22 A Well, I -- I have the luxury of actually
23 being at the scene, so I get to see how pieces fit.
24 But I do find it very useful for people that haven't
25 been at the scene to -- to see it and have an

Examination of Erik Kammerer

1 understanding of what the scene looked like at
2 the time.

3 Q And then at -- as all of this occurs and as
4 the evidence of the scene is maintained and the
5 integrity is assured, at that point, then do you or
6 other investigators actually finally seize evidence
7 either for forensic processing or just to capture for
8 further investigation down the road?

9 A Yeah. When we do the walk-through of the
10 scene, we'll look for and identify items of evidence,
11 which will be marked and, again, be photographed and
12 video taken of them.

13 And once that's done and if we used the
14 Leica system, once it's all been scanned, then those
15 -- those items of evidence will be collected.

16 Q So turning your attention to Portland Police
17 Bureau Case No. 19-6556, were you called or paged out
18 as you previously described to that investigation?

19 A I was, yes.

20 Q And what were you called or paged out to,
21 based on your understanding?

22 A It was an officer-involved shooting at 96th
23 and Market.

24 Q And what were some of the first steps that
25 occurred when you arrived at the scene?

Examination of Erik Kammerer

1 A When I got there, I went through my normal
2 procedure of verifying that the crime scene had been
3 established and was secured; that witnesses had been
4 located and had already been interviewed.

5 And requested that officers canvas nearby
6 residents for additional witnesses while we were
7 waiting for the rest of the investigative team to
8 respond so we could conduct that briefing.

9 Q And you described earlier that there's an
10 increase in personnel on these types of investigations
11 as opposed to what would normally be, in your
12 experience, a typical homicide investigation. Was
13 that your experience in this particular case as well?

14 A Yes, absolutely.

15 Q In fact, did you have detectives assigned
16 giving recorded interviews to uniformed officers who
17 arrived on scene after the incident occurred?

18 A Detectives assigned to give recorded
19 interviews of uniformed officers?

20 Q Mm-hmm.

21 A Ah, yes.

22 Q Okay.

23 A Well, we'll take -- we'll make sure any
24 witness officers are separated and being monitored so
25 that, you know, there's no possible way they could,

Examination of Erik Kammerer

1 you know, get their stories together.

2 We ensure that nobody can talk to each other
3 until we can interview them and get a statement from
4 them about what they saw and what they heard and what
5 they know.

6 Q And let's talk about that real quick.

7 Whether it's a homicide investigation, an
8 officer-involved investigation -- shooting
9 investigation or any criminal investigation, in your
10 experience as a detective, do you ever find either
11 eyewitnesses or victims giving accounts that diverge
12 from their own experiences as they recount it for
13 officers or detectives? Do you find that there's
14 inconsistencies?

15 A That's a very broad question. What I would
16 say is when I'm interviewing people who -- you know,
17 you have four or five witnesses that all saw the same
18 thing. When you interview them, you do not get the
19 exact same statement from each of them.

20 And that's attributed to the way people
21 perceive things, their vantage point, how they're
22 experiencing what it is that they see. Their
23 understanding of a situation, of what happens before
24 something occurs versus just looking over and seeing
25 it as it occurs.

Examination of Erik Kammerer

1 So, yes, there is slight variations and when
2 you interview five different people, you're going to
3 get five slightly different versions of what happened.
4 And -- and I would expect to see that.

5 I would be alarmed if I interviewed five
6 different people and I got five exact versions of what
7 they saw and they matched perfectly. That would alarm
8 me. That would be something that we wouldn't normally
9 see and I would be suspicious of that.

10 Q And when you get those accounts that might
11 have slight inconsistencies, how important then are
12 those accounts in relation to the physical or forensic
13 evidence that's available to you as an investigator to
14 compare from those interviews?

15 A Oh, it's very important. You know, certain
16 people focus on certain things. So one person sees
17 this piece of evidence, another person sees this
18 evidence.

19 Now, we know that they're both pieces of
20 evidence, but we wouldn't have known that without
21 talking to them and getting their -- each individual
22 story of what it is that they saw.

23 Q And when we talk about evidence or forensic
24 evidence, obviously, that includes evidence found in a
25 crime scene; is that accurate?

Examination of Erik Kammerer

1 A Yes, absolutely.

2 Q But there's also other evidence in your
3 investigation, such as BOEC recordings or 9-1-1 calls;
4 is -- is that true?

5 A Yes.

6 Q And so when -- when you're conducting your
7 investigations, is there any one piece of evidence
8 that assists you or do you look at all of the evidence
9 in its parts and -- and analyze it as a whole?

10 A No. You have to take it as a whole. You
11 cannot -- I like this piece of evidence and I'm not
12 going to think about this stuff over here 'cause I
13 don't like that it doesn't help my case. You look at
14 every piece of evidence and use it as a whole.

15 Q So turning your attention to this
16 investigation, was there -- well, let's -- first, were
17 you able to identify the -- the person who ultimately
18 died in this officer-involved shooting?

19 A Yes, we were.

20 Q And -- and who was that?

21 A Andre Gladen -- or Gladen, excuse me.

22 Q And who -- who was the officer who was
23 involved in the -- in the shooting?

24 A Officer Consider Vosu.

25 Q And -- and do the -- in uniform or does

Examination of Erik Kammerer

1 Officer Vosu go by any sort of nicknames with that
2 name of Consider?

3 A He goes by Sid.

4 Q All right. I -- you see up on the screen
5 some photographs, is that right, Detective Kammerer?

6 A That's correct, yes.

7 Q What is the first set of photographs that we
8 are looking at?

9 A That's the corner of 96th and Market. And
10 then the -- the house you can see there is the
11 location where the shooting occurred.

12 Q Now, this yellow tape right here in the
13 first photograph, is that the outside perimeter tape
14 that you described?

15 A Yeah. That's correct.

16 Q And the red tape here, is that the inner
17 crime scene? That is, only one entryway for people to
18 come in and out of?

19 A Yes, that's correct.

20 Q And was there a log maintained for that
21 portion of the crime scene?

22 A There was, yes.

23 Q Now, tell us about -- what -- what do we
24 know about this particular residence?

25 A So this residence is -- at first glance from

Examination of Erik Kammerer

1 the outside would appear to be a single-family
2 residence, but it's been modified on the inside to be
3 individual residences inside of this house. It's --
4 it's a group home for mentally challenged individuals.

5 Q So each person is a tenant, so to speak,
6 with its own secured dwelling; but they share other
7 parts of the house?

8 A Correct.

9 Q And this -- this porch area, what -- what
10 was significant about this porch area?

11 A That's the entrance into Mr. Pescaia's
12 residence.

13 Q And who is Desmond Pescaia?

14 A Desmond Pescaia called 9-1-1 that day
15 regarding an unwanted person on his porch.

16 Q Is this just another angle of that porch?

17 A Yeah. So if you were standing off the porch
18 looking in the front door, that's -- that's the angle
19 you're seeing right there.

20 Q And as far as you know and recount, the
21 chair down here at the bottom, was that as the crime
22 scene was found when people arrived?

23 A That was as it was found when detectives
24 arrived, yes.

25 Q And so could you briefly summarize just what

Examination of Erik Kammerer

1 the disturbance was that led to this incident as -- to
2 your understanding?

3 A So there's two -- Desmond Pescaia lives
4 inside here and then Lidiya Omelchenko is the owner of
5 the property. And they separately called 9-1-1
6 regarding an unwanted person.

7 Desmond Pescaia described him as possibly in
8 mental crisis. He showed up on his porch, was trying
9 to locate someone who does not live at the location.
10 It was a name Mr. Pescaia was not familiar with.

11 Mr. Pescaia, he spent roughly ten minutes or
12 so trying to assist this unwanted person, who turned
13 out to be Andre Gladen. He gave him some money, gave
14 him some water and then had gone back inside and
15 noticed that he still hadn't left and was refusing to
16 leave.

17 And that's when Mr. Pescaia called 9-1-1
18 requesting the police come by and remove this person
19 from his porch. And then Lidiya Omelchenko had also
20 called saying there's someone laying on the -- on the
21 porch and she wanted the police to come by and -- and
22 make the person leave.

23 Q When -- and to your understanding, how did
24 it evolve from their 9-1-1 calls to what is currently
25 investigated?

Examination of Erik Kammerer

1 A Officer Vosu saw the call holding,
2 dispatched himself to the call. When he arrived, he
3 contacted Mr. Gladen and then Mr. Pescaia on the front
4 porch. He was spending some time talking with
5 Mr. Gladen and --

6 Q "He" being Mr. -- Officer Vosu?

7 A Officer Vosu, mm-hmm. And it appears that
8 Mr. Pescaia became frustrated with the -- the lack of
9 speed in Mr. Gladen being removed. And you see that
10 stick poking out of the garbage can there next to the
11 mailbox?

12 At one point, he picked that up and was kind
13 of holding it up in a threatening manner towards
14 Mr. Gladen, saying, "You need to leave." So
15 Officer Vosu got him to put the stick back,
16 presumably.

17 And then, at that point, Mr. Gladen runs
18 inside Mr. Pescaia's residence. And during the
19 altercation on the porch, the chairs that you see
20 knocked down were knocked over.

21 Q So where are we looking at now as we get
22 closer?

23 A So, right now, you're -- you can see the
24 mailbox there from the previous photo. So you're
25 looking in the front door. That's a little closet.

Examination of Erik Kammerer

1 Right there is a right-hand turn to enter the living
2 room of the residence.

3 And then that -- that other picture shows
4 kind of that angle as you're -- you're making that
5 right-hand turn past that closet looking in the
6 residence.

7 Q And -- and whose residence is that?

8 A That's Mr. Pescaia's residence. So if you
9 were to make that right turn and stop, this is what
10 you would see. You'd be looking into the residence.
11 The front door would be on your right and then the
12 residence continues back to the left.

13 Q And is that what you're talking about right
14 here, it --

15 A Yeah.

16 Q -- just to the left?

17 A So this is the -- there's not much to this
18 residence. There's the -- the living room, the main
19 room, if you will. And then there's a bedroom back
20 through those doors there at the back end of the room.
21 That's -- I'm going to stand up here.

22 Q Sure.

23 A This is the bedroom door. This is a large
24 (indiscernible) here. Then there's the bedroom back
25 there.

Examination of Erik Kammerer

1 Q To your, again, understanding as you were
2 briefed at the scene, when Mr. Gladen ran into
3 Mr. Pescaia's residence, what happened next?

4 A He was pursued by Officer Vosu and
5 Mr. Pescaia came in right after that.

6 Q And -- and what, if anything, happened when
7 Officer Vosu pursued Mr. Gladen into Mr. Pescaia's
8 residence?

9 A Inside the residence, there was a -- a
10 physical altercation between the two. Officer Vosu
11 deployed his Taser at some point. A knife that was on
12 Officer Vosu's vest was taken by Mr. Gladen.

13 Officer Vosu retreated into the bedroom and
14 was advanced upon by Mr. Gladen, at which point
15 Officer Vosu fired his weapon three times striking
16 Mr. Gladen, who dropped the knife and was given
17 medical attention by other responding officers.

18 Q So the bedroom in question is, if I'm
19 looking at the photograph, a left and right back here?

20 A Correct. Yeah. It's at the far end of the
21 residence.

22 Q And the struggle between Officer Vosu and
23 Mr. Gladen, did that happen just around the entryway
24 of the bedroom?

25 A That's correct, yes.

Examination of Erik Kammerer

1 Q What -- what is -- again, what -- this --
2 this photograph is taken of an item within the crime
3 scene; is that right?

4 A That's correct. That's right next to the
5 bedroom door. At the top end of the picture there,
6 you can see the bedroom door.

7 Q And what are these items?

8 A It's a shoe and that's the knife that
9 Mr. Gladen took from Officer Vosu. And then that red
10 bag and everything you see around it is what's called
11 an IFAK. It's an Individual First-Aid Kit. It's
12 something that our officers are issued. Every vehicle
13 has one.

14 Q So you can see -- I can go through this real
15 quick for you. You've got rubber gloves here, trauma
16 sheers for cutting clothing, this Z-Pak dressing is a
17 -- a gauze that's designed to be packed into wounds.
18 It has an anti-coagulant that stops bleeding. This is
19 a pressure bandage here. This is more gauze here and
20 this is a bandage here.

21 Q And in your briefing or investigation, was
22 there evidence of uniformed officers trying to
23 medically treat Mr. Gladen in the scene after the
24 shooting?

25 A Yes, I was so briefed.

Examination of Erik Kammerer

1 Q What are we looking at in these photographs?

2 A So, now, you're standing in front of the
3 bedroom doorway looking into the bedroom. That yellow
4 object on the floor in that right-hand picture there
5 is Officer Vosu's Taser.

6 Q And what is that little spot right there?

7 A That is a fired bullet that when they cut
8 off Officer -- or, I mean, Mr. Gladen's clothing, that
9 bullet just fell out of the clothing.

10 Q Is that the picture of the Taser?

11 A That is the Taser, yes.

12 Q And -- and what are we looking at in this
13 photograph here?

14 A Those are three nine-millimeter shell
15 casings that were ejected from Officer Vosu's firearm.

16 Q Now, going back to the geography of the
17 scene, those casings are found in this corner of the
18 bedroom then?

19 A That's correct, yes.

20 Q And so what did that -- what did that
21 physical evidence tell you in regards to the locations
22 of where the shots were fired in relation to the
23 physical evidence of the medical bag and the Taser and
24 the knife as to the positioning Mr. Gladen?

25 A So for those of you that aren't familiar

Examination of Erik Kammerer

1 with how a semiautomatic firearm works, there's a -- a
2 magazine that goes in the grip of a -- the handgun
3 that contains the -- the cartridges. And there's a
4 slide on top of the -- the -- the gun that, when
5 fired, comes back and recoils.

6 A casing is ejected out from the -- the
7 fired round. And then the slide moves forward and
8 scoops another round off of that magazine and loads it
9 into the chamber so it's ready to fire again.

10 And that occurs each time you pull the
11 trigger. So it tells me that Officer Vosu was in the
12 vicinity of that bed when he fired his handgun three
13 times. And those casings all landed very close to
14 each other, so he didn't move significantly during the
15 time that he was firing.

16 Q What was -- what was the significance of
17 this photograph?

18 A That's a big gouge on the floor. I think --
19 (indiscernible) the picture again?

20 Q Mm-hmm.

21 A So this is the couch that's in the middle of
22 the living room. The bedroom is off on this side.
23 There's actually defects in the corner of the couch
24 covering here where a bullet passes through, it hits
25 the floor and creates that gouge and then it's

Examination of Erik Kammerer

1 deflected upwards and penetrates a wall on the far
2 side of the living room.

3 Q And even though you had the casings as well
4 as the Taser and the knife, was that forensic evidence
5 significant for you in establishing, again, locations,
6 proximities and -- and the trajectory of the gunfire
7 between Officer Vosu and Mr. Gladen?

8 A Yes.

9 Q And what are we looking at here?

10 A So that's the -- the far wall in the living
11 room. Through that window would be the street. So
12 that's the front of the residence there. And then on
13 the left-hand side of that picture just below that
14 lamp shade there is the defect in the wall where that
15 round skipped off the floor and penetrated.

16 Q And just for our geography of the -- of the
17 location, off to the right here then would be that
18 entryway again coming into the residence?

19 A Correct.

20 Q And -- and what are -- what are these
21 photographs of?

22 A So that's the -- the defect in the wall from
23 the -- the bullet penetrating.

24 Q And so that defect was caused by the firearm
25 being discharged; the bullet going through -- going

Examination of Erik Kammerer

1 through the couch, ricocheting off the floor and into
2 the wall?

3 A Yes, that's correct.

4 Q And then we've done, basically, a 360 with
5 this photograph and we're now back at the entryway
6 again?

7 A Yeah, that is the entryway.

8 Q So the knife -- when you inspected or saw
9 Officer Vosu photographed, was he missing any items on
10 his persons when he was being photographed?

11 A Yeah. When he was photographed, I noticed
12 that his Taser holster was empty and then the knife
13 sheath on his vest was also empty.

14 Q And was this knife consistent with what
15 would fit in that sheath on Officer Vosu?

16 A It is, yes.

17 Q And is this something that officers may
18 carry on their vest in patrol?

19 A Yes.

20 Q And what are we looking at here?

21 A That's a diagram of Mr. Pescaia's residence.
22 At the top of the -- the porch and there's the door,
23 which you come in, that immediate right turn into the
24 living room where you see the couches. And then
25 straight back is the bedroom.

Examination of Erik Kammerer

1 Q So just a recap, at the top -- top or -- top
2 of the photo -- diagram, that's the porch entry?

3 A Yes.

4 Q You come in and take a right into
5 Mr. Pescaia's residence?

6 A Correct.

7 Q And then south and -- or down on the diagram
8 to his bedroom?

9 A Correct.

10 Q And I noticed all of these markers -- were
11 these markers made for the tangible pieces of evidence
12 or things observed in the crime scene?

13 A Yes. Those denote items of evidence in
14 the scene.

15 Q What are we looking at here?

16 A That's Officer Vosu and the overall photos
17 that were taken. If you look at the one on the bottom
18 right there, that is that sheath on his vest. And
19 then if -- just to reference overall, you can see the
20 -- the Portland Police patch.

21 And then if you look at the picture on the
22 left there, right below his badge is the Portland
23 Police badge. And that's where that sheath is. It
24 was directly below that.

25 Q And what are these photographs of?

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1 A Those are -- that's his duty weapon and the
2 magazines and all the cartridges that were in it when
3 we did the countdown.

4 Q And these are things that Officer Vosu did
5 voluntarily and inside the -- at the crime scene?

6 A Yes.

7 Q As part of your investigation, do you also
8 do a post-briefing with all the officers and
9 detectives who conduct interviews of witnesses before,
10 during and after the incident occurred?

11 A Yeah. So there -- everybody's doing all
12 their work simultaneously. So when we're -- we're
13 done, we'll all get back together. And then as the
14 lead investigator, I need to know -- you know, "Okay.
15 You guys interviewed this person. What did you learn?
16 You interviewed this person. What'd you learn? You
17 did this. What did you learn?"

18 And so I will then get briefed by all of the
19 other detectives that were out there on what they did,
20 what they learned and who they talked to.

21 Q And in addition to that, you compile or
22 collect the evidence that was found within the crime
23 scene that -- that was either placard or -- or
24 photographed and documented?

25 A Yeah. It was all collected by criminalists

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1 from the Forensic Evidence Division.

2 Q And then in addition to that, do you collect
3 or work with BOEC to collect either the phone call --
4 9-1-1 calls or dispatches documenting who's reporting
5 or what they're reporting in the lead up to or after
6 or during the incident?

7 A Yes, absolutely.

8 Q And you did that in this case?

9 A Yes.

10 Q And so were you able to pull the 9-1-1 calls
11 of both the landlord and the tenant, Mr. Pescaia?

12 A Yeah, I received both of those.

13 Q And were you able to retrieve or locate the
14 BOEC dispatch calls by Officer Vosu indicating he was
15 going to that scene?

16 A Yes.

17 Q And was there any call -- or were you able
18 to locate any call by Officer Vosu asking for
19 assistance when -- at some point in his interaction in
20 this call to the scene?

21 A Yes. Yeah. As -- there's a -- the radio
22 traffic of the incident and so there's no radio
23 traffic of him dispatching himself to the call because
24 that was done via computer.

25 But then when he's on scene, he gets on the

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1 radio and requests Code 1 cover. So we have various
2 levels of, "I need somebody here now."

3 So Code 1 is just regular driving. Don't
4 use the lights or the siren or anything like that.
5 Just come on by and give me a hand. And then the --
6 the far end would be Code 3, which is use your lights,
7 use your sirens. Get here now.

8 Q And so he -- and he asked for Code 1. And
9 then was there any followup to that Code -- initial
10 Code 1?

11 A About a minute after that, he asks -- gets
12 on the radio again to have cover step it up so that --
13 that means, "Okay. It's time to start using your
14 lights and your siren and get here. I need help."

15 Q And then was there any call or dispatch by
16 Officer Vosu regarding the incident as it occurred of
17 -- that shots had been fired?

18 A Yeah. About a minute and a half after that
19 is when -- after that -- that second request for cover
20 was when he gets on the air and -- and announces that
21 shots have been fired.

22 Q So with those BOEC dispatches or calls, does
23 that establish for you any sort of timeline, so to
24 speak, between the minute he is requesting some
25 assistance to the minute that -- his report of shots

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1 fired?

2 A Absolutely.

3 Q And -- and how -- estimate how -- how much
4 time would you say between the first and the third,
5 the shots fired?

6 A About two-and-a-half minutes roughly from
7 when he initially requested Code 1 cover until shots
8 were fired.

9 Q And from your training and experience, would
10 you describe that as a quick escalation or something
11 that was long and drawn out?

12 A It -- it really depends on -- on the
13 situation. I -- I wasn't there. I don't know what
14 was occurring on the porch other than what we heard
15 from Mr. Pescaia.

16 So I -- I really can't put a -- was this is
17 a quick thing or was this a long, drawn-out thing. It
18 totally depends on the -- the situation and what's
19 going on at the time.

20 Q Did you happen to -- well, first, did
21 Mr. Gladen actually die at the scene?

22 A He did not. He was transported to the
23 hospital, where he was pronounced deceased.

24 Q And was there any items of evidence on his
25 person that factored into the investigation in

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1 any way?

2 A He had a hospital bracelet from Portland
3 Adventist Hospital on his wrist, which was how we were
4 able to tentatively identify him.

5 So the Portland Adventist Hospital is very
6 close to Mr. Pescaia's residence, so I was curious as
7 to why he was at Portland Adventist, what was going on
8 there and how he ended up at Mr. Pescaia's residence.

9 Q As also part of the investigation, do you
10 attend the post-mortem examination or autopsy?

11 A Yes.

12 Q And did you attend that in this case?

13 A I did, yes.

14 Q And from your understanding and observations
15 of the examination -- and we'll hear from the medical
16 examiner -- but what was the cause of death for
17 Officer -- for Mr. Gladen?

18 A Gunshot wounds.

19 Q From your training and experience and,
20 again, we'll have the reports to support that, but is
21 there also, in your experience, toxicology taken from
22 a person when they go through a post-mortem
23 examination?

24 A Yes. They're blood and urine is submitted
25 to the Lab for toxicology examination.

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1 Q Knowing that he had the bracelet for
2 Portland Adventist and knowing the proximity to
3 Portland Adventist, did you seek a subpoena for those
4 medical records related to Portland Adventist?

5 A I did, yes.

6 Q And did you obtain those records?

7 A I did, yes.

8 Q Did that help establish for you any sort of
9 timeline as to what was going on with Officer Gladen
10 in the lead up to this particular incident?

11 A It did, yes.

12 Q And -- and what in your investigation did
13 you find with that assistance of the Portland
14 Adventist bracelet and records as to a timeline for
15 Officer -- or for Mr. Gladen leading up to this
16 incident?

17 A So I was able to backtrack the whole day.
18 Mr. Gladen resided with his cousin, Diamond Randolph,
19 in an apartment complex out on 145th and Division.

20 And she ended up calling 9-1-1 that morning
21 wanting the police to come because she was afraid of
22 Mr. Gladen. She wanted him to leave. I believe she
23 described him as a crazy person in the 9-1-1 call.

24 So the officers responded. While they were
25 responding, Mr. Gladen fled. And he was not at the

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1 residence when they arrived. The officer,
2 Officer Holwege began looking into why she had called,
3 their relationship, was concerned that it might be
4 some sort of domestic violence relationship.

5 So he starts asking questions and learns
6 that no real threats were made. There's no -- he has
7 no legal authority to arrest Mr. Gladen for any kind
8 of violation of the law for anything that happens
9 inside the residence. So he's doing his
10 investigation.

11 While this is occurring, a couple blocks
12 away, somebody else calls 9-1-1 saying that there's a
13 guy laying in the bushes claiming he's been stabbed.
14 Other officers go to that and Officer Holwege is
15 listening to this as he's doing his investigation with
16 Diamond Randolph.

17 And based on the description and the
18 proximity, thinks that this might be the same person.
19 So he gets ahold of the officers out there and he
20 says, "Hey, I don't want any charges on this guy, but
21 I think this is the same guy."

22 The officers at that location are concerned
23 about the way this person -- Mr. Gladen is -- is who
24 he is -- is acting. So they request an ambulance to
25 come for Mr. Gladen. They think he's probably

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1 suffering from hypothermia because it was cold that
2 morning and he's just laying out there kind of
3 lethargic.

4 He was transported to the hospital, to
5 Portland Ad. And in reading the medical records, the
6 doctors there think he would -- had a seizure, so they
7 prescribed an anti-epileptic for him, which appears to
8 improve him to the point where he is then discharged
9 from the hospital. And shortly after that, he ends up
10 at Mr. Pescaia's residence.

11 Q And one of the -- is it fair to say that one
12 of the issues in addition to the -- the cold, was his
13 clothing appropriate for how cold it was when he was
14 found and AMR was directing Officer -- Mr. Gladen to
15 Portland Adventist?

16 A No. It -- like I said, it was a cold
17 morning. He didn't have a coat. And he was wearing a
18 T-shirt.

19 Q Was there anything that you found or could
20 recount in the lead up to the incident at
21 Mr. Pescaia's residence, any sort of medical
22 documentation of a mental health crisis as -- was
23 there any report of a mental health crisis at the
24 Portland Adventist records or that you could find?

25 A No. And please keep in mind, I'm not a

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1 doctor. I'm reading the medical records. It appeared
2 that they were -- the doctors were concerned with his
3 mental state, but attributed that to this seizure that
4 they believe he had, which then cleared up when he was
5 given his anti-epileptic drugs.

6 Q Now, you -- do you have a chance to also
7 review the post-mortem examination and toxicology
8 report?

9 A I did, yes.

10 Q In the toxicology report, was there any
11 evidence consistent with that seizure medication being
12 applied to him at Portland Adventist?

13 A Yes, a medication was found. When I looked
14 it up, it's an anti-epileptic.

15 Q And was there any other medications or
16 intoxicants found in Mr. Gladen's system that might
17 account for some of the behavior either in the lead up
18 with Ms. Randolph or at Mr. Pescaia's?

19 A He was also positive for methamphetamine and
20 amphetamines.

21 Q From your training and experience as just an
22 investigator and an officer with years of experience,
23 has there ever been persons who have been under the
24 influence of methamphetamine who give signs or
25 indications of someone who's in mental health crisis;

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1 but, in fact, under the influence of methamphetamine
2 at the time?

3 A Yes.

4 Q But they're not mutually exclusive; is that
5 right?

6 A That is correct.

7 MR. HANNON: Do the -- do the grand jurors
8 have any questions?

9 A GRAND JUROR: So what is the standard
10 firing procedure for officers when they fire off their
11 weapon? Is it natural for them to fire off three
12 rounds?

13 THE WITNESS: So -- and I believe you have
14 somebody from the Training Division coming in.

15 MR. HANNON: We do.

16 A GRAND JUROR: Oh, thank you.

17 THE WITNESS: Who can really address that.
18 But you fire until the threat has stopped.

19 A GRAND JUROR: Okay.

20 THE WITNESS: So there's no fire two rounds
21 and check or fire one round. It's just you fire until
22 the threat has stopped.

23 BY MR. HANNON:

24 Q And in that -- so, Detective Kammerer, in
25 addition to being on the homicide detail, are you

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1 also -- well, were you a member of the SERT team?

2 A I'm assigned to the SERT team as an intel
3 officer.

4 Q And you also have gone through the Training
5 Division as far as use of force in ways to end or --
6 or stop threats coming towards you or others; is that
7 right?

8 A Yeah. I mean, I've been through the same
9 police training everybody else has for the last
10 24 years.

11 Q So while we will have a witness testifying
12 to how officers are or are not trained, your answer is
13 to -- to stop the threat, that is certainly something
14 you've been trained to do to stop a threat?

15 A Yes.

16 MR. HANNON: Any other questions? Okay.

17 BY MR. HANNON:

18 Q Oh, excuse me. I apologize. Yes, so the
19 scan. We went through those crime scene photos. Did
20 you also do a Leica of this incident?

21 A Yes.

22 Q All right. Apologies. I'll give that one
23 to you.

24 All right. So tell us again, what -- what
25 is the value of the Leica in regards to this

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1 situation?

2 A So it creates a three-dimensional recreation
3 of the scene, which, like I said, I have the luxury of
4 being there, so I know what it looked like. People
5 that don't can view this and kind of get a better
6 sense than looking at a static picture of what it
7 looked like, what the scene was like.

8 So that is -- you'll -- you'll see here,
9 this is the -- the entirety of the recreation. So
10 here's the -- the porch, the entryway, the -- the
11 living room and the bedroom.

12 And this is the porch here. And as you're
13 looking in, you'll notice there's this black circle
14 here. That's the area underneath the scanner that
15 does not get scanned.

16 And then if it seems a little short, I
17 apologize for that. The five-foot tripod that it
18 normally sits on, the locking collar broke on it so it
19 has to be completely stable or you won't get accurate
20 measurements. So I had to set it on the ground. So I
21 apologize for that.

22 And here's the front porch. This is the
23 garbage can here with that stick in it. And that's a
24 picture of it there. And that's the -- the water that
25 Mr. Pescaia provided for Mr. Gladen. So here's just,

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1 again, an overall picture of that room. This is what
2 you would see when walking into this room.

3 So this is the couch with that gouge in it
4 there. This is a trajectory rod that was placed
5 through the defects in the couch showing, if -- if you
6 extend that out, the angle at which the bullet was
7 traveling. It then struck the -- the floor before
8 deflecting up into the wall over here.

9 And then you can see the knife sticking up
10 out of the ground there. That's just a close-up of
11 the knife, the knife that we believed to have come
12 from Officer Vosu's vest. And that's in -- in the
13 ground there.

14 This is the bedroom. So you can see the --
15 the fired bullet there, the Taser there. The "4"
16 denotes Taser wire and a probe. And then you've got
17 the three shell casings in the back there. So here's
18 your three casings.

19 As you can see, there's -- there's not much
20 to this room. There's no escape from this room. Just
21 this doorway is the only way in or out. Pretty much
22 it for the Leica. Is there any other angles you guys
23 want to see?

24 MR. HANNON: And we'll have this up, so if
25 they -- if anybody wants to -- you want to review it

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1 at any time through the testimony, we'll pull it right
2 back up. Any other questions for Detective Kammerer?

3 Yes, sir.

4 A GRAND JUROR: In Officer Vosu's service
5 weapon, when you guys did the count, there were three
6 rounds missing, not -- or you found the slug on the
7 floor?

8 THE WITNESS: Mm-hmm.

9 A GRAND JUROR: Was there a slug in his
10 body?

11 THE WITNESS: There was. There was one
12 retrieved at autopsy.

13 A GRAND JUROR: Okay. And was the one with
14 the gouge in the floor the same one that hit the wall?

15 THE WITNESS: Correct.

16 A GRAND JUROR: So we recovered three?

17 THE WITNESS: Two. We didn't feel like
18 tearing apart the entire corner of the house to --

19 A GRAND JUROR: Okay. So --

20 THE WITNESS: -- get that round.

21 A GRAND JUROR: -- in that wall?

22 THE WITNESS: Yeah.

23 A GRAND JUROR: Ah, okay.

24 BY MR. HANNON:

25 Q But to expand upon that, so -- but the slug

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1 on the ground is one, the one inside Mr. Gladen.

2 A Yes.

3 Q And so then a third presumably would be in
4 the wall?

5 A Yeah. And it appears that it hit the wall
6 and then dropped down somewhere down there.

7 MR. HANNON: And go ahead.

8 A GRAND JUROR: So Gladen was shot twice
9 then?

10 THE WITNESS: Shot twice. Yes, sir.

11 A GRAND JUROR: Okay.

12 MR. HANNON: Any other questions?

13 And if other questions arise during the
14 investigation, Detective Kammerer will be here
15 throughout the day to assist. Okay.

16 THE WITNESS: Thank you.

17 MR. HANNON: The State will now call Travis
18 Gover of the Oregon State Police Crime Lab.

19 All right. If you could raise your right
20 hand and they'll swear you in.

21 **TRAVIS GOVER**

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

24 ////

25 ////

Examination of Travis Gover

1 jury your educational background that qualified you
2 for that position.

3 A To be a forensic scientist for the Oregon
4 State Police, you have to have a bachelor's degree in
5 a hard science. I have my degree in biology from the
6 University of Oregon.

7 Training for the particular position of
8 firearm and toolmark examiner I received from the
9 Bureau of Alcohol, Tobacco and Firearms through a
10 program they refer to as the National Firearm
11 Examiner's Academy.

12 It's a full, year-long intensive training
13 course where the first four months are spent doing
14 research on manufacture of firearms, tools,
15 microscopy, even history or the science.

16 Four months after that are actually spent
17 back east in the ATF laboratory actually doing
18 hands-on stuff with microscopes, visiting firearms
19 manufacturers to see the -- the process to understand
20 what makes firearms -- firearms unique and the
21 markings they produce, what makes them unique to
22 bullets and casings.

23 It includes also other aspects of the job
24 that we do, which involves serial number restorations.
25 We do what's called proximity testing, pistol and

Examination of Travis Gover

1 functionality checks just knowing how the firearms
2 work inside and knowing what the safeties are and what
3 they're supposed to be doing and what could lead to
4 their mismark or malfunctions and training like that.
5 And the last three or four months are spent doing
6 assignments and research projects back in your
7 own lab.

8 Q And were you working for the Oregon State
9 Police Crime Lab and assisting in an investigation,
10 Portland Police Bureau Case No. 19-6556?

11 A Yes.

12 Q And I say assisting. How -- how -- how do
13 you get involved in a criminal investigation when
14 agencies refer items of evidence to you?

15 A So how we get involved is we have usually
16 the firearms and any fire evidence submitted to our
17 laboratory. It usually has to be compared to
18 identify, you know, did these particular items of
19 evidence -- were they -- were they fired in or from a
20 particular firearm in question. That's, for these
21 type of cases, how I usually get involved.

22 Q And so are you a part of the briefings, so
23 to speak, on the investigation or do you simply
24 analyze the forensic evidence that's submitted to you?

25 A We basically just, you know, analyze the

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1 evidence. We don't get involved in the briefings and
2 what happened and whys or anything else.

3 We're kind of off to the side and if the
4 evidence is submitted to us, we're just basically
5 request it, did something come from a particular
6 firearm or from a particular source. And that's what
7 we are basically focused on prior to analysis.

8 Q And before turning to this particular case,
9 how -- how are you able to determine whether or not a
10 particular firearm fired a particular shot or
11 discharged a particular casing or cartridge?

12 A Okay. Well, the first thing I'll do is kind
13 of just go over some general terminology we use. One
14 is the cartridge is the unfired component, which
15 consists of a cartridge case, the powder inside the
16 cartridge case, the primer and base of the cartridge
17 case and the bullet, which is the projectile itself.

18 A lot of times you'll hear somebody refer to
19 as a bullet as the unfired component. And for us,
20 technically, the bullet is the projectile and the
21 unfired component is the cartridge. So part of what
22 we do as part of this is understanding of how a
23 firearm is manufactured and the machining and tooling
24 that goes into manufacture different pieces and parts
25 of a firearm that make contact with the cartridge as

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1 it's sitting in the firearm before it's fired.

2 When it is fired, the firing pin of the
3 firearm will actually contact that area called the
4 primer and make an indent. It causes a small
5 explosion inside the cartridge case, flashes through a
6 hole and basically internal and ignites the powder
7 within the cartridge casing.

8 It generates pressure, forces the bullet
9 down the barrel. But in that same time, we have what
10 we call equal and opposite directions of pressure. So
11 that cartridge case -- as the bullet's being pushed
12 down the barrel, that cartridge case is being forced
13 back into different aspects of the firearm, one often
14 referred to as the breach-face area.

15 It basically holds that cartridge in. And
16 it's solid. It is something to basically support when
17 that pressure comes up.

18 The marks from the manufacturing process on
19 that breach-face area will get impressed into the base
20 of that cartridge case and then put the face of that
21 primer on the -- on the face of the cartridge case.

22 And other parts of the firearm that are also
23 moving and functioning can also lead to, you know,
24 additional marks and what we call sometimes shearing
25 marks.

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1 That pressure pushing that cartridge case
2 back pushes -- that pressure is pushing a primer back
3 into the hole that the firing pin comes through to
4 make that initial contact.

5 So anything that's not supported in that
6 hole -- that's almost like you're -- to blow a bubble
7 and you had a piece of cardboard with a hole in front
8 and it makes contact. That bubble's going to kind of
9 push its way through the hole in it.

10 The same thing with the primer. It pushes
11 its way into the hole. And as the firearm is
12 basically moving, if the firearm is like this, a
13 semiautomatic pistol, some of them have the slides on
14 top and the barrel are locked together for a short
15 distance as they move.

16 And then they unlock, the barrel drops and
17 the metal that's pushed back into that hole actually
18 shears off. Those marks are very useful for us at a
19 microscopic level. They're unique to that particular
20 firearm and the uniqueness of those marks to basically
21 identify the cartridge cases as being fired from the
22 firearm in question.

23 Q So, in other words, a casing -- or, excuse
24 me, a cartridge and the casing containing all the
25 materials will start off one way and then after it's

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1 fired from a gun, the discharged casing will have a
2 bunch of marks on it on a microscopic level based on
3 the movement within the gun?

4 A That's true, yes.

5 Q And -- and are these characteristics unique
6 to each firearm?

7 A Yes. It's been kind of a constant study
8 with a -- an association I'm a member of called the
9 Association of Firearm and Toolmark Examiners.

10 We'll actually obtain consecutively
11 manufactured firearms to study the marks produced by
12 each one. And so far, it's been yet to be shown and
13 two particular firearms that produce the same series
14 of marks.

15 As close as we can get is those
16 consecutively manufactured one right after the other.
17 We expect to see some marks -- some marks will carry
18 over, but the majority are -- they change from firearm
19 to firearm.

20 As the firearms are manufactured, the
21 cutting surface of the tool changes at a microscopic
22 level for each of these cuts. So each one of the next
23 cuts is different from the previous, which then
24 renders the firearms unique.

25 Q So even though a manufacturer may produce

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1 five guns, say, Glock or Smith & Wesson, in the same
2 year, those five firearms are still going to give five
3 individual characteristics at a microscopic level to
4 those casings?

5 A Yes.

6 Q So turning your attention to this particular
7 case, did anybody submit any evidence to you under
8 Portland Police Bureau Case No. 19-6556?

9 A Yes. I received one box of automatic
10 pistol, three magazines, each with ammunition and
11 three fired cartridge cases.

12 Q And did you happen to go through -- well,
13 let's talk about that real quick. When you do a
14 forensic analysis, is it -- is it just your
15 observations or is there particular requirements that
16 must occur between -- in the Oregon State Police Crime
17 Lab before your -- your examination is validated?

18 A So within our system, all examinations like
19 this require identification -- what we call
20 identification sciences, require a second qualified
21 analyst to look at the evidence after -- say, after
22 I do.

23 So if I examine my evidence under the
24 microscope and determine that something is fired from
25 a particular firearm, that's verified by a second

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1 examiner before a report of it goes out. So
2 everything's -- has been looked at by a minimum of two
3 people.

4 Q And so what, if anything, did you do with
5 the pieces of evidence that were submitted to you in
6 this particular case?

7 A The first thing I did was did kind of --
8 kind of a documentation process. And so I examined
9 the firearm. I examined the safeties of this
10 particular firearm, the Glock. The safety's built
11 into the trigger.

12 It also has some internal safeties. The
13 internal safety I didn't examine 'cause it requires
14 taking the gun apart. But the primary one is the one
15 built into the trigger. So I examined that.

16 It function at it -- as it's supposed to.
17 And then I test fired the firearm at water tank. So
18 we shoot basically into a tank where you can recover
19 the bullets in pristine condition. The cartridge
20 cases end up in a net right there at the port of the
21 tank.

22 So I, basically, examined it just for
23 operability and found firearm operates as it was
24 designed. And then I basically examined the three
25 fired cartridge cases, determined that some of the

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1 characteristics -- what we'd call class
2 characteristics.

3 So there's a firing pin shape. The caliber
4 were the same as the firearm in question and would
5 work. And, at that point, I'd take the fired
6 cartridge cases to a microscope.

7 With my test-fired cartridge cases, my known
8 samples that I obtained, and I perform the comparison
9 analysis on a microscope that basically has two stages
10 that allows us to see both images in one field of view
11 as, like, a split screen.

12 And that allows me to -- any of the
13 microscopic detail I can actually line up in that
14 field of view and observe the -- the correspondence of
15 that detail and determine whether or not the cartridge
16 cases were fired from the firearm in question.

17 And the three fired cartridge cases that I
18 examined in this case I could identify as being fired
19 in the Glock semiautomatic pistol that was submitted
20 to me.

21 Q And did you document those findings in a
22 report?

23 A Yes, I did.

24 Q And what was the report number and date
25 of that?

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1 A The -- the lab case number is 19L-261 and
2 the report -- the date of the report is January 28th
3 of 2019.

4 Q And to summarize then, the three casings
5 that were submitted to you for analysis and the
6 firearm that was submitted to you for analysis, those
7 three casings were fired from that firearm?

8 A Yes.

9 MR. HANNON: Okay. Does anybody else have
10 any questions for Mr. Gover?

11 May this witness be excused?

12 Okay. Thank you, Mr. Gover. We'll see if
13 we have (indiscernible).

14 Anybody need to stretch out and to use the
15 restroom?

16 A GRAND JUROR: Sure.

17 MR. HANNON: Okay. Why don't we go off the
18 record for five minutes and then we'll get started
19 with our next witness.

20 (Recess taken, 9:50 a.m. - 10:07 a.m.)

21 MS. BOCKELMAN: All right. Thank you. The
22 State's next witness is Diamond Randolph.

23 (Pause in proceedings, 10:08 a.m.)

24 A GRAND JUROR: Why don't you stand right
25 there and raise your right hand. We'll swear you in.

Examination of Diamond Randolph

1 MS. BOCKELMAN: Okay. If you can remain
2 standing and raise your right hand, please.

3 THE WITNESS: (Indiscernible).

4 MS. BOCKELMAN: That's okay. I think that
5 was yours.

6 THE WITNESS: (Indiscernible).

7 MS. BOCKELMAN: That's okay.

8 THE WITNESS: I'm sorry about that.

9 MS. BOCKELMAN: It's okay.

10 DIAMOND RANDOLPH

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

13 A GRAND JUROR: Thank you.

14 (**TRANSCRIBER'S NOTE:** The witness is
15 difficult to hear, understand and transcribe.)

16 EXAMINATION

17 BY MS. BOCKELMAN:

18 Q Thank you. You can take a seat.

19 Could you please tell us your name and spell
20 your name for us.

21 A My name is Diamond Randolph.

22 Q Okay.

23 A And it's D-i-a-m-o-n-d, R-a-n-d-o-l-p-h.

24 Q Thank you very much, Ms. Randolph. And
25 thank you for being here with us this morning.

Examination of Diamond Randolph

1 Do you know a person named Andre Gladen?

2 A Yes, I do.

3 Q How do you know that person?

4 A He's my cousin and my fiance.

5 Q Okay. And had he been staying with you
6 around the time period of January the 6th of 2019?

7 A January? Yes. I'm sorry. Yes, ma'am.

8 Q All right. And how long had he been staying
9 with you at that point?

10 A He came December 1st.

11 Q So he had been with you about a month by the
12 time January the 6th --

13 A Yeah.

14 Q -- of this year ran -- rolled around?

15 A Uh-huh.

16 Q And where do you live? What's your address?

17 A 2405 Southeast 142nd, Apartment 9, it's down
18 the street across from (indiscernible).

19 Q Perfect. Thank you. Do you remember
20 calling the police sometime in the early morning on
21 January the 6th of this year?

22 A Yeah.

23 Q Why did you call the police?

24 A Well, he's going through something, I guess.
25 He had told me that he's -- he -- he's talking to dead

Examination of Diamond Randolph

1 men. A dead man was talking to him or the devil or
2 something was talking to him and telling him that I
3 was (indiscernible) or something and I was going to
4 (indiscernible). He needed to go lay down or sleep
5 with one eye open or something, you know. I mean,
6 (indiscernible) keeping him up (indiscernible). Plus
7 (indiscernible).

8 Q And when you say he was talking to someone
9 that was dead, you're talking about --

10 A The --

11 Q -- Andre --

12 A Yeah.

13 Q -- Gladen?

14 A A (indiscernible) of ours that had been
15 killed by the police that he was talking to. And I
16 didn't -- ah, I didn't want the police to say anything
17 or have -- put that out there 'cause I was afraid
18 (indiscernible) kill me because I -- that happened
19 back to back.

20 Q Okay. So just talking about January the
21 6th, you called the police because Mr. Gladen had been
22 talking to somebody that wasn't with us anymore, that
23 had already died; is that correct?

24 A Yeah. And he was talking to that person and
25 was also saying that -- talking about the devil and

Examination of Diamond Randolph

1 stuff (indiscernible). So either one of them was
2 working through -- you know, that person that -- that
3 was talking to him and said he didn't know
4 (indiscernible). Something was going on.

5 Q Okay. Did Mr. Gladen have anything that was
6 giving you concern or making you --

7 A He -- he --

8 Q -- worry?

9 A He -- yeah. He -- yeah. He ran in the
10 room. He -- after I was saying to him someone was --
11 you know, cousin -- dead cousin was telling him and
12 the devil was telling him that I was a killer and I
13 was going to start stabbing him up or something.

14 So he just (indiscernible) something started
15 giving me up before I could get him, he ran in the
16 room that night and (indiscernible) -- yeah, back then
17 or something.

18 Q What was he doing --

19 A But he told me --

20 Q -- with those items?

21 A He -- he came and told me, like, "You, get
22 your fat ass off that couch and I am going to kill
23 you." And so I (indiscernible) 'cause I was still
24 laying down. And so I was like, "Oh, no."

25 And then I was (indiscernible) for him. I

Examination of Diamond Randolph

1 don't know. (Indiscernible) he was already earlier,
2 you know, that day back and forth arguing. That was
3 bad. (Indiscernible) I'd been sleeping after work and
4 he was in the other room and (indiscernible).

5 Q How were you feeling at that point that
6 Mr. Gladen had the bat and the knife and was talking
7 about you being a killer?

8 A I -- it was just -- I let that go in one ear
9 and out the other, but I was just, like, maybe
10 (indiscernible) he was going to start (indiscernible).
11 I mean, cousin -- our cousin, Ernest was telling him
12 that I was a killer and I (indiscernible) stuff right
13 there, I felt a different way I never felt before, you
14 know, from him.

15 (Indiscernible) he was (indiscernible)
16 telling me how I was (indiscernible) the police. He
17 says, "I want to -- I love you." I -- and I said, "I
18 don't have any time for this." He said, "I love you,"
19 and then he said, "I'll be back sometime," 'cause
20 (indiscernible) decided that it would get a little
21 earlier -- I mean, lighter outside or -- or later on.

22 Q So when you called the police, Mr. Gladen
23 said that he loved you and he left the house?

24 A Yeah. He said, "I don't have time for
25 this." He said, "Woman, I love you," so I don't know

Examination of Diamond Randolph

1 if he's just (indiscernible) 'cause I was sleeping or
2 I don't -- you know, 'cause it's where
3 (indiscernible). And I was like, oh, gosh, you know,
4 so feeling, you know. So that's why I was calling
5 everyone to go look for him.

6 Q And when Mr. Gladen was telling you that he
7 needed to jig you up, what did you understand that to
8 mean? What was he going to do to you?

9 A Jig me up?

10 Q Yeah, what does that mean?

11 A Stab me up.

12 Q Do you know whether or not Mr. Gladen had
13 used any drugs or any alcohol?

14 A Ah, I don't -- I didn't see him drinking or
15 -- and doing any drugs or nothing like that. But, I
16 mean, I know, ah, he had (indiscernible) every now and
17 then, you know, but I -- I don't know.

18 Q Did you ever see him use any
19 methamphetamine?

20 A No, no, no, no, no, no. I've never seen him
21 do that. I -- I've seen him smoking, you know, the --
22 the stuff, but I've never seen him doing any drugs or
23 anything like that.

24 Q Okay.

25 A (Indiscernible), you know what I'm saying?

Examination of Diamond Randolph

1 (Indiscernible).

2 Q All right. Well, just one moment, please.

3 Ms. Randolph, let me ask you, at the point
4 that Mr. Gladen's telling you that he's talking to his
5 dead cousin, Ernest, where was the knife and the bat
6 before he grabbed those items?

7 A In the room.

8 Q Okay. And so where was he in relation to
9 where those items were in the room?

10 A What -- what was the question?

11 Q Where was Mr. Gladen when he was talking to
12 you and where were the bat and the knife? Where were
13 those items compared to where he was? Were they close
14 to him? Were they far away from him?

15 A Well, the -- the apartment is about --
16 probably about -- it's probably about (indiscernible).

17 Q Okay. It's relatively small?

18 A Yeah. They're -- they're that, you know,
19 (indiscernible). So they're little (indiscernible),
20 you know, and (indiscernible), you know,
21 (indiscernible).

22 Q Mm-hmm.

23 A So he -- he had grabbed this out the room,
24 grabbed those items out the room.

25 Q Okay.

Examination of Diamond Randolph

1 A (Indiscernible) 'cause he didn't
2 (indiscernible), you know, if you don't -- if you
3 don't (indiscernible) that I was on the couch
4 (indiscernible). I was on the phone and he
5 (indiscernible).

6 Q That makes sense.

7 A Yeah.

8 Q He's missing one -- he was missing one eye;
9 is that correct?

10 A Uh-huh.

11 Q Was he still able to either find the items
12 by feeling for them or was he able to see the items
13 from what you saw?

14 A No, he can't see.

15 Q Okay. How did he find those items?

16 A Feeling around. That's how he trained his
17 self to -- and, plus, he used to be just a street man,
18 you know. And so he had a lot of hood in him that
19 helped him to be able to get around, you know.

20 Where he lived in Sacramento, I guess, for a
21 while, (indiscernible) he, you know, said he
22 (indiscernible) can still feel his way around. And,
23 you know, say something, like, the (indiscernible) --
24 what's his name? (Indiscernible) that the -- Ray
25 Charles --

Examination of Diamond Randolph

1 MR. HANNON: Mm-hmm.

2 BY MS. BOCKELMAN:

3 Q Yeah.

4 A -- son, like, he followed -- you know what
5 I'm saying? Like, the -- his footsteps, you know,
6 different patterns, you know, that he would
7 (indiscernible) the same way, you know.

8 Q That makes sense.

9 A (Indiscernible) he take two steps
10 (indiscernible), you know. (Indiscernible) believe.

11 MS. BOCKELMAN: Okay. Thank you.

12 BY MR. HANNON:

13 Q So good to see you again. Dave Hannon.

14 So just to understand, despite his visual
15 disabilities, he -- I think you said he -- he's got
16 some street to him. In other words, he's able to
17 adapt and find his way around despite some of his
18 disabilities?

19 A Yeah.

20 Q Okay.

21 A Because he would -- he would feel -- you
22 know, feel around sometime. And then he would -- he
23 said he would do it so much that he just knew a
24 pattern, you know, a pattern that he would go that
25 same way, that (indiscernible).

Examination of Diamond Randolph

1 Q Okay.

2 A Yeah.

3 Q And it sounds like from your conversations
4 with him that day, there was something going on with
5 him, maybe some mental health issue --

6 A Yeah. It was --

7 Q -- from your observation?

8 A I mean, something happened -- something
9 happened. I don't know what happened to him.
10 Somebody -- something absolutely happened 'cause I
11 never -- he (indiscernible) stacks, you know what I'm
12 saying? Everybody gives something, you know. So it
13 -- it was nothing at all that they were -- this family
14 was saying something was wrong (indiscernible).

15 Q And --

16 A I had never seen him this way, so --

17 Q And while you never saw him use
18 methamphetamine, had you ever heard of him using
19 methamphetamine?

20 A No.

21 Q Okay.

22 A I -- no.

23 Q Okay.

24 MS. BOCKELMAN: All right. I think that's
25 all the questions we have for you, ma'am.

Examination of Michele Taylor Stauffenberg

1 MR. HANNON: Does the grand jury have any
2 questions from Ms. Randolph?

3 MS. BOCKELMAN: Thanks.

4 THE WITNESS: I appreciate it, everybody.
5 Thank you.

6 MS. BOCKELMAN: Thank you --

7 A GRAND JUROR: Have a good --

8 MS. BOCKELMAN: -- for being here.

9 A GRAND JUROR: Have a good day, ma'am.

10 (Pause in proceedings, 10:19 a.m.)

11 MS. BOCKELMAN: Please stand next to this
12 chair and raise your right hand. All right.

13 **MICHELE TAYLOR STAUFFENBERG**

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

16 A GRAND JUROR: Thank you.

17 **EXAMINATION**

18 BY MS. BOCKELMAN:

19 Q Thank you. Could you please state your name
20 and spell it for us.

21 A Michele Taylor Stauffenberg, M-i-c-h-e-l-e,
22 T-a-y-l-o-r, S-t-a-u-f-f-e-n-b-e-r-g.

23 Q Thank you, Dr. Stauffenberg. How are you
24 currently employed?

25 A I'm the Chief Medical Examiner for Oregon.

Examination of Michele Taylor Stauffenberg

1 Q How long have you been so employed?

2 A For one year.

3 Q Can you please describe your training and
4 experience in terms of being the chief medical
5 examiner?

6 A Yes. I have a bachelor of science degree in
7 biology from the University of Texas in Dallas. I
8 graduated in 1992 summa cum laude. I then attended
9 medical school at the University of Texas Southwestern
10 Medical School in Dallas and graduated with my MD
11 degree in 1996.

12 I then completed a five-year residency in
13 pathology at Parkland Hospital in Dallas. And then I
14 moved to Atlanta and did a one-year fellowship in
15 forensic pathology at the Fulton County Medical
16 Examiner's Office.

17 Q Excellent. Thank you.

18 Can you describe your duties and
19 responsibilities as the chief medical examiner.

20 A Yes. As a medical examiner, I have a
21 responsibility to determine the cause and manner of
22 death in cases that would fall under the medical
23 examiner's jurisdiction, meaning sudden or -- or
24 unexpected or due to violence or trauma or poisonings,
25 including drug overdose deaths.

Examination of Michele Taylor Stauffenberg

1 As the chief medical examiner, I'm the
2 department head of the -- this division of the Oregon
3 State Police, which is the Medical Examiner's Office.

4 Q Thank you. What's the process for
5 determining the cause and manner of death in -- in the
6 cases that you look at?

7 A That can be done by a number of ways. We
8 may perform an examination, which could be an autopsy
9 examination or it might be an external examination.
10 Sometimes we do a medical record review, especially if
11 they've been hospitalized for a -- a lengthy period of
12 time following an injury.

13 We may get more information by doing a
14 medical records review than by examining the body.
15 But, generally, we -- if -- if the body comes in and
16 we perform an autopsy, then we examine the outside of
17 the body.

18 We open it and examine the inside of the
19 body and remove the organs and look at each to see if
20 there's any evidence of an injury or an abnormality
21 that would indicate the cause or manner of death.

22 Q What dictates the different types of medical
23 exams that you perform, whether you perform an
24 external review or an actual autopsy?

25 A Sometimes it depends on the value that would

Examination of Michele Taylor Stauffenberg

1 be obtained by doing a more extensive examination.
2 Sometimes opening the body and examining the inside
3 and the organs doesn't give us any more information
4 than just examining the outside of the body,
5 including, as I mentioned, the -- the people who have
6 been hospitalized because their injuries -- injuries
7 may heal over a period of time that they're
8 hospitalized. But we do whatever would give us the
9 most useful information.

10 Q Did you perform a medical examination on
11 Andre Gladen?

12 A Yes. I performed an autopsy on the body of
13 Andre Gladen or Gladen in -- in our office on Monday,
14 the 7th of January.

15 Q And why did you perform that examination?

16 A Although he had received medical therapy
17 after his injury, he was only there in the hospital
18 for a limited period of time and I felt that I would
19 be able to examine the body and get a better idea of
20 what his injuries actually were by examining the body
21 and doing a full autopsy.

22 Q What were the injuries that you observed to
23 Mr. Gladen?

24 A He had two gunshot wounds that went through
25 the left chest. He had one entrance that was here on

Examination of Michele Taylor Stauffenberg

1 the upper-left chest and one that was slightly to the
2 left of that wound.

3 It was near an evidence of therapy. They
4 had cut open his chest to try and resuscitate him and
5 remove blood from the chest. And it made one of the
6 wounds stretch out a little bit on the -- on the side
7 of the left chest.

8 But both wounds entered in the front of the
9 chest and one of them exited on the back of the left
10 chest. The other one came to rest beneath the skin.
11 So with these two tracks, it would be nearly
12 impossible for me to tell which entrance went with the
13 exit and which went with the bullet. So lumping them
14 together, there are two tracks that go through the
15 left lung.

16 Q Were you able to determine whether or not
17 those gunshot wounds were the cause of death for
18 Mr. Gladen?

19 A Yes. There was no other injury or
20 abnormality that I could see at the time of the exam
21 that would lead to death more quickly than those
22 wounds.

23 They went through the middle part of the
24 lung where all the larger blood vessels enter the
25 lung. They then branch out as they go towards the

Examination of Michele Taylor Stauffenberg

1 outside part of the lung. But the tracks went through
2 the inner part where the blood vessels are large and
3 that would allow a large amount of blood to accumulate
4 in the chest.

5 Q Did you observe any other injuries to
6 Mr. Gladen's body?

7 A Yes. He had a number of various superficial
8 abrasions and cuts on his hands and arms, none of them
9 deep enough or serious enough to result in death.

10 Q Ultimately, what did you determine the
11 manner of death in Mr. Gladen's case to be?

12 A The manner of death is homicide indicating
13 that the injuries were caused by another person or
14 persons rather than by himself.

15 Q In Mr. Gladen's case, did you submit any
16 samples for the Lab or toxicology work to be done?

17 A Yes. We submitted blood for toxicology
18 testing.

19 Q And why did you do that?

20 A It's a standard part of an autopsy
21 examination. We always routinely get blood alcohol
22 and toxicology or drug testing on all of our autopsy
23 cases.

24 Q And what was the result of that testing in
25 Mr. Gladen's case?

Examination of Michele Taylor Stauffenberg

1 A I don't have that with me.

2 Q I can provide a copy for you.

3 A All right.

4 Q Referring first to the analytical report
5 dated January the 16th of 2019, does this appear to be
6 a toxicology report that was provided in Mr. Gladen's
7 case?

8 A Yes, it does.

9 Q And how are you able to make that
10 conclusion?

11 A The name of the decedent, Andre Gladen, is
12 up in the corner. It's listed, "Attention,
13 Dr. Michele Stauffenberg." And I have the word
14 "reviewed" and my initials "MTS" in my handwriting.

15 Q Thank you. And what was the result of the
16 toxicological exam in Mr. Gladen's case?

17 A The toxicology report lists the presence of
18 methamphetamine at 0.39 milligrams per liter;
19 amphetamine at 0.099 milligrams per liter;
20 cannabinoids, which is not quantitated; and
21 Levetiracetam, which is an anti-seizure drug.

22 Q And what does it mean in terms of the
23 specific quantities of methamphetamine and amphetamine
24 found in Mr. Gladen's system?

25 A Generally, these amounts of methamphetamine

Examination of Michele Taylor Stauffenberg

1 and its metabolite, amphetamine, indicate that he used
2 methamphetamine prior to death within a very short
3 period of time. The amount is not enough to account
4 independently for his death in -- in this case because
5 he has another more compelling cause of death.

6 So it doesn't look like he died from a drug
7 overdose. If he had no injuries and he had this
8 amount of methamphetamine; and, perhaps, some heart
9 disease, then it might explain his death. But it's
10 not enough to take precedence over the gunshot wounds.

11 Q Thank you, Doctor. Just one moment, please.

12 A All right.

13 MS. BOCKELMAN: That's all the questions I
14 have for you, but we're going to see if any of the
15 grand jurors have any questions for you also.

16 THE WITNESS: All right.

17 A GRAND JUROR: No.

18 MS. BOCKELMAN: All right. Thank you
19 very much.

20 THE WITNESS: All right. Thanks.

21 MR. HANNON: Okay. Well, we'll take a
22 five-minute break. We have our next witnesses we'll
23 bring in shortly.

24 (Recess taken, 10:29 a.m. - 10:38 a.m.)

25 MR. HANNON: All right. We're ready to go

Examination of Desmond Pescaia

1 on the record with our next witness we're going to be
2 calling very shortly.

3 MS. BOCKELMAN: Thank you. Please stand
4 next to this chair and raise your right hand.

5 DESMOND PESCAIA

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

9 A GRAND JUROR: Thank you.

10 EXAMINATION

11 BY MS. BOCKELMAN:

12 Q Thank you. You can take a seat.

13 A Okay. I meant to ask you if you guys could
14 please speak up a little, as I am completely deaf in
15 my right ear --

16 A GRAND JUROR: Okay.

17 THE WITNESS: -- so --

18 MR. HANNON: And, actually, that's a good
19 rule for everybody since we're recording just to make
20 sure that the recording (indiscernible). Thank you.

21 BY MS. BOCKELMAN:

22 Q All right. Could you please state your name
23 and spell it for us.

24 A Desmond Pescaia. First name is spelled
25 D-e-s-m-o-n-d. Last name is spelled P-e-s-c-a-i-a.

Examination of Desmond Pescaia

1 Q Thank you, Mr. Pescaia. Where do you live?

2 A 9610 Southeast Market Street.

3 Q How long have you lived there?

4 A Let's see. I moved into the house next door
5 probably about three years ago. I've been in this
6 house about a year and a half, maybe two years.

7 Q Is the house split up into different units?

8 A It's -- it's a six-bedroom home. And I have
9 the biggest room in the house. So, yeah, I have five
10 other housemates.

11 Q Where is your room located in relation to
12 the other parts of the house?

13 A If you walk onto the property, there's a
14 driveway with a -- with a bunch of parking stalls.
15 And my room actually looks like the front door to the
16 house, so it's up three sets of stairs and there's a
17 front door right there, so --

18 Q Do you live on the ground floor, the ground
19 level?

20 A Yes. Street level, yes.

21 Q Were you in your home on January the 6th
22 of 2019?

23 A Yes, I was.

24 Q And in the afternoon, do you recall having
25 something unexpected happen?

Examination of Desmond Pescaia

1 A Yes.

2 Q Where in your house were you when you
3 initially realized that someone was at -- near your
4 home?

5 A I was actually in my bedroom relaxing,
6 trying to get some rest 'cause I had a really hard
7 week and I called my mentor and I just wanted to rest
8 that day.

9 Q What happened that was unexpected initially?

10 A Ah, I was lying down and I had just fallen
11 asleep. And someone was just pounding on my door.
12 And it sounded like a 25-pound sledgehammer going
13 through my door.

14 Q So this wasn't a light knocking, this was a
15 very loud pounding --

16 A Yes.

17 Q -- is that correct?

18 A Yes.

19 Q About what time in the day are we talking
20 about?

21 A I cannot recall exactly, but I'll say it was
22 somewhere between 11:00 and 1:00 maybe.

23 Q When you're on your bed in the back bedroom
24 and you hear the loud pounding at your front door,
25 what did you do?

Examination of Desmond Pescaia

1 A I got up, I went out to the front and I
2 asked who it was and I didn't get a response. And
3 when I looked out through my glass, I saw an African
4 American young man sitting there. And, with his back
5 turned towards me, I thought it was my housemate from
6 the other house that's on the property next door.

7 Q You said that he was sitting? Was he
8 sitting on your porch or was he standing up with your
9 -- with his back turned towards you?

10 A I have two leather chairs on my porch. And
11 he was sitting on one of the chairs.

12 Q What did you do after you looked out your --
13 is it, like, a peep hole?

14 A No. It's a -- there's a stained glass dead
15 center of the front door. And so, like I said, I
16 thought it was Ellie (phonetic), who lives next door.
17 And so I opened the door and I saw this young man
18 sitting there. And, you know, I asked him, I said,
19 "What do you want?"

20 And it -- it -- he told me, you know, that
21 some guy named Ernest told him to come to my house
22 'cause I help people out. But I don't know who Ernest
23 is and I never met this young man before.

24 Q When you saw the young man and he told you
25 that someone named Ernest had sent him, was he still

Examination of Desmond Pescaia

1 sitting in the chair at that point?

2 A Yes.

3 Q Okay. And were you able to see what he was
4 wearing or how he was dressed?

5 A What I recall is he didn't have any shoes
6 on. He did have a pair of socks. I remember khaki
7 pants. I did see a hospital gown under his shirt, but
8 I don't recall the exact color of the shirt he was
9 wearing, but I know it was a collared shirt.

10 Q Were his clothes clean or dirty or normal or
11 disheveled? How would you characterize his clothes?

12 A He was disheveled completely. I mean, he
13 looked like he had taken a mud bath.

14 Q So he was covered in mud?

15 A He was just dirty. I mean, there was dirt
16 all over the place.

17 Q When the man told you that Ernest had sent
18 him, did the man tell you why Ernest had sent him to
19 your home?

20 A He said Ernest sent him over to get help and
21 to get some food and to get some rest.

22 Q What did you do at that point?

23 A I told him that I don't know who Ernest is.
24 I offered him something to drink. I had a roll of
25 quarters and I told him, "I'll give you the roll of

Examination of Desmond Pescaia

1 quarters to catch the TriMet home," so that he could
2 get back to his house and get whatever help he needed.

3 Q Did he do that? Did the man do that?

4 A No.

5 Q What did he do?

6 A He continued sitting there. So I went and
7 got him some water. And then about five minutes
8 later, he started pounding on my door again.

9 Q Let me back up --

10 A Sure.

11 Q -- before we get there.

12 A Okay.

13 Q You said that he didn't leave, so you got
14 him a glass of water; is that right?

15 A Mm-hmm, yes.

16 Q When you -- did you -- when you went to get
17 the glass of water, did you shut your door?

18 A I closed my door and locked it.

19 Q Why did you do that?

20 A I didn't feel safe leaving my door unlocked
21 and open.

22 Q Did the man at any point ask to enter your
23 residence?

24 A Yes.

25 Q When did that happen?

Examination of Desmond Pescaia

1 A After the second time when I went to go give
2 him the water.

3 Q So you close your door and lock it when he
4 asks -- when you offer the money and he says no and
5 he's sitting there. So you get him a glass of water.
6 So you shut the door, lock it, get the glass of water.
7 What happens when you give the man the glass of water?

8 A I gave him the water. I closed my door. I
9 locked it. I went back to lie down and he started
10 pounding on my door again.

11 Q How was he pounding on the door this time?
12 Is it the same as before or is it --

13 A Yes.

14 Q -- different?

15 A Just as loud.

16 Q Where were you in the house when he starts
17 pounding on the door a second time?

18 A In my bedroom in my bed.

19 Q How much time passed between when you
20 initially gave the man a glass of water and when he
21 started pounding on the door again?

22 A I would say not even five minutes.

23 Q What did you do when the man started
24 pounding on your door a second time?

25 A I went outside, I opened it and asked him,

Examination of Desmond Pescaia

1 "What do you want?" And his response was, "Well, I'm
2 legally blind. And, yet, there's someone standing on
3 the corner in a white hoodie with a gun and he's
4 coming after me to shoot me and kill me and you. Can
5 I please come in your house so I can take a shower and
6 get something to eat and some sleep?" And I told him,
7 "No, you need to leave."

8 Q You told him, "No, you need to leave"?

9 A Yes.

10 Q Did you use those words?

11 A Yes.

12 Q What did he do when you said that?

13 A He just sat there. And I closed and locked
14 my door and I told him, "You got ten minutes and you
15 need to go." And then I went back to my room to lie
16 down again.

17 Q What happened next?

18 A About five minutes later, he's pounding on
19 my door again telling me about that guy in the hoodie
20 and whatnot. And I was just so irritated, I started
21 yelling at him -- or I -- and I told him, "You need to
22 either go or I'm going to call the cops and have you
23 trespassed."

24 Q When he started pounding on your door the
25 third time and you told him that he needed to leave or

Examination of Desmond Pescaia

1 you're going to call the cops, did you open the door
2 to tell him that or did you leave the door shut?

3 A I opened the door and I told him.

4 Q Did you open it fully or did you only
5 partially open it? How did --

6 A I opened it fully.

7 Q At any point, did you contact your landlady?

8 A Yes.

9 Q When did that happen?

10 A About ten minutes after the third time he
11 pounded on my door, I looked outside. And the way the
12 house is set up is -- if this is the porch, I've got
13 the two chairs here.

14 And he was lying behind the two chairs in
15 front of my front door under the awning. So I went
16 out through the kitchen to let Lidiya know, who's the
17 homeowner, that this guy's not leaving, can she please
18 come help me. And she said to call the cops, so I
19 called the police and she called the police. And --

20 Q I'm going to stop you there --

21 A Okay.

22 Q -- 'cause you're giving us a lot of great
23 information, but --

24 A Sure.

25 Q -- I'm going to break it up just a

Examination of Desmond Pescaia

1 little bit.

2 A Sure.

3 Q So you indicated after he pounded on the
4 door the third time, that you saw him essentially lay
5 in front of your front door --

6 A Mm-hmm.

7 Q -- is that correct?

8 A Yes.

9 Q And at the point that you saw him lay in
10 front of the front door, how were you feeling?

11 A I was already pissed off. I was -- like I
12 said, that day, I was not feeling well at all. You
13 know, I had a slight temperature. I was sick and I
14 just needed some sleep and some rest. So the third
15 time was just too much already.

16 Q And you said that you went to your landlady,
17 Lidiya. Is that Lidiya Omelchenko; is that --

18 A Yes.

19 Q -- right? And you said that you went
20 through the kitchen; is that --

21 A Yes.

22 Q -- correct?

23 A Yes.

24 Q Does the kitchen exit -- have an exit
25 outdoors or is it within the house?

Examination of Desmond Pescaia

1 A The -- well, if I go through the back side
2 of my family room, there's a door that opens up into
3 the main house. And the kitchen is to the right, so I
4 have to open up the kitchen door to go down a set of
5 stairs to go out the backdoor.

6 Q I see. When you spoke with Ms. Omelchenko,
7 did you speak with her face to face or --

8 A Yes.

9 Q -- did you call her on the phone?

10 A Face to face.

11 Q And what happened when you spoke with her?

12 A She said, "Call the police."

13 Q Did you call the police?

14 A Yes.

15 Q Why did you call the police?

16 A Because I did not feel safe. I did not feel
17 that I could handle the situation. I did not want to
18 do anything that would bring myself or this young man
19 harm and it was out of safety for both parties.

20 Q Where were you when you called the police?

21 A I was in my family room.

22 Q In your -- in your apartment?

23 A In my apartment, yes.

24 Q Did you use your phone to call the --

25 A Yes.

Examination of Desmond Pescaia

1 Q -- police? Did the police respond to
2 your call?

3 A Within, I think, about 15 or 20 minutes,
4 Officer Consider Vosu showed up.

5 Q Okay. But you didn't know who the officer
6 was at the time that he showed up --

7 A No.

8 Q -- is that correct?

9 A Yes.

10 Q So when the officer appeared, where did he
11 park?

12 A He parked right out front on the street
13 across -- outside of our home, right across from the
14 academy -- Adventist Academy.

15 Q So it was directly outside of your home
16 where he parked; is that correct?

17 A Yeah.

18 Q Were you able to see him when he initially
19 arrived?

20 A No.

21 Q Where were you?

22 A I was in my room lying down.

23 Q How were you made aware that an officer had
24 arrived and responded to your call?

25 A Because there was an -- I mean, this -- this

Examination of Desmond Pescaia

1 young man, Mr. Gladen, was pounding on my door again
2 and my assumption was, great, the cops are here.

3 You know, I -- my assumption that it was the
4 officer knocking. So I had opened the door and I saw
5 Officer Vosu standing at the bottom of my stairs. And
6 Mr. Gladen was back up sitting on my chair again.

7 Q Was the officer saying anything to the man
8 that was on your porch at the point that you opened
9 your door and looked outside?

10 A No.

11 Q Was --

12 A Not at -- not at that immediate point.

13 Q Did you hear the man saying anything to
14 the officer?

15 A No, he was yelling at me.

16 Q The man that had been on your porch was
17 yelling at you?

18 A Mr. Gladen, yes.

19 Q What was he yelling at you?

20 A He was saying that he needs me to let him in
21 my house because he -- please excuse my language. It
22 is not meant in any shape or form to be racist. But
23 Officer Vosu is a white man and Mr. Gladen is an
24 African American man.

25 And he said that he is not going to go, and

Examination of Desmond Pescaia

1 I quote, "With a nigga ass fucking pig ass cop with a
2 fake-ass badge and his car is full of shit 'cause he's
3 not a real cop." And he had told me, "I need to come
4 in and I need you to protect me from this
5 motherfucker." I do apologize for the graphic.

6 Q But that was the language that the man on
7 your porch was using in reference to the officer; is
8 that --

9 A Mr. --

10 Q -- correct?

11 A -- Gladen, correct.

12 Q So when you heard Mr. Gladen make those
13 statements, where were you?

14 A I was standing in front of my door blocking
15 it with my front door open.

16 Q Was Mr. Gladen -- Mr. Gladen said he asked
17 you to let him in or he said that he needed to come
18 in; is that correct?

19 A Yes.

20 Q Did you let him in?

21 A No.

22 Q What did --

23 A I told him --

24 Q -- you do?

25 A -- he needs to go with the officer.

Examination of Desmond Pescaia

1 Q What was the officer doing at that point?

2 A Officer Vosu was still standing at the
3 bottom of the porch. He had requested that I close my
4 door. He's calling for backup and to please go inside
5 and relax.

6 And I told him, I said, "Look, he's already
7 cracked my door frame. I am not going to keep closing
8 my door because, if I do, I won't have a front door
9 standing."

10 Q What did you do?

11 A I stood in the doorway. I looked at
12 Mr. Gladen and I said, "Dude, you just need to take
13 ten steps, get off my property. Please go with the
14 officer. Get the help you need."

15 And he kept calling Officer Vosu several
16 different expletives. So I -- I don't know if you
17 guys saw the news or anything, but I did have the
18 little stick that I was turning into a cane that I had
19 grabbed to just moreso threaten the young man to get
20 him off my property than anything else.

21 And then Officer Vosu asked me to please put
22 the stick down, he's waiting for backup. So when I
23 went to go put the stick down, somehow Mr. Gladen had
24 slipped by me and into my home and that's when
25 Officer Vosu entered after him.

Examination of Desmond Pescaia

1 Q And we will get into that very shortly.

2 But, again, I just want to break up what --

3 A Sure.

4 Q -- you've described into smaller pieces very
5 briefly.

6 A Sure.

7 Q You indicated that after Mr. Gladen told you
8 that he needed to come in, that you said, "No,
9 absolutely not," and then he started -- Mr. Gladen
10 started yelling and cursing at the officer again; is
11 that correct?

12 A (Indiscernible), yes.

13 Q And, at that point, you picked up a stick
14 that you were making into a cane; is that also
15 correct?

16 A Yes.

17 Q What did you do with that stick at the point
18 that you picked it up? Did you do anything physically
19 with it?

20 A Nope. I was just holding it. And I had
21 held it up and that was all. Like I said, it was more
22 of a threat than anything else.

23 Q And when you held it up, did you say
24 anything to Mr. Gladen to try to get him off of
25 your porch?

Examination of Desmond Pescaia

1 A I told him he needs to go or I'm going to
2 beat the crap out of him 'cause I'm tired of this.

3 Q And, at that point, the officer told you to
4 put the stick down?

5 A Yes.

6 Q Did you put the stick down there on
7 the porch?

8 A I put it back into a bucket that I have
9 sitting outside behind my chair.

10 Q At the point that you bent down to put the
11 stick down, what did Mr. Gladen do?

12 A He stood up and slipped right by me into
13 my home.

14 Q Did the officer follow him directly in or
15 did you go in first and then -- how did the order
16 happen?

17 A I -- I'm not exactly positive 'cause it
18 happened so quickly, but I believe that I did let
19 Officer Vosu in first. And then I followed him to try
20 to get Mr. Gladen subdued.

21 Q Where in your home did Mr. Gladen go?

22 A If you walk into through my home, there's a
23 false fireplace. And that's where he slipped and fell
24 onto his (indiscernible) and ended up on his stomach.

25 Q You indicated that Mr. Gladen slipped and

Examination of Desmond Pescaia

1 fell. Were you able to see how he slipped and fell?

2 A Yeah. His socks were wet and my floor is --
3 you know, it's -- it's hardwood, so if you're wearing
4 wet socks or your feet are wet, it's not exactly the
5 safest (indiscernible).

6 Q What did Officer Vosu do at the time that
7 Mr. Gladen fell there in your living room?

8 A He got on top of him. He asked me to help
9 him, so I did the best I could. And somehow,
10 Mr. Gladen had kicked me in the chest, so I had to
11 back up.

12 Q Before we get into that, let me ask. How
13 was it that Officer Vosu asked you for help? What
14 words did he use?

15 A He said, as far as I remember, "Can you
16 please help me subdue this man so we can get him out
17 of here?"

18 Q What did you do at that point?

19 A I did my best to grab his feet. I put my
20 foot on his chest. I did everything that I physically
21 could without injury to myself or to Mr. Gladen 'cause
22 I wasn't sure if he had a knife or needles or what
23 on him.

24 Q What was Officer Vosu doing while you were
25 trying to subdue the man and -- and control his legs?

Examination of Desmond Pescaia

1 A He was pulling out -- I think he was using
2 the zip -- the police zip tie to -- he pulled that out
3 and then he had tried to turn Mr. Gladen over, which
4 he finally did. Just when he was ready to get the zip
5 ties around his hands, somehow Mr. Gladen had gotten
6 back over on his back and kicked Officer Vosu off.

7 Q So you're indicating that initially,
8 Officer Vosu was able to get Mr. Gladen onto his
9 stomach and pull his hands behind his back; but at
10 some point, Mr. Gladen was able to turn back over and
11 get away from you and the officer?

12 A Correct.

13 Q You also indicated that you were kicked at
14 some point; is that correct?

15 A Yes.

16 Q How were you kicked?

17 A He kicked me right in my sternum.

18 Q Did he ever -- did you ever see him hit or
19 kick Officer Vosu?

20 A Yeah. He kicked -- he -- he kicked
21 Officer Vosu off. And because of how close the
22 quarters are, Officer Vosu ended up on his -- on his
23 butt in my room in front of my -- my bed.

24 Q Before Mr. Gladen kicked Officer Vosu into
25 your bedroom, where was Officer Vosu on Mr. Gladen

Examination of Desmond Pescaia

1 compared to how you were working on his legs? What
2 was Officer Vosu doing in terms of where his body was
3 located on Mr. Gladen?

4 A He was sitting on -- he was sitting on
5 Mr. Gladen's stomach right by the waist area, I
6 believe.

7 Q Was Officer Vosu straddling him or was he
8 leaning over him? What was the position of his --

9 A He was straddling.

10 Q Were you able to see how close his upper
11 body was to Mr. Gladen's upper body?

12 A He was right on top of him.

13 Q At the point that Mr. Gladen kicked
14 Officer Vosu into your bedroom, where were you?

15 A I was standing right behind Mr. Gladen with
16 my back towards my front door.

17 Q What was Mr. Gladen doing at the point that
18 Officer Vosu is in your bedroom?

19 A He went to go rush Officer Vosu. And that's
20 when I went up to him and I tried to hold him back
21 with both of my arms under his arms by his shoulders,
22 holding him. And somehow, Mr. Gladen was able to slip
23 out and started rushing Officer Vosu.

24 Q When you attempted to grab Mr. Gladen, did
25 you grab him from behind so you're facing his back or

Examination of Desmond Pescaia

1 did you grab him from the front of his body?

2 A Behind.

3 Q You indicated that you grabbed underneath
4 his arms; is that correct? And you --

5 A Yes.

6 Q -- pulled his shoulders?

7 A Yes.

8 Q Did Mr. Gladen say anything at the time that
9 you grabbed him?

10 A I -- that, I don't recall. All I could hear
11 was Officer Vosu warning him six or seven times,
12 "Stand down or I'm going to tase you."

13 Q Was that after Mr. Gladen had gotten away
14 from you grabbing him and pulling him away or was that
15 before?

16 A That was while I was in the process of
17 trying to subdue him.

18 Q You indicated that you heard Officer Vosu
19 indicate at least six times, "Stand down or I'm going
20 to tase you"?

21 A Yes. And I kept telling him, Mr. Gladen,
22 "Dude, just stand down, man. You don't want to get
23 tased, you know. Just -- please, just follow our
24 instructions. We're trying to get you the help
25 you need."

Examination of Desmond Pescaia

1 Q Were you able to see whether or not
2 Officer Vosu had pulled out his Taser at that point?

3 A Yeah. He -- after about four or five times,
4 I noticed he started loading his Taser after Mr. --
5 Mr. Gladen had gotten loose, I observed Officer Vosu's
6 face just turning ghost white like he was scared for
7 his life and -- I'm sorry. And he tased Mr. Gladen,
8 who fell on his back.

9 Q Did you hear Mr. Gladen make any statements
10 in response to Officer Vosu warning him, "Stand down
11 or I'm going to tase you"?

12 A Two seconds later he got back up and he
13 said, "No nigga ass motherfucking Taser is going to
14 hold me back, bitch. I'm going to kill you." That's
15 all I remember hearing. And I went to hold him back
16 again.

17 Officer Vosu told him, "Stay back or I'm
18 going to shoot you." And I saw Mr. Gladen go into his
19 pocket, pulled out a knife. He was rushing
20 Officer Vosu yet again. About four or five, six
21 times, all I heard him saying was, "Stand down or I'm
22 going to shoot you. Stand down or I'm going to shoot
23 you."

24 And after the first pop, if I didn't move an
25 inch and a half to the left, I would not be here right

Examination of Desmond Pescaia

1 now. And three shots, Gladen -- Mr. Gladen went down.
2 Next thing I know, Officer Vosu's put his Taser down
3 and he called and said, "Fires been -- shots been
4 fired. I need EMTs here immediately."

5 It took five minutes or less, I had 40 cops
6 outside my door with the EMTs. And I'm sitting -- I'm
7 outside dry heaving 'cause all I could smell was
8 death. And it just --

9 MS. BOCKELMAN: I'm sorry to ask you these
10 questions, Mr. Pescaia. And if we need to take a
11 moment, we can. Would you like to break just for a
12 couple of minutes?

13 MR. HANNON: Take your time, though.

14 THE WITNESS: So they took him to the
15 ambulance. They tried to revive him. Officer Vosu
16 followed protocol. He did everything he was supposed
17 to right. And EMTs, they brought a bus and I don't
18 remember Kammerer's last name, but Officer Kammerer
19 stayed with me on the bus and we had discussed a lot
20 of stuff.

21 And before he got off, too, he had told me
22 that Mr. Gladen did not make it. And that just
23 devastated me because, obviously, if I could have, I
24 would have taken those bullets for that young man so
25 that he could have gotten the help that he needed.

Examination of Desmond Pescaia

1 BY MS. BOCKELMAN:

2 Q Thank you. I'm going to ask you just a
3 couple more questions about exactly what you just
4 described and I know it's very emotional, so if at any
5 point you want to just take a deep breath and --

6 A I'll let you know.

7 Q -- get some air, let me know 'cause
8 sometimes it's easier for people to get through the
9 hardest part.

10 A I understand.

11 Q You indicated that prior to any shots being
12 fired, that you saw Mr. Gladen rush at Officer Vosu --

13 A Yes.

14 Q -- is that correct?

15 A Yes.

16 Q When was the first time you saw the knife?

17 A When he got back up after the -- the tasing.
18 I just saw him put his head down, said what he did to
19 Officer Vosu, went into his pocket and pulled a knife
20 out. And all I saw was his hand like this starting to
21 go into the side of Officer Vosu.

22 And that was the second time -- I -- I have
23 never seen death come over a man's face and so much
24 fear as I did when I looked at this officer's face.

25 Q How many times did you hear Officer Vosu

Examination of Desmond Pescaia

1 tell him, "Stop or I'll shoot"?

2 A God, at least five, six times.

3 Q How close did Mr. Gladen get to Officer Vosu
4 before Officer Vosu began to shoot at Mr. Gladen?

5 A It was right in his face, less than two
6 feet away. And I know that earlier, I had spoke to
7 something different, but it's really difficult to get
8 an accounting or think, unless you sit down and really
9 think about it and see what happened. And he was
10 just, like, right there. And, unfortunately,
11 Officer Vosu had no choice.

12 Q You indicated that after the three shot --
13 you said you heard three shots; is that correct?

14 A Yes. The first one went into my wall in my
15 home, which is still there.

16 Q After the three shots, what did you do
17 physically?

18 A I ran outside, sat on my stairs and I was
19 dry heaving for about 15, 20 minutes.

20 Q How long did it take before more officers or
21 emergency people came?

22 A They were there in less than five minutes.
23 Like I said, I believe -- I mean, it was -- yeah.

24 Q Did you remain outside at the point that
25 they ran in or did you go inside with them?

Examination of Desmond Pescaia

1 A I was told that I need to stay out of the
2 house because it's now a crime scene.

3 Q At any point, did you see what happened to
4 the knife after Mr. Gladen was shot?

5 A It had dropped to his side into my floor and
6 it was standing up with the handle facing towards the
7 street. So it was facing -- I'm sorry.

8 Q That's okay.

9 A It was basically sitting like this.
10 Officer Vosu was here. Mr. Gladen was here. So the
11 knife was facing this way.

12 Q And it was sticking up?

13 A Yes. Sticking up and diagonally towards my
14 front window facing Market Street.

15 Q Did you, at any point, ever touch the knife?

16 A I put my finger through the eye hole, picked
17 it up so that Officer Vosu knew that it was there and
18 he could physically see it. And he told me to put it
19 back down and leave it in the exact location that it
20 was, which I then did.

21 Q Was that before or after you ran outside?

22 A Okay. But -- God. You know, I apologize.
23 I need to back up. I ran outside. I went in for a
24 moment after they got Mr. Gladen out to see if I could
25 grab a shirt and my hat. Ah, and it was -- I believe

Examination of Desmond Pescaia

1 it was after the fact that they had taken Mr. Gladen
2 out.

3 Q And where did you put the knife after you
4 picked it up?

5 A Right back where it was.

6 Q Did you see anybody else touch the knife?

7 A No. I do know they took it for evidence and
8 that's all I know, but I don't know who grabbed it.

9 Q What happened after Mr. Gladen was taken
10 away from your apartment?

11 A I was told to stay out of my house. I was
12 sitting outside for a while. They called the TriMet
13 bus. I went into the TriMet bus. I don't remember
14 the two detectives' names, but I know one of them was
15 -- was a Detective Rico, who really helped.

16 Officer Kammerer, like I said, sat with me.
17 And then Chaplain Steve came in to talk with me for a
18 little bit to ensure my safety from myself.

19 MS. BOCKELMAN: Okay. Just one moment,
20 please.

21 All right. Mr. Pescaia, that's all the
22 questions I have for you, but some of the grand jury
23 members might also have questions for you.

24 THE WITNESS: I do apologize for that.

25 MS. BOCKELMAN: Oh, that's okay. We can

Examination of Desmond Pescaia

1 fix that.

2 THE WITNESS: Okay.

3 A GRAND JUROR: Mm-hmm. Could you -- I have
4 a question about how big Mr. Gladen is. You said you
5 put your arms --

6 THE WITNESS: Under him and --

7 A GRAND JUROR: -- under him. Was he as --
8 as big as you?

9 THE WITNESS: I would say -- how -- excuse
10 me, but how tall are you?

11 A GRAND JUROR: 6'5".

12 THE WITNESS: 6'5"? Okay. He's about five
13 inches shorter than (indiscernible) and I say he
14 weighs maybe, what, about 175, two bills.

15 A GRAND JUROR: Two.

16 THE WITNESS: Somewhere -- he's somewhere
17 around this young man's size, minus five inches.

18 BY MR. HANNON:

19 Q I -- I -- have one follow-up question --

20 A Sure.

21 Q -- that -- as you -- as he asked that. Dave
22 Hannon for the State.

23 Did it appear as if Mr. Gladen had any
24 difficulty navigating around your apartment or was he
25 moving around from Point A to Point B with a purpose?

Examination of Desmond Pescaia

1 A All he did was run in.

2 Q Okay.

3 A He was trying to hide.

4 Q Okay. But -- but did he indicate -- did it
5 seem as though he had any difficulty going from
6 Point A to Point B?

7 A Absolutely. I thought the guy was higher
8 than a kite on drugs. And then after the fact, a few
9 days later, I thought about that. He was paranoid
10 schizophrenic and he was not on his medication.

11 Q Okay. So -- but that's not something you
12 knew at the time of the incident?

13 A No.

14 Q But I guess my question, though, is: When
15 he wanted to get in your house, he did not have
16 difficulty going by you and getting into your house?

17 A Absolutely not. I mean, he just busted
18 right in.

19 Q And when the interaction turned towards your
20 bedroom, he had no problem directing towards
21 Officer Vosu -- with the --

22 A No.

23 Q -- intent of directing towards Officer Vosu?

24 A Not at all.

25 MR. HANNON: Okay. Does -- does the grand

Examination of Desmond Pescaia

1 jury have any follow-up questions to that?

2 MS. BOCKELMAN: Any other questions? No?

3 All right. Thank you very much,

4 Mr. Pescaia.

5 THE WITNESS: May I add one very quick,
6 small thing, if possible? 'Cause --

7 MR. HANNON: Why don't we take one moment.
8 Let -- let me find out what it is outside.

9 THE WITNESS: Okay.

10 MR. HANNON: I'll just make sure it's
11 admissible and then -- and then I'll come right back
12 in. Once you -- you just -- we'll stay on the record
13 for two minutes.

14 THE WITNESS: All right. Thank you for your
15 time, ladies and gentlemen.

16 GRAND JURORS: Thank you.

17 THE WITNESS: I do, again, apologize for the
18 vulgarity.

19 A GRAND JUROR: No problem.

20 MS. BOCKELMAN: Unfortunately, that's part
21 of what we do every day, so they've --

22 THE WITNESS: (Indiscernible).

23 MS. BOCKELMAN: -- probably heard a lot
24 of it.

25 THE WITNESS: I come from Hawaii. I got ten

Examination of Allen Erspamer

1 (indiscernible). If my mom ever heard me talk like
2 that, she slapped my head.

3 (Pause in proceedings, 11:12 a.m. -
4 11:13 a.m.)

5 MR. HANNON: So just for the record, he
6 wanted to introduce evidence that would have been
7 hearsay or something she learned from other people and
8 so we're not going to allow that.

9 All right. The State's ready to call its
10 next witness.

11 MS. BOCKELMAN: Yes.

12 MR. HANNON: All right.

13 THE WITNESS: Hello.

14 MS. BOCKELMAN: Thank you. Could you please
15 stand next to the chair and raise your right hand and
16 we're going to swear you in.

17 THE WITNESS: Of course.

18 ALAN ERSPAMER

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

21 EXAMINATION

22 BY MS. BOCKELMAN:

23 Q Thank you. You can take a seat.

24 Can you please give us your name and spell
25 it for us.

Examination of Allen Erspamer

1 A My name is Alan Erspamer. Last name,
2 E-r-s-p-a-m-e-r.

3 Q And you said it's Erspamer; is that correct?

4 A Yeah. Yes.

5 Q Thank you. Mr. Erspamer, where do you live?

6 A Where do I live? I live at 9610 Southeast
7 Market Street.

8 Q How long have you lived there?

9 A Oh, since around the summertime, just off
10 the top of my head.

11 Q What part of the house do you live in?

12 A I live in the room -- if you use Desmond's
13 as the center, I live upstairs to the right.

14 Q Perfect. So you live in the upper level
15 just to the right of where he lives?

16 A Yes, ma'am.

17 Q Were you at home on January the 6th of 2019?

18 A Yes, ma'am.

19 Q Do you recall hearing anything out of the
20 ordinary?

21 A No, ma'am, nothing out of the ordinary.
22 Every now and then, because I'm living with a bunch of
23 gentlemen, it gets a little loud. Desmond sometimes
24 is a little loud. And at the time -- usually, I do go
25 down and see what's going on 'cause me and Desmond are

Examination of Allen Erspamer

1 friends. But, at that point, I decided not to. I was
2 enveloped in a conversation on the computer
3 (indiscernible).

4 Q But it's safe to say that you heard
5 something; is that correct?

6 A Yes, I did.

7 Q What did you hear?

8 A I heard thumps, bumps; you know, like, maybe
9 furniture being moved, something along that lines.

10 Q Did you hear any yelling at all?

11 A Yes. I did hear a little bit, but that's
12 not out of the ordinary.

13 Q That's fair. Did you hear the yelling first
14 or after the thumps and bumps?

15 A I -- to be honest with you, I don't really
16 recall.

17 Q Okay. And the yelling that you heard, could
18 you hear if it was just one voice yelling or if it was
19 multiple voices yelling?

20 A I think it was just one.

21 Q Could you tell who that person that was
22 yelling was?

23 A No, ma'am. Often, there is a lot of yelling
24 around the property there, so we all just kind of keep
25 to ourselves and such. We have a few individuals in

Examination of Allen Erspamer

1 the house which have special needs, so it goes with
2 the territory.

3 Q Thank you. You indicated that you heard
4 yelling and thumps and bumps --

5 A Yes, ma'am.

6 Q -- like moving furniture.

7 A Yes, ma'am.

8 Q Did it sound like the thumps and bumps were
9 up against a wall or up against a floor or could you
10 tell?

11 A I couldn't tell, but it -- it -- now that I
12 think about it, it could be, like, up against a wall.
13 It could be (indiscernible) that way.

14 Q Did you hear anything else?

15 A Yes, ma'am. I heard sirens.

16 Q How long -- how much time passed between
17 when you heard the yelling and the thumps and bumps to
18 when you heard the sirens, if you can remember?

19 A I would have to say it wouldn't be long.
20 Like, maybe less than five minutes. As I said, I was
21 enveloped in a conversation with a friend of mine, so
22 I wasn't really paying attention in that type of
23 matter. And all that seemed like a normal day there.
24 A little more of an eccentric day, but a normal day.

25 Q Did you ever hear any gunshots?

Examination of Allen Erspamer

1 A No. I did not hear any gunshots whatsoever.

2 Q Were you listening for gunshots?

3 A No, ma'am. But if I did hear them, I would
4 recognize them. I am a security officer. I have a
5 DPSST rating with firearms and such, so I'm very
6 familiar with them.

7 Q Once you saw the police arrive, did you do
8 anything?

9 A Yes. The situation was is that I heard
10 sirens coming, which is pretty normal. I live on a
11 busy street. And then I heard the sirens stop in
12 front of the place.

13 At that point, I went to my window, I took a
14 look and I saw officers running in. I was still in my
15 pajamas. It was my day off. So I immediately got my
16 leather coat on, put some shoes on and went down to
17 investigate and see what was going on.

18 I went out the side entrance, the kitchen
19 entrance, and into the parking lot and started walking
20 up. I saw more than three officers running in, so,
21 obviously, I'm interested in what's going on. And
22 that's when I saw Desmond on the porch.

23 Q What was he doing on the porch?

24 A He was -- how do I describe it? Almost -- I
25 can't -- I can't say a panic, but pretty close. He

Examination of Allen Erspamer

1 was controlled, though.

2 I approached him immediately asking what was
3 going on and he warned me off immediately. He's like,
4 "No, no. Don't come in. Don't come here. Don't come
5 here. Stay -- stay away from me."

6 And I remained, at that point, in the center
7 of the driveway. And, at that point, I was approached
8 by police -- a Portland police officer who asked me to
9 stay to the side, which, of course, I obeyed.

10 Q At the point that you were upstairs playing
11 video games, did you have anything on your ears while
12 you were playing video games?

13 A Yes, ma'am. I did have my rabbit ears on,
14 but I don't -- I don't like to have them fully on. I
15 had my right ear exposed, so I had this on and I had
16 it behind my right ear. It's pretty big and
17 cumbersome, so I didn't like it too much.

18 Q So the -- the earphones were covering your
19 left ear, but not your right ear?

20 A Yes, ma'am.

21 Q And what kind of video game were you
22 playing?

23 A I was playing a game called Second Life --

24 Q Okay.

25 A -- which is a very interactive-type game,

Examination of Allen Erspamer

1 which they call MMO, massive multiplayer online.

2 Q Okay. All right.

3 A Okay.

4 MS. BOCKELMAN: Just one moment, please.

5 That's all the questions I have for you, but
6 some of the --

7 THE WITNESS: Okay.

8 MS. BOCKELMAN: -- grand jury members might
9 also have questions for you.

10 THE WITNESS: Sure.

11 MS. BOCKELMAN: No?

12 All right. Thank you very much, sir.

13 THE WITNESS: No problem. You all have a
14 good day.

15 A GRAND JUROR: You, too.

16 A GRAND JUROR: Thanks. You, too.

17 MS. BOCKELMAN: And you're going to stand
18 right next to this seat and raise your right hand,
19 please.

20 MR. HANNON: There you go. And I'll swear
21 you in.

22 **LIDIYA OMELCHENKO**

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

25 A GRAND JUROR: Okay. Thank you.

Examination of Lidiya Omelchenko

1 A Mm-hmm.

2 Q And turning your attention to January 6th,
3 2010, did you have an occasion to call 9-1-1 about a
4 problem at your home?

5 A Yeah.

6 Q And -- and do you recall why you called
7 9-1-1?

8 A Oh, I don't remember, no.

9 Q Okay. Is Desmond one of your tenants?

10 A Mm-hmm.

11 Q And how long has he lived at your residence?

12 A I don't know. It might be three years. It
13 might be over.

14 Q Okay. Do you recall or will it refresh your
15 memory that there was a -- Desmond made a complaint to
16 you that day?

17 A Yeah. He's come in my home and talked to
18 me, "Lidiya, it's homeless sleep in the porch."

19 Q Okay.

20 A Yeah.

21 Q So Desmond came over to you and did he tell
22 you on the phone or in person?

23 A No. He's one person. He's come on my side
24 and talked to me.

25 Q Okay. And so he came over to you and said

Examination of Lidiya Omelchenko

1 that there's a homeless person at his place?

2 A Yeah. And I talked to him, "Call the
3 police."

4 Q Okay.

5 A But after this, I said maybe I need to go to
6 see by myself. And I go to see him. I come around to
7 the home and when I come through (indiscernible)
8 Desmond --

9 Q Mm-hmm.

10 A -- it's -- he's put on his porch -- he's put
11 two chair, big chair. And when I go, I saw somebody
12 lay down and I just see his eye.

13 Q Mm-hmm.

14 A This man it was black -- a black people --

15 Q Mm-hmm.

16 A -- and his eye black and I don't talking
17 with him. I -- I just come, so -- and hope the police
18 come to help him because maybe it's very cold outside.
19 Maybe they will come and help him.

20 Q So let me -- let me slow you down real
21 quick. So if I understood correctly, so Desmond came
22 and told you in person?

23 A Mm-hmm.

24 Q Then you went ahead and walked around the
25 property to see for yourself?

Examination of Lidiya Omelchenko

1 A Mm-hmm.

2 Q And when you went to see for yourself, you
3 saw an African American gentleman laying under the two
4 big chairs on the front porch?

5 A Mm-hmm.

6 Q Is -- is that yes?

7 A No. You know, this is --

8 Q Well, I'm sorry. I'm just --

9 A Can -- can I --

10 Q We're -- we're recording, so --

11 A Okay.

12 Q -- I want to make sure it's yes --

13 A Okay.

14 Q -- or no.

15 A Okay.

16 Q So --

17 A Yes, yes.

18 Q Okay.

19 A It was the two chairs, his -- this is his
20 door and he's (indiscernible) after this chair
21 (indiscernible) close to door (indiscernible).

22 Q Okay. So he's close to the door near the
23 chairs laying down?

24 A Mm-hmm.

25 Q Yes?

Examination of Lidiya Omelchenko

1 A Yes.

2 Q Okay. And so -- so then you also called the
3 police to see --

4 A Yes.

5 Q And your hope was to get some help for
6 this person?

7 A Yeah. He's -- yes.

8 Q Okay. Did you hear or see anything after
9 calling 9-1-1?

10 A I stayed and wait when the policeman come.

11 Q Mm-hmm.

12 A When he is come, I just (indiscernible) by
13 my hand, this man.

14 Q Mm-hmm.

15 A And after this, I turned and go to -- in
16 my place.

17 Q Okay. So you actually saw the officer
18 arrive and you pointed him where to go?

19 A Mm-hmm.

20 Q Yes?

21 A Yes.

22 Q Okay.

23 A Policeman talked to them, this man.

24 Policeman -- police --

25 Q Mm-hmm.

Examination of Lidiya Omelchenko

1 A And I see it's not my work --

2 Q Mm-hmm.

3 A -- and I go to my place.

4 Q Okay. So when you went into your place
5 after the police arrived, did you see or hear anything
6 after that?

7 A I hear, like, shot, but I don't know if this
8 is shot. I seen somebody maybe fell down or something
9 (indiscernible).

10 Q Mm-hmm.

11 A And I hear a -- I don't think this is shot
12 because I don't hear before shot.

13 Q Okay. So you may have heard a shot, but
14 you -- you're not sure if it was a shot?

15 A Yeah.

16 Q And it -- what you heard was maybe just a
17 loud noise?

18 A It's not a lot of noise, but I hear -- it's,
19 like, shot and I -- and I decide to go to see.

20 Q Mm-hmm.

21 A And I -- I get, again, go to around this
22 house.

23 Q Mm-hmm.

24 A And I saw a lot of policemen cars.

25 Q Mm-hmm.

Examination of Lidiya Omelchenko

1 A (Indiscernible).

2 Q So a lot of policemen arrived when you went
3 to look?

4 A Yes.

5 Q And did you see medical personnel or --

6 A Yes. I saw it's medical come. And what I
7 saw is they took it from Desmond's porch, somebody,
8 and put him in car and go. And I go in my place.

9 Q So you saw them take the person on the
10 medical, what, stretcher or gurney? Like, the --
11 like --

12 A Yes.

13 Q -- to transport him?

14 A Yes.

15 Q Okay. And then they put him in the
16 ambulance?

17 A Yeah. I -- I don't know exactly it was
18 ambulance and so I saw, just took him and I -- I feel
19 not very comfortable. It just was -- you know, I feel
20 not very good and I go to -- in my place again.

21 Q And then later, were you interviewed by
22 police officers?

23 A Mm-hmm.

24 Q Okay.

25 A They come in my place and talked to me.

Examination of Justin Raphael

1 Q And they -- and you told them what you told
2 the grand jury today?

3 A Yes.

4 MR. HANNON: Okay. Do -- do the grand
5 jurors have any other questions for Ms. Omelchenko?

6 May this witness be excused?

7 Okay. Great. Thank you.

8 THE WITNESS: I'm good?

9 MR. HANNON: Yeah. Thank you,
10 Ms. Omelchenko.

11 THE WITNESS: Yes, thank you.

12 A GRAND JUROR: Have a good day.

13 THE WITNESS: Thank you.

14 MR. HANNON: And give me one moment.

15 Ready to call our next witness.

16 You can just stand right there, raise your
17 right hand and then we'll swear you in.

18 **JUSTIN RAPHAEL**

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

21 **EXAMINATION**

22 BY MR. HANNON:

23 Q All right. Could you start first by stating
24 and spelling your name for the record.

25 A Sure. My first name is Justin. It's

Examination of Justin Raphael

1 J-u-s-t-i-n. My last name is Raphael. It's
2 R-a-p-h-a-e-l.

3 Q And, Officer Raphael, how are you currently
4 employed?

5 A I'm a Portland police officer currently
6 assigned to East Precinct, B shift.

7 Q And what -- and what does that mean, "B
8 shift"?

9 A B shift is our term for our day relief
10 shift. It's 10 o'clock in the morning 'til 8 o'clock
11 at night, so kind of a -- a hybrid shift, if you will.

12 Q And what -- like, what area of town does
13 that precinct cover?

14 A Sure. So East Precinct is huge, if you're
15 not familiar with it. East Precinct runs from
16 Cesar E. Chavez, so 39th Avenue to the west all the
17 way to the border of Gresham to the east. The south
18 side of I-84 all the way down to the border of
19 Clackamas County.

20 So it's almost a perfect square, but it's
21 huge. Basically, Mt. Tabor to Gresham, North Portland
22 to Clackamas County. It's -- it's huge.

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

24 A I was hired in September of '12, so we're
25 actually right at six-and-a-half years right now.

Examination of Justin Raphael

1 Portland Police Bureau's advanced academy, which was
2 an additional 12 weeks. So 25 weeks, 16 weeks and
3 12 weeks, so over a year in just basic police academy
4 training before I went through the formalized training
5 of the Police Bureau's FTEP program, so to answer your
6 question, a lot.

7 Q And you mentioned that you do work East
8 Precinct. Has that been -- have you always worked
9 East Precinct or have you worked any other precincts?

10 A So with the Portland Police Bureau, if
11 you're not aware, when we're hired on and we're new,
12 to kind of get us up to -- up to par, they have us
13 train in each precinct during our rotational period
14 under FTEP just to kind of, you know, familiarize with
15 areas of the city and how different precincts do
16 things.

17 So I did work through all three precincts.
18 And once I was off probation, I was at North Precinct
19 for only a few months and then I was back at East
20 Precinct. And I -- I've been at East Precinct nearly
21 the whole year.

22 Q And you may have already said it, but just
23 for acronym purposes, FTEP stands for?

24 A The Field Training and Evaluation Program,
25 so --

Examination of Justin Raphael

1 Q Okay.

2 A -- other agencies call it FTO or FTET or --
3 it's just when you're -- when you're a new guy.

4 Q So turning your attention to January 6,
5 2019, Incident No. 19-6556, were you working at East
6 Precinct that day?

7 A I was.

8 Q And in regards to this specific incident,
9 what was the first thing you recall about this
10 investigation?

11 A Sure. In regards to this -- so I actually
12 very specifically remember that day. I was working in
13 an area of the precinct that was nowhere near even
14 where this had happened. I was working the
15 southern-most district. I was actually, like,
16 bordering Clackamas County. I was way down in what we
17 call the south end.

18 So I just remember, actually, the exact
19 intersection I was at when I heard Officer Vosu call
20 out that he needed expedited cover. And I don't
21 remember his exact verbiage.

22 I don't remember if he said step-up cover or
23 if he said Code 3 cover. You know, we -- we have
24 different verbiage depending on, you know, how you
25 like to phrase it. But I do remember being at 82 and

Examination of Justin Raphael

1 Holgate and I remember Officer Vosu saying something
2 to the effect of he needed help and he needed it now.

3 Q Uh-huh.

4 A And -- and I remember, at that moment, I
5 just looked on my MDC, 'cause I didn't know where he
6 was. I didn't know what call he was on. I didn't
7 know anything. I just heard an officer say they need
8 help, so I looked to see where he was and I started
9 going that direction as fast as I could.

10 Q And as you were en route to the location,
11 did you receive any updates or new information as you
12 were on your way?

13 A Yeah. So I was, oh, maybe about a minute
14 out and I heard Officer Vosu call out that shots had
15 been fired. And that obviously warranted, you know,
16 an even faster response and a -- a -- a change in my
17 planning and how I was going to address this call.

18 So that was the major thing. I don't
19 remember if he said anything between those, any -- any
20 particular updates besides that and that was the one
21 that sticks out.

22 Q And do you -- do you recall approximately
23 the time of day when all of this kind of occurred?

24 A You know, it's funny. I mean, when I think
25 about it right now, I actually don't remember a

Examination of Justin Raphael

1 specific time. I remember it was midday. That's --

2 Q Okay.

3 A -- as close as I can give to you.

4 Q Were you one of the first or the first to
5 arrive at the location?

6 A Yes, I was actually the first.

7 Q And when you first arrived, what was one of
8 the first things you observed as you arrived?

9 A So kind of an -- an interesting caveat to
10 this was the call that Officer Vosu was on, I didn't
11 recall hearing him get dispatched to this call. And I
12 -- I didn't -- I didn't have any details of it.

13 So while I am responding there, we -- we
14 have an option using our keyboard and our -- our
15 computer in our patrol car where you can just hit a
16 couple of buttons and we call it self-attaching.

17 You can get onto a police call without
18 having to get on the radio and say, "Hey, I'm going to
19 that." And the reason that's important is, in these
20 dynamic kind of critical events, you don't want to tie
21 up the air. You want the officer who's going through
22 that significant event to have the radio if he
23 needs it.

24 So I remember self-attaching to this. And
25 as I'm driving Code 3, lights and sirens, trying to

Examination of Justin Raphael

1 get there as safely and quickly as possible, I'm
2 trying to see what kind of call this is and what
3 Officer Vosu is dealing with.

4 And so, at some point, I'm able just to see
5 it's -- you know, it's an unwanted -- that's what
6 we -- what the call type was. And that somebody was
7 at a house that wasn't supposed to be there. That's
8 all I can remember, basically.

9 So when I come pulling up to the scene, I
10 have very little information. I -- I don't -- I don't
11 know why he's calling for cover. I don't know where
12 he is. I don't know anything. And so as I come right
13 up to the scene, I see Officer Vosu's police car, but
14 I don't see Officer Vosu.

15 And -- and that -- that was just what I saw
16 when I first got there. I didn't have any direction
17 or indication of where he was or what he was going
18 through.

19 Q And did you make contact or make -- see
20 anybody when you arrived at the location?

21 A So I remember as I was pulling up -- I would
22 say I came up pretty -- pretty quickly. And I
23 remember looking around, frantically looking for
24 Officer Vosu. And I didn't see anything.

25 And so I actually got on my radio and I said

Examination of Justin Raphael

1 something to the effect of, like, "Hey, Sid, where are
2 you?" And he very calmly responds, "I'm inside the
3 house." And so I quickly realize where the house is,
4 what the target address is.

5 And on the front porch, I saw -- I believe
6 you just were speaking with him a few witnesses ago --
7 Des. I see Desmond standing there and he's
8 frantically, you know, waving towards me and -- and
9 signaling me to come in. And so, at that -- at that
10 point, I knew where -- where I needed to go.

11 Q And did you end up going into that location?

12 A I did. So, again, I -- I didn't know what I
13 had. I didn't know what I was going into. And as I
14 ran up to this -- the residence, the first thing I saw
15 was, on the front porch of this place, was two really
16 big, like, office chairs, like, bigger than what I'm
17 sitting on, a pretty significantly sized chair.

18 And my first thought was that this was going
19 to impede officers and EMS from getting into this
20 house. And the first thing I did was I actually
21 grabbed these chairs and I threw them as far as I
22 could out of the way.

23 And then I ran into the interior of this
24 residence. And when you enter this front door, you
25 kind of go right into a -- a living room area, a

Examination of Justin Raphael

1 common area that had couches and what not. And so I
2 made entry in there and that's when I first saw
3 Officer Vosu.

4 Q And -- and what did you observe?

5 A Officer Vosu was kind of facing -- I guess
6 we would call it south-easterly in this room and he
7 had a subject on the ground at gunpoint.

8 And so my first kind of game plan was to
9 ensure that Officer Vosu was safe and that he didn't
10 need anything immediately as far as attention. And
11 then it was to form a plan into how we were going to
12 address the subject on the ground and how we were
13 safely going to proceed from there.

14 Q And -- and were you able to establish that
15 Officer Vosu did not require any medical attention?

16 A Yeah. So, again, I said something to the
17 effect of, you know, "Sid, are you good?" And he
18 says, "Yes, I'm good." And so, at that point, I
19 remember two or three other officers I could see out
20 of my peripheral and I could hear coming in.

21 And so I don't even know who it was, but I
22 pointed to Sid and I said, you know, "Get him out of
23 here. You know, remove -- remove Officer Vosu from
24 the scene." And so I just remember an officer grabbed
25 Officer Vosu and he was now out of play.

Examination of Justin Raphael

1 And then that shifted our attention from
2 then Officer Vosu to what we needed to do to render
3 aid to the subject on the ground and how we were going
4 to do that safely. So, again, I think it was Officers
5 -- it was Miller and I want to say Officer Letter
6 (phonetic) were next to me.

7 And I looked at them, we made eye contact.
8 I said, "Everybody, let's take a breath. Let's slow
9 down." We formed a custody plan about who was going
10 to address what and then we made an approach to begin
11 to render aid to the subject on the ground.

12 Q And -- and in discussing that, because, at
13 the time you approached Officer Vosu and this person
14 on the ground, you had -- did you have any information
15 as to what level of threat or what the issue was of
16 the person on the ground?

17 A No. We just -- we -- we see what we see
18 when we walk in. Well, all we would have known is
19 that Officer Vosu had fired and that we had somebody
20 on the ground.

21 When we were kind of making that game plan
22 and we were slowing down, I did see some things that
23 concerned me about our approach and how we needed to
24 safely get to the subject on the ground.

25 Q And so was the person on the ground actually

Examination of Justin Raphael

1 handcuffed prior to you trying to apply medical
2 attention to him?

3 A He was.

4 Q Okay. And what medical attention, if any,
5 that -- well, after he was subdued, what steps did you
6 do to gauge what his injuries were and address those
7 injuries?

8 A So PPB is really cutting edge on what we
9 train our officers as far as, like, EMS and wound
10 triage and what our expectations are. We -- we get a
11 ton of training on how we're able to wound triage and
12 apply care and render aid.

13 And so in this particular case, the first
14 thing you want to do after making sure everything is
15 safe and you're -- you're -- you know, you're safe to
16 proceed because we're trained you're a police officer
17 first and then you're basically an EMT second type of
18 thing.

19 And so once the scene is secure and he's
20 okay, we do a -- a wound triage. We do a -- what some
21 -- I've heard some people call it blood sweep or
22 whatever where sometimes you're just trying to find
23 what's going on with this person.

24 And so on this particular case, we started
25 to do a blood sweep or a wound triage to locate where

Examination of Justin Raphael

1 he'd been hit and what our options were as far as
2 treatment. So that was the first step.

3 Q And what, if anything, did you guys observe?

4 A During the -- the triage, we located two
5 gunshot wounds to his upper-left chest area right over
6 here.

7 Q And what, if anything, did you do to address
8 those?

9 A So once we discovered those wounds, we sent
10 an officer out to get a trauma kit. All of our FIUs,
11 all of our police cars have trauma kits in them that
12 have a pretty significant amount of stuff.

13 And one of the things that's available to us
14 is these chest seals, which if you're not familiar,
15 they're literally big pads and they're sticky. And
16 you simply peel them off and they're meant to treat
17 gunshot wounds or -- or puncture wounds, things of
18 that nature, on the chest cavity.

19 And what it's meant to do is, if you have
20 been hit in the chest cavity, obviously, that's a
21 tight, sealed space naturally. When you have a -- an
22 entrance wound or an exit wound or both, that creates
23 a vacuum and that causes these catastrophic, you know,
24 injuries that -- that get worse and worse.

25 So the game plan with a -- a wound to that

Examination of Justin Raphael

1 -- this cavity here is to apply these chest seals and
2 make it airtight. So in this particular case, once we
3 discovered the two wounds, we -- I personally applied
4 the -- the seal, the chest seal, to his chest.

5 And then we discovered that he had an exit
6 wound on his backside, so we applied a second seal
7 onto the backside to make that cavity airtight again.
8 And with wounds to the cavity, that's your option.
9 You -- you can't do anything else at that point.

10 You can't stuff them. You can't -- well,
11 I'm not going to perform surgery right then and there
12 obviously, so you're limited. But the seals are --
13 are our option at that point.

14 Q And at any point while you were -- and other
15 officers were trying to render medical aid, did any
16 medics or paramedics arrive to assist?

17 A Yeah. So, basically, right after we apply
18 the wounds and we put him kind of in a recovery
19 position, the -- the paramedics arrived; and, you
20 know, we said -- we said what we had and we said what
21 we observed and we passed off the care and custody of
22 the subject to AMR and PFB.

23 Q And, at some point or any point, was the
24 person on the ground, later identified as Mr. Gladen,
25 was he uncuffed so the medical staff could continue to

Examination of Justin Raphael

1 treat him?

2 A He was. So as soon as medical came in, we
3 said what we had, we said what we did. I don't
4 remember if they asked or if we asked, "Would you like
5 him unhandcuffed?" But he was, in that moment,
6 unhandcuffed so they could provide further aid if it
7 would assist them.

8 Q After that occurred or as that occurred, was
9 there anything else -- any other physical evidence you
10 observed at the scene when you arrived and saw kind of
11 this dynamic situation?

12 A Right. Yeah, definitely. A few things
13 worth mentioning. The first was, when I made entry
14 into the -- into the -- the room and I had Sid and he
15 would have been off to my right-hand side. And he had
16 his gun out. He had the -- the subject on the ground
17 at gunpoint.

18 As I looked at the subject and I was waiting
19 for other officers to get there and we were slowing
20 things down, right off of the subject's -- it would
21 have been -- if he's on his back, right off of his
22 right shoulder, so over his shoulder stuck into the
23 ground was a dagger that was stuck into the floor.

24 The floor was wood, so, you know, I remember
25 seeing this dagger being stuck into the floor and

Examination of Justin Raphael

1 thinking, wow, like, that had to have taken some force
2 for that dagger to be stuck in the floor. It didn't
3 just drop. It was, you know, definitely stuck into
4 the floor.

5 And so that was a concern because that was
6 within arm's reach of the subject. I wasn't sure if
7 it was involved, but it appeared to be a dagger that I
8 am familiar with, that I know a lot of law enforcement
9 officers carry. I carry one personally.

10 And so I remember seeing that and thinking,
11 that's something I need to be aware of. And so that's
12 what was addressed at the start when we initially
13 approached the subject.

14 And then at the end of it when we were
15 actually treating him and passing him off to medical,
16 we discovered that he had been tased. And so we
17 actually removed the -- the Taser barbs out of him
18 before passing him off to medical.

19 And we discovered that, actually, underneath
20 him, kind of in the chaos of all this was actually a
21 Portland Police Bureau Taser I assumed belonged to
22 Officer Vosu at the time. But it was actually kind of
23 wrapped around the person.

24 The -- the Taser wires and everything were
25 kind of wrapped around. And so that was something

Examination of Justin Raphael

1 else that was, like, well, that's interesting. I
2 didn't realize that was there and so we noted that
3 as well.

4 Q And what, if anything, did you do with
5 Desmond or the rest of the scene after you made those
6 observations?

7 A Sure. So once the scene goes cold, so to
8 speak, the subject is removed; Officer Vosu's taken
9 care of. You know, we -- we begin to secure and
10 process.

11 And so just because in my initial
12 involvement and getting there first and seeing the
13 scene and -- and treating the subject, you know, I was
14 kind of removed; and, you know, put in a stagnant
15 position where I wasn't going to be given any busy
16 work, certainly, on the scene. So I was kind of
17 standing by.

18 At some point, we wanted to get Desmond into
19 a -- kind of removed from the scene and secured and
20 kind of calmed down. And so I volunteered to hang out
21 with him, basically.

22 Q Mm-hmm.

23 A And I walked him down to a bus that we had.
24 We had a TriMet bus for him to stay warm in. And I
25 put Desmond in a bus and hung out with him for several

Examination of Justin Raphael

1 minutes and kind of calmed him down. I gave him some
2 food and some water and just kind of brought him back
3 down to Earth, if you will.

4 And then once he was secure, I passed him
5 off to somebody else and I went back and was basically
6 hanging out 'til I was told otherwise.

7 Q When you say trying to talk him down and
8 bring him down to Earth, what was going on with
9 Mr. Pescaia at the scene?

10 A When I saw -- I mean, he was -- he was --
11 you could tell, was amped up. I mean, he -- you know,
12 he -- he was right there in the thick of it was my
13 understanding.

14 So he -- he -- he was excited and he was,
15 you know, just very up and down. You know, one
16 minute, he -- he would seem okay and the next minute,
17 he'd be sobbing.

18 So you could tell he was just very affected
19 by this event. And so it was just important to, like
20 I said, try to -- try to keep him in a state of mind
21 that was, I guess, as calm as possible.

22 Q Do you recall who put the handcuffs on
23 Mr. Gladen?

24 A I believe it was me and Officer Letter.

25 Q So he -- he was not in handcuffs when you

Examination of Justin Raphael

1 arrived with Mr. -- when Officer Vosu had -- had him
2 at gunpoint?

3 A Absolutely not, no. So when -- when we --
4 when we removed Officer Vosu from the scene and we
5 made entry, because the -- Mr. Gladen on the ground
6 was kind of halfway in the -- the gray room and
7 halfway in a bedroom. And so when we kind of moved
8 around him to begin this process of wound triaging and
9 rendering aid, it was a pretty tight space.

10 And so when we -- when we had to apply the
11 handcuffs, we had to roll him over and -- and apply
12 them ourselves right there in that kind of tight
13 space. And I was on his -- I was on one side and I
14 believe it was Officer Letter on the other and we did,
15 you know, kind of a joint handcuffing.

16 MR. HANNON: Okay. Do the grand jurors have
17 any other follow-up questions?

18 A GRAND JUROR: You mentioned that it
19 appeared that he had been tased. Did you actually
20 remove the Taser --

21 THE WITNESS: We did, yes.

22 A GRAND JUROR: -- barbs from the body?

23 THE WITNESS: We did. When we were passing
24 him off to medical -- obviously, he can't take all
25 that stuff with him. That's going to interfere. And

Examination of Justin Raphael

1 so the medical -- it was either AMR or PFB, one of
2 them asked, "Hey, we need to get those out of him."

3 And so we just -- you know, if you're not
4 familiar with Tasers, they're nothing but a little
5 fish hook. They come out very easily. You just pull
6 them out. And so we just removed the darts and left
7 all of that where it was.

8 A GRAND JUROR: Do you remember where they
9 were --

10 THE WITNESS: I do not.

11 A GRAND JUROR: -- on him?

12 THE WITNESS: No. I do remember both darts
13 were deployed, both darts were in, but I -- I do not
14 remember specifically where.

15 MR. HANNON: Anybody else? May this witness
16 be excused? All right.

17 A GRAND JUROR: Have a good day.

18 MR. HANNON: (Indiscernible). All right.

19 Can you just raise your right hand? I'm
20 going to swear you in.

21 **DAVIS KILE**

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

24 ////

25 **EXAMINATION**

Examination of Davis Kile

1 BY MR. HANNON:

2 Q All right. Could you please state and spell
3 your name for the record.

4 A Yeah. My name is Davis Kile. First name is
5 Davis, D-a-v-i-s. Last name is Kile, K-i-l-e.

6 Q And how are you currently employed?

7 A I'm a sergeant with the Portland Police
8 Bureau. I've been employed there for almost 18 years.

9 Q And what's your current position with the
10 Portland Police Bureau?

11 A I'm a supervisor and I work out of East
12 Precinct.

13 Q And rank of sergeant?

14 A Correct.

15 Q And how long you been a sergeant?

16 A About 15 months.

17 Q And how -- and have you been a sergeant at
18 East Precinct the entire time?

19 A Yes.

20 Q And could you briefly summarize just the
21 training and experience you've had as a Portland
22 Police sergeant or officer for the last 18 years?

23 A Well, besides several weeks of training
24 every year as a police officer that Portland gives
25 you, so I have, obviously, the basic certification

Examination of Davis Kile

1 training, which is -- I think in Portland, the course
2 is 26 weeks worth.

3 And once you get promoted as a sergeant,
4 there's a special, two-week academy for new sergeants.
5 And the City of Portland puts on an additional one
6 year of training for new sergeants as well.

7 Q And turning your attention to this
8 particular investigation, were you serving or acting
9 as a sergeant at East Precinct in -- involved in
10 Incident Case No. 19-6556?

11 A Yes.

12 Q And how did you become involved in this
13 incident? What was going on that day?

14 A I was in the office and I heard over the
15 radio Officer Vosu say shots were fired. Which, of
16 course, my ears perk up as a supervisor when I hear
17 that. So I left the office and immediately went to
18 this location.

19 Q And when you went to the location, what was
20 one of the first things you observed when you arrived
21 there?

22 A So I think I was the first supervisor that
23 arrived on scene. As I pulled up to the door, I saw
24 Officer Vosu being walked out by Officer Storm
25 (phonetic).

Examination of Davis Kile

1 Officer Storm and I made eye contact and he
2 informed me that he was taking Officer Vosu with him
3 as a partner, you know, to keep him isolated from
4 everyone else. That's the buddy system.

5 So once I saw he was taken care of, I went
6 inside the house to see what's going inside the house
7 where the shooting occurred.

8 Q And let's just take a step back and talk
9 about that. When we talk about the "buddy system" and
10 "isolate," what -- what -- why is that and what does
11 that entail?

12 A Well, you know, for Officer Vosu to have
13 someone with him to make sure he doesn't talk to
14 anybody about what happened; to make sure that, you
15 know, he has someone who's -- can help release some of
16 the stress of the situation.

17 When someone's involved in a shooting, it's
18 obviously very stressful. And it's helpful to have
19 someone with you who maybe wasn't involved just to
20 help you through the steps of the process.

21 Q So, in other words, despite being in this
22 elevated situation and -- he is isolated and not
23 allowed to talk to anybody?

24 A That's correct.

25 Q And that's, I assume, Portland Police

Examination of Davis Kile

1 policy?

2 A That is correct.

3 Q So this system is set up so that you can
4 maintain the integrity of the evidence while also
5 having him have some support so he's not completely
6 alone?

7 A That is correct. And that support person
8 may be the one who would notify a family member. They
9 say, "Hey, this officer was involved in a -- in a
10 deadly force situation. He's okay or" -- and -- and
11 just to make sure that (indiscernible) there.

12 Q When you arrived at the scene and you saw
13 Officer Vosu being walked out, what -- what -- what
14 happened next?

15 A So I went inside of the house to see what
16 was going on inside the -- in the scene. What I saw
17 as I passed -- I believe his name was Desmond. He was
18 sitting on the front steps. He appeared to be okay.

19 I walked past him into the house and I saw
20 three officers working -- providing medical care to
21 the subject that was down on the ground. Those three
22 officers were Officer Raphael, Officer Ross and
23 Officer Letter.

24 And the first thing I wanted to find out
25 from these officers was: Is there anyone else

Examination of Davis Kile

1 injured? Is there anyone else hurt? Is there any
2 threats outstanding that I don't know about?

3 And the response I got was no. The person
4 they were working on was the only injured person and
5 that there was no more threats at that time.

6 Q And as you observed that and -- and
7 documented that, being the sergeant, were you then, at
8 that point, the person in charge of the scene until
9 others arrived?

10 A That is correct.

11 Q And -- and being in charge of the scene at
12 that point, what -- what next did you do in observing
13 him being medically treated while maintaining the
14 integrity of the scene?

15 A So my job is I want -- you know, obviously,
16 providing medical care was my first decision to do.
17 And another officer walked in right behind me with a
18 medical kit. And -- and they were working on -- on
19 the person that needed medical attention.

20 So, at that point, I spoke with Sergeant
21 Sliter, who also showed up. I put him in charge of
22 the outside scene, of the perimeter to make sure
23 everything was set up there. And I took charge of the
24 inside scene.

25 My main concern was, you know, making sure

Examination of Davis Kile

1 medical professionals have access in there so they can
2 treat the person now. And we're going to make sure
3 there's no other roommates in the house that could
4 accidentally come across the scene and maybe
5 contaminate evidence that may have been -- been there.

6 And I also -- as they were working on the
7 person giving medical care, I just took a couple
8 photographs of what was around me 'cause I know from
9 18 years of being a police officer, a lot of times
10 when medical personnel arrive, they're going to come
11 six to eight firemen, a couple ambulance workers.

12 You know, and their main priority is medical
13 care, not necessarily evidence that might be rolling
14 around. That's not their primary concern,
15 understandably. So I just took a couple photographs
16 of the scene and sat before anything was going to be
17 disturbed.

18 Q And is this one of the photographs that
19 you took?

20 A That is. I was standing right behind the
21 officer holding the red bag, obviously.

22 Q And that red bag, what bag was that?

23 A So that's our medical kit that we have in
24 our police cars. They have trauma bandages and -- you
25 know, it's more than just Band-Aids. It was for major

Examination of Davis Kile

1 trauma injuries, as we are trained (indiscernible).

2 Q So, in other words, you're taking that photo
3 almost live as they're medically trying to treat
4 Mr. Gladen and that is what you observed at the scene
5 as that is occurring?

6 A That is correct.

7 Q And what -- what -- what was that a -- what
8 -- why'd you take a picture of that?

9 A So this photo, this is after the person
10 getting medical treatment was taken by the ambulance.
11 And he was laying on top of a Taser. That's what that
12 yellow device is there. And that -- there's also
13 wires laying there. I thought that was necessary to
14 take that picture to show that he was laying on top
15 of that.

16 Q So for geography purposes, when the officers
17 have arrived to provide medical attention and to treat
18 the individual, geographically, this is where he was
19 laying when they were treating him?

20 A That's correct.

21 Q Okay. And is that just the same photo, but
22 just different angle or --

23 A So, yeah. So there's also, additionally, in
24 the corner by the wires, a -- a -- or plugged into the
25 wall --

Examination of Davis Kile

1 Q Mm-hmm.

2 A -- I found -- I -- I can't remember. I
3 think it was three or four shell casings, which, you
4 know, obviously, when a shot is fired out of a gun, a
5 shell casing's going to come out. And they were
6 laying in that corner, so I wanted to get a
7 photographs of where those were.

8 Q Okay. And what was it -- what -- why'd you
9 take a photo of this?

10 A So this photo is from inside that bedroom.
11 And it's looking out. And what happened is behind
12 that lamp in the corner, I found a bullet hole. So
13 the -- that led me to believe that possibly shooting
14 was shot in that direction.

15 And so knowing that information, I wanted to
16 go outside the house, obviously, to make sure that
17 bullets didn't exit the house and hit anyone else or
18 there's no other property damage.

19 I wanted to make sure that those rounds were
20 accounted for. And so that was just an idea of where
21 -- where the shots came from and where I found the
22 bullet hole.

23 Q And were those all the photographs?

24 A Yes.

25 Q And you -- and when other personnel and

Examination of Davis Kile

1 detectives started arriving at scene, was there a
2 briefing -- preliminary briefing at the scene before
3 further investigation and assignments were handed out?

4 A Yes.

5 Q And were you part of that briefing and
6 outlining both the photographs and what you observed
7 as you arrived at the scene?

8 A Yes, I was.

9 MR. HANNON: Okay.

10 All right. Do the grand jurors have any
11 other questions?

12 And may this witness be excused?

13 Okay.

14 THE WITNESS: Thank you.

15 MR. HANNON: Thank you.

16 And I know we're approaching the noon hour.

17 We have one other witness that we could try to
18 accomplish before the lunch hour if that works for the
19 grand jury or would you like to break and come back?

20 A GRAND JUROR: We've got 15 minutes.

21 MR. HANNON: Oh, great.

22 A GRAND JUROR: I'm just messing with you.

23 MR. HANNON: If you just stand right there
24 and raise your right hand.

25 AARON HOLWEGE

Examination of Aaron Holwege

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

3 EXAMINATION

4 BY MR. HANNON:

5 Q All right. Go ahead and have a seat.

6 And could you please state and spell your
7 name for the record

8 A Aaron Holwege, A-a-r-o-n; Holwege,
9 H-o-l-w-e-g-e.

10 Q And how are you currently employed?

11 A The City of Portland Police Bureau.

12 Q And how long have you been with the City of
13 Portland Police Bureau?

14 A Ten years end of March coming up, so --

15 Q And what's your current assignment?

16 A I work East Precinct. I work the I shift or
17 E shift.

18 Q And how long have you worked that shift?

19 A Pretty much -- it's where I've been since
20 I've been hired -- or after training.

21 Q So I'm going to turn your attention to a
22 report dated January 8th of 2019, Case No. 19-6286.
23 Do you recall authoring that report?

24 A I do.

25 Q And was that kind of a retroactive report?

Examination of Aaron Holwege

1 Like, not a report you wrote the day of the incident,
2 but in -- after learning the relevance of that
3 incident as it equates to the matter before the grand
4 jury today?

5 A I did. I was contacted by my lieutenant,
6 who got me into contact with the investigating
7 detective, who asked me to write that report to get a
8 timeline before he (indiscernible).

9 Q And was it close in time to the incident
10 that you were able to refresh -- refresh your memory
11 pretty easily to account for that, the events that you
12 observed that day?

13 A Yeah, I felt like it was.

14 Q Okay. In your own words, what -- what is it
15 that occurred on January 6th that you were reporting?

16 A I was called as a primary officer to a
17 disturbance call involving a known subject had --
18 there was a bat involved in the call. So it was a
19 location I was somewhat familiar with, had been to
20 multiple times.

21 By the time I arrived on scene at the
22 location where this disturbance was taking place, one
23 half of this disturbance was no longer at the
24 location.

25 Q And the two persons involved in the call,

Examination of Aaron Holwege

1 was that Diamond Randolph and Andre Gladen?

2 A I believe it was, yes.

3 Q Okay. Who was the person who was not at the
4 scene when you responded to the call?

5 A Mr. Gladen was -- was no longer there.

6 Q And who did you interview at the scene when
7 you took the complaint?

8 A I spoke to -- I believe it was Diamond.

9 Q Mm-hmm.

10 A Did you say Phillips?

11 Q Randolph.

12 A Oh, Diamond Randolph. I'm sorry.

13 Q That's all right.

14 A Diamond was there. She came to the door. I
15 observed a suitcase and some clothing just outside the
16 door. She said, "He's got to go. He's got to go. He
17 doesn't live here."

18 I was somewhat familiar with the location.
19 I knew that she -- she had allowed, on occasion, to
20 let, I believe, Mr. Gladen sleep on the site of the --
21 the location. Someone whose come and gone from this
22 location. And I knew that Mr. Gladen had no vision in
23 one of his eyes.

24 Q Mm-hmm.

25 A I inquired about this bat. I'm thinking

Examination of Aaron Holwege

1 it's going to be a full-sized bat. Come to find out
2 it was a -- a souvenir-type bat --

3 Q Mm-hmm.

4 A -- that you'd get at, like, a -- a baseball
5 game. I don't know if you guys have seen -- it's just
6 a smaller bat, 12 to maybe 16 inches in length. I
7 asked about the bat. "Did he swing it at you?"

8 "No, he just had it in his hand." I said,
9 "Okay." I looked for this bat. Just looking around,
10 didn't see a bat anywhere. And she talked about --
11 she said he was using a -- a pocketknife to stab at a
12 cardboard box.

13 I said, "Well, okay. There's a box and he
14 was just" -- I said, "Okay. What was he doing with
15 the knife and with that?" "That was it. He's just
16 stabbing at a box."

17 And I said, "Okay." She said, "He doesn't
18 live here. He doesn't live here. He ran off to 148th
19 and Division 7-Eleven. That's where he went. That's
20 where he likes to go."

21 So there was at least two other units on the
22 call with me. I area checked up near the 7-Eleven.
23 The other units, I'm not sure where they area checked,
24 but I specifically focused up there 'cause that's
25 where she -- she thought he had gone. Entering him

Examination of Aaron Holwege

1 into my computer, his last known address shows to be
2 that location where I was.

3 Q Meaning Ms. Randolph's location?

4 A Yeah. So some sort of a residency had been
5 established there some -- at some time. She mentioned
6 to me about earlier in the week, that he had broken
7 in. Well, again, if he -- if he has a residence
8 there, that's -- that's not a crime.

9 I -- through my investigation, that -- there
10 was no crime that had taken place. So he took off
11 from the location. So I did not make any contact with
12 Mr. Gladen in my initial on-scene talking with
13 Diamond.

14 Q And did you have a -- ever have an occasion
15 to see Mr. Gladen later in this period of time?

16 A I did. There was -- once my area check was
17 done with the other officers, I had made some notes
18 and cleared off of that particular incident.

19 A short time later, there was a -- another
20 call -- a call into police, a location -- 145th area
21 and Division, which would be across the street to the
22 south of where I was earlier on that call -- on a
23 call. And they talked about somebody in the bushes
24 moaning and they could hear something, someone.

25 And so while I was clearing off this earlier

Examination of Aaron Holwege

1 call, I put two and two together. I said, "Most
2 likely going to be the person who just left my -- my
3 earlier call."

4 So I attached and started back that
5 direction where other officers were already on scene
6 where they had located a male in the bushes next to
7 some shrubbery and some fencing.

8 In the -- in the updates by dispatch and
9 officers on the scene, they walked about finding some
10 syringes next to the -- the subject. I never actually
11 saw the syringes or -- or recovered them. So by the
12 time I got on scene, AMR was already on scene. That
13 had been requested by officers.

14 Q AMR meaning paramedics?

15 A Correct, paramedics. They were moving the
16 -- who we knew as now Mr. Gladen from the bushes area.
17 He was -- eyes were closed, was not talking. The --
18 the temperature outside was cold. It was, I believe,
19 mid-to-upper 30s. It was cold. He had no shirt on.

20 Q Mm-hmm.

21 A The jeans he had on were down below his --
22 his knees. He had some boxer shorts on. And so as
23 they got -- came out of the bushes, I assisted that
24 last ten feet putting Mr. Gladen on the -- on the
25 gurney.

Examination of Aaron Holwege

1 Q And, obviously, you discussed earlier you
2 didn't believe there was a trespass issue and it
3 sounds like you didn't believe that there was
4 assaultive issues in your interview with Ms. Randolph.
5 So did you believe that there was any cause to arrest
6 Mr. Gladen based on what you learned or the
7 observations?

8 A No. Being at the original call, saw no
9 visible signs of injury of any kind. This particular
10 bat was not swung. It was not used. It was only held
11 by Mr. Gladen.

12 He had established a residency there, so
13 there was no trespass. So at the point of him not
14 being at the medical scene, being that he had -- he
15 was not dressed for the weather --

16 Q Mm-hmm.

17 A -- for sure. Cold, not talking to
18 paramedics; eyes were closed; not -- not really
19 responsive. Loaded him on and then we -- at that
20 point, everybody on scene -- it was a medical issue.
21 I don't know if it was hypothermia. I'm not a medical
22 professional, but we felt he needed to go up to the
23 hospital.

24 Q So for help?

25 A Some sort of medical evaluation.

Examination of Aaron Holwege

1 Q Okay. And is that -- was that your request
2 or is that what you asked the paramedics or AMR to do
3 with him?

4 A I was not the one who requested medical.
5 Again, I showed up once medical was already there.

6 Q Gotcha.

7 A I know that he's given a patdown and the day
8 shift -- or whoever AMR was that day, they said
9 they're going to be on scene for a few minutes doing
10 some additional tests or whatever they do before they
11 make transport.

12 Q Got you.

13 A That's what they told me 'cause I asked,
14 "Are you guys good?" And they said, "Yes, we're
15 good." And I cleared. I cleared that scene.

16 Q And do you know -- do you happen to know
17 where they were going to take him for medical?

18 A I -- I don't know where they took him.

19 Q Okay.

20 A Most likely, whatever is green, they call
21 available.

22 Q Mm-hmm.

23 A They'll take him to the closest hospital
24 that's in that -- in that area.

25 Q And is Portland Adventist close to this

Examination of Aaron Holwege

1 location?

2 A Yes.

3 MR. HANNON: Okay. Do the grand jurors have
4 any follow-up questions?

5 A GRAND JUROR: Hmm-mm.

6 MR. HANNON: May this witness be excused?

7 A GRAND JUROR: Yes.

8 MR. HANNON: Great, thank you.

9 THE WITNESS: Thank you.

10 MR. HANNON: And I think that will conclude
11 the testimony for this morning. So we'll take our
12 noon break.

13 * * *

14 (Noon Recess taken at 12:05 p.m.)

15

16 ***AFTERNOON SESSION***

17 (Whereupon, the following proceedings were
18 held in before the grand jury, 1:46 p.m.): We are back
19 on the record.

20 Oh, thank you.

21 A GRAND JUROR: Uh-huh.

22 MR. HANNON: We are back on the record on DA
23 Case No. 2395300. On behalf of the State, Dave Hannon
24 and Nicole Bockelman, ready to start our afternoon
25 session and call our next witness, Officer Howery.

Examination of Josh Howery

1 Go ahead and stand right there. Raise your
2 right hand and we'll swear you in.

3 **JOSH HOWERY**

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

6 A GRAND JUROR: Thank you.

7 MR. HANNON: Go ahead and have a seat.

8 **EXAMINATION**

9 BY MR. HANNON:

10 Q And can you start by stating and spelling
11 your name for the record.

12 A My name is Josh Howery, H-o-w-e-r-y.

13 Q And how are you currently employed?

14 A I am a Portland police officer currently
15 assigned to the Tactical Operations Division and the
16 Special Emergency Reaction Team.

17 Q Okay. And how long have you been with the
18 Portland Police Bureau?

19 A 18 years.

20 Q And can you just briefly summarize some of
21 the training and experience that you have as part of
22 building your career to become a Portland police
23 officer?

24 A Yes. I attended the basic police academy.
25 I've attended the advanced police academy. I've

Examination of Josh Howery

1 worked on the street for several years. I've worked
2 in detectives. I've investigated sex trafficking.

3 And then in 2012, I was assigned to the
4 Training Division as the lead control tactics
5 instructor. So before that, I had gone through a -- a
6 satellite instructor school for that discipline. But
7 then in 2012 was assigned full time to the Training
8 Division.

9 During that time, I was responsible for
10 teaching advanced academy and in-service to the entire
11 Bureau for all of our defensive tactics, our control
12 tactics, various other patrol tactics.

13 I'm also a patrol tactic -- or a patrol
14 procedures instructor and a firearms instructor. I
15 have attended Force Science as an analyst, which is an
16 organization that certifies officers to be analysts in
17 force events.

18 Q And, just briefly, what was your educational
19 background?

20 A I'm sorry. I -- I attended George Fox
21 University with a bachelor's.

22 Q And let's go back to the forensic science
23 analyst's training. Describe that for the grand jury.
24 What is that?

25 A That is a 40-hour class that Force Science,

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1 as the -- as the company, puts on. We take a big test
2 at the end. It -- it involves analyzing aspects of
3 force events as it -- as it relates to times, like,
4 events.

5 So, for instance, if it takes a certain
6 amount of time physiologically to, say, draw a weapon
7 and fire it, they do a lot of tests they do to find
8 out, okay, what can the average officer -- how fast
9 can they draw their weapon?

10 How fast does it take a suspect to produce a
11 weapon? How fast does it take a -- a -- a suspect to
12 cover a certain amount of distance? So they do all
13 these tests and then they -- they have a curriculum,
14 so we -- we go there.

15 So we're -- we're certified by the end of
16 that to analyze a force event and say, "Well, this may
17 be why things turned out they way they did. And this
18 is why an officer would react the way they did just
19 based on what the human is -- the human body is
20 physically capable of."

21 Q And going -- working our way back, you said
22 you work with a patrol procedure instructor?

23 A Yes.

24 Q And explain that. What is that?

25 A In the academy, the -- the training is split

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1 up into various disciplines. Our control tactics
2 would be, you know, our hand to hand, our arrest
3 techniques, like those things.

4 The firearms would be a skill of shooting in
5 regard to the control procedures. When it comes to
6 that, they -- that's the discipline where officers
7 really learn how to act as a police officer. They --
8 they do a lot of scenario training.

9 So what they do is they take the hard skills
10 that they've learned in the other disciplines and they
11 put them together so when they're actually doing a
12 real-life type of event as a police officer, they're
13 able to use those skills in figuring out how to make
14 the outcome the way they want it.

15 Q And so in -- in that -- following that train
16 of thought then, all the different skill sets that
17 officers learn or are trained to learn, is there a
18 spectrum of options available to officers given the
19 various scenarios on how to react to those scenarios?

20 A Yes.

21 Q And so starting on the kind of lower end or
22 the lowest end in the spectrum, you know, what are
23 some of the various methods or techniques or tactics
24 that any officer can use to kind of try to get control
25 of a situation?

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1 A It -- it starts from just showing up to a
2 call with their mere presence and then things step up,
3 they can use verbal techniques to try to give
4 direction. They could try to give commands. They
5 could ask questions to -- to try to get the -- the --
6 the -- the results they're looking for.

7 And above that, then it may go to a -- a
8 control hold, hands-on techniques; all the way up to
9 if a person starts to resist or this person becomes a
10 threat to the officer or somebody else, they may use
11 less-lethal tools, pepper spray, batons, Tasers and --
12 and -- and so forth all the way up to deadly force.

13 Q And -- and so you are an instructor for all
14 of these various trainings to assist officers both
15 with what standard practices are and then changes or
16 updates in the techniques to better enhance their
17 ability to patrol on the streets?

18 A Yes, that's correct.

19 Q So -- and as part of that training either
20 that you put on or that you have also been part of, is
21 there an aspect of training also involved with the
22 kind of sanctity of human life or the value of life
23 for officers to learn and be trained on as well?

24 A Yes. And that's -- that's interwoven with
25 all of the training, so they understand that, hey,

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1 we're going out into the public and we're servants.

2 We are trying to help people.

3 The -- the idea is within their -- their
4 careers, they are going to come into situations where
5 they have to deal with conflict both toward themselves
6 and between other people. The -- the expectation is
7 that they resolve those complications, that they
8 actually take action in some cases.

9 But whenever they can, they try to do
10 that with as little reliance on force as possible.
11 And that's interwoven through the training. It's
12 interwoven through the policy.

13 You know, hey, we understand that officers
14 are supposed to take care of these things. If you
15 can, we would like you to use less force than we --
16 if -- if you can get away with it.

17 Q And -- and in -- in that -- and consistent
18 with that train of thought, has the Portland Police
19 Bureau, itself, developed practices and trainings
20 related to people who either, A, may be undergoing
21 some sort of mental health crisis; or, B, some sort of
22 severe intoxication; or, C, a combination thereof that
23 would try to deescalate those situations?

24 A Yes. And -- and, really, in any situation,
25 you know, we try to deescalate a situation whenever we

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1 can, right? There's not -- officers are not trained
2 to go in and try to use force in every single
3 situation, but -- and then especially in certain
4 circumstances, heavy intoxication, mental illness, any
5 of that sort of thing, if you know that that condition
6 exists and you can safely resolve the confrontation
7 and you can do that by deescalating the situation
8 if -- if the situation allows you to do that, you
9 should absolutely do that.

10 Q And when we're talking about deescalation,
11 obviously, in this current environment, there's kind
12 of a -- certainly, as you said, a mere presence of an
13 officer may be enough to get control of a situation.

14 But the deescalation is not just necessarily
15 between a person that comes in contact with an
16 officer, is it? I mean, is it possible that an
17 officer may also be trying to deescalate a situation
18 between two individuals or three individuals and that
19 the officer's not even a part of?

20 A Yes, absolutely right. Officer may come in
21 and start using verbal commands. They may be giving
22 warnings. They may just, "Hey, hello."

23 In some cases, I've seen officers deescalate
24 a situation where people were fighting by driving up
25 with their lights and siren on just letting folks

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1 know, hey, the police are here and they don't want to
2 be doing, you know, their bad acting where they start
3 to split off.

4 All those things could be a form of
5 deescalation; but, yeah. On the other hand, sometimes
6 an officer needs to interject himself into that
7 situation because the situation between two people is
8 getting out of hand and they need to interject and
9 actually get in between there, thus maybe making that
10 situation deescalate just physically intervening.

11 Q So is there training as to the various forms
12 of use of force, starting from that low end of just
13 mere presence or verbal commands all the way up to
14 less-lethal force, using items you mentioned, pepper
15 spray, ASP baton, Taser? That training occurs?

16 A Yes.

17 Q And then is -- what is the difference
18 between less-lethal force and then lethal or deadly or
19 dangerous force?

20 A Less-lethal force is force that's not likely
21 to cause serious physical injury or death. Lethal
22 force would be considered force that's -- is likely to
23 cause serious physical injury or death.

24 The -- the tools that an officer typically
25 carries or is issued on their -- as part of their

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1 uniform would be their -- their firearm for deadly
2 force.

3 Q And is there kind of -- from your
4 understanding and research as a training officer
5 and with all this experience in the advance academy,
6 in-service, patrol procedure instruction as well as
7 Force Science analytics, is there an understanding as
8 to what the federal minimal requirements under federal
9 law that would allow an officer to engage in lethal
10 use of force?

11 A Yes. As I understand State law, officers
12 can use deadly force to arrest somebody or keep
13 themselves from being harmed.

14 When it comes to the arrest part, what I
15 should say here is there are certain laws or certain
16 -- yeah, certain laws that if the suspect is -- there
17 are certain crimes that the -- the suspect is
18 creating, the State law -- the State statute
19 authorizes an officer to use deadly force to take that
20 person into custody with -- for those -- for
21 those crimes.

22 It also -- it -- it goes on to say, hey, if
23 somebody is committing a felony crime involving the
24 infliction of harm against a person, that that may be
25 also authorized to use deadly force against

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1 that person.

2 But -- and then when it comes down to it,
3 it says, anytime that the officer's personal safety is
4 in -- is in question, the officer would be authorized
5 to use deadly force.

6 Q Now, that -- that's a bare minimum. Does
7 the --

8 A Yes.

9 Q -- does the Portland Police Bureau train or
10 instruct that it's sufficient for their officers
11 and -- and their review or their training to just go
12 by the bare minimum when being trained on when they
13 can use or attempt to use lethal force?

14 A No. And then the -- the Portland Police
15 Bureau has its own policy on use of force and they
16 have its own policy on deadly use of force. When we
17 teach in our advanced academy, when we teach any of
18 our officers, we do not teach down to a standard of
19 the State minimum.

20 We -- we teach only to the policy because it
21 is a stricter standard. It is harder to get to that
22 place. And what it says is an officer may use deadly
23 force to protect themselves or others from what --
24 from what they reasonably believe to be an immediate
25 threat of death or serious physical injury.

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1 Q And that is not the minimal requirement?

2 A That's correct.

3 Q And is -- is it -- do you have an
4 understanding as to why the -- the Portland Police
5 Bureau would have -- or train its officers to kind of
6 create that heightened requirements to use that kind
7 of force versus what would be allowed by State law?

8 A I think part of it comes down to the
9 sanctity of life statement that we talked about
10 before. The Bureau understands that, hey, life is --
11 is -- is sacred. And we wouldn't -- we would try to
12 avoid taking a life. We will try to avoid using
13 deadly force when we didn't have to.

14 And if we have other means of resolving a
15 confrontation that's less than deadly force, even
16 though it may be authorized, if you could do something
17 else, well, why -- why would you not do that? So
18 the -- so, in that case, the Bureau is encouraging
19 officers or, in most cases, requiring them to look for
20 other avenues to resolve that confrontation before
21 resorting to deadly force.

22 Q And in that -- in that train of thought, is
23 it required for police officers to fill out
24 use-of-force reports when they have to use certain
25 amounts of force in their -- in the field?

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1 A Yes.

2 Q And are those use-of-force reports reviewed
3 for purposes of training and oversight to make sure
4 that it's consistent with the Bureau's policies and
5 practices for additional training?

6 A Yes.

7 Q If there's any lapses or if there's any --
8 well, let me rephrase. As an instructor, do you use
9 some scenarios that you see in real life or on the
10 street in your interactions with officers as models to
11 create scenario-based trainings to come up with
12 reasonable uses of force in those scenarios?

13 A Yes.

14 Q And -- and just give us maybe one or two
15 examples of what that -- what that would look like.

16 A We will take some real-life example
17 sometimes in the -- an officer-involved shooting.
18 Sometimes it could just be a significant-force event
19 and we return that into a -- into a scenario for
20 officers to go through, sometimes changing small
21 nuances of the way that call went, but making a -- a
22 scenario where an officer can go through and have to
23 make certain decisions along the way, certain decision
24 points so they could say, "Hey, I want to do this or I
25 want to do this."

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1 And they're trying to make -- they're --
2 they're trying to resolve the confrontation a -- a
3 certain way. Each officer is a little bit different.
4 We have different personalities. And so they may see
5 a scenario a different way.

6 And then what we let them do is we let the
7 actors in the scenario play off of that. And then
8 they -- they would be able to make a decision point
9 whether they need to use force or not use force.

10 If they did -- if they used too much force,
11 we would be able to correct that. If they didn't use
12 enough force and the situation got out of hand, then
13 we would be able to correct that and say, "Hey, look.
14 Look what some of these decisions could lead to."

15 Q And in that scenario-based training, do --
16 do the actors -- or in re-reviewing or analyzing after
17 incident reports, does that include incidences where
18 people are going through a mental health crisis or
19 heavily intoxicated as well?

20 A Yes.

21 Q So let's talk about -- and in those
22 scenarios -- actually, let me just ask one more
23 question, those scenarios.

24 In those scenarios and reviews, is it just
25 the critical decision points or is it important to

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1 talk from the beginning of the call to the end of the
2 call in those scenarios so that they can go through
3 each step of the call to figure out what would be
4 reasonable uses of force throughout the call?

5 A We try to look at it all the way from the
6 beginning, everything that the officer knew at
7 the time.

8 Q And let -- and let's talk about that
9 because -- what -- what is -- what are the principles
10 of action versus reaction when we're talking about
11 these scenarios and what an officer can and can't do?

12 A We teach the principle of action/reaction
13 and it -- it comes down to almost a scientific
14 equation. But the way we say it is, in a contest of
15 time, the initiator of an action, the person who moves
16 first, will have an advantage over the person
17 reacting.

18 And then we look at different instances of
19 that. If we play certain games, hand slapping games,
20 for instance, right? If one person's hand is -- one
21 person's job is to react to the other person trying to
22 slap their hands all of a sudden, that person that
23 gets to move first usually has an advantage.

24 We look at other real-life situations where
25 action/reaction comes into play. For instance,

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1 stoplights. If we're driving down the street and we
2 see a stoplight change from green to yellow, that's an
3 indication that our right of way is being ended and
4 that we need to stop our car.

5 However, traffic engineers also, they build
6 in a -- a time buffer, if you will, because they know
7 that it will take almost a second and a half as a
8 person is driving a car to realize that that light has
9 changed from green to yellow and for them to actually
10 make the decision to stop and to actually start to
11 move their -- their foot from the gas pedal to the
12 brake.

13 It takes almost a second and a half just to
14 get that initial movement and then whatever time it
15 takes for -- to actually stop the car. And that
16 depends a lot on how fast the car is traveling. But
17 just the reaction time, itself, is about a second and
18 a half.

19 And then we take that down to some more
20 police-specific times and we talk -- we talk about if
21 a person -- how long does it take an officer to
22 actually draw a gun out of their holster?

23 But then also, how long does it take an
24 officer to actually react to a threat and make the
25 decision to even draw the gun out of the holster or

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1 make a decision to even pull the trigger? And there
2 is some -- there is a time lag there.

3 And what we've found through some of these
4 research exercises is that it takes about a quarter of
5 a second for the human mind, even if an officer only
6 has to react to one stimulus and they see something --
7 you know, they're -- they're waiting for one specific
8 change, it'll take them about a quarter second to
9 actually decide to move and then about another 18th --
10 18 hundredths of a second to actually move.

11 And if that's pulling a trigger when they
12 see a light come on, it'll take that quarter second to
13 make the decision and then a little bit longer to
14 actually pull the trigger.

15 Q So in the scenario of dealing with someone
16 who poses a threat, whether it's involving less-lethal
17 harm or lethal harm, what are the advantages of the
18 person who's in confrontation with the officer?

19 A They know when they're going to make that
20 move -- first move. The officer has to wait. They
21 know what their capabilities are. They know -- in the
22 case if they have a weapon concealed, they know that
23 they have it where the officer may not.

24 And then they -- then, again, just by --
25 just because of the reaction time for any decision to

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1 be made, at least a quarter second ahead in the
2 thought process.

3 They don't have a reactionary time that
4 they're -- they're bound by. When they start to move,
5 that's when the time starts. And then anything that
6 happens after that is -- is a reaction to what that
7 first move is.

8 Q And in your scenario-based trainings or
9 under controlled settings, is it fair to say that
10 those controlled settings, while trying to be
11 real-life scenarios, are less stressful than actual
12 real-life scenarios out on the street?

13 A Yes.

14 Q And have -- have you seen or observed any
15 experience regarding what impact, if any, the stress
16 of a real-life scenario may have on that reaction to
17 an incident that -- that -- that is occurring?

18 A Yes. What we find is the stress seems to
19 slow everybody's reaction time down. It makes -- it
20 makes decision-making a lot harder, right?

21 When we're under stress, things are
22 happening fast. Things seem to be moving so fast and
23 then, all of a sudden, we come to these decision
24 points, do I use force? Do I not use force?

25 Do I use this type of force versus that type

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1 of force? All those things with stress, it becomes
2 more difficult to make those decisions. And so then
3 the officer's reaction time slows way down and it
4 takes way more time for them to actually react to
5 what's happening to them.

6 Q And in -- in -- and, again, following that
7 train of thought, the principles of action versus
8 reaction, are there other factors that lead or can be
9 considered such as proximity between the actors in an
10 action versus reaction?

11 A Yes. You know, distance -- when -- when we
12 talk about action and reaction, we also talk about
13 distance, time and options. And, generally speaking,
14 the more distance we have from a situation, the more
15 time we have to react to it.

16 And the more time we have to react to it,
17 now, our brains get to work a little bit longer and we
18 get to come up with more options. If we don't have
19 that time, our options are limited. The brain can
20 only handle so much input and come up with a decision
21 in a -- in a certain amount of time.

22 If we can, what we say generally is if we
23 are not already entangled in the confrontation,
24 distance is our friend. We would like to get more
25 distance if we can before it turns into a

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1 confrontation, before we're actually, say, fighting
2 with somebody if -- it at all possible.

3 If that's not possible, well, now, you're in
4 it; and, now, you're already in the reactionary mode.
5 So, again, if -- if we see it coming into a situation
6 and we can hold off and keep more distance, that's to
7 our advantage 'cause, now, we have more time to make
8 decisions and -- and have more options. Once we're
9 already entangled with somebody, that becomes a lot
10 more difficult.

11 Q And going back to the issues regarding life
12 and the sanctity of life, persons who are not law
13 enforcement officers don't necessarily have a duty to
14 protect or help others; is that right?

15 A That's correct.

16 Q What about police officers? When they see
17 others in danger, are they allowed to run away or are
18 they -- is it kind of their responsibility to kind of
19 throw themselves in the middle of that danger
20 to protect?

21 A Well, the policy states that officers shall
22 actually help manage conflict when they see it. It --
23 you get the -- this call, you will go to it.

24 Now, it says that if you -- you know,
25 officers, when they're managing conflict, the

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1 requirement is that they have to make reasonable
2 decisions to actually interject themselves into there.

3 And they have to -- they have to calculate
4 whether, you know, they can do so safely and
5 effectively. But, again, that's based on what the
6 officer is perceiving at that time as they get there.

7 And if they perceive that, hey, I can make a
8 positive difference safely and I can actually fix this
9 situation without letting it spiral more out of
10 control by an action, then they're -- they -- they're
11 given the go ahead to make that action and -- and, in
12 many cases, encouraged because you're there.

13 If you all of a sudden say, "Oh, well, this
14 could turn into a confrontation. I'm just going to
15 step back and let something else happen," and it turns
16 to the worse, they -- they've kind of lost their
17 window of opportunity to make a positive difference.

18 But, again, that's still up to the officer
19 to -- to determine if they thought they could make
20 that positive difference in a safe manner or not. And
21 understanding that they don't know the future, right?
22 They could have all the right intentions.

23 And if everything that they saw in that
24 situation told them, yeah, I can make a positive
25 difference safely and effectively right now, and they

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1 get into it and then it turns worse and they -- they
2 could not have anticipated maybe that situation
3 turning the way it is -- or the way it does and it
4 just gets, you know, significantly worse.

5 Q Let's talk about knives. In your
6 experience, how -- how dangerous can knives be in a
7 confrontation with officers out on the street?

8 A Knives can be extremely dangerous. Knives
9 are just as deadly as guns in the right proximity.
10 Obviously, if we're standing across the street from
11 somebody, the knife is not as dangerous. That's why
12 the gun becomes more dangerous, because of range.

13 However, up close, person-to-person, a knife
14 is just as deadly. I think we saw that several years
15 ago on the MAX platform and we had three people
16 stabbed in a matter of seconds, maybe one or two
17 seconds, and two of those people died. One of those
18 person -- one of those people were, thankfully, able
19 to be saved.

20 But we see that, you know, a person with a
21 knife can be very, very dangerous, very, very deadly
22 very, very quickly, just as fast as a person with a
23 gun.

24 Q And turning our attention of sorts to
25 knives -- and maybe -- maybe I'll just bring a photo

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1 of it to see if you recognize this type of knife.

2 Have you -- have you seen this type of knife in your
3 experience as a training officer?

4 A Yes.

5 Q And -- and what -- how do you recognize
6 that knife?

7 A That knife is one that -- it's called a
8 Benchmade SOCP dagger. It is actually marketed to law
9 enforcement and the military as a backup-type weapon.

10 Q And -- and -- and for what reason or what
11 purpose, at -- at least in -- in law enforcement,
12 would it have as -- as a backup piece or weapon?

13 A It is typically carried as a last
14 resort-type weapon, especially if an officer is unable
15 to -- if -- if an officer is facing a situation where
16 they're -- they're in fear for their life and they
17 believe that death or serious physical injury is
18 imminent to them and they are not able to use their
19 primary means of deadly force, which would be their
20 pistol.

21 In some cases -- there's been numerous cases
22 across the nation where a suspect has tried to take an
23 officer's gun. An officer was wrestling with a --
24 with a suspect and the suspect tries to grab the gun
25 while they're -- while they're wrestling, that sort of

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1 thing.

2 What a knife would allow an officer to do
3 is still protect their gun with one hand, but draw
4 with the other -- their other hand a -- a secondary
5 weapon, such as a knife like that, and still start
6 to defend themselves.

7 Q So let's --let's break that down a little
8 bit. So, one, what are the dangers -- if two persons
9 are in close proximity, what are the dangers of --
10 why -- why is an officer inclined to protect their gun
11 as opposed to try to use it if a -- if a person's
12 trying to go for their weapon?

13 A If an officer is fighting for their weapon,
14 the safest place for it to be is in the holster where
15 it has certain retention devices to try to hold that
16 gun in the -- in -- in the holster.

17 If an officer decides to present that gun in
18 close quarters, it's -- now, it's not retained. It
19 could be fired, but it's also out and the person's so
20 close that they can actually grab the gun.

21 And then if that person were able to disarm
22 the officer, the officer would be, you know, in a much
23 worse position where, now, the suspect has their gun.
24 They don't have a way to defend themselves with their
25 own gun and they could be risking (indiscernible).

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1 Q And in the scenario you just outlined, is
2 the officer the only person in danger if the firearm
3 is retrieved from the officer or is there any other
4 persons in danger if a suspect manages to take that
5 firearm?

6 A I believe that almost anybody could be in
7 danger at that point if that person -- if the suspect
8 took the officer's firearm.

9 Officer obviously would be in danger of --
10 of that, but then the suspect probably is not --
11 suspects don't typically stick around after something
12 like that. Now, they're on the loose in the public
13 with a firearm that they could use against anybody.

14 Q So in that scenario then, if they're in
15 close proximity, it's -- it's -- one aspect of
16 training is to suggest that protect the firearm by
17 keeping the firearm holstered as opposed to trying to
18 draw it?

19 A Yes.

20 Q And when an officer has their firearm, do
21 they keep it on their -- their primary hand or their
22 off hand? Is -- like, if I'm left handed, would I
23 keep my firearm on my left side or my right side?

24 A You would carry -- carry it on your left
25 side.

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1 Q Okay. And -- and just out of curiosity, why
2 is that?

3 A Because officers fire their -- fire their
4 firearm with their primary hand. It's just like
5 writing with, you know, a pen and pencil. You use
6 your primary hand to do that typically.

7 You know, the dexterity is typically greater
8 with that hand. So the way that the holsters are --
9 are designed, it's for that strong-hand side to draw
10 the firearm and then present it.

11 Q So if an officer is trying to protect the
12 firearm from being unholstered, they're using their
13 primary hand typically to protect it?

14 A That's correct.

15 Q And if they're trying to use their primary
16 hand to keep it holstered, what are the mechanisms
17 inside a holster that assist them in keeping it
18 holstered?

19 A There's a hood that comes over the top of
20 the holster and there's actually an internal device.
21 They have to actually press a button with their thumb
22 to -- to dislodge the -- the firearm from the holster.

23 Q Okay. So if an officer is trying to keep
24 their firearm holstered and keep it in the holster
25 with their primary hand, does that -- what kind of

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1 advantages or disadvantages does that place them in if
2 they're in close proximity with the suspect using only
3 their off hand?

4 A It actually makes it a lot more difficult to
5 defend yourself with only one hand because one hand is
6 now tied up keeping your gun in your holster. And
7 when we talk -- when I'm talking about close proximity
8 that you don't want to bring a gun out into, it's when
9 you're actually wrestling around with the person on
10 the ground where they -- you know, they could easily
11 just grab it from you.

12 Making that distance, maybe it become --
13 making -- maybe making a little bit of distance might
14 actually maybe make that gun -- or firearm an option
15 to draw at that point. But when we're talking close
16 proximity, we're actually physically in contact with
17 the person.

18 Q And so what role, if --

19 A Okay.

20 Q That's okay. And so what role then, if any,
21 does then this knife potentially play if an officer
22 chooses to have it? Would it be positioned for their
23 primary hand or for their off hand?

24 A We recommend that they position it for their
25 off hand, their -- their non-primary hand. That way,

Examination of Josh Howery

1 they could actually retrieve it, use it to defend
2 themselves, especially if they're fighting for their
3 gun, which is essentially, at that point, fighting for
4 their life.

5 Q Okay. So I'm going to show you a couple of
6 photos from the scene. Now, before I ask you these
7 questions, Officer Howery, we had a brief conversation
8 yesterday outlining that I'd like you to testify to
9 the grand jury today; is that accurate?

10 A Yes, that's correct.

11 Q But you personally were not involved in
12 your capacity as a trainings officer, a uniformed
13 officer, former SERT officer in this investigation;
14 is that accurate?

15 A That's correct.

16 Q And have -- have you reviewed any reports or
17 -- or any statements or witness statements regarding
18 this incident?

19 A No, never.

20 Q Okay. So I'm going to turn your attention
21 to the layout of this residence. So if I were to tell
22 you you enter in through this front door and then you
23 take a right in the second photo.

24 A Okay.

25 Q Then as you walk in, you're now walking into

Examination of Josh Howery

1 the dwelling.

2 A Okay.

3 Q And as you walk into the dwelling -- excuse
4 me -- this is the same couch here. This is the
5 bedroom belonging to the resident of this dwelling.

6 A Okay.

7 Q And as you can see, this is it. It's the
8 bedroom and this living space is essentially the
9 square footage of this residence.

10 So, first, is it fair to say, if I'm telling
11 you that this is essentially the distance and the size
12 of this normal home, but this is a separate dwelling,
13 is it fair to say that that is a small amount of
14 square footage for this dwelling?

15 A Yes.

16 Q Now, if there's -- if there was an
17 altercation between Officer Vosu and the person who
18 ultimately now is deceased, Mr. Gladen, that carried
19 into this bedroom and I told you that in this bedroom
20 this doorway was the only way to get out, what
21 problems, if any, would that create for both Officer
22 Vosu and Mr. Gladen?

23 A Well, as far as a fight, that's not very
24 much room to work. In a small, confined space like
25 that, the officer is super limited in what tools

Examination of Josh Howery

1 they're going to be able to be effective with. You
2 know, the tools that they carry on their belt,
3 distance is their friend there and it helps them be
4 more effective.

5 When you're in a confined space, even
6 getting some of those out is going to be very, very
7 difficult. Moving around to get correct positioning
8 to -- like, in the middle of a fight so that you can
9 get into a -- a position of advantage where you can
10 control somebody is much, much harder.

11 A lot of times, we train on open space in a
12 bathroom. But putting it into a very small -- and we
13 do scenarios in some of the smaller houses. Now,
14 people are getting banged up against walls and
15 against furniture.

16 There's a lot more stuff that becomes
17 hazardous while you're trying to control somebody. It
18 just makes everything (indiscernible).

19 Q And then as we get closer to the room, we
20 are now -- this is the -- the doorway you see right
21 here where the cursor is.

22 A Mm-hmm.

23 Q Now, we're zoomed in a little bit where the
24 cursor is. This Taser here, do you -- do you
25 recognize that device?

Examination of Josh Howery

1 A Yes.

2 Q And -- and -- and is that one of the Tasers
3 that you outlined as one of the less-lethal forms of
4 use of force?

5 A Yes.

6 Q If I told you that this is where the
7 decedent -- ultimately decedent fell and that casings
8 were found here -- first of all, if casings were found
9 here, just from your training and experience as an
10 officer, what would that suggest to you if
11 Officer Vosu is the only person who fired a shot?

12 A It would suggest that the officer was
13 standing somewhere along that back wall, what we're
14 looking at there --

15 Q Mm-hmm.

16 A -- firing back this way. And the reason why
17 is because there -- the pistols that we carry, when
18 you fire a round, the shell ejects to the right.

19 Q And when going through -- again, now, we're
20 out of the living space, but inside this bedroom, what
21 concerns, if any, do you note from Officer Vosu's
22 perspective, Mr. Gladen, the decedent's, perspective
23 as far as proximity as it relates to options of force?

24 A From Officer Vosu's standpoint, you know,
25 that room is not big enough to get really any good

Examination of Josh Howery

1 distance to get very many options. You're going to be
2 hands on with somebody or just barely away from them
3 at -- at the maximum distance you can be in that room.

4 Q And if -- if -- going back to the knife I
5 showed you in question, if, hypothetically, there was
6 a knife found in this location or if there was a knife
7 in Mr. Gladen's possession around the location of
8 where that Taser is or nearby, what threat or danger
9 did that pose to Officer Vosu if he was in that corner
10 of that bedroom?

11 A That's a significant threat because the
12 distance is just so small there that a -- a lunge at
13 that point, maybe one to two steps at most, would
14 cover any distance in that room where that knife is
15 effective on -- on another person.

16 Q And just as another factor, or in this
17 scenario I'm presenting for you, are there any other
18 dangers or concerns if, where that Taser was found and
19 where the casings were found, the resident of that
20 apartment was also inside the living space?

21 A Yes, very much so. At that point, if
22 Officer Vosu is back against the wall there, he has no
23 avenue of escape. He doesn't have a chance to, like,
24 retreat himself.

25 On the other hand, if the resident is in

Examination of Josh Howery

1 there and he's -- becomes in danger from the suspect
2 himself, Officer Vosu is behind the curve if that guy
3 turns to attack the resident (indiscernible).

4 And, now, we have potential backdrop issues
5 if, you know, the resident is having deadly force used
6 against him. Officer Vosu's options to intervene
7 using deadly force of his own may be limited because
8 the resident may be in the backdrop to potentially get
9 hit by -- by fire.

10 Or Officer Vosu may not have enough time to
11 react before the resident is actually attacked or
12 maybe fatally stabbed or seriously injured
13 (indiscernible). And, you know, the goal would be to
14 intervene before those things happen, not try to fix
15 them after it happens.

16 Q And in this scenario, you saw the Taser
17 laying on the ground. If I were to tell you that,
18 prior to shots being fired, a Taser was deployed,
19 what, if anything, would that factor into the
20 decision-making of an officer facing that situation in
21 that corner?

22 A It would -- it would tell me that the
23 officer was trying to use less force than they were --
24 were authorized. They were trying to resolve the
25 confrontation with a lesser amount of force.

Examination of Josh Howery

1 Q And does that amplify or increase the
2 threat, given that such a less-lethal use of force did
3 not persuade or dissuade the person from acting
4 further?

5 A Yes. It shows that, you know, they --
6 they've pretty much gone up to the -- we've exhausted
7 our options at that point. We tried to do something
8 that we thought would be effective or else we wouldn't
9 have tried it if we didn't think it would be
10 effective.

11 If it proved to not be effective, the
12 officer is less -- left with even less options at that
13 point. And then (indiscernible) probably -- well, in
14 this case, it appears they had to resort to deadly
15 force.

16 Q Okay. So let's talk about that. I hope I
17 didn't -- I hope I didn't press that button. If -- if
18 that is the case, what is the goal of the officer
19 firing the shot? Is it -- is the shot -- is the
20 intent of the officer to kill the person when they're
21 firing their shots?

22 A No. The -- the intent of the officer is to
23 use deadly force to end the -- the threat, the
24 immediate threat of death or serious physical injury,
25 whether it be to the officer or whether it be to

Examination of Josh Howery

1 another person. But it is to stop that threat from
2 happening.

3 It's called deadly force because there is
4 the potential that the person may have -- you know,
5 receive serious physical injury or death. But the
6 intent is not to kill the person. The intent is to
7 use that amount of force to stop them from being --
8 being a threat.

9 Q And in the scenario -- and as you saw the
10 layout of the home, did the -- did the person, or now
11 decedent, have any options that Officer Vosu did
12 not have?

13 A It appeared to me that if the --
14 Officer Vosu was deep in the room and the other person
15 was by the door, that person would have the
16 opportunity to (indiscernible) leave if they wanted
17 to. But they -- they chose a different path.

18 They acted. They made a conscious decision
19 to stay there and continue to be -- to threaten the
20 officer or somebody else. But they didn't take a -- a
21 clear path of escape that -- if you're standing in the
22 doorway, you can simply turn around and leave.

23 Q Is another option that the person would have
24 also is to comply with the orders and simply desist on
25 whatever behavior has gotten them to that point?

Examination of Josh Howery

1 A Absolutely.

2 Q Now, in the scenarios and trainings that
3 you have, obviously, if someone is in some sort of
4 mental health crisis or severe intoxication or -- or
5 a combination, is that something that the officer or
6 resident of a -- a dwelling can control in determining
7 the actions of a person who's undergoing that crisis
8 or intoxication?

9 A No.

10 Q And so does that still limit then the
11 options of Officer Vosu or another officer in that
12 situation?

13 A I'm sorry?

14 Q Yeah, let me rephrase.

15 A Yeah, you can just --

16 Q Can -- can -- can Officer Vosu --

17 A -- (indiscernible).

18 Q -- control the actions of someone who may be
19 under crisis or heavily intoxicated or a combination
20 of that?

21 A Right. No, he can't control what that
22 person does.

23 Q And so does that go, again, back to the kind
24 of principles of action versus reaction that the
25 officers are trained about in these scenarios?

Examination of Josh Howery

1 A Yes. The officer, at that point, if --
2 facing a -- an immediate threat, which is, you know,
3 something is happening to them right then, then the
4 control of the other person is lost and they have to
5 -- they have to understand that they -- they may need
6 to be taking action at this point.

7 Q One of the questions we had earlier -- and
8 it's -- it's not an uncommon question -- is, why can't
9 an -- why does an officer fire multiple shots; or, in
10 the alternative, why can't an officer fire in a
11 direction that may cause potentially less lethality,
12 such as a foot, a leg, as we see on TV from time
13 to time?

14 A Officers -- our officers are trained to use
15 deadly force to stop that threat. That -- many times,
16 bullets, unlike in the movies and on TV, they do not
17 stop a person with one shot. They do not knock people
18 over or back several feet or anything else like that.
19 It puts a hole in a person.

20 In -- in many cases, people who have been
21 show, they don't even know they've been shot. They
22 continue on with their actions. And so it may take
23 multiple shots to actually get the result that the
24 officer is looking for, that threat being -- stopping
25 to be a threat.

Examination of Josh Howery

1 We train our officers to constantly evaluate
2 while they're shooting, even in strings of fire,
3 right, where there's a threat, they start to fire.
4 They may continue to fire, but as that's happening,
5 they're still reevaluating the situation and they
6 are -- they're taking in information.

7 And as things change, their actions may also
8 change. Their decisions may be to, "I can stop -- I
9 need to stop firing. I don't need to fire anymore.
10 This threat is now -- now not a threat."

11 Q Is there a set amount of shots to fire or
12 times to pull the trigger that they're trained to do
13 in these various situations?

14 A No. In the firearms training, they're
15 trained to fire sometimes one shot, sometimes five
16 shots, you know, just be able to control the gun.
17 But, again, when it comes to control tactics or
18 control procedures, scenarios and things, we do
19 training where there are some deadly-force situations.

20 And they, again, the expectation is that if
21 there's a -- if there -- that deadly force threat that
22 they need to stop, they will maybe continue to fire up
23 until that's -- that's stopped. And there's not a set
24 number that they're trained on.

25 Q And, again, these are controlled settings

Examination of Josh Howery

1 potentially for the training scenarios or in the -- or
2 on the range --

3 A Yes.

4 Q -- but how does the stress of a real-life
5 situation factor in or impact the ability of ones to
6 shoot when trying to stop a threat?

7 A Again, stress makes anything more difficult
8 and it makes everything slower. So officers' reaction
9 is going to be slower, but their accuracy also will be
10 worse.

11 It will be harder to maintain everything
12 that the firearms program has taught them as far as
13 how to accurately hit a target. In times of stress,
14 that becomes much more difficult even at close range.

15 Q And in your training and experience on
16 reviewing these types of cases, whether there is
17 someone who, unfortunately, dies or in other cases
18 where someone does not die, in -- in your experience,
19 have you seen officers in the field under these highly
20 stressful situations miss their shots when trying to
21 stop a threat?

22 A Yes, even at close range because of stress.
23 And then, again, the -- the need to act quickly makes
24 the -- makes the accuracy much more difficult.

25 MR. HANNON: Do the grand jurors have any

Examination of Josh Howery

1 questions for Officer Howery?

2 A GRAND JUROR: I do.

3 MR. HANNON: Yeah.

4 A GRAND JUROR: Is a knife a standard-issued
5 item to Portland police officers?

6 THE WITNESS: We do not issue that. Any
7 knives that are carried by officers would be
8 individually purchased.

9 A GRAND JUROR: If a police officer in
10 Portland chose to carry a knife, would there be a
11 certain location that they would need to keep that
12 knife or is that up to the officer?

13 THE WITNESS: That's up to the officer.
14 We -- I had recommended that if you decided to carry a
15 knife, you would carry it on your support side or a --
16 a position that you could access it with your
17 support hand.

18 BY MR. HANNON:

19 Q Which one's your support hand?

20 A That's your non-gun hand, just for the --
21 the reasons that I -- I talked about earlier.

22 A GRAND JUROR: Can you talk a little bit
23 about the training that police officers have in using
24 a Taser?

25 THE WITNESS: Yeah, I can.

Examination of Josh Howery

1 A GRAND JUROR: Just -- just briefly, is --
2 is it -- is it intense? Is it just part of their
3 basic training how to use a Taser?

4 THE WITNESS: It is. So they're taught how
5 the Taser works. They're taught when you're allowed
6 to use the Taser as far as a less-lethal-force option.
7 You know, and, typically, that boils down to if the
8 officer is -- perceives active aggression on the part
9 of the suspect, then they may be authorized to use the
10 Taser.

11 They talk about how effective it can be or
12 might not be due to other factors. Clothing seems to
13 be a big one. We're talking about little darts that
14 go into the skin and if a person is wearing
15 significant amounts of clothing, the Taser may not be
16 effective.

17 If you're too close to the Taser or too
18 close to the suspect, those darts come out at an
19 angle. The further away you are, the bigger the
20 angle. And then what happens is it causes muscular
21 disruption in between those two points of contact.

22 And the closer those two darts are together,
23 the less disruption that you're going to get because
24 it's not as affecting -- it's not affecting as many
25 muscle groups. And so then, again, is not going to be

Examination of Josh Howery

1 as effective. And then, in some cases, it comes down
2 to it's -- it can hurt. It can cause pain, but that
3 doesn't affect everybody.

4 And so they're -- they're aware of that.
5 They're aware of the limitations of drawing the Taser
6 and deploying it effectively. And then they make
7 their decision whether that's the right tool for the
8 right time.

9 A GRAND JUROR: And one last question about
10 the Taser.

11 MR. HANNON: Well, and let me interrupt.

12 A GRAND JUROR: Okay.

13 MR. HANNON: No such thing as last question.

14 A GRAND JUROR: Okay.

15 MR. HANNON: You feel free to ask any
16 questions that you want.

17 A GRAND JUROR: Okay.

18 MR. HANNON: I mean, if -- if it's
19 objectionable, I'll -- I'll let you know. But the --
20 that's why he's here. So --

21 A GRAND JUROR: Okay.

22 MR. HANNON: -- feel free to ask any
23 question you want regarding trainings and tactics.

24 A GRAND JUROR: In this -- I -- I don't know
25 anything about Tasers. Do they have to be tested

Examination of Josh Howery

1 occasionally? I mean, a -- a Taser -- I'm not sure
2 a -- a Taser work -- works on a charge --

3 THE WITNESS: Mm-hmm.

4 A GRAND JUROR: -- so it electrocutes
5 someone, but does a Taser have to be tested
6 occasionally, changed out, recharged? How does it
7 operate?

8 THE WITNESS: It has a battery.

9 A GRAND JUROR: Okay.

10 THE WITNESS: And so the battery packs, they
11 last, actually, quite a -- quite a long time. I mean,
12 we're talking months and months of (indiscernible).
13 Officers typically test the Taser at the beginning
14 of shift.

15 And they do what's called a spark test where
16 you press the button on the side and just make sure
17 that the -- you know, all the internals are working
18 and it actually works. And then they go on a patrol.
19 So they do test it.

20 A GRAND JUROR: And you mentioned that an
21 officer tests that before he goes out on patrol. It's
22 like a -- a button that you push and it turns green
23 and the Taser is good or --

24 THE WITNESS: It actually sparks. And so it
25 goes -- you know, you can see the electricity go

Examination of Josh Howery

1 between the arcs at the front of it.

2 What it doesn't do when you do -- when you
3 press that button, it doesn't actually shoot the
4 cartridges out because then you would have to throw
5 that cartridge away and put a new one in.

6 BY MR. HANNON:

7 Q There -- let's see if I can get a good photo
8 of the Taser. (Indiscernible) I think I have a --
9 a -- a helpful follow-up question to that. If an
10 officer fires the Taser and wants to cycle it through
11 again --

12 A Mm-hmm.

13 Q -- so let's say the prongs go out --

14 A Yes.

15 Q -- the prongs are successful --

16 A Uh-huh.

17 Q -- it has a -- a -- a -- a less-lethal
18 impact that -- to the desired effect --

19 A Mm-hmm.

20 Q -- but then the person recovers, do you have
21 to do anything to try to fire or cycle through that
22 Taser again to have the, again, desired effect?

23 A So it will automatically go for five
24 seconds. If they press the side button, it will
25 actually activate that again.

Examination of Josh Howery

1 Q Okay. And that side button, is that this
2 button right here, this big kind of black button on
3 the side --

4 A Yes.

5 Q -- of it? And does that black side button
6 have any other functions besides allowing the Taser to
7 go again?

8 A Yes. If you press that button just
9 momentarily, it will cycle to the next cartridge.
10 The -- the Tasers we carry have two cartridges, so
11 you would be able to fire the second cartridge.

12 Q Mm-hmm.

13 A The other thing is if there was no cartridge
14 in the Taser or both were spent and you just press
15 the -- and hold that side button, it sparks at the
16 front of the Taser, itself, and you would be able to
17 put it up against a person and do what they call a dry
18 stun.

19 Q Hmm.

20 A At that point, because the probes -- you
21 know, the -- the points of contact are right next to
22 each other, it is merely a painful point at
23 that point.

24 Q And given -- so, obviously, when you hit
25 that button on the side, it can have -- depending on

Examination of Josh Howery

1 how you press it, hard or soft, and the -- well, let
2 me ask you this: Is there a different sort of
3 depression or pressure you need to put on the button
4 for one of those options to occur?

5 A It's about the same pressure, but it has to
6 do with how long you hold it down.

7 Q So if someone's in a highly stressful
8 situation and they don't press it the right way or
9 they press it too quickly, can that impact the desired
10 effect and -- and render the Taser not as useful as
11 the person wanted it to be?

12 A Absolutely.

13 MR. HANNON: Any other questions? May this
14 witness be excused?

15 A GRAND JUROR: Yes.

16 MR. HANNON: Okay.

17 THE WITNESS: Thank you.

18 A GRAND JUROR: Thank you.

19 A GRAND JUROR: Have a good day.

20 MR. HANNON: And why don't we go ahead and
21 take a five-minute restroom break or stretch
22 your legs.

23 (Recess taken, 2:42 p.m. - 2:51 p.m.)

24 MR. HANNON: We are back on the record and
25 calling our next witness, Officer Vosu.

Examination of Consider Vosu

1 A I underwent training in regard to law in
2 regards to defense tactics, control tactics,
3 deescalation, crisis intervention. I underwent
4 training in mental health and recognizing certain
5 aspects of it. I underwent additional training in
6 regards to drugs, their usage -- uses, identifying
7 them.

8 Q Okay. And was that all part of the basic
9 Portland Police Bureau academy?

10 A Basic and also advanced. I also took the
11 advanced program (indiscernible).

12 Q Okay. And how long was the basic academy?

13 A Four months.

14 Q And where -- where was that academy at?

15 A That's in Salem, Oregon.

16 Q And where was the advanced academy?

17 A Here in Portland at the training facility
18 (indiscernible).

19 Q And how long was that?

20 A A couple months.

21 Q And in addition to the basic and advanced
22 academy, was there any sort of field training
23 experience or FTOs that you were assigned to when you
24 were first hired with the Portland Police Bureau?

25 A Yes. During my training period, I began as

Examination of Consider Vosu

1 a Phase 0, which is an entry-level phase. And I
2 progressed through a number of different coaches as
3 well (indiscernible) officers up until my fifth and
4 final phase of probation.

5 Q And -- and when did you finalize probation?

6 A That would be July 26th of last year.

7 Q And -- and not to draw attention to your
8 age, but you are older, is it fair to say, for the
9 officers coming to the Portland basic -- or to basic
10 academy and advanced academy?

11 A Yeah, that's correct. I'm -- I'm -- I'm not
12 a young guy.

13 Q Okay.

14 A I was the third from the eldest at basic
15 training. Not the oldest guy, but close to it.

16 Q And just by way of background, what other
17 jobs or professions have you had in your life prior to
18 becoming a Portland police officer?

19 A I've done a multitude of things. I used to
20 live in New York City where I worked at Metropolitan
21 Museum of Art as a digital imaging specialist for five
22 years. I have taught at School of Digital Arts when I
23 was in New York as well.

24 I was a stakeholder in a media company
25 overseas in Armenia where I produced content, hired

Examination of Consider Vosu

1 photographers and writers, creative staff to create
2 fashion content for women's glasses in Europe before
3 coming to New York.

4 Q And what -- what prompted to you become a --
5 well, did you come to Portland knowing you were going
6 to try to be a Portland police officer?

7 A No, I did not.

8 Q Okay. When did you -- what prompted you to
9 become a Portland police officer?

10 A After leaving Armenia, my ex took a job at
11 Portland Community College and I have sold my stake in
12 the media company (indiscernible). And I was 40 years
13 old. I thought, what do I want to do next?

14 I decided I'm doing what I wanted to do
15 since I was a seven-year-old boy. I followed my -- I
16 followed my dream of becoming a police officer.

17 Q Mm-hmm. And what about being a police
18 officer drew you to it since childhood?

19 A I wanted to help people. I wanted affect a
20 tangible good; to do something that, at the end of the
21 day, I could recognize that I have done some good
22 work, that I've -- I've made a difference.

23 Q Now, you summarized -- well, let me ask you
24 this real quick as well. What is -- what is your
25 educational background?

Examination of Consider Vosu

1 A I have a bachelor of fine arts in studio art
2 and a master of arts in photography art media.

3 Q Okay. Now, prior to coming here today --
4 you are here voluntarily; is that accurate?

5 A That's correct.

6 Q You do have your attorney outside for advice
7 or to consult if you needed to; is that accurate?

8 A Yes, it is.

9 Q Okay. So going back to your training, you
10 said you were the third oldest in your class.

11 A In the basic academy.

12 Q In the basic academy. Did you ever have any
13 training in what's called CIT, which is critical
14 incident training?

15 A Yes.

16 Q And -- and what is critical incident
17 training?

18 A Critical incident training is recognizing
19 scenarios that are volatile; recognizing aspects of
20 those scenarios and attempting to deescalate those
21 scenarios; attempting to get the assets in play to
22 come to the best, safest conclusion for those -- for
23 those scenarios.

24 Q And -- and what does that -- what can that
25 entail in trying to defuse those situations or

Examination of Consider Vosu

1 scenarios?

2 A That would be speaking calmly. That would
3 be addressing the person, perhaps by their name, their
4 first name, if -- if that's known. That would be
5 recognizing different components that might be
6 informing the person's behavior, asking them simple
7 questions, "What's going on? Why are you here?
8 What's happening with you?" trying to just build a
9 rapport to start a conversation.

10 Q And in -- as part of that training, is there
11 any conversations or thought processes related to the
12 impact having an overwhelming amount of law
13 enforcement present versus a smaller or reduced amount
14 of law enforcement present that can impact any
15 particular scenario?

16 A Sure. Depending on the scenario, sometimes
17 people respond better to a -- to a smaller group of
18 folks. I mean, if -- it could be overwhelming. If
19 there's a dozen police officers that are there,
20 someone might respond differently than if they're
21 speaking with one or two officers.

22 Q And what is the ECIT?

23 A That -- I am not an EC-trained --
24 ECIT-trained officer, but that is an officer who has
25 taken additional coursework, another 40 hours worth of

Examination of Consider Vosu

1 coursework, in helping to deescalate these -- these
2 kind of scenarios.

3 Q And are -- and people who take those are
4 basically people who try to specialize in that kind of
5 scenario-based training?

6 A Correct.

7 Q Whereas your CIT training is something that
8 would be related to any police officer who may find
9 themselves in this situation?

10 A That's correct.

11 Q So turning your attention to this particular
12 incident that we're here in front of the grand jury,
13 how did it start? What was the first thing that
14 you -- drew your attention to this call?

15 A This was a call in my district. I was 953
16 for the day.

17 Q What is 953?

18 A 953 is the area kind of right around
19 East Precinct, about a mile, mile-and-a-half radius
20 from East Precinct. So it was a call that came up on
21 my in-car computer terminal. So it seemed like a --
22 it was a typical call of someone who is trespassing,
23 transient that didn't want to move along. We get
24 these calls all day long.

25 Q Yeah. Is that -- that was -- that was going

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1 to be my next question. In -- in inner East or
2 East -- around East Precinct, is there a -- a
3 transient -- are there numerous transient issues that
4 officers have to respond to at either businesses or
5 residences?

6 A Absolutely.

7 Q And what -- what is the typical response
8 when you happen to respond to those transient calls?
9 How will it normally play out?

10 A Normally, what plays out is you get a call
11 from a -- from a resident or a business owner that
12 a transient is on their property, premises. 20 or
13 30 percent of the time, they're gone by the time we
14 get there. The person will call and say, "Hey, I'm
15 calling the police. If you don't get out of here,
16 I'm going to call the police," and the person leaves.

17 Typically, after that, I guess the remaining
18 percentage is an officer would arrive and say, as I
19 often say, "Hey, you have to go. You can be anyplace
20 else. You just can't be here." And --

21 Q And -- and how --

22 A -- they move along.

23 Q Yeah, sorry to interrupt you. How
24 successful is that approach when -- well, let me ask
25 you this. Strike that last question.

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1 When -- in those other scenarios where that
2 occurs, unlike this particular incident, would you
3 respond to those move along or -- or unwanted persons
4 by yourself?

5 A Yes.

6 Q And how would you describe the kind of level
7 of presence or force or command that you would
8 approach those scenarios?

9 A Just being a physical presence is close to
10 100 percent. That's enough.

11 Q So would you have to elevate your voice or
12 amplify yourself or do you take a more low-key
13 approach when approaching those unwanted subject?

14 A Absolutely a low-key approach. I speak to
15 them as I'm speaking to you right now.

16 Q Okay. And what would be the typical or
17 average response to you showing up and telling the
18 person they need to move along?

19 A Close to 100-percent compliance.
20 People leave.

21 Q And in the situations where -- and you said,
22 "Close to 100 percent," so there -- would you say it's
23 a handful, slightly more than a handful where they
24 were noncompliant?

25 A Yes, that would be --

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1 Q Okay.

2 A -- that would be accurate.

3 Q And -- and in those situations or scenarios,
4 what efforts, if any, did you have to use to get those
5 unwanted subjects when "move along" is not enough?

6 A I would call for additional units.
7 Occasionally, an arrest would be made or a police
8 officer hold --

9 Q Mm-hmm.

10 A -- based on mental health issues or
11 substance abuse.

12 Q And does that pretty much encapsulate all of
13 the unwanted calls that you've had to deal with?

14 A Yes, it does.

15 Q So turning to this situation, when you saw
16 it appear on your computer -- and that computer, I
17 take it, is inside the patrol vehicle?

18 A That's right.

19 Q How did you notify others that you would be
20 responding to that call?

21 A I just self-dispatched my -- myself, my
22 unit, to -- to that call.

23 Q And I noticed you kind of almost mimed
24 pressing a button. Is it just a press of the button,
25 like, does it --

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1 A It is a touchscreen.

2 Q Oh, okay. So it's -- it's -- so you hit
3 the screen and that's sufficient for the computer to
4 register that this patrol vehicle will be going to
5 that call?

6 A That's right. And so dispatchers, anybody
7 who's working at their computer terminal can register
8 that I'm on that call.

9 Q So -- and where were you geographically
10 from that location? How long did it take you to
11 get there?

12 A I don't know exactly, probably a mile
13 away --

14 Q Okay.

15 A -- at the most. It wasn't far from where
16 I was.

17 Q Okay. And -- and so then you did arrive?

18 A I did.

19 Q When you arrived, what was -- what, if
20 anything, did you observe when you arrived?

21 A I initially didn't see the subject that the
22 call was based on.

23 Q Mm-hmm.

24 A I saw the residence and I saw a couple of
25 chairs that were sitting on the porch, but I didn't

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1 see him. What I did see was a woman, 50 -- 50-some
2 years old, 60 years old, who was standing about 10 or
3 15 feet in front of the house and she was -- she was
4 waving to me.

5 Q Mm-hmm. And -- and what did you do to
6 that prompting?

7 A I parked my patrol vehicle --

8 Q Mm-hmm.

9 A -- and I walked over to her.

10 Q And what happened next?

11 A I asked -- I introduced myself. I said,
12 "Officer Vosu, Portland Police. Did you place a
13 call?" And she said, yes, she did.

14 Q Mm-hmm.

15 A She said that there is an individual that's
16 on the porch over there and she told me that she
17 thinks that he needs some shelter, some food and some
18 clothing and could I check on him.

19 Q Mm-hmm.

20 A I said, "Sure."

21 Q And what did you do next?

22 A She began to walk to her residence and I
23 approached the house.

24 Q Mm-hmm. Did --

25 A When I approached the house, I saw behind

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1 the two chairs was a blanket covering an individual.

2 Q Mm-hmm. And -- and what did you do when you
3 saw that?

4 A I introduced myself again.

5 Q Mm-hmm. And -- and was there a response
6 from that blanket? Well, let me ask you this. You
7 saw a blanket. Could you see anything besides the
8 blanket?

9 A Now that I was closer, I would see that
10 there was a figure underneath the blanket.

11 Q Okay. And so you approached the blanket and
12 you can see a figure. And then is that when you
13 introduced yourself?

14 A Correct. And I said, "Officer Vosu,
15 Portland Police."

16 Q Okay. And is that kind of the tone and
17 inflection you used?

18 A Pretty -- pretty accurate, pretty close.

19 Q Okay. And what was the response?

20 A The response after doing this once or maybe
21 twice was to see a head pop out from underneath
22 the blanket.

23 Q Mm-hmm. And what happened next?

24 A I registered that the person that I was
25 looking at, his right eye was discolored. Pupil was

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1 askew. In the call, it had made mention that it was
2 a person who was blind.

3 Q Mm-hmm.

4 A The subject who was trespassing was -- the
5 transient was blind. So I took this -- this
6 (indiscernible).

7 Q Okay.

8 A And I said, as I say to everybody on these
9 calls, "You have to move along. You can be anyplace
10 else, but you can't be here."

11 Q And this individual, what was the response
12 to that?

13 A He said, "You're not the police." And I
14 said, "Actually" -- (indiscernible), "Actually, I am
15 the police." And he said, "Show me your badge." And
16 I said, "Sure. Here."

17 And I pointed to my metal badge. And I
18 could see that he was looking at it. One pupil was
19 off to the side, but the other pupil was -- was
20 trained on it.

21 Q Mm-hmm.

22 A So I could see that he was registering. He
23 was following my hand as it touched my badge.

24 Q Well, and in addition to that, is he
25 responding -- so you -- you had a brief exchange.

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1 Were -- were the answers sensical or responsive, even
2 though not necessarily agreeable, to the questions or
3 statements that you were posing to him?

4 A Yeah. There was -- there was a conversation
5 that was taking place.

6 Q Okay. I -- 'cause I presume, in the CIT
7 training, verbal or nonverbal cues are -- might be
8 evident to you that there was not a conversation
9 tracking?

10 A Absolutely.

11 Q So after you pointed to your badge and
12 clarified that, yes, in fact, you are a police
13 officer, what -- what was the response then?

14 A He said this once again. He said, "You're
15 not a police officer." And I said, "Again, I am and I
16 don't want to arrest you for trespassing. You just
17 have to go someplace else."

18 Q Mm-hmm. And did this occur multiple times
19 or is this literally -- and I -- and I -- I presume
20 this is not verbatim, as close as you can recall?

21 A This is as close as I can recall.

22 Q And did this go on a couple more times or
23 was it pretty much tracking at this pace?

24 A It's about this pace. It was probably, like,
25 a five-second, seven-second conversation.

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1 Q Okay. And then what happened?

2 A The individual stood up from -- from the
3 blankets. He was completely encased in the blankets,
4 so I couldn't -- couldn't see how he was dressed. But
5 he stood up. And, initially, I thought, great, he's
6 going to move along.

7 As he stood up, I noticed that he was
8 wearing a hospital gown and he had one shoe on his
9 right foot and it was the wrong shoe. So I asked him,
10 I said, "Did you just come from the hospital? What's
11 going on?"

12 And I said -- and I made mention to him. I
13 said, "You have a -- a shoe on your right foot and
14 it's the wrong foot for that shoe." And he looks at
15 me and backs up to the door of the house. He was
16 sleeping kind of almost directly against it.

17 But he's looking at me and he doesn't
18 respond, takes his shoe foot and begins kicking the
19 door hard, as hard as he can. And he's making a lot
20 of noise. And I said, "Hey, you got to stop. You
21 have to stop kicking the -- kicking the door."

22 As -- as I'm saying this, I'm saying,
23 "What's going on? You have to stop kicking the door.
24 We can't -- we can't do this," the resident opens the
25 door of the house.

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1 Q And how would you describe the resident?

2 A Physically or his mannerisms?

3 Q Physically first.

4 A Physically, he's a big guy. He's probably
5 260 or 270. He has a partially shaved head. At
6 least, at that point, he did.

7 Q Mm-hmm.

8 A His chest was bare. He's irate.

9 Q And -- and so describe his mannerisms. How
10 did he interact when he opened the door?

11 A He comes out loud, confrontational and he's
12 yelling. And he's yelling at the subject who is on
13 his porch. And he says, "I told you to get out of
14 here. I told you to leave."

15 Q And -- and what happened next?

16 A I tell him to get back inside the house.

17 Q Mm-hmm.

18 A And as this is happening, he's coming out of
19 the house and he starts yelling. I call for cover
20 'cause this is not going how I want it to go.

21 Q Mm-hmm.

22 A Additional units here would be -- would be
23 good. I get confirmation on the radio that Unit 951
24 is coming, which I -- is my district partner. So I
25 know that there are two people in that car and they're

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1 close, maybe a mile away, mile and a half.

2 So I get confirmation over the radio that
3 (indiscernible) are on their way. But nobody's
4 touched anybody yet. It's --

5 Q So what are you hoping to do since no one's
6 touched anybody yet and you know cover is on its way?

7 A I'm hoping to get the resident back inside
8 the house.

9 Q Mm-hmm.

10 A That would resolve an additional component
11 to this call that's only complex -- it's complicating
12 things. But the resident does not go back inside the
13 house. He picks up a tree limb. It's -- it's like a
14 cross between a limb and a stick.

15 It's about four-and-a-half, four feet high
16 and it's maybe three inches in diameter. And he's
17 holding it like a baseball bat and he's threatening
18 the guy on the porch.

19 Q Mm-hmm.

20 A And he's saying, "I warned you to get out of
21 here." I don't remember exactly what he said, but he
22 was threatening him and he's holding this wooden club.
23 And I tell the resident again, "Get back inside. Put
24 the stick down."

25 Still, he doesn't. And the third time, I

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1 tell him forcefully that there's a mental health
2 component in play. Verbatim, that's what I tell him.

3 Q Mm-hmm.

4 A And this time, he complies by putting down
5 the stick, puts it in, like, a -- a metal canister
6 outside on the porch; but he doesn't go back inside.
7 He doesn't close the door. The door is still open.
8 He's kind of standing in the doorway and the subject
9 is maybe about a foot away from him.

10 Q Mm-hmm. And so what happened?

11 A The subject said something like, "I'm going
12 inside," and that's exactly what he does. He -- the
13 resident there had his -- I think his arm across the
14 door and the guy crashes into him, pushes past his arm
15 and runs inside the house.

16 Q And what concerns or thoughts did that
17 prompt for you?

18 A I just witnessed this guy go from conversing
19 with me to getting spun up quickly and violently
20 kicking the door. I wasn't sure what he was capable
21 of with the -- the resident. The resident followed
22 him inside.

23 Q So did the resident go in before you
24 went in?

25 A The resident went in before I went in.

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1 Q Okay. And -- and, too, did you have any
2 knowledge or information as to who else might be in
3 this residence or what type of residence it is?

4 A I had no indication.

5 Q Did you at least know there could be at
6 least one other individual, the female who you met in
7 the initial call?

8 A The female who I spoke with?

9 Q Yeah.

10 A She was in a different building.

11 Q Oh, okay. Okay.

12 A She walks to a different -- a different
13 building.

14 Q So when you saw the individual go in and the
15 resident follow, what did you do next?

16 A I immediately called for stepped-up cover.
17 That's Code 3 cover, which means everybody's going to
18 be coming, lights and sirens, as fast as they can.

19 Q And -- and why did you do that?

20 A I felt that there was a very good chance
21 that -- that a fight was going to ensue. I was going
22 to try to protect the resident from quite likely a
23 volatile subject.

24 Q So what -- and so after you did that, what
25 did you do next after calling for increased code or

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1 increased cover?

2 A I ran in after him.

3 Q And why did you run in after him?

4 A To protect the resident; to try to stop --
5 to try to stop the situation from getting worse.

6 Q And in your -- and let me ask you this.
7 These -- these decisions and this event unfolding, are
8 they -- are they happening as slow as I'm asking you
9 these questions?

10 A Absolutely not. This is all taking place in
11 a matter of -- matter of a few seconds.

12 Q Okay. So what thoughts specifically, if
13 any, were racing through your mind as you went into
14 that residence?

15 A That I need to try to protect the resident;
16 that I need to try to stabilize the situation.

17 Q Okay.

18 A And that's why I took this job, to help
19 people, to -- to try to make people safe. So I ran in
20 after him.

21 Q When you ran in after him, what happened?

22 A I jumped up the -- I was standing at the
23 sidewalk with one boot on the stairs, a series of
24 three stairs. And I had maybe about five feet of
25 distance between the subject and myself as I was

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1 talking with him and then with him and the
2 homeowner -- or the resident.

3 The police -- for officer safety, I'm not
4 sure what this guy is going to do. He just kicked the
5 door. Maybe he lunges at me. Maybe he sits down. I
6 don't know, so I gave myself some distance. When they
7 went inside, I didn't see them for a brief second.

8 After I radio that I need cover and I run in
9 after them, I see the subject on the ground in the
10 living room. He's not quite prone, but he's not on --
11 he's on his left hip. And I see the resident standing
12 over him kind of bent over.

13 And it appears as if they're struggling or
14 fighting. I see one guy down and another guy
15 over him.

16 Q Mm-hmm.

17 A So I rush in.

18 Q And -- and taking a step back real quick,
19 were you surprised that this person darted into the
20 residence the way he did?

21 A It was -- yeah, I wasn't expecting that.

22 Q Okay. And --

23 A But I thought it was actually a possibility,
24 which is why I was telling the resident to close the
25 door --

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1 Q Mm-hmm.

2 A -- remove himself from the scenario as well
3 as --

4 Q Mm-hmm.

5 A -- (indiscernible).

6 Q So as you see him on the ground and -- and
7 the resident nearby, what -- what actions did you try
8 to do next?

9 A I tried to subdue the subject. I -- kind of
10 a side position, I ran up to him and I placed both of
11 my hands on his right arm.

12 Q Mm-hmm.

13 A And I know that everybody's coming at this
14 point. It's going to be a matter of a minute or a
15 minute and change before they start arriving. So then
16 all I need to do is subdue this guy for that much
17 period and I'll have another three or four or five
18 officers at my side to help.

19 Q Mm-hmm. And -- and so as you're trying to
20 subdue him, what's -- what happens?

21 A I believe I said, you know, "Stop
22 resisting." And I'm moving his arm or attempting to
23 -- to move his arm behind his back just so I can hold
24 him.

25 Q Mm-hmm.

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1 A He's about my size, maybe a little bit
2 bigger.

3 Q Mm-hmm.

4 A But he's -- he's strong and I can't get his
5 arm behind his back. So I tell the resident -- he's
6 -- he's now standing -- I'm behind a couch and a wall
7 -- kind of between a couch and a wall and he's now
8 standing closer to the door.

9 He's standing in between myself and the
10 door. And he's a big guy, so I tell him, I said,
11 "Help me hold this guy down," and I don't get a
12 response from him.

13 Q Mm-hmm.

14 A And I'm struggling with him, grappling.
15 He's pushing with his left hand. He's kind of on his
16 hip and halfway sitting up and he's using his left
17 hand to -- he's pushing away at me and touching my --
18 striking my chest --

19 Q Mm-hmm.

20 A -- and -- and my arms. He's trying to get
21 me to make some distance. He's -- he's fighting
22 against me. He's actively resisting.

23 Q And in your -- taking a step back real quick
24 from that, in your training -- and you said he's
25 actively resisting. Are -- are there concerns in

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1 training about when someone actively resists officers
2 in close proximity? Does that create dangers both to
3 the person, themselves, to the officer or anybody
4 nearby?

5 A Sure.

6 Q And -- and --

7 A It's --

8 Q -- and why and how is that?

9 A It's unknown what he's capable of at that
10 point. I am -- if -- if he accesses something on my
11 person, he becomes much more of -- of a threat to
12 myself and to the homeowner. I've --

13 Q And let -- let's itemize that. What -- what
14 are some of the things you had on your uniform that --
15 that this person could've seized or taken in the
16 struggle?

17 A I have my firearm. I have a Taser. I have
18 a -- I have some OC spray, a baton and two knives.

19 Q And where were the two knives?

20 A One was in my utility pocket and one was
21 behind my tourniquet on my vest.

22 Q Okay. So as you're struggling with him, how
23 does -- how does that resolve itself or -- or does it
24 resolve itself?

25 A I'm not winning and I'm not subduing him and

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1 so as we're trained in -- in the academy, if
2 something's not working, to try something else. So I
3 push myself off and -- and I draw my Taser. And I
4 activate my Taser there and I admonish him, I yell at
5 him, "Stop or you're going to be tased."

6 Q And do you recall where you were
7 geographically in the residence as you found yourself
8 in that position?

9 A I was a few feet back from -- closer towards
10 the bedroom of the house. You need more distance to
11 get a good Taser strike (indiscernible).

12 Q So by -- so did you maneuver yourself to
13 that location to create that space?

14 A Sure. To draw my Taser, to activate it,
15 give me some time to activate it and to aim and
16 admonish him.

17 Q So, in other words, you didn't -- when
18 struggling with him, you didn't have your Taser
19 drawn then?

20 A I did not.

21 Q You separated yourself to draw it?

22 A Correct.

23 Q And were you actually at the -- the rear
24 bedroom when you actually were able to draw your Taser
25 or do you recall where you might have been when you

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1 drew the Taser?

2 A Maybe about a step or two in front of the
3 bedroom.

4 Q Okay. And did that create the distance
5 necessary for you to pull the Taser and -- and set
6 yourself up for the Taser?

7 A Yes, it did.

8 Q And what, if anything, was he doing as you
9 were creating that space?

10 A As I admonished him and I said, "Stop or
11 you're going to be tased," he said, verbatim, "Go
12 ahead and tase me, motherfucker." And as he says
13 this, he's getting up. And I can see that he's
14 getting up aggressively and he's coming -- he's coming
15 at me.

16 Q Mm-hmm. And you mentioned earlier you
17 noticed issues with his eyes, but did it seem as if
18 any of his actions or behavior were happenstance or
19 misdirected or was he able to kind of pick a location
20 and go to it?

21 A He was picking my location. He was coming
22 at me.

23 Q Okay. And so after he responded the way he
24 did, did you make -- give him any other verbal
25 commands or did you act?

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1 A I acted. As he was getting up and coming at
2 me kind of from a crouched position, as he was about
3 halfway up, two-thirds of the way up, I had taken aim.
4 I had found -- I had placed the laser -- the laser
5 sights on him and I -- I tased him.

6 Q And where did the laser sight -- do recall
7 where the laser sight connected with him?

8 A It was in his quad -- quadriceps and in
9 his abdomen.

10 Q Okay. And you deployed your Taser?

11 A That's correct.

12 Q And -- and what response, if any, did that
13 have on him?

14 A He went down immediately, but briefly.

15 Q Okay. And do you recall if there was a
16 cycle on the Taser or not as you did it?

17 A It's a five-second cycle.

18 Q So it -- so it was the full five-second
19 cycle?

20 A (No audible response.)

21 Q And I'm sorry, we're recording. So that's
22 a yes?

23 A Mm-hmm, yes.

24 Q Okay. And so what happened after you went
25 through that full cycle?

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1 A So he goes down and as he goes down, I can
2 see that he has something in his hand and I don't
3 register what it is. I admonish him again. I say,
4 "Stop or you're going to get it again." And he starts
5 getting up again, but this time, I can register what's
6 in his hand is my -- is my knife.

7 Q Mm-hmm. And -- and did you ever actually
8 see when or where he would have pulled it off of your
9 person?

10 A He would've pulled it off my vest, but I
11 didn't see it happen.

12 Q Okay. Okay. And so -- and did you
13 recognize which knife it was that he had in his
14 possession?

15 A Yeah. I -- I looked at the knife and I -- I
16 thought, that looks like my knife. And I indexed my
17 vest and my sheath and found them -- found it empty.

18 Q So what -- what, if anything, did you do
19 when you saw that?

20 A I -- the -- the level of threat has changed
21 dramatically.

22 Q To whom?

23 A To me. Also to the resident, but primarily
24 to me. He's coming at me.

25 Q Okay. And so what, if anything, did you do

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1 when you saw that?

2 A I stepped back and I drew my firearm.

3 Q And why did you step back?

4 A To create more distance so that I could --
5 distance is safety. If I could have a little bit more
6 distance, perhaps I could say something, perhaps.
7 Perhaps he stops. I believe I admonished him, "Stop
8 or I'll shoot."

9 Q Now, you say you believe. Why do you say
10 you believe?

11 A Certain things I can recall with absolute
12 clarity. When I admonished him with the Taser and his
13 response, me asking the resident to help hold this guy
14 down. This is intensely stressful. I've never been
15 in a situation like this before in my life where
16 someone is actively trying to kill me. I don't recall
17 with 100-percent certainty that that's what I say. I
18 would say 90-, 95-percent certain.

19 Q Mm-hmm. And -- and within that probability
20 or almost certainty, do you have an estimate whether
21 it was once or multiple times?

22 A It would've been -- it would've been once.

23 Q Okay. And do you recall, when you created
24 that distance, where you were creating that
25 distance to?

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1 A I stepped back in further into the house
2 towards the bedroom.

3 Q Was there anything you may have observed
4 about your geography in the residence as you were
5 creating that distance?

6 A Well, the geography, I observed swiftly the
7 layout of the place. The couch is in the center of
8 the room. The resident is now up towards the front of
9 the room.

10 Q Mm-hmm. And did you see any other signs of
11 locations that you could back further away to other
12 than where you were located in the bedroom?

13 A No, I was effectively trapped. There was no
14 place else to go at this point.

15 Q Okay. And did the -- well, so you gave that
16 command. You saw the knife. What, if anything,
17 happened next or what did you do next?

18 A I saw the -- I saw the knife in his right
19 hand. I saw him holding it tightly and he was
20 advancing on me with -- with intent.

21 Q Mm-hmm. So -- so what did you do?

22 A I did as -- as we do in training. I stepped
23 back, drew my firearm, I believe I admonished him and
24 then fired three times.

25 Q Now, do you recall firing three times or did

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1 you just fire your firearm and then stop firing?

2 A I recall firing three times.

3 Q Okay. And was that something you personally
4 were trained thinking to do, have a fixed number of
5 times to fire or is there a reason why three might
6 have rung out for you?

7 A I think that's -- it was more muscle memory
8 than anything. We've done this -- I've done it
9 hundreds of times in basic academy and the advanced
10 academy, on the range where we step back from a target
11 and fire three times.

12 Q Okay. And what, if anything, happened when
13 you fired three times?

14 A He -- his momentum carried him further.

15 Q Mm-hmm. Further where? Towards you --

16 A Towards me.

17 Q -- or away from you? Okay.

18 A At this point, I -- I must have shuffled
19 back another step because I was now in the bedroom.
20 And he landed on my feet. His legs were on top of
21 my -- of my legs.

22 Q When you fired those three shots, what was
23 your intent in firing those three shots?

24 A To protect myself, to stop the threat, to
25 protect the -- to protect the resident.

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1 Q And when he fell at your feet and collapsed
2 at your feet, were your feet actually touching?

3 A We were touching.

4 Q And what were you able to observe after
5 he collapsed?

6 A I was able to observe that I had struck him.
7 Beneath his hospital gown, I saw the marks of blood.

8 Q Mm-hmm.

9 A But I don't know where I struck him. I -- I
10 shot, as we're trained to do, for center mass.

11 Q Mm-hmm. And in doing so, what, if anything,
12 did you observe next?

13 A I observed that his legs, while touching
14 mine, one of them was on top of my Taser. I observed
15 him -- at this point, he was -- he wasn't moving. He
16 wasn't responsive, but I wasn't sure where I had
17 struck him.

18 Q So what did you -- so what did you do?

19 A I wasn't comfortable with my position in the
20 bedroom. This is a second or two after I had shot. I
21 had put out over the radio that I had fired shots and
22 that the subject was down and that I'm fine because I
23 know that everyone is still coming as fast as they
24 possibly can, so I tried to slow that up, let them
25 know that I'm okay.

Examination of Consider Vosu

1 I stepped over the subject and I see my
2 knife sticking in the floor maybe two feet away. As I
3 step over, I think -- I'm not sure if he's still a
4 threat or not, so I keep my gun trained on him with
5 one hand and I kneel down and I grab my knife with the
6 other hand and pull it from the floor.

7 Q Mm-hmm.

8 A After a second or two, as I'm talking to him
9 and I'm saying, "Ambulance is coming. Don't move,"
10 he's, again, not responsive. So I take the knife and
11 I stick it back where it was --

12 Q Mm-hmm.

13 A -- in the floor approximately.

14 Q And why'd you do that?

15 A To preserve the crime scene as it was, so
16 when people could come in, you know, they see --

17 Q Mm-hmm.

18 A -- what had happened.

19 Q Where was the -- was the resident still in
20 there as -- as all this unfolded?

21 A He was up towards the door.

22 Q Okay. And I -- I calculated, I believe,
23 that I've been asking you questions for more than
24 20 minutes, 30 minutes maybe, dissecting this down.
25 Did this all unfold, second-by-second detail, as -- as

Examination of Consider Vosu

1 the way I'm asking you questions and the way you're
2 answering them?

3 A I would estimate that from the time I
4 entered until when I fired was a total of about
5 30 seconds, something like that.

6 Q So --

7 A Maybe 40. I mean, it's tough to gauge. The
8 time is -- it slows down under such stress. The time,
9 I -- 30, 40 seconds.

10 Q How quickly would you say that when you put
11 the knife back occurred between that and when other
12 officers ultimately arrived?

13 A It was short, another 15 seconds after that,
14 something like that.

15 Q And was there any other interaction between
16 you and the person on the ground besides you telling
17 them, "Don't move," and, "Medical is on its way"?

18 A No.

19 Q Was there any other interaction between you
20 and the resident inside the -- inside that room while
21 you were waiting when your cover is arriving?

22 A I asked him if he was okay.

23 Q Mm-hmm.

24 A He didn't respond with a yes or a no. He
25 said -- he said something to the effect of he can't

Examination of Consider Vosu

1 take this crazy shit. That was exactly what he said.

2 Q Mm-hmm. And so you stood there until the
3 officers arrived?

4 A Correct.

5 Q In that same position?

6 A In that same position.

7 Q And then what happened when officers
8 arrived?

9 A Officer Miller came in and I told her as she
10 entered, I said, "Look out because my Taser's
11 underneath his leg." And she acknowledged that she
12 heard me and said, "Get out of here."

13 Q Mm-hmm.

14 A As is the protocol, our training that after
15 an officer-involved shooting, an officer is to be
16 removed from the scene.

17 Q And where did you go after leaving
18 the scene?

19 A I walked out of the residence.

20 Q Mm-hmm.

21 A And another officer, Officer Storm, was
22 there. He's my (indiscernible) peer-support person
23 for this -- for this (indiscernible).

24 Q And -- and what does that mean, "peer
25 support"?

Examination of Consider Vosu

1 A Someone to remove me from the scene; someone
2 to make sure that, I guess, I'm okay. And also to
3 help put me in contact with the resources that I'm
4 going to need.

5 Q Mm-hmm. And were you allowed to interact or
6 speak with any other officers after this incident
7 unfolded besides the peer officer?

8 A I spoke to my union rep.

9 Q Mm-hmm.

10 A And I spoke to the attorney that was given
11 to me.

12 Q And that was Mr. Starpoli --

13 A That's correct.

14 Q -- who's outside?

15 A Yes.

16 Q You work with other officers at this
17 precinct; is that right?

18 A Absolutely.

19 Q And you see them like any other individual
20 who works every day, you see them day in and day out,
21 part -- part of your shift?

22 A That's correct.

23 Q Were you allowed to talk to any of them
24 after this incident?

25 A No, I was not.

Examination of Consider Vosu

1 Q Okay. And --

2 A There were -- there were, I should say,
3 officers that came up to say, "I hope you're all
4 right," to check on (indiscernible).

5 Q After you left the scene, did you make
6 yourself available for the detectives to do what's
7 called a round count?

8 A Yes, I did.

9 Q And what is a round count, from your
10 understanding?

11 A From my understanding, a round count is
12 counting how many rounds are in the magazines of my --
13 of my firearm as well as my (indiscernible).

14 Q And in that interaction, did they photograph
15 you as well?

16 A Yes, they did.

17 Q And in that interaction, did you also reveal
18 that you didn't have your Taser with you on your
19 person; and, in fact --

20 A Yes. Yes, I did.

21 Q Did you also present or allow the empty
22 sheath to be photographed as well?

23 A Yes, I did.

24 Q And did you also show that you had your --
25 in fact, your other knife that was in the -- the cargo

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1 pants of your uniform?

2 A I believe I did, but I wouldn't be able to
3 say 100 percent.

4 Q Okay. Did you sustain any injuries from
5 this interaction with this individual?

6 A I did sustain some minor injuries.

7 Q What -- what injuries did -- if any, did
8 you sustain?

9 A I have a sprained right finger. I pulled my
10 back. I had -- I had a substantial bruise on my left
11 wrist, a bruise on my right thigh and a bruise on my
12 left calf.

13 Q Since this has occurred, there are certain
14 protocols in place that really kind of isolate you
15 from this whole investigation; is that accurate?

16 A Correct.

17 Q So in that period of time, as you say,
18 isolated, have you replayed this scenario and incident
19 in your head between the incident and -- and going
20 through grand jury today?

21 A Mm-hmm. On a daily basis.

22 Q Given what unfolded at the scene and how it
23 escalated into this dynamic situation, is there
24 anything you feel you could or should have done
25 differently than what you did inside that residence?

Examination of Consider Vosu

1 A You know, it's impossible to go back and to
2 try to think of different alternatives. My motivation
3 for going in was to protect the resident and it was to
4 stop things from getting worse. There's no telling
5 what would happen if I had taken a different track.
6 All I know is that I had gone in with the intent of
7 protecting the resident.

8 Q Did you -- was it your intent to kill
9 Mr. Gladen?

10 A Absolutely not. That is -- that's the last
11 thing that I would hope to have to -- I -- I never --
12 would never want to do that ever. I struggle with it
13 every day.

14 Q And -- but since then, as you -- as you
15 recollect, you're standing in that corner reviewing
16 Mr. Gladen with the knife in his hand, do you believe
17 you had any other options at that point in time?

18 A At that point -- at that point, I had -- I
19 had no option.

20 MR. HANNON: Does anybody else from the
21 grand jury have any questions?

22 A GRAND JUROR: I had one question about the
23 knife that the -- that he ended up with. Do you carry
24 that knife whenever you're working? I mean, is that
25 part of your standard --

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1 THE WITNESS: Yeah. It's zip tied to my --
2 to my external vest.

3 A GRAND JUROR: It's zip tied?

4 THE WITNESS: Ah, yeah. So that the sheath
5 can't -- can't come loose, it's tied -- it's tied into
6 place. It's secured on my vest --

7 A GRAND JUROR: Okay.

8 THE WITNESS: -- beneath my -- my
9 tourniquet.

10 BY MR. HANNON:

11 Q Have you ever used that particular knife
12 before in the line of duty?

13 A I have used it, but for cutting police tape;
14 for opening sandwiches and cutting rope. It's not
15 something that I've ever used in a self-defense
16 capacity.

17 A GRAND JUROR: What prompted you to pick up
18 the knife? Aren't you guys typically trained not to
19 touch any of the evidence or anything?

20 THE WITNESS: What prompted me was that I
21 wasn't sure if he was -- that -- if -- if the threat
22 was still -- was still there.

23 BY MR. HANNON:

24 Q What -- what, in your head, or was your
25 concern that could happen if you kept the knife

Examination of Consider Vosu

1 in place?

2 A That he would go for it, that there would be
3 a struggle for a knife that's a short distance away;
4 that, I mean, I would either be trying to stop him
5 from going for the knife or potentially having to
6 shoot him again if he did retrieve that knife.

7 BY MR. HANNON:

8 Q Mm-hmm. Anything else?

9 Couple -- also follow-up questions. How
10 common is it for you to respond, not necessarily just
11 to unwanted subjects, but just either self-dispatch
12 or dispatch? How often do you dispatch to calls on
13 your own?

14 A Very often. Typically, if a call is not a
15 hot call, if it's a stolen car, if it's a trespass,
16 police don't dispatch to those.

17 Q And do you have any idea of, like -- well,
18 let me ask you this. Do -- on the patrol side, are
19 there partner cars versus single-occupant cars or does
20 everyone get a partner car or is everybody a
21 single-occupant car?

22 A There are partner cars, but that's more of
23 the exception than the rule --

24 Q Okay.

25 A -- for the -- for the -- for the most part

Examination of Consider Vosu

1 (indiscernible).

2 Q And prior to this, had you ever been
3 involved in any other officer-involved shootings or
4 police shootings?

5 A I never have.

6 Q And prior to this, what was the -- on the
7 spectrum of use of force, obviously, you used less
8 lethal in this situation, using a Taser. Had you --
9 had you ever had a prior occasion to have to use your
10 Taser before this incident?

11 A I have. I used my Taser once before.

12 Q Once before. And is that the largest amount
13 of use of force you've had to use in your career?

14 A Yes, that would be accurate.

15 Q And in all of these questions and prompting,
16 again, I'll -- I'll ask. Do you believe you had any
17 other choices that you -- you could make when standing
18 in that bedroom confronted with what you were
19 confronted with?

20 A He was -- when I -- when I fired, he was
21 approximately five feet away from me.

22 Q Okay.

23 A A -- a second maybe from potentially
24 stabbing me.

25 Q Mm-hmm.

Examination of Consider Vosu

1 A At that point, I -- I had no choice but to
2 (indiscernible).

3 MR. HANNON: Any other questions from the
4 ladies and gentlemen of the grand jury?

5 A GRAND JUROR: You mentioned, in your
6 training, that often, you can deescalate a situation
7 just by the presence of the police or by the sirens.
8 Were your lights on when you arrived at that scene?

9 THE WITNESS: No. No -- no lights were on.
10 And, typically, we don't arrive to calls with lights
11 on. That's usually to expedite our arrival or --

12 A GRAND JUROR: Right.

13 THE WITNESS: -- or to notate, "Hey, you
14 know, this is a -- a police scene," to keep people
15 away. But this was just a common call of moving
16 somebody along. It was a low-key approach from the
17 beginning.

18 BY MR. HANNON:

19 Q And was that your motivation when you were
20 trying to Mr. Pescaia or the -- the resident back into
21 his residence and shut the door?

22 A What, optimally, I would have liked to have
23 -- what I wanted to achieve was to move him along and
24 to do what I had told the resident I would do, to see
25 if I could get him some help.

Examination of Consider Vosu

1 I mean, obviously, things are not right if
2 he's got one shoe on and a hospital gown. I was going
3 to try to give him a hand, to try to see if there was
4 something that could be done.

5 Q And in your experience as a uniformed
6 officer, are you familiar with resources and community
7 partners out there to connect people who might be in
8 crisis or cold or hungry to get into shelters?

9 A Absolutely.

10 A GRAND JUROR: Could --

11 MR. HANNON: Anybody else?

12 Yes.

13 A GRAND JUROR: Could you remind me about
14 how far the distance is from where this occurred to
15 the hospital that he was discharged from?

16 BY MR. HANNON:

17 Q How close are you -- how close is this
18 residence to Portland Adventist?

19 A It's very close. I would guess half mile,
20 three-quarter mile, something like that.

21 MR. HANNON: Anybody else? May this witness
22 be excused?

23 GRAND JURORS: Mm-hmm.

24 MR. HANNON: Okay. Thank you.

25 Why don't we go off the record. Take a

1 break.

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(Conclusion of Grand Jury proceedings,

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2-21-19 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.



KATIE BRADFORD, CSR 90-0148
Court Reporter
(503) 267-5112