

MULTNOMAH COUNTY GRAND JURY

DEATH INVESTIGATION

Deceased:)	
ALAN LEE BELLEW)	DA No. 2322441
Date of Incident:)	
June 28, 2015)	PPB No.
Location: NE 122nd Ave./ NE)	
Halsey Street, Winco Parking)	
lot,)	
Portland, Oregon)	

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled transcript of GRAND JURY proceedings was heard, commencing at the hour of 4:28 p.m., on Thursday, July 2, 2015, at the Multnomah County Courthouse, Portland, Oregon.

APPEARANCES

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

DEBORAH L. COOK, RPR, CSR
 Certified Shorthand Reporter

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1 PROCEEDINGS

2 Thursday, July 2, 2015, at 4:28 p.m.

3
4 MR. REES: We're going to go on the record,
5 and if you will please stand up and raise your right
6 hand, and we will swear you in.

7
8 DANICA HALL,
9 produced as a witness, having been first duly sworn,
10 was examined and testified as follows:

11 THE WITNESS: Yes.

12
13 EXAMINATION

14 BY MR. REES:

15 Q Please be seated, and if you would, state
16 your name and spell it for the record.

17 A Do you want middle, too?

18 Q Sure.

19 A Danica Kathleen Hall, D-A-N-I-C-A,
20 K-A-T-H-L-E-E-N, H-A-L-L.

21 Q All right. And Ms. Hall, where do you
22 live?

23 A I live in Springfield, Oregon.

24 Q And were you in Portland on the night of
25 June 28th, 2015, which was a Sunday evening?

1 A Yes.

2 Q And who were you with?

3 A Alan Bellew.

4 Q Alan "Bellew"?

5 A "Bellew," B-E-L-L-E-W.

6 Q And how do you know Mr. Bellew?

7 A I met him through a friend of a friend, and
8 we kind of started to like each other more than friends.
9 So it was a lot of stress related stuff going back, from
10 back home with me, and things with my boyfriend of six
11 and a half years, so we kind of decided to get away for
12 the weekend.

13 Q Do you want some water, or --

14 A I have water. I am okay.

15 MR. REES: Can everyone hear her?

16 COURT REPORTER: If you could keep your
17 voice up, that would be helpful.

18 Q BY MR. REES: And so how long do you think
19 you had known Mr. Bellew?

20 A Probably about a month.

21 A JUROR: I am sorry. I can't hear.

22 THE WITNESS: I am sorry. I knew him for
23 about a month.

24 Q BY MR. REES: And so earlier in the week
25 did the two of you travel from the Eugene-Springfield

1 area to Portland?

2 A Earlier in the week?

3 Q Prior to that Sunday night?

4 A We had traveled up to Portland the night --
5 that Thursday night. I got off work at 10:00, and we
6 left shortly after that and got a motel in Vancouver,
7 Washington.

8 Q And what kinds of things did you do leading
9 up to that Sunday night of June 28th?

10 A We went and saw one of his friends, Nate
11 Marshal. We went to the zoo. We just hung out and went
12 to eat at a couple different places, and went to a few
13 different bars. I honestly don't remember the names of
14 them very well, but just, you know, normal getting out
15 and getting away and trying to have some fun. Nothing
16 out of the ordinary.

17 Q And did you know anything about
18 Mr. Bellew's background?

19 A I knew that his story was very sad. He
20 said that his whole entire family had disowned him. He
21 had no friends or family, from my recollection. He said
22 that he had been out on the streets, basically fending
23 for himself since he was 15. And other than that, I
24 didn't know much about him.

25 Q What brought the two of you to the parking

1 lot of the Winco at Northeast 122nd and Halsey on Sunday
2 night, June 28th?

3 A We were going to look for a motel, and then
4 he had been text messaging his friend Wes, and he said
5 he had had this camera with him, an old 0 and one, where
6 you load the film in the back. And we couldn't figure
7 out how to open up the back to load the film. We were
8 going to try to take some pictures around Portland, and
9 as we went sightseeing and stuff, and we couldn't figure
10 out for the life of us how to open it.

11 And he said at some point -- he said
12 something about maybe Wesley might buy the camera, which
13 confused me because I thought we were keeping it. So he
14 said that Wes was at the Winco parking lot, and that we
15 were going to go meet him there, and see if we could
16 figure out the camera.

17 Q So Mr. Bellew had this 35-millimeter film
18 camera?

19 A Yes.

20 Q And at some point you learned that he
21 possibly was going to sell it to Wesley Howe; is that
22 right?

23 A Yeah. Yes.

24 Q And did you know Mr. Howe prior to
25 June 28th?

1 A I had seen him a few times. I don't
2 personally know him, no. But I had seen his face a few
3 times, around Alan. I kind of was wondering what he was
4 doing up in Portland. It confused me that all of a
5 sudden someone from in town was there.

6 Q And just to clarify when you say in town,
7 you mean in the Eugene-Springfield area?

8 A Yeah. And Eugene, Eugene and Springfield.

9 Q So previously when you saw Mr. Howe, it was
10 in Eugene Springfield?

11 A Yes.

12 Q You didn't know he was going to be in the
13 Portland area?

14 A No.

15 Q And how did you get to the parking lot at
16 the Winco?

17 A I drove.

18 Q And in this photograph of the screen, is
19 this your car pictured here?

20 A Yes.

21 Q What kind of car is that?

22 A It's a VW Passat. It's the 4Motion, which
23 is the all-wheel drive one, the V-6.

24 Q And were you the driver of the car on that
25 night?

1 A Yes.

2 Q And are you the registered owner of that
3 car?

4 A Me and my boyfriend.

5 Q And who is that?

6 A Maxwell Culver, like Culver City,
7 California.

8 Q And where does Mr. Culver live?

9 A We both live under the same roof in
10 Springfield, Oregon. Do you want the address?

11 Q Only if the jurors do, so it's not
12 necessary from everyone shaking their head.

13 Is it correct that in this time frame you
14 and Mr. Culver were having some kind of difficulties in
15 your relationship?

16 A Yes.

17 Q And in part, is that why you were with
18 Mr. Bellew?

19 A Yes.

20 Q When you arrived in the parking lot, and it
21 appears in this photograph that there are either no
22 other cars, or very few other cars in the parking lot,
23 did you see Mr. Howe when you arrived?

24 A I didn't see him when we arrived. When we
25 first arrived we actually got out of the car and walked

1 around the front of the Winco where the entrance was,
2 and we sat on the bench. And Wes had walked up
3 somewhere from -- from looking out the left-hand side.
4 I didn't see him get out of a car, and didn't even know
5 how he got there.

6 Q And when Wesley Howe arrived, what happened
7 then between him and you and Mr. Bellew?

8 A Well, just talked for a little bit. We sat
9 on the park bench and we all smoked a cigarette, you
10 know, how are you doing, just small talk.

11 And then he -- I was like, hey, you know,
12 do you want to come help us figure out this camera? We
13 cannot get the back open for the life of us. What kind
14 of film it takes, hopefully it works, just questions
15 about the camera. I didn't know much about it, so him
16 and Alan were discussing that. And that's when we had
17 walked back around to my car.

18 Q And it's my understanding that at some
19 point a police car with two police officers in the
20 patrol car arrived?

21 A Uh-huh.

22 Q And in fact, that police car is in that
23 photograph; is that correct?

24 A Yeah. Uh-huh.

25 Q And is that police car in the position that

1 it was when these two police officers arrived and
2 contacted you?

3 A Yeah, more or less. I thought it might
4 have been a little bit more diagonal, but maybe I was
5 wrong.

6 Q And when the police officer arrived, do you
7 remember where -- generally speaking, you and Mr. Bellew
8 and Wesley Howe would have been standing?

9 A Yeah. All three of us were around the
10 trunk, and you can see the camera bag sitting on top of
11 the trunk like that. It was exactly like that, and all
12 three of us were standing around it. Wesley had the
13 camera in his hand, to the very right-hand side, closest
14 to us. I was in the middle on the back, and Alan was on
15 the other side of me.

16 Q You are referring to these bags on the
17 trunk of the car?

18 A Yeah. One should be my purse, and the
19 other two are the camera bags. And the other bag had
20 the camera attachments in it.

21 MR. REES: Let me just double-check with
22 the Grand Jury. Can everyone hear the witness okay? If
23 not, let us know.

24 THE WITNESS: Sorry I am trying to project
25 a little more.

1 Q BY MR. REES: That's okay. What do you
2 recall the police officer saying to you when they first
3 arrived?

4 A When they first pulled up they said, have
5 you guys been fighting? And we were kind of chuckling,
6 and like, no, we're just looking at the camera. And
7 they are like, well, we got a call out here of some -- I
8 think it was a domestic violence dispute or something.
9 Someone was fighting or making some noise, which I
10 hadn't even noticed any noise.

11 And I was like well, we haven't been loud
12 or anything. You know, we have just been sitting here
13 checking out the camera. And they said, okay. You
14 know, and they kind of stopped and talked with us, and
15 were kind of laughing and joking and trying to figure
16 out the camera with us, even. Just normal, nothing --
17 didn't seem like anything was wrong to me.

18 Q Did the police officers get out of their
19 car then?

20 A Yeah. Yeah, they had gotten out of the
21 car.

22 Q Okay. And what was their demeanor like?

23 A Well, at first when they were asking us,
24 you know, if we were fighting or anything, they were
25 kind of more like professional, like standing up

1 straight. I mean, they weren't, you know, they were
2 just kind of formal, how cops are.

3 And then after we said we weren't fighting
4 or anything, and we -- I even showed the officers the
5 camera to see if he could pop open the back, and solve
6 the problem for me.

7 Then after awhile the one in the passenger
8 seat kind of relaxed a bit, and was leaning back against
9 the cop car. And the other one, I think, got back
10 inside the car even, at that point. And then right
11 after that is when they asked us, well, you know,
12 standard procedure, we need to run your names.

13 Q All right. Did you provide your name to
14 the police officer?

15 A Yes.

16 Q And did either Mr. Bellew or Mr. Howe
17 provide their names?

18 A Wes provided his name. Alan lied about his
19 name.

20 Q Do you remember what Alan Bellew said his
21 name was?

22 A He said his name was Alex, which is his
23 little brother.

24 Q And when he said that, what did you think
25 was happening?

1 A I got a really, really bad feeling in the
2 pit of my stomach, and I honestly didn't know what to
3 do, so I didn't say anything. But I just stared at him,
4 because I was in disbelief. And I was like running
5 through ideas in my head why he would lie about his
6 name, and I was scared.

7 Q What did you -- you said you had a pit in
8 your stomach?

9 A No, like a really bad feeling, because why
10 on earth would you lie? The reasons people lie to cops
11 about their name are not good.

12 Q So what happened after that?

13 A After that, we were just standing there,
14 and they said basically he knew that he was lying about
15 his name. He was, like, okay, if you are trying to
16 avoid a warrant, you know, we can deal with this. We
17 deal with this every day. We see things like this every
18 day, if you are trying to avoid a warrant.

19 And he said -- kept saying, I don't have a
20 warrant. I don't have a warrant. And I knew that was
21 bogus, and so did the cops. And he started shining his
22 light in my car. And then he had asked me, Miss, is
23 this your vehicle? Do you own this vehicle? And I said
24 yes.

25 And he said, who uses needles in your car?

1 And I was in shock. I was like, what do you mean? And
2 he goes, Come here. Come here and look at this. And I
3 was like, Okay. And he shown his cop light like down
4 through the back window on the right-hand side, and just
5 below the passenger seat. It almost looked like it
6 rolled underneath the seat, a little orange cap to a
7 hypodermic needle. I mean, I'm a certified nurse's
8 assistant, so I know what that looks like.

9 Q So you recognized that as a hypodermic
10 needle?

11 A Yes.

12 Q And did that needle belong to you?

13 A No. And the cop even asked, who's using
14 needles in your car. And right away Alan said, it's
15 mine. And he also said he was diabetic, which I knew
16 was a load of crap.

17 Q Let me step back for a minute and pick up
18 there.

19 But stepping back, did the police indicate
20 there was any problem with either you or Mr. Howe when
21 they ran your names?

22 A No.

23 Q Okay. Going back to the needle, what did
24 you think when you saw the needle in the car?

25 A It wasn't -- it was just the cap that I

1 saw. I never actually saw a needle. I just saw the
2 cap. It was the butt end of it, not the pointed end.

3 Q What did you think when you saw that?

4 A Oh, crap. Because I had no idea that was
5 in my car, and I was scared already from him lying about
6 his name, and I just -- I stared at him and just -- what
7 did you get me into, is all I could think.

8 Q And if it wasn't your needle and you knew
9 that Mr. Bellew wasn't a diabetic, did you have a belief
10 what that needle might indicate?

11 A Oh, yeah. I -- immediately I knew he had
12 lied to me, and that he had probably used drugs in my
13 car at some point.

14 Q You had been with him, I believe you said,
15 since the Thursday before this Sunday night. Did he
16 have an opportunity during that time to use any drugs?

17 A There was -- there was the day before this
18 happened, I visited my uncle who just had colon surgery,
19 my dad's brother. And I actually did let him take my
20 car and drive it for -- it wasn't very long, maybe half
21 hour, 45 minutes before he came back. But that's the
22 only time I was not in the car, that he was. An
23 exception, like running and getting his stuff, or
24 whatever.

25 Q So what happened then after the police

1 officer made this discovery, and Mr. Bellew made the
2 statement that he was diabetic?

3 A He said, well, if you are diabetic to the
4 point where you need to use needles, you are going to
5 have an insulin kit, so why don't you provide your
6 insulin kit for me.

7 Q The police officer said that?

8 A Yes. To Alan. And in between that, that
9 was one of the officers. The other officer was talking
10 to me, asking me if he could search my car while that
11 was going on at the same time. And I gave him
12 permission to search my car, because -- I mean, what are
13 you going to do?

14 I didn't think -- I didn't think there was
15 anything in my car, but then I had no idea there was
16 that in my car. And I figure if I am not doing anything
17 wrong, and, you know, I am sitting here not knowing what
18 to do, I might as well be a good citizen and let him do
19 his job, and just be easy to deal with.

20 So I said, yeah, you can search my car. I
21 was scared to death what they were going to find or not
22 find in there, and I still don't know what is in my car
23 or not in my car. But I just gave him permission.

24 Q So after you gave permission to the police
25 to search your car, what happened?

1 A I backed away from the car, standing back
2 where I had showed you on the diagram earlier, back and
3 to the left-hand behind the trunk, stood away from the
4 car. And Alan was still rummaging through the
5 passenger's side car --

6 Q Let me stop you there, and I am going to
7 ask you just so the Grand Jury is clear.

8 Why don't you step up to the screen, if you
9 would, please, and you can indicate to the Grand Jury,
10 approximately where you were standing.

11 A Approximately I was standing back in here
12 (indicating), like right behind this little bar.

13 Q And if you could just also -- if you could
14 show us where Mr. Bellew was?

15 A He was bent over in the passenger's side
16 looking for -- I do quotes, because I knew there was no
17 insulin kit. You know, if I had been with him for four
18 days, and he was diabetic, I would know.

19 Q Had he indicated at this point to the
20 police that he would go into the car to find the
21 insulin?

22 A Yeah. They told him to -- they told him to
23 provide the insulin kit. So that's when he had opened
24 up the passenger's side door and was bent over, looking
25 and I would assume, like, pretending to look on the

1 floor, or in the door, or in the glove box for some
2 nonexistent insulin kit.

3 Q So you are standing where you indicated is
4 on the driver's side of the car, on the other side of
5 the car from where Mr. Bellew is in the passenger's side
6 with the door open?

7 A Yeah. Yeah.

8 Q All right. Thank you.

9 A JUROR: Where was the other gentleman at
10 that time, Mr. Wes --

11 THE WITNESS: Wesley, I don't really know.
12 I wasn't paying attention to him, because I was like,
13 what is going on? And I thought that Wesley was behind
14 me, but he said that he had seen some other things
15 that -- he had to have been standing more by the cop
16 car, but I don't know 100 percent.

17 Q BY MR. REES: And I would caution you only
18 to testify as to what you remember.

19 A I don't know. I don't know where Wesley
20 was standing. I wasn't paying attention to him.

21 Q Okay. So what happened then, that you
22 personally saw, at this point?

23 A At that point, that's when everything went
24 really bad. I heard -- I thought I heard one gunshot,
25 and then someone yell "gun," and then a bunch of gun

1 shots.

2 So I am not sure where the gun came from,
3 or if Alan had fired off the first shot. That's what I
4 thought happened, but it happened so darn quick, that it
5 was -- I heard someone yell "gun," and then I heard
6 bang, bang, bang, bang, but I could have sworn I heard
7 one little pop before I heard the bigger pops from the
8 cop guns. So I am -- I would -- at least, if I was to
9 have my best guess --

10 Q I don't want you to guess. But let me back
11 up. In terms of your personal observation, did you see
12 either police officer with their guns out?

13 A Yes. After they yelled guns -- or "gun,"
14 then they started firing. I looked up and both of the
15 police officers had their guns drawn and pointed at him.

16 Q Did you see the police officers -- at what
17 point they removed their guns from their holsters?

18 A I didn't ever see them remove their guns
19 from their holsters. I wasn't looking at them.

20 Q Okay. Did you ever see Mr. Bellew with a
21 gun?

22 A No, I was on the other side of the car, and
23 it was not -- it was not visible from where I was
24 standing.

25 Q And were you looking up while there was

1 actually gun fire, or was it after the gunfire was over?

2 A I was looking down, and then once I heard
3 "gun" and all of these gunshots, that's when I kind of
4 looked up, and was startled. Then I didn't know what to
5 do, and I felt like an idiot standing there. Then they
6 yelled at me, get on the ground so I star-fished it on
7 the ground, and didn't move after that.

8 And I backed away, because I realized how
9 close I was to the actual gunfire, and it really scared
10 me. And I thought, man, if I would have been even a few
11 feet, I might have been in some sort of crossfire.

12 Q And the term that you used, both for the
13 Grand Jury and the court reporter, if you didn't catch
14 it, you star-fished on the ground?

15 A Yeah. Arms and legs out, like you see on
16 the movies, how cops tell you to spread your arms and
17 leg and lay on the ground, flat. So that's what I did.

18 Q Other than what you just told us, did you
19 hear the police officer give any other commands?

20 A I heard by then one of the police officers
21 was standing at the front of the car, by those bushes
22 right there, aiming in through the dash, and you will
23 see the bullet holes. There's some in through the
24 windshield, and then there's some in through the back.

25 But at that point, when I looked up, that

1 officer was standing right by the bushes there, and he
2 was communicating with the other officer, making sure
3 that he was down, and he wasn't able to reach for the
4 gun again.

5 Q Do you remember what he said?

6 A He said, I want to make sure he can't get
7 to the gun, you know, is he reaching for the gun, trying
8 to see him. I would imagine it would be hard, because
9 when they shot him, he fell, like, front down, over the
10 passenger's side seat.

11 Q At that point was Mr. Bellew out of view of
12 you, or could you still see him?

13 A I couldn't see him.

14 Q Did you hear Mr. Bellew say anything?

15 A No. But it was apparent that he was saying
16 something to the officer in the front, because he was
17 responding back in some sort of way. It wasn't audible
18 to me.

19 Q And do you recall what happened after that?

20 A After that, I mean, Wesley and I both got
21 to lay on the ground, and they came and put us in cuffs
22 and hauled us away. And as they were hauling us away, I
23 looked out and that's when they had laid Alan on the
24 ground outside the car.

25 Q Could you tell whether police officers were

1 trying to give him some sort of emergency first aid?

2 A They said the medics were on their way.
3 They weren't there. No one was attending to him at that
4 point. He was kind of just laying there by himself.

5 Q Did you see medical arrive?

6 A I never saw medical arrive. I was in the
7 back of the cop car, kind of backing away, I would
8 assume, when they did arrive.

9 Q Had you seen, during your days with
10 Mr. Bellew, any kind of weapon in his possession?

11 A No. Never.

12 Q That night you were questioned by
13 detectives. And I say night, it actually became the
14 early morning hours of Monday, June 29th?

15 A Yeah.

16 Q But you were questioned, and you agreed to
17 a tape recorded interview with detectives, correct?

18 A Yes.

19 Q Is there anything that I didn't ask you
20 about this incident that you think is important for the
21 members of the Grand Jury to know about?

22 A No, I think you pretty much covered most of
23 it. I can't think of anything else -- that would be of
24 any importance, anyway.

25 MR. REES: Any questions from the Grand

1 Jury?

2 A JUROR: Danica, so you were behind the
3 car when -- so, and he was rifling through to find the
4 insulin kit, but you didn't see him, like, come up out
5 of the car?

6 THE WITNESS: (Witness shakes head.) I
7 looked away. I wasn't paying 100 percent attention to
8 what he was doing.

9 A JUROR: So I am just unclear as to when
10 the next time you saw, like the next time -- so you saw
11 him rifling through the car, and if you could clarify,
12 what was the next thing that you saw.

13 THE WITNESS: I never saw him stand up out
14 of the car. He was still bent over, and that's when I
15 heard "gun," and then bang, bang, bang, bang, and he --
16 from my knowledge, he never stood all the way back up
17 out of the car.

18 A JUROR: So was it an audible cue that
19 made you look, not a visual?

20 THE WITNESS: Oh, it was like a gun shot.
21 Made me look really, really quick, yeah.

22 A JUROR: So was the other police officer
23 back by you?

24 THE WITNESS: The other police officer was
25 still at the car with the open door right here. He was

1 kind of back behind the door, and he had his gun aimed
2 over where the door meets the car.

3 MR. REES: Would you like her to go to the
4 screen to indicate where the two police officers were?

5 Q BY MR. REES: To the best of your
6 recollection, if you are able.

7 A JUROR: And where you were.

8 THE WITNESS: I am back here, standing.
9 One of the police officers is here, taking cover, kind
10 of by the door, and then pointing the gun here, and was
11 shooting through back here (indicating). And the other
12 police officer was standing here (indicating), shooting
13 here.

14 A JUROR: Can you show us on the -- that's
15 not working for me.

16 THE WITNESS: Yeah. Sorry. So officer --
17 door is open here. Officer is standing here aiming to
18 the car this way (indicating). The other officer is
19 standing about here, shooting this way. And I am here
20 (indicating).

21 Q BY MR. REES: And, obviously, given your
22 testimony, this is your observation after you hear
23 gunfire, and after you look up?

24 A Yeah. This is when they already had their
25 weapons drawn and were shooting. Yes.

1 MR. REES: While she's up, any other
2 questions?

3 A JUROR: And when you backed up, which way
4 did you back?

5 THE WITNESS: I backed up this way, way
6 away from any of the gunfire. And I laid down about
7 here. And at that point, Wes was on the ground right
8 here (indicating), right next to me. That's why I said
9 he had to have been behind me.

10 A JUROR: And then when you left, Bellew
11 was laid out where?

12 THE WITNESS: He was laid out here, because
13 he had fallen inside the car. I mean, all I could see
14 was his feet, not looking very alive. But they laid him
15 out kind of like this, and then I was put in cuffs and
16 went this way to another cop car.

17 MR. REES: Did you have another question?

18 A JUROR: Huh-uh.

19 MR. REES: All right. If there are no
20 other questions from the Grand Jury, then we will end
21 your testimony and excuse you.

22 THE WITNESS: Okay.

23 A JUROR: I just wanted to clarify, who was
24 the owner of the car?

25 THE WITNESS: I am not the sole owner of

1 the car. Me and my boyfriend, that was not there, who
2 lives back in Springfield with me, are the co-owners of
3 the car.

4 A JUROR: Okay. Thanks.

5 MR. REES: Okay. Great. Thank you very
6 much.

7 (Proceedings concluded at 4:57 p.m.)

8
9 PROCEEDINGS

10 Thursday, July 16, 2015, at 8:54 a.m.

11
12 JAMES EDWARD POWELL,
13 produced as a witness, having been first duly sworn,
14 was examined and testified as follows:

15
16 EXAMINATION

17 BY MR. REES:

18 Q For the record, sir, if you would, please
19 state your name and spell first and last.

20 A James Edward Powell, J-A-M-E-S,
21 P-O-W-E-L-L.

22 Q What is your occupation?

23 A I am a criminalist with the Portland Police
24 Bureau.

25 Q What are the duties of a criminalist?

1 A I attend crime scenes, I do forensic
2 photography, DNA collection, blood stain pattern
3 analysis, evidence collection, and 3-D crime scene
4 scanning.

5 Q Do you have any special training to prepare
6 you for those duties?

7 A Yes, I do.

8 Q What does that consist of?

9 A The basic course is a one-year, in-house
10 training period. I am certified through the
11 International Association of Identification, which is
12 the parent body for Forensics Sciences, as a crime scene
13 analyst.

14 I have several hundred hours of various
15 training in crime scene specialties. Leica, I did
16 18 hours of in-house training with the Leica Company,
17 and various training sessions since then.

18 Q And how many years have you worked as a
19 criminalist?

20 A Four and a half.

21 Q And what other experience do you have in
22 law enforcement, generally?

23 A I have 35 years in law enforcement. I
24 spent eight years with Scotland Yard in London in
25 England; three years in the Lane County Sheriff's Office

1 in Eugene as a detective; and I have been with the
2 Portland Police Bureau for 23 years in a variety of
3 assignments.

4 Q During that time is it safe to assume that
5 you have been present at -- would it be hundreds or
6 thousands of crime scenes?

7 A Probably in the thousands would be my
8 guess, yeah.

9 Q Were you called to respond to the scene of
10 an officer-involved shooting in the early morning hours
11 of June 29, 2015, in the Winco parking lot on Northeast
12 122nd Avenue in Portland?

13 A Yes, I was.

14 Q Do you recall, approximately, what time you
15 arrived?

16 A I was called out from home about midnight;
17 arrived, I would say, 1:30 in the morning;

18 Q Were you assigned a particular primary
19 responsibility at the scene?

20 A Yes. My job was to do the 3-D
21 high-definition scanning with the Leica C-10 machine.

22 Q And you mentioned Leica. That's the name
23 of a Swiss company that manufactures this device; is
24 that correct?

25 A That is correct. Yes.

1 Q Can you explain for us in layperson's terms
2 how this device works, and how it creates this 3-D
3 digital image?

4 A Sure. It's actually a surveying tool
5 initially, so the Leica C-10 itself, emits a
6 high-definition laser beam which strikes an object, and
7 is bounced back into the brain of the machine. Picks up
8 50,000 points per second, and anything that is within
9 its field of view, it will marry into what we call a
10 point cloud, which is a cloud of digital measurements.

11 We then register these clouds together. On
12 this particular scan there were five separate scans,
13 registered together. It then takes photographs, which
14 we overlay the digital point cloud information and we
15 produce what is called a TrueView, which is a viewing
16 tool which allows you to move through the scan worlds to
17 view, and to pan, and to move in and out of the scene.

18 Q All right. While you are using this
19 device, is the scene itself frozen so that it's
20 maintained in a pristine condition, or I should say,
21 unaltered time condition?

22 A Ideally, absolutely, yeah. Mostly
23 there's -- sometimes things happen, weather-wise we
24 might have an issue. But, yes, the ideal is that the
25 scene is frozen in situ, and then we capture all the

1 images and the scan data, absolutely, as it was
2 presented to me.

3 Q When you initially arrived at the scene,
4 had it been taped off and cleared of unnecessary
5 personnel so that you could make these measurements?

6 A Yes, that's correct.

7 Q And about how long does it take you, then,
8 at this particular scene, to make the measurements?

9 A Several hours. Each scan world will take
10 about 20 to 25 minutes to do the scanning and the
11 photographs, and then repositioning the scan head takes
12 a few minutes. So I often say it's about 40 minutes, on
13 average, per scan world, if everything goes smoothly.
14 So on a scene of five scan worlds, this probably took a
15 good four to five hours.

16 Q For purposes of orientation of the scene,
17 why don't you go ahead and show us what the scene looked
18 like, physically, and what items of evidence you
19 observed at the scene.

20 A Okay. So this is scan world No. 1, and as
21 we move around you can see this is on the west side of
22 the Winco food store, adjacent to the main wall in the
23 parking lot. And there's a Taco Bell kitty-corner, that
24 way. So to the north is the Taco Bell, and I believe
25 there's a Shari's, which was to the southwest. And

1 there was a police car positioned, as you can see,
2 angled towards this vehicle.

3 And I found a number of evidentiary items
4 on the parking lot, which were marked by little
5 placards. I then have done -- I put a hot link -- a hot
6 link is a link to the actual crime scene photograph. So
7 wherever there's a label, I can open up and we can view
8 the crime scene photograph that corresponds to that
9 piece of evidence.

10 So that is placard No. 11, which is a spent
11 nine-millimeter shell casing.

12 Q And before we go through the placards,
13 again for orientation, is it your understanding that
14 this Portland police car that we're seeing immediately
15 in the foreground here with the passenger's side door
16 open, was it your understanding that that was the car
17 that Officers Lovato and Currier were in when they
18 arrived at the scene?

19 A That was my understanding, yes.

20 Q And this car, which is a VW Passat?

21 A It's a Jetta.

22 Q A Jetta? Okay. That was the vehicle where
23 the police officers encountered the three individuals?

24 A That is correct, yes.

25 Q And then having said that, unless you think

1 there's something else we need for orientation, why
2 don't you tell the Grand Jury about what evidence that
3 you noted and marked with a placard at the scene.

4 A Absolutely. Would you like each
5 photograph?

6 Q Yes.

7 A So placard 11 was the spent nine-millimeter
8 casing. Placard No. 10 is the same. Placards 8 and 9
9 were the same, spent pistol casing. Placard No. 7 was a
10 piece of a bullet fragment, so this is a bullet that had
11 struck an object, and probably ricocheted back, or
12 bounced back.

13 And then moving into Station 2, we have a
14 grouping of items by the front passenger door of the
15 vehicle. Placard No. 1 is a revolver or appears to be a
16 revolver.

17 A JUROR: I am sorry. That was the starter
18 gun, correct?

19 THE WITNESS: Yes. Yes, that's correct.
20 And you can see an officer's flashlight on the ground,
21 and this is a piece of bullet fragment, as well, No. 3.
22 That was on the ground. No. 4 was an unfired
23 nine-millimeter pistol bullet.

24 And if we look between the suspect vehicle
25 and the police vehicle, we have an officer viewpoint,

1 which I obtained through discussion with detectives, and
2 approximately the viewpoint from the officer's position.
3 You can zoom in, see the items on the ground, and the
4 view into the vehicle. That's actually a capped syringe
5 there in the door.

6 Moving to Station 3, which is on the other
7 side of the vehicle, so this is low down -- this is the
8 open driver's side door. And we have a number of items
9 here, mostly spent nine-millimeter bullet casings. 16
10 and 15 -- 15 and 16, 14, 17 and 18.

11 Q BY MR. REES: Excuse me, what are we
12 seeing?

13 A We see a spent casing right there, and a
14 spent casing right there.

15 A JUROR: So five spent casings on the
16 driver's side?

17 THE WITNESS: There's a couple more to go.
18 So 14, 15, 16, 3, 4, 5, 6, there was actually one found
19 in the wheel well of the vehicle, and then there was one
20 underneath the deceased, which I didn't include a
21 photograph of.

22 19 and 20 are outside the shopping cart
23 corral, would be good word. No. 13 is also a spent
24 casing right at the front of the vehicle. And then this
25 photograph shows the magazine that was unloaded from the

1 police pistol, and the impact of rounds into the
2 windshield of the vehicle.

3 A JUROR: Are there nine bullet holes?

4 THE WITNESS: I believe there are 10 --
5 yes, 10 impacts.

6 A JUROR: In front of the white thing?

7 THE WITNESS: We can zoom into that a
8 little bit. Yeah, 10.

9 A JUROR: Thank you.

10 THE WITNESS: And then at Station 4 we see
11 the rear view of the vehicle, showing the positioning of
12 the police car, positioning of the rear of -- I thought
13 it was a Jetta. Sorry.

14 Q BY MR. REES: I think I said Passat and you
15 said Jetta.

16 A I thought it was a Jetta.

17 And there's the crime scene photograph of
18 that showing the relative position of the spent casings,
19 and this is where the deceased ended up.

20 Q On the trunk of the car there's some sort
21 of equipment bag and -- was that there when you arrived
22 at the crime scene?

23 A It was. And it was, I guess, personal
24 items from one of the witnesses. And during my scan of
25 this, they wanted to have some of their personal items

1 back, so they were released during this process.

2 Q With the Leica Digital Scanning System, are
3 you able to make accurate measurements from any of the
4 various points?

5 A I can measure any points inside of this,
6 extremely accurately, within a millimeter or two.

7 Q So if you could, what is the distance of
8 the deceased from the Volkswagen vehicle?

9 A That's Station 3. You can see his shoe,
10 and there's the rear tire, so let's see -- so that is
11 .247 meters, so very close. Couple of feet.

12 A JUROR: Would you kindly change that to
13 inches, please?

14 THE WITNESS: Yes, I can do that.
15 (Complies.) Let's do feet. The system wants to work in
16 metric.

17 A JUROR: Will it get cranky?

18 THE WITNESS: Still going back to meters.
19 Why does it give me meters again? Huh, should change to
20 feet. Okay. 1.1 foot. So a little over a foot.

21 Q BY MR. REES: Due to the shopping cart
22 corral, as you called it, there was very little space in
23 between the side of the car to that point where the
24 deceased was positioned?

25 A Yes, this was a very tight space, indeed.

1 I mean, with the open doorway, you can see it's almost
2 touching the corral. So just a couple of feet, yes.

3 Q What is the distance, if you would, between
4 the patrol car that Officer Lovato and Currier were
5 assigned to and the parked Volkswagen?

6 A 6.8 feet.

7 Q And again, for the record, you have
8 measured from the front passenger's side?

9 A I picked the tire to the bumper. I could
10 go from the front bumper of the patrol car. Just seemed
11 like a convenient spot.

12 Q That's fine. I just want to make sure on
13 the record what we're measuring.

14 A 6.8 feet.

15 Q 6.8 feet from the tire of the patrol car to
16 the rear bumper of the VW?

17 A Yeah.

18 A JUROR: Just out of curiosity, I don't
19 think it matters for the investigation, but I'm trying
20 to imagine, is there object recognition in the software
21 so it knows when you click on the police car, that it
22 knows it's a car, and you are not clicking on some
23 space?

24 THE WITNESS: No. No. You have to pick --
25 all it knows is you are picking at a pixel in the point

1 to cloud. So that's why I wanted to use a fairly large
2 object, to make sure I am not overshooting or
3 undershooting.

4 A JUROR: It's hard for me to imagine how
5 that would -- I mean, you look at that photograph and
6 you point to a spot on the photograph, and that really
7 can be sort of anywhere in space. So how does it know
8 you mean the wheel and not like, I don't know -- I don't
9 know if I am expressing myself. It's a 2-D image. How
10 does it know you mean the wheel --

11 THE WITNESS: And not in behind or in front
12 of it? Yeah. So this is a visual thing, so you can see
13 here that what I am picking is the tire, or a point on
14 that tire.

15 Q BY MR. REES: And I don't think you
16 mentioned in terms of the application of the device. As
17 I understand it, there is a standardization procedure
18 that you use --

19 A Yeah.

20 Q -- in order to ensure accuracy. Did you do
21 that in this instance?

22 A Absolutely. Absolutely. In every scan --
23 and I absolutely get your point. Again, what am I
24 actually picking up?

25 So as long as you are fairly certain you

1 are picking on one of these surfaces -- if I was trying
2 to say, pick the tree back here, or the power line, I
3 think you might have some issues. But you are picking a
4 surface fairly close, and it's picking that. I mean --

5 A JUROR: I guess the laser goes out, it
6 has some idea of how far?

7 THE WITNESS: Exactly. It's line of sight.
8 So that laser knows exactly how far it's going out to
9 come back.

10 A JUROR: So if you had a 2-D image and you
11 tried to do this, it would never work. But because you
12 have the lasers going out, and it knows how far things
13 are --

14 THE WITNESS: So the point cloud that I
15 work with is three dimensional. And the product that we
16 move through is three dimensional. We then transfer it
17 to a two-dimensional world for ease of viewing, quite
18 frankly. Because if I was to bring the full 3-D model
19 in, it can be a little confusing for people.

20 A JUROR: So sorry to go on a tangent.

21 THE WITNESS: No, absolutely. You talked
22 about validation, so every set of scans we do, we
23 include a validation measurement, which is this. So
24 this is called a NIST pole. So it is 1.7 meters, almost
25 exactly from the center of the dot to the center of the

1 dot. So we have to go back to meters here.

2 So if I am picking exactly correctly, I
3 should be around the 1.7 meters, give or take a
4 millimeter or so. I mean, it's extremely accurate,
5 especially when comparing it to the old tape measure.

6 And it's going back to feet. 5.5 feet --
7 of course, it's going to stay at feet. 1.698 meters, so
8 within a couple of millimeters.

9 Q BY MR. REES: So according to Leica, the
10 manufacturer, how accurate would the measurements be,
11 like the ones you just gave us from point to point?

12 A Our tolerance is three millimeters, so we
13 need to be within three millimeters of tolerance. So
14 when I register the five scan worlds together, if I get
15 anything above three millimeters, it is rejected and
16 it's done again. So all of my tolerances are within
17 three millimeters, which is minute, really. It's very
18 very small.

19 MR. REES: Are there any other questions
20 from the Grand Jury while Criminalist Powell is here,
21 about anything you might want to see in the scene, or
22 any measurements that you want him to do?

23 A JUROR: I have two questions. You
24 mentioned earlier that things can be -- ideally
25 everything is left the same, sometimes it's not, weather

1 or whatever.

2 Was there anything in this particular scene
3 that you know of, that was adjusted or moved?

4 THE WITNESS: The only things were the
5 bags. Again, the bags on the rear trunk, which belonged
6 to, I believe, one of the witnesses. And she wanted
7 articles out of the bags, so detectives asked if they
8 could restore one of the bags, or something from the bag
9 to her.

10 None of the rest of the evidence was moved
11 at all. So my understanding, whatever was in the bag
12 was deemed not critical to this investigation, and so
13 that was done.

14 A JUROR: Okay. My other question was, do
15 you personally know the two officers that did the
16 shooting?

17 THE WITNESS: No, I don't.

18 A JUROR: And I am probably jumping way
19 forward here, because we still have a lot of people to
20 hear from, but the young lady that we heard from earlier
21 said the shooting occurred on the passenger's side, but
22 yet the body ended up over on the other side. And you
23 asked distance from the car to the body, so I am just a
24 bit confused how the body ended up --

25 MR. REES: I don't believe this witness can

1 answer that question, but we will be calling a witness
2 who will answer that question, who moved the body.

3 And I asked the question because I believe
4 there was a question from someone earlier about the
5 distance of the body from the car. I don't know if
6 anyone recalls that, but I thought someone had asked
7 that question.

8 A JUROR: I don't recall, either.

9 MR. REES: So that's why I asked the
10 question.

11 Anything else for Mr. Powell?

12 (No response.)

13 Q BY MR. REES: Thank you very much.

14 A Is somebody comfortable running the system?

15 Q Yeah. Thank you.

16 (Concluded at 9:21 a.m.)

17

18 PETER TAYLOR,
19 produced as a witness, having been first duly sworn,
20 was examined and testified as follows:

21 THE WITNESS: Yes, I do.

22

23 EXAMINATION

24 BY MR. REES:

25 Q Officer, if you please state your first and

1 last name for the record.

2 A Good morning. I am Peter Taylor,
3 T-A-Y-L-O-R.

4 Q What is your occupation?

5 A I am a Portland police officer.

6 Q How long have you been a police officer?

7 A 18 years.

8 Q And what is your educational background?

9 A I went to the University of Michigan, and I
10 got a BA in history and political science, and that's
11 the peak of my academic achievement.

12 Q And following the university, did you go
13 directly into law enforcement?

14 A No, I didn't. I spent almost five years in
15 the Marine Corps.

16 Q And then after that?

17 A Then I joined the Police Bureau.

18 Q What is your current position with the
19 Portland Police Bureau?

20 A Currently, I am an instructor with our
21 Training Division, and I am partially responsible for
22 the Defensive Tactics Program.

23 Q And police officers receive initial
24 training through the Department of Public Safety,
25 Standards and Training, or the Police Academy, and upon

1 employment they then receive additional training once
2 they are employed?

3 A Correct. So I completed the basic academy,
4 which at the time was Monmouth, Oregon. And it's run by
5 the State of Oregon. And then went to Portland and
6 completed our field training program there where I
7 worked with more senior officers to get some experience.
8 And then also completed our Advanced Academy, which at
9 the time, I think, was 13 weeks. And that was
10 additional, more formalized classroom scenario type
11 training.

12 Q In terms of the training that you do now,
13 specifically in the area of defensive tactics, who are
14 the officers that you are seeing, and how much training
15 do they receive on a regular basis?

16 A So we run multiple programs. The two most
17 prominent programs are Advanced Academy, which again is
18 oriented to new officers, once they have completed their
19 basic training. We now provide them -- again, it's
20 about an additional 13 weeks of formalized instruction.

21 But we also provide ongoing, recurring
22 training for all of our tenured members on an annual
23 basis. And they can receive about 30 to 40 hours of
24 additional skills training in the course of a year.

25 Then some officers, depending on

1 assignment, or different certifications, will receive
2 additional annual training, or at least recurring
3 training for those assignments. So for instance, if
4 somebody is an operator for the patrol rifle, they will
5 have an annual training that enhances those skills,
6 things like that.

7 Q In terms of defensive tactics or
8 self-defense, do you teach a concept called
9 action/reaction?

10 A Yes, we do. And action/reaction, our
11 description is that in a contest of time, the initiator
12 has an advantage. The point being that because of just
13 normal human performance limitations, you have to
14 observe your world around you, orient yourself to what
15 is happening, make decisions about what you feel you
16 need to do in response to that, and then actually act.

17 So there's a cognitive delay that happens
18 in response to your world. In addition, there are just
19 physical delays. Our body is partly mechanical, partly
20 electrical, partly chemical. The nervous system uses
21 both electrical and chemical processes to receive
22 information, and then also after you have made a
23 decision, move your various body parts.

24 All of that comes with some inherent time
25 delay, and these things start to stack up after adding

1 them all together, especially in a more complex
2 environment where you have more information you have to
3 take in, process, and respond to.

4 Q So in a very basic level, how does the
5 action/reaction concept work for all of us?

6 A So if you are, again -- and we are speaking
7 in terms of a contest, maybe. If you are interacting
8 with somebody else, and that person moves first, you
9 will always have some inherent delay in responding to
10 that. It is a simple physical fact that can't be
11 overcome.

12 Q So I have heard it explained by way of
13 example of a motorist responding to a traffic light. Is
14 that --

15 A And that's one I frequently use in talking
16 to kind of lay audiences, which is that highway
17 departments, city road departments use a fairly standard
18 figure that somebody driving, just in perceiving a
19 change in a traffic signal -- so either green to yellow,
20 or yellow to red, something like that -- it takes them
21 about a second and a half to see that that has occurred,
22 and then make a decision to do something about it.

23 Not that they can bring a car to a stop in
24 a second and a half, but seeing the light has changed
25 and moving the foot to the brake pedal takes about a

1 second and a half.

2 Q So how does that concept then,
3 action/reaction, relate to what you train police
4 officers?

5 A So in our training, we relate this to, if
6 interacting with somebody who is a potential threat or
7 an immediate threat, the officer has to understand that
8 this is a delay that can jeopardize their safety, or the
9 safety of somebody else, and that they may have to then
10 put themselves in the role of being the initiator in
11 order not to be so far behind that they can't act on
12 behalf of their safety, or the other person's safety.

13 Q Let me ask you now about the use of deadly
14 force. Generally, when are officers trained that the
15 use of deadly force would be appropriate?

16 A So our policy explicitly says that an
17 officer may use deadly force to protect themselves or
18 another person from what they seriously believe is an
19 immediate threat of death or serious physical injury.

20 We can use deadly force to effect the
21 arrest, or prevent the escape of a person when we have
22 probable cause to believe that that person presents an
23 immediate threat of death or serious physical injury to
24 the member, or others. And if tactically feasible, some
25 warning is given.

1 Q In terms of the first criterion to protect
2 themselves, the individual officer or another person
3 from an immediate threat --

4 A JUROR: Can he just repeat it again,
5 because you are doing it verbally, and I can't take it
6 all in.

7 MR. REES: Oh, sure, do you need it
8 repeated?

9 Q BY MR. REES: If you can repeat that, but I
10 have a follow-up question after you repeat it.

11 And the follow-up is, what is the training
12 as to what is an immediate threat? But go ahead and
13 repeat the --

14 A So the three sentences that are the crux of
15 that are that a member may use deadly force to protect
16 themselves or others --

17 A JUROR: Just a second.

18 THE WITNESS: Uh-huh.

19 Q BY MR. REES: If you want to he write it on
20 the board, sure.

21 A Sure. Let's do that. (Complies.)

22 THE WITNESS: Do you transcribe squeaky?
23 This is like a television caption, huh? Do you have a
24 button for that?

25 THE WITNESS: I guess I rearranged some of

1 it.

2 Q BY MR. REES: Just to save you the time, I
3 think the first one is the only one that is really
4 relevant in this particular case, unless someone really
5 wants the rest, so you -- why don't you --

6 Because we do have a written record, tell
7 us what you have written and explain why you wrote that,
8 and what it means.

9 A Okay. So rearranged some of the clauses
10 there. It should say that, "A member may use deadly
11 physical force to protect themselves or others from what
12 they reasonably believe is an immediate threat of death,
13 or serious physical injury."

14 So the components are, the reasonable
15 belief is that a reasonable person in the same set of
16 circumstances could also come to that same opinion.
17 Death or serious physical injury is actually defined in
18 state statute. Death is pretty obvious.

19 The serious physical injury is a
20 substantial loss of bodily function, and serious risk of
21 death, disfigurement. And then the protect themselves
22 or others, the immediate part, "immediate" is considered
23 to have its ordinary meaning in language. But it would
24 be that for that particular totality of circumstances,
25 again, that reasonable belief would be that an action

1 caused by another person would then result in death or
2 serious physical injury.

3 Q All right. So and that's what police
4 officers are taught under those set of circumstances,
5 they would be justified under law and by Police Bureau
6 Policy to use deadly force; is that correct?

7 A Yes.

8 Q To put it another way, what is the training
9 regarding the use of deadly force against someone who
10 appears to be armed with a firearm?

11 A Again, it's going to be very dependent. I
12 mentioned the totality of circumstances, that every fact
13 is relevant, and none of them really exist in a vacuum.
14 Merely because somebody has a firearm does not mean they
15 are an immediate threat. It really depends on what has
16 been the person's behavior that is known up to that
17 point, what else are they doing at that moment, have
18 they made any statements, how are they holding the
19 firearm? What that has caused the person and the
20 officer to come into contact?

21 If I go to a range where other people are
22 shooting targets, I am going to be substantially less
23 concerned with the fact that somebody is holding a
24 firearm. If I go to the scene of a reported crime and
25 somebody is holding a firearm and pointing it at a

1 person, then I have a much more substantial concern
2 about what they are doing. Maybe they are making
3 statements. Again, oh, look what I found is certainly
4 less concerning than a statement of, I am going to kill
5 you.

6 So again, that's why it's the totality of
7 the circumstances, not merely individual facts that are
8 critical in that determination of what is the immediacy
9 of the threat, what action needs to happen.

10 Q In the movies, for those of us old enough
11 to remember Westerns, or in a TV police show the bad
12 guys or the suspects always shoot first.

13 Is that consistent with the training of the
14 police?

15 A Well, it sometimes actually happens that
16 way, that suspects do shoot first. That comes with
17 substantial peril. Those bullets will hit something
18 eventually, and either by design or even through
19 recklessness, can put somebody at risk of death.

20 So allowing somebody else to shoot first is
21 a huge risk, and should be avoided. So we do training
22 that if there is a reasonable determination that
23 somebody is an immediate threat, that it is legally and
24 even ethically responsible to stop that threat with what
25 may be deadly force.

1 Q Where are officers trained or taught to
2 shoot? And again, just referring to the movies, because
3 for a lot of people that's a point of reference. We see
4 guns shot out of hands, or things like that, but is that
5 how they are trained?

6 A It's very impractical. Shooting is a
7 fairly complex physical task. It's not easy to become
8 very good at it. And we train, because of those
9 inherent limitations, that we should shoot at the
10 largest part of our target. And in this case, we are
11 saying that the target is a person, and that the largest
12 part of that target is what we refer to as center mass,
13 which is basically the center of the upper body.

14 And the reasons for that are that it is,
15 again, the largest area that can be targeted of a
16 person, which reduces the likelihood of missing. And
17 also, you know, unfortunately the purpose of using
18 deadly force is to effect a change in behavior. And
19 hitting a person in these areas is more likely to stop
20 them from doing the thing that could put other people at
21 risk.

22 Merely shooting somebody in the extremity,
23 even if it were physically possible, might not stop them
24 from continuing their actions. And again, the very
25 grave decision to make that deadly force is necessary,

1 and so it has to be effective.

2 Q What are officers taught about how many
3 times they should fire, if they make the decision to use
4 deadly force?

5 A We don't specify that there is a correct or
6 incorrect number of times to fire. Really, the purpose
7 is, again, as I mentioned, is to cause a change in
8 behavior, to stop the threat. Can the use of the
9 firearm make a change in that person's actions so that
10 now they are not creating that substantial risk for
11 others?

12 And so an officer should shoot until they
13 perceive changes that now there is not the immediate
14 threat. And they are responsible for each shot, but
15 they are going to shoot until things change.

16 Q So in practical application, could that
17 mean one shot, up to 20, 30, 40 shots? How does that
18 work?

19 A Sure. We have certainly seen cases where
20 one shot was effective. If you think back to 1997, the
21 LA North Hollywood bank robbery, I think LAPD went
22 through over 600 rounds in that incident against two
23 heavily armed subjects with heavy body armor. They went
24 through 1100 rounds.

25 So in that case, clearly one bullet was not

1 enough, and they were in an extended shootout. And
2 ultimately, the police used over 600 rounds until
3 finally these two men were no longer shooting at them.

4 Q So it's wholly dependent on the particular
5 circumstances presented?

6 A Exactly. We keep coming back to the
7 totality of circumstances, nothing exists in a vacuum.
8 What is going on? What do we know at a given moment?

9 MR. REES: Thank you.

10 Are there any additional questions from the
11 Grand Jury?

12 (No response.)

13 MR. REES: Thank you, Officer Taylor.

14 (Concluded at 9:39 a.m.)

15
16 SCOTT JUNGLING,
17 produced as a witness, having been first duly sworn,
18 was examined and testified as follows:

19
20
21 EXAMINATION

22 BY MR. REES:

23 Q Good morning, Officer. If you would, for
24 the record, state your first and last name, and spell
25 your names.

1 A Sure. Scott Jungling, J-U-N-G-L-I-N-G.

2 A JUROR: I am slow. I am sorry.

3 THE WITNESS: It's Scott, J-U-N-G-L-I-N-G.

4 Q BY MR. REES: Are you a Portland police
5 officer?

6 A Yes, I am.

7 Q How long have you been a police officer?

8 A Nine years.

9 Q What did you do -- I am guessing you did
10 something before that?

11 A I retired from the military; 24 years in
12 the Air Force.

13 Q And what is your current assignment with
14 the Police Bureau?

15 A East Precinct night shift as a patrol
16 officer.

17 Q And the night shift would be a start time
18 and an ending time of what?

19 A We start at 10:00 at night for roll call,
20 and then get off at 8:00 in the morning.

21 Q Were you working your regular patrol
22 duties, then, on Sunday, July 28th, and -- I am sorry,
23 June 28th. Thank you -- the evening prior to this
24 officer involved shooting?

25 A Yes.

1 Q So you would have started your shift at
2 about 10:00?

3 A Yes. And went over to the following
4 morning, yes.

5 Q Did you become aware that evening at about
6 11:30 that Officers Lovato and Currier had indicated
7 they were out with some individuals on the west side of
8 the Winco at Northeast 122nd Avenue?

9 A Yes.

10 Q How did you become aware of that?

11 A The area that they did the stop is the
12 district -- we call it a district. It's a geographical
13 area that my partner and I work. We call it the 940s in
14 the East Precinct.

15 So when we heard on the radio that they
16 were out on the subject stop at Winco, we knew exactly
17 where it was, because that's the area that we work every
18 day. So we became aware that they were out, and so we
19 headed that way just as a matter of courtesy, to make
20 sure if they need any help, we would help them, and we
21 would check on them.

22 Q So you were aware through a radio broadcast
23 that those officers made that they were at that
24 location?

25 A Yes.

1 Q Did you go to that location then?

2 A Yes, we did.

3 Q Does that photograph show generally that
4 location?

5 A Yes.

6 Q When you went to that location, can you
7 describe to the Grand Jury what you observed?

8 A Sure. As you are looking at the picture,
9 if you come towards you this way, that's north where
10 San Rafael is at, if you are familiar with that area.
11 There's a Taco Bell right there.

12 A JUROR: There's also a recycling dump.

13 THE WITNESS: Yes, right across the street.

14 We came off of San Rafael, and came south
15 toward the front of Lovato and Carrier's car, which is
16 the center police car. Just a roll-by, see how they are
17 doing, make sure everybody is okay.

18 So when we came in, we rolled on the right
19 side of the car, the driver's side. Officer Lovato, who
20 I know personally, was sitting in the driver's seat
21 working the computer, which is kind of standard, doing
22 either records checks, or warrants checks, or whatever
23 the case may be.

24 So the door was open, and he was sitting in
25 the driver's seat. And Officer Carrier was outside of

1 the car, standing at the open passenger's side door.
2 And then the car to the left, I looked at the left,
3 there were a couple of people at the trunk of the car.
4 I don't know how many people, exactly -- two or three
5 people. But Carrier was watching them. Lovato was
6 sitting in the car.

7 So we just kind of -- we pulled up. I was
8 driving. I rolled my driver's window down, and asked
9 Lovato if he was okay, did they need us to stay,
10 something to that effect of, are you all right?

11 He held up four fingers, which is
12 indicative of Code 4, which means, we're fine. So once
13 I saw four fingers, we kind of drove off and headed out
14 of the parking lot.

15 Q BY MR. REES: What you just described,
16 hearing other police officers are out with some
17 citizens, and then going to the scene just to make sure
18 that they don't need any assistance, and getting Code 4,
19 is that all just kind of a routine situation that you
20 would encounter on any given patrol?

21 A I don't -- in regards to --

22 Q The scenario you just described, is that
23 just a routine kind of situation?

24 A Well, when you hear people are out --
25 No. 1, when you hear people are out with somebody, this

1 is a two-person car, which doesn't really make any
2 difference than a one-person car, other than there's two
3 of them.

4 But since we're in our area to begin with,
5 we wanted to make sure -- we were familiar with Winco.
6 There was some things that have happened in the past
7 near Winco. So we just want to make sure everybody is
8 okay.

9 Most officers do that. If you are close
10 you will always do a roll-by and make sure the other
11 officer is okay, or if they need help. Sometimes you
12 will roll by, more often you will be waived off with a
13 Code 4, but sometimes the officer will want you to stay
14 if something is wrong or different. Maybe the guy has a
15 warrant, or -- regardless. So yeah, it's pretty
16 standard for cops to roll by, and see how everybody is
17 doing.

18 Q It sounds as if it appeared to you at that
19 moment in time, everything was low key, nothing out of
20 the ordinary?

21 A That is correct. And with Currier doing
22 the over watch, kind of a cover of the people at the
23 car, Lovato was working the computer, warrant checks,
24 registration checks, whatever he may be doing, it all
25 looked like a standard subject stop, or traffic stop, or

1 any kind of stop, it just looked normal.

2 A JUROR: Was Carrier inside the car, or
3 outside?

4 THE WITNESS: No, he was outside the car.
5 The car was just like that, open driver door, and open
6 passenger's side door. And Carrier was on the
7 passenger's side just behind the door. He was out of
8 the car.

9 Q BY MR. REES: After then Officer Lovato
10 gave you the Code 4 signal, what did you do?

11 A We drove off, and went over to a contact
12 office. Contact office is like a rest stop for us -- at
13 a church at 102nd and Sacramento, graciously enough has
14 allowed us to use one of their buildings. I think we
15 went over there to use the bathroom. And we were using
16 the bathroom and getting a snack, and I heard on the
17 radio Carrier come across with "shots fired," and I
18 think my partner was still in the bathroom.

19 But no matter, I yelled we needed to go.
20 We got to the car. We knew exactly where they were,
21 because we just left them. And I never heard on the
22 radio that they had cleared their subject stop. And it
23 was a few minutes after we had rolled by that Carrier
24 said that shots were fired. So that's exactly where we
25 went, and that's exactly how we found them.

1 A JUROR: Which car is yours when you went
2 back?

3 THE WITNESS: Neither one of those is mine.
4 We were, I think, the third car there, and so what you
5 want to do is you don't want to collapse everything in
6 there, because what you have to do -- which other
7 officers, I'm sure, will speak to, is set up kind of a
8 crime scene area. There were enough cops there to
9 render first aid, help Lovato and Carrier.

10 We were probably where the flag pole is,
11 just west of there. You see that other police car
12 behind the one. I pulled in right behind that one, and
13 then other cops, of course, are naturally coming when
14 you hear that radio transmission, and threw up tape and
15 red tape, and cops everywhere.

16 Q BY MR. REES: What did you personally do
17 when you arrived at the scene?

18 A My partner, Steiner, went to the shoot
19 scene. I started directing crime scene tape to be
20 thrown up. Yellow tape initially, then you go to red
21 tape, which isolates the actual area that the detectives
22 will work, and eventually command post placement.

23 And then one of the people that had been at
24 the car, last name of Howe, I believe it is, I
25 eventually took custody of him, pending an interview by

1 detectives. So he and I spent quality time together.

2 Q And he made some statements to you at that
3 time?

4 A Who, Howe?

5 Q Mr. Howe.

6 A I never talked to him about the shooting at
7 all. He was worried mainly about his dogs that were in
8 his car at Dotty's or Patty's. I don't remember
9 which -- I don't get into a conversation with a witness.
10 That's a detective's issue, because they are going to
11 want to know everything from beginning to end.

12 But he had parked his car over at Dotty's
13 or Patty's in front of Winco, which I found odd. And
14 his dogs were in the car, and he was really worried
15 about that. We talked about that. He was still in
16 handcuffs. An officer went over and sat on the car,
17 took care of the dogs. Took him out of handcuffs, and
18 he was very cooperative and very pleasant. He wasn't
19 adversarial or anything.

20 MR. REES: Any questions from the Grand
21 Jury about that?

22 (No response.)

23 MR. REES: Officer Jungling, thank you.

24 (Concluded at 9:58 a.m.)

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SARAH KERWIN,
produced as a witness, having been first duly sworn,
was examined and testified as follows:

EXAMINATION

BY MR. REES:

Q For the record, if you would please state
your first and last name, and spell your names.

A Sarah Kerwin, S-A-R-A-H, K-E-R-W-I-N.

Q Officer Kerwin, are you a member of the
Portland Police Bureau?

A I am.

Q How long have you been a police officer?

A Since 2007.

Q What is your educational background?

A I have a degree, bachelor's degree in
criminology.

Q And then after college, did you go
immediately into law enforcement?

A I did.

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

A I work patrol out at East Precinct.

Q Are you assigned a particular --

A Pre-relief shift, 3:00 p.m. to 1:00 a.m.

1 Q And were you working at the time of this
2 officer-involved shooting, which occurred on June 28th?

3 A I was.

4 Q When and how did you become aware that
5 shots had been fired at the Winco at Halsey and
6 Northeast 122nd?

7 A As soon as I heard it over the radio.

8 Q So it was a radio broadcast?

9 A Yes.

10 Q Do you remember, generally, what the
11 broadcast would have been, that you had heard?

12 A We have shots fired over here.

13 Q So that was from the police officer?

14 A Yes.

15 Q So what do you do when you heard that?

16 A I immediately drove that way.

17 Q Do you remember how long it took you to
18 get --

19 A I was in front of East Precinct, actually,
20 and I drove all the way from there down Stark, down
21 122nd to Taco Bell. Probably took me a minute or two.

22 Q About a minute or two?

23 A I was driving pretty fast.

24 Q You were driving, I assume, lights and
25 sirens, as quickly and safely as possible?

1 A Yes.

2 Q Did you receive any additional information
3 enroute?

4 A It came out they were at 122nd and Halsey,
5 but I heard Officer Steiner say that they were closer to
6 the Taco Bell, which is 122nd and San Rafael.

7 Q Were you aware of that area --

8 A Oh, yes.

9 Q -- prior to this?

10 A Go there frequently.

11 Q If you would, then, why don't you describe
12 what you did when you arrived at the scene?

13 A There's several entrances into this lot of
14 Winco, as you can see here. And the Taco Bell is
15 closest to San Rafael, but we knew that they had guns
16 pointing a certain way, because there were subjects.
17 And they said our guns are pointed north, which would be
18 the north entrance next to Taco Bell off San Rafael.

19 So the safest route in would have been off
20 122nd in the most northern driveway to the Winco lot.
21 Because the officers didn't have their lights on, we
22 wouldn't have been able to see them without that update.
23 Their overhead lights on their vehicle were not on.

24 So we pulled in. As soon as I saw that
25 vehicle -- Officer Bigoni was actually in front of me.

1 I was following him. We were driving together, not in
2 the same vehicle, but down 122nd towards this location.
3 He pulled in. He was driving a Crown Vic. I was
4 driving a Caprice. He pulled in. His Caprice is over
5 here on the driver's side, and my car is the second
6 Caprice in the back.

7 Q Just so everyone is clear, and for the
8 record, why don't you go up to the screen and you can
9 point out for us which car is yours.

10 A My car is back here (indicating).

11 Q Indicating immediately behind the Officer
12 Lovato and Currier patrol car?

13 A Yes. Yes.

14 Q Is that right?

15 A Yes. And when we're trained to do
16 high-risk situations, you don't want to stack all your
17 cars up behind each other. That just doesn't make
18 sense. When he's -- when Officer Bigoni pulls his car
19 in, I immediately determine I am going to go to the
20 passenger's side of the patrol vehicle, which is where I
21 saw Officer Lovato standing in the driver's side portion
22 of the Volkswagen there.

23 And then I saw a man's feet hanging out of
24 the passenger's door there, his feet were hanging out,
25 and he was laying back. And the flashlight, which I

1 assume was the officer's flashlight because it was
2 illuminated, was on the ground next to the passenger.

3 Q And if you would wait for one moment. Let
4 me see if I can change the image.

5 A Okay.

6 Q To show the image which is now showing the
7 passenger's side of the Volkswagen, which is what you
8 are describing currently; is that right?

9 A Yes.

10 Q So to back up, now that we have the
11 scene -- and again, if you want go up to the screen to
12 show us, I believe you testified that you saw an
13 individual who was partially out of the passenger side
14 of the vehicle; is that right?

15 A Yes.

16 Q So can you show us that?

17 A His feet were coming out here (indicating),
18 and I saw the flashlight, which is illuminated. That's
19 why I assumed it was a police flashlight. A lot of the
20 guys carry these, so my assumption was that's got to be
21 the officer's flashlight.

22 And the officer was on the other side, and
23 I could see -- because it's illuminated, I could see the
24 butt of what appeared to be a revolver by the subject's
25 foot. So I knew I couldn't go on that side, and Officer

1 Lovato had the subject at gunpoint on the driver's side.
2 I didn't want to, obviously, be in that range if
3 necessary for him to fire a shot again. You don't want
4 to be in that way.

5 So when I got there, when I saw this, he
6 actually alerted me to, there's a gun by his feet, even
7 though I saw it, but, you know, you put two and two
8 together at that point.

9 Q "He" being Officer Lovato?

10 A Yeah. Officer Lovato. So I get out and
11 say, okay, what do we need to do? What would you like
12 me to help you with, slow it down a little bit, get them
13 thinking.

14 So I moved over first to him, Officer
15 Lovato. I could see that the male in the -- that he had
16 his feet hanging out, was actually draped across the
17 center console with his head and his upper chest area in
18 the driver's seat. And we knew we needed to get him out
19 of the vehicle, because he's still breathing. So we
20 want to render him some aid, and get him into a safe
21 location, because he if he wanted to, he could reach up
22 and grab this gun, because it was so close to him.

23 So I began to -- I moved Officer Lovato
24 over, because he had him at gunpoint still. Grabbed
25 onto his arm, and I believe Officer Carrier came over,

1 grabbed onto his right arm. I had his left arm. And we
2 pulled him out the vehicle where you can see where the
3 yellow tarp is. This is the yellow tarp right here
4 (indicating).

5 A JUROR: You pulled him through the
6 driver's side?

7 THE WITNESS: Yes, by his arms and his
8 belt.

9 Q BY MR. REES: And I am changing the image
10 now to show the driver's side of the vehicle. And if I
11 could, just to back up a little bit, when you arrived,
12 could you tell whether this individual was still alive
13 or not?

14 A He was still alive. He was still
15 breathing, moving a little bit. We were talking to him,
16 you know, we're going to get you out of the car. We're
17 going to get you some help. We had already called for
18 the fire and medics to arrive. But we couldn't bring
19 them into the scene yet, because we still had two
20 individuals that they were needing to take custody of,
21 which I had no part of that.

22 Q And did you, according to your training,
23 perceive that individual to be a threat or not a threat
24 at that point?

25 A Still a threat until we removed him away

1 from that weapon.

2 Q So can you explain, why do you think that?

3 A He's still breathing, he's still alive.

4 The gun is still in close proximity. If he wants to sit
5 up and grab it, he can.

6 Q And you mentioned when you arrived you saw
7 Officer Lovato with his gun aimed at the subject, I
8 believe?

9 A Yes.

10 Q At that point, did you notice any other
11 police officers, or were you just focused on Officer
12 Lovato?

13 A Officer Currier, I recall him being at the
14 driver's side of their patrol vehicle, having two
15 individuals at gunpoint. I believe a male and a female,
16 which were laying on ground in a proned out position,
17 which is arms out with their legs out, so we could take
18 them into custody. Because I believe they were involved
19 in this -- with this vehicle.

20 So he had them -- Currier had them at
21 gunpoint. Officer Bigoni went to help them -- help him
22 with taking them into custody. And I believe two
23 officers from North also arrived directly after us to
24 help assist us in taking those two subjects into
25 custody. And my sole focus was helping Officer Lovato

1 because nobody was helping him at that point.

2 Q If you could, if you can explain, why did
3 you decide to pull the subject through the driver's side
4 of the vehicle and out of the car?

5 A So as to not disturb the weapon, and also
6 to remove him away from that weapon. And also, I felt
7 with the way he was laying, it was much easier to pull
8 him that way, grabbing his belt and arms and pulling him
9 that way, and getting him into a safe location, which
10 was on the opposite side of where the weapon was, to
11 start rendering him some aid to get him to the hospital.

12 Q Did you pull him out all by yourself?

13 A No -- well, I tried. He was a little
14 heavy. Officer Currier came over and grabbed onto his
15 other arm, and I remember his belt broke when we pulled
16 him out. His belt broke, so we had to grab him by his
17 jeans and pull him through. And then we moved him, not
18 too far, just towards the end of the vehicle so we could
19 start helping him.

20 Q And was there -- do you recall -- I am
21 changing the image here to show this area at the rear of
22 the car on the driver's side. Does that show where you
23 positioned the gunshot individual?

24 A Yes.

25 Q And was there a reason why you moved him to

1 that location in the parking lot?

2 A It was the safest area at the time to take
3 him, because, you know, the other patrol vehicle has
4 these guys at gunpoint here. So at least we're not in
5 the line of fire if that happens. And then also the gun
6 is on the other side of the vehicle.

7 So it felt like the safest location, the
8 quickest location to get him to, to begin applying
9 pressure, and you know, helping him out and getting the
10 firemen there, basically.

11 Q All right. You can return to your seat.

12 A (Complies.)

13 A JUROR: What was Officer Lovato doing
14 while you and Officer Currier were pulling him out of
15 the vehicle?

16 THE WITNESS: I told Officer Lovato to step
17 out of the way. His job was done.

18 Q BY MR. REES: And can you explain what you
19 mean by that, why you did that?

20 A Because he was directly involved, and we
21 tend to pull anybody involved out of the situation
22 immediately.

23 Q Directly involved, meaning you believe he
24 had been involved in a deadly force incident?

25 A Yes, I do.

1 Q And is that pursuant to your training that
2 you would not assign duties to those officers, and you
3 would move them to the side?

4 A Yes.

5 MR. REES: Does that answer your question?

6 A JUROR: Yes, thank you.

7 Q BY MR. REES: And then if you could tell
8 us, once you had this subject here at rest, did you or
9 anyone else attempt to render first aid?

10 A I did. I carry what is called a Quickclot
11 gauze in my pocket, because we have sat pockets --
12 sorry, cargo pockets. And I carry that on my person
13 directly for any incident like this, or officers are
14 injured. And I located where he was bleeding from, and
15 I pulled one of the Quickclots out, applied it, applied
16 pressure, and I had Officer Bigoni help me, as well.

17 A JUROR: How do you spell Bigoni?

18 THE WITNESS: B-I-G-O-N-I.

19 Q BY MR. REES: In addition to that emergency
20 first aid that you used with the Quickclot product, were
21 efforts also made to also bring in Fire Bureau EMTs?

22 A Yes.

23 MR. REES: Any other questions for this
24 witness?

25 A JUROR: Do you remember any words

1 exchanged between you and either of the officers
2 involved in the shooting?

3 THE WITNESS: No. I just had them leave.

4 A JUROR: Do you know if you know them?

5 THE WITNESS: Not personally, but on a
6 professional level, yes. I worked around them, they do
7 good police work.

8 A JUROR: I am sorry. You said that you
9 had told the injured party, help is on the way. Did he
10 say anything, or --

11 THE WITNESS: He moved his head, and there
12 was a lot of labored breathing, but we let him know that
13 the Fire Department was on the way.

14 A JUROR: So Mr. Bellew said nothing to
15 you, then?

16 THE WITNESS: Nothing at all.

17 A JUROR: And he was only bleeding in one
18 spot? I mean, he was only shot in one spot?

19 THE WITNESS: In his back area, and then I
20 believe there was one that I recall about here
21 (indicating) on his body, I believe. It believe it was
22 his right side, maybe, left side? I don't really
23 recall.

24 A JUROR: So you told Officer "L" --

25 THE WITNESS: Lovato.

1 A JUROR: -- to step out. But Carrier also
2 was involved in the shooting. You weren't aware of
3 that?

4 THE WITNESS: I didn't know -- to be
5 honest, I didn't know it was Officer Carrier that helped
6 me until after the fact. I thought it was Officer
7 Condon, but he wasn't working. So he said, I believe
8 that was Carrier.

9 So he was actually removed by the sergeant,
10 because I remember the sergeant saying, you come with
11 me, and they removed them. Because I was focused on
12 him, when another pair of hands, which I knew it was a
13 guy, came in in a ball cap. And that's why I thought it
14 was Condon because he always wears a ball cap. But
15 everything is happening so quickly.

16 MR. REES: If there are no other questions,
17 we will excuse this witness. Thank you very much.

18 (Concluded at 10:14 a.m.)

19
20
21 BERNARD HENRY,
22 produced as a witness, having been first duly sworn,
23 was examined and testified as follows:

24 THE WITNESS: I do.
25

EXAMINATION

1
2 BY MR. REES:

3 Q Sir, if you would go ahead and have a seat,
4 please. First, let me have you state your first and
5 last names, and then slowly spell your name for us.

6 A My first name is Bernard, B-E-R-N-A-R-D,
7 and my last name is Henry, H-E-N-R-Y.

8 Q And Mr. Henry, where did you work?

9 A I work at Winco on 122nd.

10 Q And were you working on the Sunday night
11 when this shooting occurred in the parking lot?

12 A Yes, I was.

13 Q And can you tell the Grand Jury when you
14 first became aware, or how you first became aware that
15 there was some kind of police activity in the parking
16 lot?

17 A Well, upon my normal walk to work, I
18 noticed a black and white vehicle in the Winco parking
19 lot, and I normally have a smoke right before I enter
20 work.

21 Q And so when you take a smoke break, is that
22 out in the parking lot?

23 A It's out kind of the corner of the entrance
24 and the main road, yeah, so it's kind of like a --

25 Q So when you walk up to work, you saw the

1 police car, and did you see anything else going on?

2 A I noticed the two officers. One was on the
3 passenger's side of the vehicle, shining his flashlight
4 in through the rear passenger's side, and I noticed the
5 other officer on the other side of the car talking to
6 somebody.

7 Q And at that time, did you really make
8 anything of that, or not really?

9 A Not really.

10 Q What happened then?

11 A After my cigarette I started to walk into
12 the store, and as I kind of had gotten out of view, I
13 heard the gunshots. And I kind of turned back to see if
14 any trouble was coming my way, and I heard, get on the
15 ground. That's it.

16 Q You heard somebody yell, get on the ground?

17 A Yeah.

18 Q Do you know how many shots you think you
19 heard?

20 A It was more than five. It was around six
21 to eight.

22 Q And when you heard somebody yell, "get on
23 the ground," did you know who was yelling that, or who
24 they were yelling at?

25 A No, I was out of view already.

1 Q And so where you were during your smoke
2 break, were you able to see the police car at that time?

3 A I kind of peeked over. There's trees
4 blocking, but you could see through the trees, if you
5 step kind of towards the left. But I wasn't trying to
6 be real nosey, and I just wanted to see what was going
7 on, and I saw nothing.

8 Q I was just going to ask, could you see
9 anything?

10 A Yeah. It was just what I explained, the
11 two officers, so I just thought nothing of it.

12 Q Other than hearing somebody yell, "get on
13 the ground," did you hear any other statements?

14 A No.

15 Q And in terms of the gunshots that you
16 heard, do you remember, were they far part, or all close
17 together at once?

18 A They were real close together. For me not
19 to know the exact amount, so it was kind of rapid.

20 Q After all of that, what did you do? Did
21 you stay outside there, or did you leave the area?

22 A I left the area, yeah. Continued to go to
23 work.

24 Q And then, of course, you were interviewed
25 by detectives who were investigating this matter. Do

1 you know how they got ahold of you? Did you contact the
2 police, or did they contact you?

3 A I believe they asked for surveillance
4 footage, and I guess they saw me on there and came in
5 and asked me if -- what I had seen.

6 Q All right. Is there anything I didn't ask
7 you that you think is important, that you remember about
8 what you saw?

9 A No. Pretty sure.

10 MR. REES: Any questions from the Grand
11 Jury?

12 (No response.)

13 MR. REES: Thank you very much for coming
14 in this morning.

15 (Concluded at 10:21 a.m.)

16

17 ALAN PETCH,
18 produced as a witness, having been first duly sworn,
19 was examined and testified as follows:

20 THE WITNESS: Yes.

21

22 EXAMINATION

23 BY MR. REES:

24 Q Please be seated. When you are ready, if
25 you could tell everyone your first and last name, and

1 spell your name.

2 A My name is Alan Petch, A-L-A-N, P-E-T-C-H.

3 Q Mr. Petch, where are you employed?

4 A Taco Bell.

5 Q Is that the Taco Bell at 122nd and
6 San Rafael?

7 A Yes.

8 Q Were you working there on Sunday night,
9 June 28th, when this police shooting occurred?

10 A Yes.

11 Q What do you do at Taco Bell?

12 A I am a shift leader. It's basically the
13 manager.

14 Q Where were you when you heard the shooting,
15 or became aware there was a shooting, physically, at the
16 Taco Bell?

17 A I was working in the drive-through window.

18 Q And so I assume that means you were --

19 A I was --

20 Q -- passing out bags of food to people out
21 the window for the fourth meal, I guess?

22 A Yeah.

23 Q Is it pretty busy there at 11:30 at night?

24 A Yes, it was really, really busy right then.

25 Q From that window, what were you able to see

1 in terms of the Winco parking lot where the police cars
2 were?

3 A Well, the -- I couldn't see the police car
4 itself. I could see the lights coming from it. But
5 there was a tall van in the way. You couldn't really
6 see much. I can see pretty much from where the little
7 cart corral thing is, and over to the left of that.

8 Q And from the pictures we have seen, this is
9 completely on the other side of the parking lot to the
10 Taco Bell, right?

11 A Yes.

12 Q With an obstructed view, but what do you
13 believe you saw, and what did you tell detectives that
14 you saw that night?

15 A I heard a sound that sounded like fire
16 crackers, and I looked over and I seen a man holding
17 what I thought was a pistol. And there was a few
18 flashes from the end of it. I would say three to four
19 flashes from the end of it, and then he -- I heard
20 another couple flashes, and he went down.

21 And then I heard the officer saying,
22 "everybody get down on the ground." And the
23 drive-through line pretty much blocked everything I
24 could see from then on, and I didn't see the people
25 actually down on the ground with their hands on their

1 head until the cars came out of the line.

2 Q So when the cars moved through the line,
3 then your view cleared up a little bit?

4 A Uh-huh.

5 Q Could you tell whether the man that you saw
6 was a police officer in uniform, or not a police
7 officer?

8 A No, he looked like he had a white shirt on.

9 Q Could you hear -- other than the sound that
10 you said sounded like fire crackers or gunshots, did you
11 hear anyone say anything?

12 A After the shots started going down, I heard
13 the officer yelling, get down on the ground, get down on
14 the ground.

15 Q Other than what you just described, did you
16 see anything else that you think is important for the
17 Grand Jury to know about?

18 A Huh-uh.

19 Q Did you contact the police afterwards, or
20 did they contact you?

21 A They came up to me.

22 Q Do you remember how that happened? Was
23 that that very night?

24 A Yeah. They came up and they asked who was
25 in the drive-through window, which was me, and they

1 asked me to tell them what I saw.

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

4 A JUROR: Did any of the people in the
5 drive-in stick around?

6 THE WITNESS: No, they all left really
7 quick.

8 A JUROR: The flashes from the gun that you
9 saw, was that from a police officer's gun?

10 THE WITNESS: Oh, no, I don't think so.
11 The man that I saw, I thought he had a white shirt on,
12 but I was pretty far away and my eyes aren't the
13 greatest.

14 A JUROR: Is Taco Bell in any of the
15 photos?

16 THE WITNESS: Yeah, it's on --

17 A JUROR: Do you have a view from the Taco
18 Bell to -- did they do a 3-D image from like where the
19 Taco Bell -- what his view would have been?

20 A JUROR: What about a birds-eye view?

21 Q BY MR. REES: No, but we could do that.
22 But can you stand up and point out the Taco Bell in that
23 picture?

24 A Yeah. I would have been looking out that
25 window there, coming this way -- I mean, looking out

1 right here.

2 A JUROR: Where is the Taco Bell?

3 THE WITNESS: This is the Taco Bell.

4 Q BY MR. REES: This looks like the sign that
5 says, Taco Bell Drive-Through, and then this little
6 window --

7 A The line was wrapped around to about
8 here (indicating).

9 A JUROR: So that pop-up window where the
10 cart corral would be, would you follow that --

11 THE WITNESS: Right over there. Right
12 there.

13 A JUROR: So where was the person standing
14 that you saw the flash --

15 THE WITNESS: Right next to the cart
16 corral.

17 A JUROR: Can you point to it? I am sorry.

18 THE WITNESS: Right here (indicating).

19 A JUROR: So you saw a flash coming from
20 there?

21 THE WITNESS: Yeah. I could have been a
22 little wrong, because it happened really, really fast,
23 and I heard the shots first, and then looked over and
24 continued to see flashes.

25 MR. REES: Any other questions?

1 (No response.)

2 MR. REES: All right. Thanks for coming
3 in. Appreciate it.

4 (Concluded at 10:31 a.m.)

5
6 JAKHARY JACKSON,
7 produced as a witness, having been first duly sworn,
8 was examined and testified as follows:

9 THE WITNESS: I do.

10
11 EXAMINATION

12 BY MR. REES:

13 Q Officer, if you could please be seated, and
14 if you could state your first and last name, and then
15 slowly spell your first and last name.

16 A Jakhary Jackson. First name,
17 J-A-K-H-A-R-Y, last name is Jackson, J-A-C-K-S-O-N.

18 Q And are you a member of the Portland Police
19 Bureau?

20 A Yes.

21 Q How long have you been a police officer?

22 A Over four years.

23 Q And prior to that, did you have any college
24 education or other employment?

25 A Yes, graduated from PSU in 2008. I worked

1 for Nike for 10 years before I was a police officer, so
2 I was a security manager. Yeah.

3 COURT REPORTER: Could you keep your voice
4 up for me, please?

5 THE WITNESS: Yes, I am sorry. My wife
6 always says, speak up.

7 MR. REES: Could all the grand jurors hear
8 his answer about where he went to college, and where he
9 worked?

10 (Nods heads.)

11 Q BY MR. REES: Currently, what is your
12 assignment with the Portland Police Bureau?

13 A I work North night shift. So I work from
14 10:00 at night to 8:00 in the morning. I work a partner
15 car with Officer Hoerauf in the 650s District. So we're
16 basically -- in reality, we work like from 82nd and
17 Sandy all the way out to like Halsey, and then as far as
18 like eastern, we can get called out to 181st and Sandy,
19 and we can shoot -- we can be all the way out to the
20 airport, or we can be all the way out, basically, to
21 Halsey, all the way out there, bordering Gresham.

22 So right next to East Precinct, kind of
23 like our line. Actually, even though we're North
24 Precinct, we're closer to some of the districts, to East
25 Precincts than the other officers.

1 Q So, and you say all of that, I guess, by
2 way of explaining how it is that you ended up on
3 June 28th --

4 A Correct.

5 Q -- at this location, at 122nd and Halsey,
6 which is actually an East Precinct, because you were
7 really pretty close to it?

8 A Very close.

9 Q What brought you to this location of the
10 officer-involved shooting?

11 A We had gotten a call of a restraining order
12 violation. We were on that, and while we were on that a
13 call came out about a naked lady that was running
14 around, or half-naked lady running around at 109th and
15 Marks.

16 And we are -- like I say, we work night
17 shift. So afternoons and nights, sometimes we kind of
18 bong heads a little bit. So an afternoon guy was
19 supposed to go out and take care of this, and we had
20 suspicions that maybe they didn't like to take care of
21 it as good as they could, and we would be dealing with
22 this problem later.

23 And sure enough, we went out and she's
24 still running around. And her friends were trying to
25 wrangle her. We look on the box, and see that both of

1 the afternoon guys are on a vandalism, which we both
2 thought was kind of ridiculous. So we actually were
3 heading out to see how bad this vandalism was. I think
4 it was like 141st.

5 And we're like, hey, there better be a car
6 into a house or something, to both be on this vandalism.
7 And as we were driving eastbound on 122nd and Sandy, we
8 hear the East Precinct. They had a shots fired call --
9 I am sorry. Not a call, but officers reported shots
10 fired on their stop.

11 And they gave out that they were at 122nd
12 and Halsey. I just had driven past 122nd and Sandy, so
13 I flipped around and shot south to Halsey. So we were
14 there very fast, just because we were really close.
15 Just happened to be in the right place at the right
16 time.

17 Q When you arrived, had other police officers
18 arrived to the scene prior to you?

19 A No. So that was -- also kind of also threw
20 us off. There's always a delay. So something will
21 happen, officers will get on the radio and notify
22 dispatch. Dispatch will then notify their precinct.
23 And then whether it's that dispatcher or another
24 dispatcher will let the other precincts know that
25 there's not an emergency off the air, and they will give

1 a very brief picture of what is going on.

2 And so just because of the delay, we
3 thought that maybe there was a little bit more time that
4 this had happened, so -- maybe more officers were
5 already there. But we knew the two officers that were
6 involved when we flipped over our radio. They had just
7 left our precinct and shift a few months ago to work
8 East. So we shot over there.

9 Tim got on the radio and let them know that
10 we were going to the shooting, and then we switched our
11 radios over to East net. And I am driving south. I am
12 not familiar with the Winco and the Taco Bell and the
13 layout. So I see Taco Bell. I am looking for more
14 cars, like lights, and everything to see how everything
15 is set up, which way to come in, because we didn't know
16 if the shooting was still going on. Those are all
17 things we have to think about.

18 So you need to know which way to come into
19 a scene like that. And when we were driving up, I was
20 going to turn into the farthest north entrance to the
21 Taco Bell lot, and then Tim said, no, no, don't go
22 there. They may -- looks like they may have guns
23 pointed that direction, so I stopped.

24 I kept going. I am looking for a way to
25 get in, and there wasn't any entrance until way farther

1 south, which I was about ready to hop the curb and go
2 over. Because I could see something, but I didn't know
3 exactly what.

4 So we're driving, and then all of a sudden
5 as I am about ready to turn in, there's like two or
6 three other East cars that were coming in a line. So I
7 let them turn into the lot before me, and then I turned
8 in, and then we bailed out and just kind of jumped in
9 where we needed to go.

10 Do you want me to elaborate?

11 Q Well, let me ask you first, for the record,
12 you mentioned Tim a couple of times. Is that your
13 partner, Officer Hoerauf?

14 A Hoerauf, H-O-E-R-A-U-F.

15 Q Does this digital image show the area that
16 you went to?

17 A Yes.

18 Q And are you able to see where you and your
19 partner pulled in?

20 A Our car, when we pulled in, I believe was
21 actually behind that Ford.

22 Q Do you want to indicate --

23 A Sure. So I believe I pulled in right here
24 (indicating). And then once we took the two people that
25 were on the ground in custody, I believe somebody put

1 them in our car and then drove them out of the scene,
2 away, just because of medical coming in and other
3 things. And they didn't want these people right there
4 in the middle of the investigation. So my car actually
5 got moved, I believe, over to here (indicating).

6 Q Thank you. Then if you could, for the
7 Grand Jury, describe what you saw when you got into that
8 position in the parking lot. What was happening?

9 A We get there, my radio -- because we were
10 trying to work the siren and everything, it got switched
11 over to where basically our transmissions were going out
12 through the speakers of the car. So I got out, heard
13 it, came back, turned that off, ran over to Officer
14 Steiner who had a male on the ground at gunpoint.

15 I don't remember where Officers Currier or
16 Lovato were at. I knew they were somewhere around the
17 vehicle that they stopped, but basically Officer Hoerauf
18 went over to Officer Currier, I believe. I saw there
19 was another officer that had a female laying on the
20 ground and at gunpoint.

21 I didn't know who was involved in the
22 shooting. I didn't know where anything was as far as
23 like the suspect that was shot. I didn't know any of
24 that information. All I knew is there was two people on
25 the ground, possibly somebody in the car, there's

1 already people pointing guns at the car. So they were
2 handling that.

3 I needed to focus on these people that were
4 out standing right here. So Officer Hoerauf went over
5 to assist the officer that had the female at gunpoint.
6 I ran over to Officer Steiner, and we basically made a
7 plan. He was going to be lethal cover. We needed to
8 get this gentleman into handcuffs and searched very
9 quickly, and then out of the area.

10 So we walked up to the gentleman slow, I
11 holstered my gun, Officer Steiner walked up with his gun
12 out, and then I gave this gentleman commands to keep his
13 hands out like an airplane. He did. I then placed
14 handcuffs on both of his wrists while he was laying flat
15 on his stomach, and then I performed an inventory
16 search, not a search, but an inventory. I made sure he
17 didn't have any weapons on him.

18 I asked him, "Do you have anything on you
19 that will poke, cut, or hurt me?" And he said, "No.
20 Well, I have two knives." I found one knife, and in the
21 middle of this he was making statements.

22 Q Is this happening in the area that we see
23 in the image behind the Volkswagen?

24 A Yes. So actually I believe the gentleman
25 that I was taking into custody was really close to the

1 body.

2 Q Like in this area?

3 A Yeah. Which he was -- that person was
4 still in the car.

5 Q And do you recall the last name of this
6 individual you are talking about?

7 A I have to look at my report again.

8 Q Sure.

9 A JUROR: So the male was in the car when
10 the shots -- the victim?

11 A JUROR: No. Mr. Howe.

12 Q BY MR. REES: So the question for the
13 witness is, was Mr. Howe in the vehicle? And the answer
14 to that question is what?

15 A No. When I arrived, he was already on the
16 ground. So the suspect that was shot was still in the
17 car. So this right here is after the fact. This is
18 when they -- this gentleman was still in the car
19 somewhere. I don't know where he was at in the car, but
20 they had guns out on him.

21 Once we got our two people, male and
22 female, in handcuffs and out, they pulled this gentleman
23 out to get him medical attention. And this is basically
24 where he was pronounced dead, and they left the body
25 there.

1 A JUROR: So when you were arresting or
2 checking this guy and inventorying him, you didn't see
3 his head hanging out the driver's side -- the victim?

4 THE WITNESS: No, I didn't look.
5 There's -- basically, what we do is officers were
6 already dealing with that. I need to trust them that
7 they are doing their job, and I need to focus on my job.
8 So I scan, got direction. I am hearing people saying
9 what needs to be done, and I need to focus on that.

10 It's a really big deal as far as our
11 training. I don't need to look at you to speak to you.
12 I can be focused on this right here. You are talking to
13 me, and I can communicate that way, because I don't know
14 if this guy has a firearm on him. I don't know what
15 went down, but I need to be focused on my job. That way
16 they can focus on their job. They don't need to worry
17 about this guy that's on the ground here, and pulling
18 out a gun and shooting at them. They need to trust me
19 that I am doing this.

20 And that's like a really big deal as far as
21 in our training. It's not normal to speak to someone
22 and not look at them, and kind of break that habit of
23 you say something to me, and I am like, huh? I need to
24 focus on this right here.

25 Q BY MR. REES: And so you were focused on

1 this individual, Wesley Howe; is that correct?

2 A Yes, that is correct.

3 Q And in your report you wrote about the
4 incident, you noted an excited utterance that Mr. Howe
5 apparently made as you had contact with him?

6 A Yeah.

7 Q What did he say?

8 A You know, I deal with a lot of people. I
9 deal with people that will make statements just because
10 they don't want to get in trouble. It's sick, in a way,
11 where their friend could have been shot, or something,
12 and they are on parole. And they start making
13 statements basically, like -- part of their condition is
14 going to be they can't be around other felons, or other
15 weapons. So they know they are going to go back to
16 prison.

17 So some people will make statements so
18 like, hey, man, I didn't know this jerk, or you can
19 tell, like there's no emotion or remorse. It's just
20 like a recording, pushing a button, and they are saying
21 all of these right things.

22 When I was rolling Howe over, and asking
23 him if he had any weapons or anything on him, or
24 anything that would poke, cut, or hurt me, his eyes were
25 wide open. And he's just reliving this. I didn't

1 Mirandize him. I didn't question him. I didn't say
2 anything. I just wanted to make sure he didn't have any
3 weapons on him, and he had nothing on him that was going
4 to poke, cut, or hurt me when I was pulling all of the
5 items out of his pocket to inventory.

6 So as I'm rolling him over, I'm patting him
7 down around his waste, he said, I can't believe he had a
8 gun. His voice was really rattled. Like I wrote in my
9 report, it seemed that he was in disbelief, like he just
10 saw something that he couldn't believe just happened.

11 Like when we talk to victims of traumatic
12 incidents, and you are trying to get them to calm down,
13 I mean, he was very upset. It was -- clearly it caught
14 him off guard. He didn't see this happening. He then
15 said, He always lies about his name. It was just a
16 warrant. That let me know that he knows this guy, he
17 knows, basically, his story on, if he gets a warrant,
18 he's going to lie about his name. He's going to try to
19 do anything that he can to get out of going to jail, but
20 that's like the extent of it. So --

21 Q So you noted that statement, in particular.
22 You quoted that in your report?

23 A Yeah.

24 Q I can't believe he had a gun. He always
25 lies about his name. It was just a warrant.

1 A Yeah. And then as I was continuing my
2 search, I said he continued to make spontaneous
3 utterances or comments, and I -- or he said, I didn't
4 know he had a gun. I can't believe he had a gun.

5 And I am still expressing in my report that
6 his eyes are still wide open, and he's still in shock,
7 and he continued to say, I can't believe he did that. I
8 can't believe he pulled out a gun.

9 Like I said, to me, he was just absolutely
10 terrified. He didn't see his friend doing this
11 behavior, like it never dawned on him that his friend
12 would do this, and he was just -- he was scared. And in
13 my opinion, he was just kind of like, it was just a
14 warrant. Like why would you pull out a gun for a
15 warrant, you know?

16 So got him into custody. I pass him off to
17 Officer Lloyd, and then I wrote down his statements in
18 my notebook so that I would remember them. And in the
19 order of how he made them.

20 A JUROR: What was the third one again? I
21 can't believe he had a gun. I can't believe he did
22 that. I can't believe he --

23 THE WITNESS: I can't believe he pulled out
24 a gun.

25 MR. REES: Any other questions for Officer

1 Jackson?

2 A JUROR: Did you have any interaction with
3 either of the two officers involved in the shooting
4 during the incident?

5 THE WITNESS: Before or after?

6 Q BY MR. REES: Like at the scene? Did you
7 talk to either of them?

8 A I had to make sure they were okay. Didn't
9 ask them any questions about what happened, just, are
10 you guys okay? And they were just in shock.

11 These guys are hard workers, really
12 hard-working cops. They do stops like this all the
13 time, and we -- and I learned a lot from these guys.
14 When I was new, I followed these guys around. They
15 would get a lot of guns off of people, a lot of drugs.

16 And always cordial, always very respectful.
17 We would arrest people and let them smoke a cigarette
18 afterwards. Those guys have stopped, I don't know how
19 many people. So for this to turn into a shooting, it's
20 like, you know --

21 A JUROR: So it would be normal behavior
22 for them when they first did the drive-by to casually
23 have a conversation with people, and help them with
24 their camera before anything suspicious happened at all?
25 That's --

1 THE WITNESS: Help with a camera?

2 A JUROR: I don't know if you -- when they
3 do a -- just rolling by, and they are not called to a
4 scene, and the situation is casual, there's nothing
5 apparently wrong, is it normal for them to interact?

6 THE WITNESS: We always have, PC when you
7 stop someone.

8 A JUROR: It wasn't a stop, was it?

9 MR. REES: I'm not sure he can really
10 answer your question.

11 A JUROR: Because you said you worked with
12 them, I'm just trying to --

13 THE WITNESS: Like not about this case?

14 Q BY MR. REES: She's talking about really
15 mere conversation type situation. I think the question
16 is, was it their habit to be very casual in an
17 officer-citizen type of encounter?

18 A Yeah. The thing is, too, we know a lot of
19 these people, believe it or not.

20 A JUROR: No, you should.

21 A JUROR: It's a good thing.

22 THE WITNESS: We know who their friends
23 are, we know what drugs they use. A lot of times we
24 will see someone and they will come over and just talk
25 to us.

1 So in that sense, it's not like -- it can
2 be really casual. We can roll up on someone, usually
3 when we do stops if someone is like loitering in an area
4 where they are not eating at Taco Bell, and they are not
5 shopping at Winco, we will stop and see what they are up
6 to.

7 A JUROR: That's exactly what I was asking.

8 THE WITNESS: And then when things start
9 not making a whole lot of sense, then we will stay. I
10 don't know what this stop was about.

11 Like I said, I learned a lot from these
12 guys, so they know how to talk to people real well.

13 A JUROR: That's what I was asking. Thank
14 you.

15 MR. REES: Any other questions? Thank you,
16 Officer Jackson.

17 (Concluded at 10:52 a.m.)

18 ANTHONY MERRILL,
19 produced as a witness, having been first duly sworn,
20 was examined and testified as follows:

21 THE WITNESS: I do.

22
23 EXAMINATION

24 BY MR. REES:

25 Q Detective, for the record, if you would

1 please state your first and last name, and spell your
2 names.

3 A Sure. My first name is Anthony,
4 A-N-T-H-O-N-Y, and last name is Merrill, M-E-R-R-I-L-L.

5 Q What is your occupation?

6 A I am a homicide detective with the Portland
7 Police Bureau. I have been a police officer for 17 --
8 little over 17 years now. I have been a detective for
9 about eight years.

10 Q Do you have prior work experience before
11 your career in law enforcement?

12 A Yes. Before working with Portland Police
13 Bureau, I worked for the Michigan Supreme Court clerk's
14 office as a records manager, and security. Before that,
15 I worked as an account executive with Value Behavioral
16 Health in Washington, DC.

17 Q And then what about your educational
18 background?

19 A I have a bachelor's of arts in political
20 science and philosophy. I have some master's level
21 courses I have taken here at Portland State University.

22 Q In terms of your work as a homicide
23 detective, do you know how many homicide cases you have
24 worked on as either a lead detective, or one of the
25 assisting detectives?

1 A As the lead detective, I can narrow that
2 down to about 12 homicides that I have investigated as a
3 lead detective. And there's been dozens of others I
4 have assisted in as a support function, crime scene
5 support, and that sort of thing, assisting in the
6 investigation.

7 Q Prior to this case, have you been involved
8 in the investigation of officer use of deadly force?

9 A Yes. Yes, I have.

10 Q Do you know how many of those cases you
11 have been involved in?

12 A I have been involved in, I would say
13 several officer-involved shooting incidents where I have
14 been assisting in investigating.

15 Q On June 29th, the early morning hours,
16 2015, were you called to respond to the scene of an
17 officer-involved shooting in the area of Northeast 122nd
18 and Halsey Avenue?

19 A Yes, I was.

20 Q Who notified you of the need for you to
21 respond to that location?

22 A My supervisor paged me, which is a normal
23 process when you are on-call, you're a homicide detail.
24 My supervisor is Detective Sergeant Rich Austria of the
25 homicide detail.

1 Q And at that time, were you especially on
2 call to potentially respond to any homicides or
3 officer-involved shootings in the City of Portland?

4 A Yes, I was.

5 Q And so when you received a page, did you
6 drive to the scene at that time?

7 A I did. Yes.

8 Q And do you know about what time you
9 received the call from Detective Sergeant Rich Austria?

10 A Yeah. It was a page, and I received the
11 page at approximately 12:35 hours on June 29th in the
12 morning.

13 Q And did you receive any information before
14 you arrived at the scene, generally?

15 A Yes. I was made aware that this was an
16 officer-involved shooting where there was one subject
17 who was deceased, and it was in the area of the Winco at
18 122nd and Northeast Halsey Street.

19 Q In addition to yourself, who were some of
20 the other individuals who responded to the scene there,
21 just immediately after the shooting?

22 A So you know, an officer-involved shooting,
23 there's several representatives of different details
24 within the police bureau that respond. Management level
25 lieutenants, supervisors, sergeants; obviously, the

1 Homicide Detail has several investigators responding,
2 including supervisors from that unit, namely Sergeant
3 Rich Austria; Forensic Evidence Division criminalists
4 always respond, and there's usually several criminalists
5 who will come out on an officer-involved shooting, which
6 was the case here; a supervisor sergeant from Forensic
7 Evidence Division. You will have union representatives
8 respond for Portland Police Bureau.

9 You also have different agencies respond.
10 In this case, we had a Gresham investigator respond, and
11 a Multnomah County Sheriff's Office investigator
12 respond. So we have other agencies also present to help
13 investigate an officer-involved shooting. District
14 attorney responds, Mr. Don Rees. That's a good summary
15 of the numbers. And usually this consists of a number
16 of different people.

17 For this incident we had two different
18 command, mobile command precincts set up. So it's like
19 a very large RV, if you have ever seen one of these on
20 the scene. So we can help assist us with resources in
21 the investigation, and have privacy for interviews, and
22 things of that nature, too.

23 Q In terms of the approach of the
24 investigation, is it accurate to say that in many ways
25 it's similar to any homicide investigation that you

1 might conduct?

2 A In many ways, it's very similar to a
3 homicide. And I would say it maybe even has a little
4 more detail involved.

5 Q In what way is there additional detail in
6 terms of the investigation?

7 A You know, in terms of -- some things are
8 similar, like I said. But the scene is secured, and
9 it's very -- usually an officer-involved shooting, the
10 scene is secured voluminously, or at great length, so we
11 have lots of room to work because we have a lot of
12 additional personnel who are assisting us.

13 Witnesses that are involved in an
14 officer-involved shooting are immediately separated, and
15 identified and kept separate from each other to maintain
16 the integrity of the investigation. All the interviews
17 that are conducted are usually recorded.

18 The crime scene is treated very carefully.
19 Measurements are conducted; evidence is collected,
20 identified, and gathered and photographed -- documented,
21 I should say.

22 Any involved officers in an
23 officer-involved shooting are very thoroughly
24 documented. What I mean by that is they are
25 photographed, what they are wearing, their uniforms,

1 their equipment. These items are also collected,
2 usually in an officer-involved shooting. So the
3 uniforms that the officer is wearing, the equipment that
4 the officer has on.

5 Also, communication restriction orders are
6 issued to the officers that are involved. It's
7 essentially like a gag order. They are not allowed to
8 talk about this case until the Grand Jury has convened,
9 and it's completed.

10 Q Let me ask you about that communication
11 restriction order. Is that per the policy of the
12 Portland Police Bureau?

13 A Yes. Yes.

14 Q So how -- mechanically, can you explain
15 that, how that works, to the Grand Jury? Who gives the
16 order, and who is it given to?

17 A You know, it's a supervisor that responds
18 to the scene that physically issues this order to an
19 involved officer. An involved officer usually is going
20 to mean a person who was involved in the
21 officer-involved shooting. There may be a witness, too,
22 maybe an officer who was a witness to the shooting.

23 But that supervisor responds to the scene,
24 documents a communication restriction order, physically
25 serves it to the officer. And that order is telling

1 them that they cannot discuss this case with anybody
2 until the Grand Jury is convened, and it's completed.

3 Q All right. How long did you personally
4 remain at the scene in the early morning hours of
5 June 29th?

6 A I believe I returned home at about
7 7:30 a.m., I believe.

8 Q So you were there from the time you arrived
9 before 1:00 a.m., until about 7:00 at the scene; is that
10 correct?

11 A Approximately 1:00 a.m. when I arrived
12 there, until about 7:00 a.m., yeah.

13 Q Through the course of the investigation,
14 then, did you determine the name or the identity of the
15 person who had been shot by the police?

16 A Yes, I did.

17 Q Who was that person?

18 A His name is Alan Lee Bellew, I believe. I
19 am not sure if I have the pronunciation right, but it's
20 B-E-L-L-E-W.

21 Q How old was that individual?

22 A 29 years old.

23 Q And do you know how he was identified?

24 A Yeah. He was identified by a few different
25 sources. So during the investigation that night,

1 Officer Carrier, one of the involved officers, Michael
2 Carrier, had an Arizona identification card of
3 Mr. Bellew. And he forwarded that, or gave that to my
4 partner, Detective Michelle Michaels, that night. That
5 was one source to identify him.

6 The other source is, who were right there
7 at the scene, were two of Mr. Bellew's friends, Wesley
8 Howe and Danica Hall, who were present.

9 Another source through the course of the
10 investigation that night, while doing -- we had that
11 Mobile Command Precinct with our databases available to
12 us, Law Enforcement Data System query, so LEDS, criminal
13 history, queries were done. And we were able to locate
14 mug shots out of the Lane County area for Mr. Bellew.

15 And I believe one of them was actually an
16 Oregon University police mug shot that had been taken of
17 him recently. So through all of those sources were able
18 to positively identify Mr. Bellew.

19 Q Were you able to determine Mr. Bellew's
20 last address?

21 A Yeah. The last address we showed in our
22 database for him was in Springfield, Oregon. The
23 address was 922 B Street, Springfield, Oregon.

24 Q Did you check to see whether Mr. Bellew was
25 wanted by the police or the court at the time of this

1 incident?

2 A We did. We conducted a warrant check in
3 the database for Mr. Bellew, and he had active warrants
4 for his arrest. The first warrant that was -- that we
5 found was a felony warrant for failure to appear on a
6 possession of heroin charge. This was out of Lane
7 County, Oregon.

8 He had another warrant for probation
9 violation. This was a misdemeanor warrant. The charges
10 associated with a probation violation were assault in
11 the fourth degree, and resisting arrest.

12 We also noted a last contact with
13 Mr. Bellew by law enforcement. The one that I saw
14 during our query of that was dated October 20, 2014.
15 This was a University of Oregon Police Department that
16 contacted Mr. Bellew in their jurisdiction. He was
17 charged that day with unlawful possession of heroin,
18 false information to a police officer, assault in the
19 fourth degree, resisting arrest, and theft in the third
20 degree.

21 Q Did you attend the autopsy that was
22 conducted on the body of Mr. Bellew by Dr. Clifford
23 Nelson?

24 A I did.

25 Q When was that conducted?

1 A That same day we were at the scene,
2 June 29th, just later in the morning, 9:00 a.m.,
3 approximately.

4 Q Where was that conducted?

5 A At the Oregon State Medical Examiner's
6 Office.

7 Q Which is in Clackamas, Oregon?

8 A Correct. Clackamas, Oregon.

9 Q And who attended the autopsy?

10 A Myself; my partner, Detective Michelle
11 Michaels; you were there, Mr. Rees; again, the medical
12 examiner performing the autopsy was Dr. Cliff Nelson.
13 We also had two Forensic Evidence Division criminalists
14 present there, Criminalist Ware and Outhanthip.

15 A JUROR: How do you spell Ware?

16 THE WITNESS: W-A-R-E. And the other
17 criminalist is O-U-T-H-A-N-T-H-I-P. I believe I have
18 that right.

19 Q BY MR. REES: You might want to speak up
20 just a little bit.

21 A Okay. Sorry.

22 Q Through the course of your investigation,
23 did you determine how many police officers used deadly
24 force against Mr. Bellow?

25 A Yes. Two.

1 Q And who were those two officers?

2 A Officer Michael Carrier and Officer Dominic
3 Lovato.

4 Q And did you identify any other witnesses to
5 the shooting?

6 A Yeah. We identified the two associate
7 witnesses of Mr. Bellew, who were with him there in the
8 parking lot; Danica Hall and Wesley Howe.

9 Q The Grand Jury has also heard from
10 Mr. Henry and Mr. Petch, who were employed in the area.

11 Were you or other investigators able to
12 identify anyone else who said they saw something
13 relevant, related to the shooting?

14 A Not to my knowledge, no. Again, we had
15 several investigators assigned to search the area for
16 video surveillance, canvassing for other witnesses,
17 anybody that might be able to add any information to the
18 investigation. And those are the only ones that had
19 been identified, to my knowledge, including the people
20 you just mentioned.

21 Q And we will hear from these officers
22 themselves when they testify here.

23 But just generally speaking, what is your
24 understanding of what brought Officers Carrier and
25 Lovato to the Winco parking lot?

1 A They work that area. That's their assigned
2 area where they were working, and they know that area
3 well.

4 And my understanding was they were
5 conducting a subject contact in that parking lot, a
6 self-initiated subject contact. So they weren't
7 dispatched by 911 to go there and respond to the call.
8 It was self-initiated.

9 Q And were you able to obtain records to
10 determine when those officers began their contact with
11 the people in the Winco parking lot?

12 A Yes, I was.

13 Q What time was that?

14 A The contact when they initially radioed
15 that they were contacting people there was 2335 hours,
16 so that's 11:35 p.m., June 28th.

17 Q And were you able also to determine by
18 looking at records when the report of a shooting was
19 made?

20 A Yes, I was. It was 2346 hours, so 11
21 minutes later, 11:46 p.m., June 28th.

22 Q Were you and the other investigators able
23 to determine how many shots Officers Lovato and Currier
24 fired during this incident?

25 A Yes. There were a total of 14 shots fired

1 by Officer Lovato and Officer Currier. We were able to
2 determine that Officer Lovato fired 10 of the 14 shots,
3 and Officer Currier fired four of those 14 shots.

4 Q And how did you determine that?

5 A The way we determined that is we do a
6 weapons countdown during the course of the investigation
7 on the scene there. And, basically, it's calculating
8 how many bullets each magazine for each officer has, and
9 doing a calculation of how many are gone now, so --

10 Q And were those shots fired by the
11 Bureau-issued firearms that were assigned to those two
12 police officers?

13 A They were, yes.

14 Q Was another weapon located at the scene, a
15 non-police weapon?

16 A Yes. There was another weapon located at
17 the scene. It was lying on the pavement just outside
18 the vehicle associated with Mr. Bellew, Danica Hall, and
19 Wesley Howe, just outside the passenger door of their
20 vehicle, on the pavement.

21 Q And what was done with that weapon?

22 A So our criminalist, Forensic Evidence
23 Division criminalist, fully document that with
24 measurements, video, photographs. It is then collected.
25 It's then sent on to our Oregon State Police Crime Lab

1 so our firearms/ballistics forensics scientists can
2 analyze the gun and conduct testing on it.

3 Q Did Officers Carrier and Lovato agree to
4 voluntary interviews regarding their use of deadly force
5 in this incident?

6 A Yes, they did.

7 Q And where did the interview take place?

8 A The interview took place at the Detective
9 Division at the Portland Police Bureau on the 13th
10 floor. And for those interviews it was myself
11 conducting the interview, with my partner Detective
12 Michelle Michaels. And also, each officer had an
13 attorney with them, present. There were also two
14 Internal Affairs Investigators present for these
15 interviews.

16 Q Was that interview recorded?

17 A Both of those interviews were recorded,
18 yes.

19 Q After obtaining the statements from those
20 officers, as well as the other statements in this case,
21 and then looking at the crime scene where you spent the
22 morning of the 29th, in your view, are the statements of
23 the witnesses consist with the physical evidence at the
24 scene?

25 A Absolutely. Yes.

1 Q Let me ask you, then, about a search of the
2 vehicle, which I believe is a 2001 VW Passat. But if
3 you can clear that up, because the other officer thought
4 it was a Jetta?

5 A It's a Passat.

6 Q When was that vehicle searched, and where
7 was it searched?

8 A That vehicle was searched on June 30th,
9 2015, by Detective Michelle Michaels, with assistance of
10 the criminalist from the Forensics Evidence Division
11 again.

12 It was searched at a storage facility that
13 the Portland Police Bureau controls. It's called
14 Rivergate Vehicle Storage Facility. So June 30th, and I
15 have the plate if you need that.

16 Q I don't think that is probably necessary.

17 But let me ask whether any articles of
18 evidentiary interest were found during the search.

19 A Yes. There were a few different things
20 found. There was drug paraphernalia located in the
21 vehicle, in the backseat area. Several -- syringes were
22 located, baggies consistent with drug storage type
23 baggies, scales were located.

24 Q The scales, were those consistent with --

25 A Consistent with -- in my training and

1 experience, all of these things together, these scales,
2 are consistent with somebody that is dealing drugs, so
3 they are weighing out quantities.

4 There's also some electronic items that
5 were located, as well. And some expended bullet slugs
6 and fragments. That's about everything.

7 Q So you have heard about some property in
8 the case. In addition to the electronic items, you
9 mentioned about a 35-millimeter film camera, and
10 possibly a Polaroid type camera.

11 Do you know whether any efforts have been
12 made to determine whether that was stolen property?

13 A You know, I know that Detective Michaels
14 conducted a query of some of the serial numbers that she
15 was able to locate, of different items. I believe the
16 cameras, as well. She wasn't able to determine that
17 they are stolen yet.

18 Q Do you know specifically what the
19 electronic items are, or are they just listed as
20 electronic items?

21 A Electronic items is what I saw, yeah.

22 MR. REES: Any questions for Detective
23 Merrill?

24 A JUROR: Had the starter gun been fired?

25 THE WITNESS: I don't know. That's part of

1 the -- when it was sent to the Oregon State Police Crime
2 Lab is to have a firearms expert analyze the gun and
3 test it to be able to determine those things.

4 A JUROR: And then had the drug baggies
5 that you found, are consistent with drug baggies, had
6 those been -- we keep hearing NIK tested. Had those
7 been NIK tested and found positive for --

8 THE WITNESS: You know, I am not familiar
9 with that, because I didn't do that search. It was my
10 partner, Detective Michaels, so I am not sure if they
11 have been NIC tested yet.

12 A JUROR: So you don't know for sure if
13 those actually had drugs in them, or not?

14 THE WITNESS: I don't know personally, no.

15 A JUROR: It was just consistent?

16 THE WITNESS: Yeah.

17 A JUROR: And then you said bullet
18 fragments and the slugs were found inside the car. Were
19 those from the officers' guns or --

20 THE WITNESS: I would presume they are
21 likely from the officers' -- from an officer's gun,
22 likely.

23 A JUROR: But, and you said bullets and
24 fragments --

25 THE WITNESS: Bullet fragments, associated

1 with --

2 A JUROR: So not being real familiar with
3 guns, does that mean the shell casing, or does that
4 mean --

5 THE WITNESS: No. No, what that means is
6 sometimes when a bullet is fired from a gun and it hits
7 something, it can deteriorate and break, and break up
8 into different pieces, fragments, if you will. And
9 that's what it appears to be.

10 A JUROR: Thank you.

11 A JUROR: This may be a question for
12 Detective Michaels.

13 I was wondering if the items that were
14 located in the car were in plain view?

15 THE WITNESS: The items that I was going
16 over was after a search was conducted on the vehicle a
17 couple of days later. This was after the owner of the
18 vehicle consented to a search.

19 I don't believe these particular items I
20 just went over, the baggies and the scales and the
21 needles were in plain view, to my knowledge.

22 A JUROR: You can see some of it in the
23 picture --

24 A JUROR: One other question. I know that,
25 I mean, 99 percent sure he wasn't diabetic, because no

1 insulin was found.

2 But will the needles be tested also for
3 what -- if you know, if there was insulin or heroin or
4 meth in the needles or --

5 THE WITNESS: You know, I have not
6 submitted those test requests, but I would assume they
7 will be sent to the crime lab to get the results of
8 that, to show if there is, or not, a controlled
9 substance or residue in those baggies and the needles,
10 and, et cetera.

11 A JUROR: In the course of questioning
12 people and everything, and your investigation, was there
13 any excited utterances made by either of the police
14 officers during the investigation?

15 THE WITNESS: Could you -- do you mean
16 during our initial response that night?

17 A JUROR: Yeah. I know you interviewed
18 them, but before that.

19 THE WITNESS: Excited utterances, not to my
20 recollection, no.

21 A JUROR: And then you have mentioned -- I
22 think this has been answered -- but you mentioned
23 looking for video footage. No video footage was found?

24 THE WITNESS: There was some video that was
25 recovered from the Taco Bell, and some video from the

1 Winco store.

2 A JUROR: That actually shows the incident?

3 THE WITNESS: I viewed the majority of the
4 Taco Bell video during the time frame that we have,
5 based on our radio call information with 911, and it's
6 very difficult to see anything that leads me to be able
7 to say one way or another who was who, what is what.

8 It's very pixilated and very distant, from
9 the Taco Bell video. This is a video that is from their
10 building, facing toward that area, and it's -- so once
11 you see what you are seeing over where I presume that
12 the -- that subject contact is being conducted, I can't
13 make out much of any detail. It's very pixilated.

14 A JUROR: What about the Winco video?

15 THE WITNESS: The Winco video, I,
16 personally, have not viewed. Another investigator has
17 told me that the Winco video doesn't film on the
18 location of the scene until after the shooting incident
19 has occurred.

20 Apparently, somebody at the Winco must have
21 realized something was going on, and then turns the
22 camera towards that direction, is my understanding.

23 MR. REES: Would you like to see the video?
24 We can certainly show it.

25 A JUROR: If it's available, sure.

1 MR. REES: We will do that right now, as
2 soon as we wrap up any questions.

3 A JUROR: I have one more question: Do you
4 have any prior relationship with either officer?

5 THE WITNESS: So Officer Dominic, I have --
6 I have been on 17 years. And I believe he has --
7 Officer Dominic Lovato as six or seven years, and as
8 well as Officer Currier, he has the same.

9 I know them by face, when I used to work on
10 the Gang Unit at North Precinct, because they worked out
11 of North Precinct. I know them by their face.

12 I didn't actually know either one of them
13 by name, but I would say "hi" from time to time. So I
14 didn't know them personally, no.

15 MR. REES: All right. Unless there's any
16 other questions, let's take a look at the video from
17 Taco Bell and Winco.

18 (Lunch recess taken from 11:55 a.m.
19 to 1:32 p.m.)

20
21 DOMINIC LOVATO,
22 produced as a witness, having been first duly sworn,
23 was examined and testified as follows:
24
25

EXAMINATION

BY MR. REES:

Q For the record, would you please state your first and last name, and spell the first and last name?

A Dominic, D-O-M-I-N-I-C, Lovato is L-O-V-A-T-O.

Q Are you a Portland police officer?

A I am.

Q How long have you been a police officer?

A Seven years, and two months.

Q Prior to your employment with the Portland Police Bureau, what is your educational background?

A I graduated with a BA in political science, from Portland State University in '06.

Q And then do you also have military experience?

A I do. I served five years and one month in the Marine Corps.

Q And that was prior to --

A Yes, from '98 to '03.

Q And then following graduation from Portland State University, did you immediately join the Police Bureau --

A No, I didn't -- what was the question? I am sorry.

1 Q That's all right. The question was whether
2 you had had other employment after graduating from
3 Portland State University and before joining the Police
4 Bureau?

5 A Yes. So after graduation, I took up
6 wildland firefighting for a summer. I thought that was
7 fun. I thought, well, maybe I will try again next
8 summer, because it's seasonal work.

9 And then the following fire season, I got
10 into carpentry, because it's something -- never been
11 able to build anything with my hands, and thought maybe
12 someone will hire me, something I want to learn. Did
13 that for a winter and a spring, and then I worked for
14 the Forest Service another summer on a Hot Shot crew,
15 doing wildland firefighting.

16 That's about when I got called from the
17 Bureau saying, hey, you are tested sufficiently, and we
18 would like to put you through the background process.
19 And that took around nine months.

20 Q Since you have been working as a police
21 officer, have you had different assignments?

22 A Not -- not really. I mean, I worked patrol
23 my entire career. I have been at North Precinct for the
24 majority of my career. And then recently I went to East
25 Precinct, over at 105th and Stark, in February.

1 Q And what was your assignment on June 28th,
2 2015?

3 A I was at East Precinct.

4 Q And were you assigned to a particular
5 shift?

6 A Yes, night shift.

7 Q And what time does that begin?

8 A It begins at 10:00 p.m., and in theory, if
9 everything goes really good, off at 0800 the following
10 morning.

11 Q At 8:00 in the morning?

12 A Yes.

13 Q And were you working in a two-man car on
14 that day?

15 A Yes, I was working with Officer Carrier.
16 He's been my partner for, going on, four years, I
17 believe. In October I think it will be four years.

18 Q So do the two of you frequently work
19 together, assigned to a single patrol car?

20 A Yes. It started when we were at North. We
21 worked a partner car exclusively, meaning we were always
22 partnered up four nights a week. So essentially, every
23 shift that we were both there, we rode together 40 hours
24 a week.

25 Q Earlier on that day, the 28th, which was a

1 Sunday, was there anything unusual going on in your
2 life?

3 A No. Just another Monday, so to speak.

4 Q Had you consumed any illegal intoxicants
5 prior to beginning your shift, or --

6 A No.

7 Q Or were you impaired otherwise, do you
8 think, physically or mentally?

9 A No.

10 Q Prior to your contact with three subjects
11 in the Winco parking lot, 122nd and Halsey, did anything
12 unusual happen during the first hour and a half of your
13 shift?

14 A Not unusual. We went to a call at Portland
15 Adventist. A lady was there with her husband, who
16 needed an ICU room. They were not available. So PA
17 tells the lady, Hey, we have to transport your husband
18 to St. Vin's.

19 She didn't like that. She thought, you
20 know, I should have my choice of healthcare providers.
21 My husband likes to be here. And she was kind of making
22 a scene. She was upset, so security called us to try
23 and calm her down with our presence.

24 And eventually, security and the doctors
25 talked her down, and we just contacted her and said,

1 ultimately, is isn't their property. If they want you
2 gone, because you are being rowdy, we're just the
3 messengers here, you know, and we're going to have to
4 trespass you.

5 She understood, and to my knowledge, it
6 wasn't a problem after that. We left without writing a
7 report, or taking any sort of police action, you might
8 say.

9 Q Uh-huh. So what did you do after that?

10 A Mike asked me to drive, because he's got
11 some neck issues. So I started driving. We cleared the
12 call. We made our way up to Stark at about 99th-ish.
13 There's a little motel called the Montavilla.

14 It's kind of a -- it's kind of a hot bed of
15 activity, you might say. So we pulled in there. We ran
16 some plates, nothing jumped out at either one of us.

17 And then we went north -- made our way over
18 to Burnside. I think I took 102 North from Burn, and
19 then 102 to Halsey -- or 102 to Glisan, maybe, and then
20 122 to the Winco parking lot.

21 Q And if you would, tell us about that. What
22 led to your contact with three individuals in the
23 parking lot at Winco?

24 A Okay. So I really don't work that area of
25 the precinct often, but it's one of the places I have

1 found to -- that the community wants addressed. It's
2 kind of a problem spot, in some senses. There's several
3 24-hour businesses: the Winco, which is up there, a
4 Shari's, and a Taco Bell.

5 I made a couple of arrests out of that
6 parking lot, but I don't believe I have ever been to,
7 like, a call for service. But like I said, I don't work
8 that district very often.

9 So we -- I don't guess you have any
10 overheads, or anything, huh, of the lot?

11 Q We don't. We do have a couple of different
12 views of --

13 A So we pull in the drive --

14 Q Let me, if you want, let me see if we can
15 change the perspective here --

16 A Well, yeah -- that is -- that is looking
17 toward -- I can't really tell what that is.

18 Q Well --

19 A Oh, okay, so that's the Taco Bell. This is
20 the drive you pull in.

21 So there's a Taco Bell, right there. I
22 don't know if everyone recognizes this --

23 Q BY MR. REES: If you want to wait just a
24 second, the image will clear up just a little bit.

25 And then so, and previously we have seen,

1 this is the window of the drive-through at Taco Bell?

2 A Right.

3 Q And I can scan --

4 A JUROR: Is that looking north?

5 THE WITNESS: Yes. So you are looking
6 toward San Rafael and 122nd. That patrol car is --
7 well, seemingly it's facing north on 122nd.

8 And then you can't really tell, but there's
9 a Shari's in the background there, and then about the --

10 Q BY MR. REES: The Shari's is off --

11 A Yeah.

12 Q Okay. And so it appears, if there's a
13 particular place you want me to go to --

14 A I just wanted to make sure everybody
15 understood how the buildings were situated. Okay.

16 So pull into that drive off of 122nd. Just
17 start looking around. My partner says, Hey, check this
18 out.

19 So I look over and see three individuals
20 standing over the trunk of a gray -- Jetta or Passat.
21 This car (indicating).

22 And what catches my eye is where they are
23 parked doesn't really seem logical. Because all three
24 of these businesses are currently open. If you are
25 going to patronize the Winco, there's certainly closer

1 places to park.

2 If you are going to be going to the
3 Shari's, there's open parking spots at Shari's, and if
4 you are going to Taco Bell, seems to me you would park
5 closer to Taco Bell. So that caught my attention.

6 As we pull up, I see, generally they -- the
7 three -- there's two males and a female. They look kind
8 of disheveled and unkempt, maybe like hair disturbing,
9 maybe they haven't showered recently.

10 I noticed on one of the males, Mr. Bellew
11 who, ultimately I ended up shooting, he had a lot of
12 sores on his face. And I know that having done this for
13 seven years -- the majority of my free time is spent
14 doing drug enforcement. I don't write many traffic
15 tickets, or any multitude of other things that cops do.
16 Mostly, I focus my efforts on drugs.

17 I know that prolonged drug use has certain
18 physiological effects. Open sores are one of those
19 effects. So I am thinking, well, there's tons of
20 reasonable explanations why they are hanging out here,
21 kind of of seemingly not patronizing any of the
22 businesses.

23 I know this is a fairly high-vice area,
24 Shari's seems to draw, because they are 24/7, and I
25 think it's -- I am not sure if it's the addictive

1 personality thing, but a lot of drug-addicted people
2 love to play video poker.

3 I don't know if you have noticed, like,
4 Dotty's video poker parlors. It's a hot bed of drug
5 activity in most of those places. So I think, well,
6 maybe there's some drug activity going on. Let's talk
7 to them. So we pull our car up to where you see it.

8 Now I am driving. My partner gets out
9 first, starts talking to them. I notice that there's
10 bags on the trunk, and they are standing over the trunk.

11 And what caught my eye is one of the males
12 had like an old-school camera. Like the one you have to
13 manually wind, and takes film -- takes film --

14 A JUROR: 35 millimeter?

15 THE WITNESS: Yeah, right. You never see
16 these anymore.

17 A JUROR: I have one.

18 THE WITNESS: And on the trunk there was an
19 old-school Polaroid, the kind that shoots the picture
20 out. So that caught my eye.

21 So my partner starts asking about the
22 cameras. I am not sure, I am just making observations.
23 I'm not sure what is going on with them. He asked them
24 for ID. And he's kind of talking to two males, and I
25 start talking to the female. She says, I don't have my

1 ID on me. She clutches her purse and says, I don't have
2 my ID on me. I think it's up front.

3 So she goes up front. She puts her purse
4 in the back, and I am thinking -- I have done this a
5 lot. So a lot of times when someone -- there's a lot of
6 things people will do unconsciously that you pick up on,
7 like nonverbal communication clues. And you just learn
8 it after a while of being on the street.

9 When someone -- we call it indexing. So if
10 I walk up to you and you have drugs in your pocket, you
11 are probably going to go (indicating). First thing you
12 are going to do, unconsciously, is you are putting your
13 hand in the pocket where the dope is. It's very hard to
14 fight, for most people.

15 So I'm thinking, well, she's clutching her
16 purse, because there's something there she doesn't want
17 us to see. So she throws it in the back seat, and
18 starts to fake looking for her ID. And she's like, It's
19 in here somewhere.

20 I was like, You know what, it's not a big
21 deal. Just give me your name and date of birth. Do you
22 have an Oregon ID? Yeah, it's Oregon. Well, I will be
23 able to pull it up, and it's not a problem.

24 But it's rehearsed. She's not really
25 looking. It's like when a guy pretends to look for his

1 wallet five times in the same pocket. Like, oh, where's
2 my wallet? And then they keep looking, knowing it's not
3 on them.

4 So I am thinking, well, for whatever reason
5 she's nervous. She knows -- I am thinking she knows
6 where her ID is. It's in the purse, but she doesn't
7 want to open the purse because there's probably
8 something in there she doesn't want me to see, so she's
9 fake looking for her ID.

10 So I finally get her name and date of
11 birth. We talked briefly. I think may have asked what
12 was the address on her ID, to make sure it was her, and
13 she tells me Springfield. Somehow I learned they are
14 from the Springfield area.

15 So I walk back -- so she was sitting in the
16 driver's seat when I got her name and date of birth.
17 And I started to walk back to the patrol car to run her.
18 My partner hands me his notebook, and he doesn't say
19 anything. He just hands me the notebook. My
20 assumption, because we have done this so much, is that
21 the last two entries in his notebook are going to be the
22 people he was talking to.

23 So I sit down inside the patrol car on the
24 driver's seat, and I run the female, pull up her Oregon
25 DMV picture. That's her. That's her identity.

1 They didn't have -- so when we run someone
2 in our system we run their driver's license info, if
3 they are wanted nationally, what's called NCIC, but we
4 also have a local database called Regions and that's
5 just your current -- it's not what you would think of as
6 a rap sheet. This is just what contact you have had
7 recently, were you in a car stop where someone was
8 arrested on drug charges, or something like this. So
9 basically available only locally.

10 So she doesn't have any recent -- or she
11 doesn't have any local history. So I am thinking, well,
12 they are probably all from out of town. So I run one of
13 the males, and it's him. I pull up his photo. It's
14 him. And I pull up the name that Bellew had given my
15 partner. I don't remember what it was. I ran it, pull
16 up the DMV pic and they look really similar, but it's
17 not him, because the photo of the DMV pic, the guy
18 clearly has a big mole on his Adams apple, and his hair,
19 the texture and color is different than Bellew.

20 So I am looking at the DMV pic, and I'm
21 looking at Bellew, and like, no, it's not him. So I
22 called Mike over. Hey, Mike, it's not him. It's
23 probably his brother. Because a lot of times people
24 will give you their sibling's name, because they look a
25 lot alike and it's easy to remember. But these guys

1 looked so much alike, I think if you weren't thorough,
2 you probably would miss it. But I was suspecting it,
3 or -- well, expecting a bad name.

4 So Mike is like, yeah, that's not him. He
5 gets out and talks to him. So if he's not being
6 truthful about his name, there's probably a reason. So
7 I am thinking, I am going to take a peek in the car and
8 see what that reason is. So I walk over to the
9 passenger's side window of the Jetta, or the VW. I am
10 not sure if it's Passat or Jetta. And the door is
11 closed. The female is still sitting in the driver's
12 seat with the front door open.

13 And I take my flashlight and I stand at the
14 front passenger's door, and I am lighting up the cab so
15 I can see what I can see. And on the passenger
16 floorboard there's a little thin cellophane bag that
17 syringes come in, because when you buy syringes -- they
18 come in bags of 50 or 100, and in a cellophane bag.
19 Well, okay, there's a syringe bag.

20 I keep working my way around to the back
21 window, and I can see -- syringes come with a blaze
22 orange cap over the needle, and one over the plunger to
23 protect yourself from the needle and accidentally
24 manipulating the plunger when you don't want to. So I
25 see a needle cap on the back floorboard, so I am

1 thinking there's probably needles or other things in
2 this car.

3 So I make my way all the way around the
4 car, back to where the female is sitting, and she's
5 still sitting there with her driver's side door open.
6 And I asked her flat out, Hey, can I have your
7 permission to search your vehicle and all of its
8 contents? And she says, No. Why? There's nothing in
9 here. And I said, Well, see that bag over there? And
10 she looks over toward the front. That's a syringe bag.
11 And I said -- so she's still sitting, and I said, Do you
12 see that back there? That's a cap that goes over a
13 syringe plunger.

14 And she looked back there, but I know she
15 didn't see it because the seat would have been in her
16 way. She couldn't have seen the cap, but she says, Oh,
17 yeah. I see it.

18 So in my mind, she didn't see it, but she
19 accepts it as truth because she knows more than I do.
20 There's probably drug paraphernalia in there, and she
21 knows it and now she knows she can't hide it. So she
22 says, Yeah, I see it. So, I said, you know, Who was
23 sitting there? And she says, He was, and points to
24 Bellew.

25 And I'm like, How do you know that guy?

1 She said, Well, he's a friend of a friend. And I was
2 like, Well, how long have you known him? She said,
3 About three weeks. And I was like, Well, do you think
4 it's possible that some guy you have known for three
5 weeks that you know through a friend of a friend maybe
6 brought syringes or drugs or other contraband, and it's
7 in the vehicle, and you just don't know about it? And
8 she doesn't really say anything.

9 And so as I am talking to her, Bellew and
10 Mike are still over -- I am not exactly sure,
11 physically, where they were, but Bellew injects himself
12 into our conversation that the girl and I are having and
13 says, Hey, those, syringes are mine. I can't remember
14 if I asked him if he was diabetic, or he offered it up.
15 Either way, he says, Yes, I am diabetic. I said, do you
16 have insulin on you? Do you mind showing it to us?

17 He's like, Yeah, I have got it on me. So
18 he does one of these things (indicating), starts patting
19 his pockets for his insulin. And he's not producing
20 any. And so he opens the back door, and I shift to the
21 back seat and light up the back, because I want to see
22 what he's getting into. I light it up with my
23 flashlight.

24 And he grabs a backpack that's like a
25 single sling type pack. It's gray, I think. Grabs it

1 and as he grabs it, I am like, Hey, look, I don't mean
2 to call you a liar, but if your diabetes is so severe to
3 the point you need insulin, you are going to have that
4 on you at all times. You don't just willy-nilly carry
5 it sometimes. You are definitely not going to leave
6 Springfield without knowing where your insulin is,
7 because it's life or death for you.

8 So he didn't look through the bag. He
9 sighs and resigns himself to the idea that the insulin
10 story isn't going to wash, so he throws it back and
11 shuts the door.

12 So I start talking to the girl again. I am
13 like, Hey, so he just said those were his needles.
14 Clearly he's not diabetic. There's probably drug
15 paraphernalia, at the very least, in your car. And I
16 explained to her the difference between possession and
17 ownership, because I wanted to make clear to her that
18 it's her car. At some point I asked if it was her car,
19 and she said, yeah.

20 Well, look, you are in constructive
21 possession of everything in this car. You are the owner
22 and in control of the car. That isn't to say if there's
23 drug paraphernalia in here that you own it, but by
24 owning the car and you being the driver, you are
25 basically in constructive possession of whatever is in

1 the vehicle.

2 So she looks down. I said, So now do you
3 mind if I search your car and all of its contents? She
4 says, Yeah. And said, Okay, so I can search your car?
5 And she said, Yes. So I asked her to get out. I was
6 like, Hey, can you go stand over by the front of my
7 patrol car? And she says, Sure, no problem. Gets out
8 and walks over to the front of my patrol car.

9 I make my way around the back of the trunk,
10 and I pass Currier about where the gas cap is, and
11 Currier holds up an ID. I don't remember what state it
12 was. I want to say it was Idaho, because it was an
13 old-school ID where it looks like someone took like a
14 passport photo, and put it on a card and laminated it.
15 I recall it not being a modern looking ID. And a few
16 states, like Nevada, still have these terribly archaic
17 looking ID cards. He said, You are right. He gave us
18 his brother's name.

19 And so I am wanting to start my search in
20 the front passenger's side, because that's where I see
21 the -- what, in my mind, is paraphernalia. Where
22 there's smoke, there's fire, so I want to start there.

23 So I am walking towards the passenger door,
24 and Bellew starts walking towards the passenger door.

25 A JUROR: Which passenger door?

1 THE WITNESS: I'm sorry. The front
2 passenger door, the one that's open now. So we are --
3 we were standing at the rear tire. Michael says, Hey,
4 look, I got his ID. So as I am making my way, Bellew
5 starts making his way. And he opens the door, and I am
6 thinking, well, he's probably going to grab dope and
7 swallow it, or something like this.

8 Up to this point his attitude is just --
9 he's very reserved. He's not saying anything, it's not
10 confrontational. I mean, he's just -- it was a
11 nonissue. So I didn't want to grab him, because I still
12 had investigative interest. So during the consent
13 search, if I make -- let's say I find dope under that
14 seat. If I made him feel like he wasn't free to go then
15 it would be -- basically, there's some procedural things
16 wrong with that, because at this point he's free to go.
17 I can't make him feel he's not free to go, and then try
18 and charge him with something.

19 I probably had reasonable suspicion to
20 detain him, but it's very thin and you don't want to,
21 with reasonable suspicion that's that thin, you don't
22 really want to -- you want to avoid putting your hands
23 on people and turning what is a low-level suspicion
24 incident to some sort of force, if you can avoid it.

25 Q BY MR. REES: Okay. And your, I think you

1 are explaining sort of your thought process here,
2 because this contact wasn't the result of a report to
3 the police?

4 A Right.

5 Q This is a police-citizen encounter, so you
6 have limited authority to control people until you
7 develop reasonable suspicion or probable cause?

8 A Right. Right.

9 Q But having said that, at the time when
10 Mr. Bellew started moving towards the car, did you have
11 any apprehension or fear at that moment, or not?

12 A I thought, well, he's going to get in the
13 car and try to get dope. I better prevent him from
14 doing that.

15 Q But you didn't have any fear for your
16 personal safety?

17 A No, none whatsoever.

18 Q And just to clarify, too, when you make
19 this -- everything that you have been describing, the
20 other police officer present is your partner, Officer
21 Currier?

22 A Uh-huh.

23 Q Are there any other police officers
24 present?

25 A At some point during the stop a partner car

1 that you may have heard from, I don't know -- have they
2 heard from Steiner and Jungling?

3 Q Officer Jungling.

4 A I don't know, three or four minutes after
5 we first started talking to these three. Hey, are you
6 good? And I tell them, Yeah, we're Code 4, which is cop
7 speak for we don't need assistance. This is a benign
8 situation, basically.

9 Q So given all of that, do you have any of
10 your weapons out at this point, whether it be pepper
11 spray or taser or Asp baton or gun or anything?

12 A None of that. Literally, I have my
13 flashlight in my left hand. That's it. No weapons.
14 That's not been the tone of this stop, or this contact
15 whatsoever.

16 Q Would you describe it really as a low-key
17 contact with these individuals up to this point?

18 A Absolutely.

19 Q And so then if I could just ask you, just
20 if you would, tell the Grand Jury what happens then. If
21 you want -- if it would assist you, you can certainly go
22 up to the screen.

23 But if you could describe for us what
24 happens when Mr. Bellew then goes towards the
25 passenger's side of the vehicle, as you have described.

1 A Okay. So we're both kind of walking toward
2 the same area. He opens the door, and he starts -- so
3 there's a pocket. You can call it the map pocket on the
4 door. In my cars it's where my kids throw their trash.
5 So he opens the door, and I am following behind him.
6 And I tell him, Hey, get out of there. And he doesn't
7 grab, he's digging, which starts to concern me.

8 So at this point, I abandon my
9 investigative interest. I am going to put my hands on
10 him. So I go to reach around, and the door is open. So
11 if this is the passenger seat, right, and we're looking
12 at the car like it is, he's got the door open and he's
13 digging. And I tell him, Get out of there, and he
14 didn't listen.

15 I go to grab him, because I am going to
16 physically take control of him. And as I do, he's
17 coming up. Well, I can't see, because of the way his
18 body is bladed. So I kind of peek out on the outside of
19 the door, and I have my flashlight where I expect
20 wherever he comes up with, because I want to see what
21 he's coming up with.

22 And he comes up, and there's a revolver
23 pointed at me. And I don't remember what hand he had it
24 in, but I remember it sweeping across me, and I am
25 thinking, that's a gun. No doubt in my mind, a small

1 black revolver.

2 I push off the door I yell "gun" to alert
3 my partner. I am thinking he's going to shoot me, is
4 what I am thinking. So I yell "gun," and I start
5 thinking, well, I start thinking about my options. I am
6 thinking if I move back -- because I definitely want to
7 create space. Because from this distance he's going to
8 probably be able to shoot me in the face (indicating).

9 So I start moving back thinking, what can I
10 do? Well, if I run toward the back of the car, he's
11 already sweeping the gun this way, so I am going to be
12 tracking with the gun. And I am going to be an easy
13 target, and I am lining up me and my partner. So we're
14 both going to get shot.

15 I think, well, if I move backward, it's
16 movement and space, but I am not moving laterally. I am
17 still going to be easy to hit. So I think, well, my
18 only other option, really, is to hook around the car,
19 and what he will have to do is change direction, and
20 navigate the door, and reacquire me over the hood. That
21 might buy me a precious half second that I need.

22 So I am running, I say "gun," I get to
23 about where the front headlight is --

24 Q Go ahead. And if you want, move up to the
25 screen if that would help show us where you were.

1 A JUROR: Where is Officer Currier?

2 THE WITNESS: He -- as he gave me his ID
3 and said, Hey, you are right, it was his brother, he
4 starts walking back toward the patrol car. In my mind,
5 he's going to run the name that is on that ID.

6 So I am moving around here (indicating), to
7 the front of the car, and about right there as you pass
8 the passenger's side headlight I hear gunshots. And I
9 am thinking, well, I brace. I am thinking I am going to
10 get shot. I am moving, I am trying to make my head a
11 small target. I am thinking, hopefully this guy is not
12 an accomplished marksman. I will take some hits in the
13 vest.

14 And I hear gunshots so I keep going. And
15 right as my gun got out of my holster I thought about my
16 two sons -- and then I turned around. And I still hear
17 gunshots. And say this is the passenger seat -- well, I
18 just heard a bunch of gunshots, and now I turn around,
19 and look in the car and Bellew is sitting like this with
20 the door open, and my partner is back there.

21 And so from where I am at, I am now
22 basically -- got my gun out, and I am in front of the
23 driver's side area of the windshield. And I think,
24 well, Mike's out there. He's got no cover. He's
25 getting shot at by this guy, who now just bettered his

1 position, because now he's got the car to cover him.

2 And I think -- all I can see is him sitting
3 in the seat, and I can see from about the bottom of his
4 rib cage up. And I think, he's shooting my partner.
5 And so I take my gun out, and I fire through the
6 windshield. I see my rounds hitting the windshield, and
7 my rounds hitting him. And he kind of physically reacts
8 to being shot, and then he takes his hands up like your
9 body's natural reaction to protect your head is. And I
10 see there's no gun in his hands so I stop shooting.

11 He does this (indicating), and kind of
12 slumps over backwards, and winds up laying from the
13 passenger's side to the driver's side with his hands
14 over his head, because he fell that way.

15 I asked Mike -- Mike is like, Are you okay?
16 I am okay, as far as I can tell. He's like, Okay, I am
17 good. I notice my gun is a little light, so I dumped my
18 magazine, put in another, and cycled the action of the
19 gun.

20 I can't see where Bellew is. I know he
21 just slumped over in the seat, so the driver's side door
22 was still open from when the female got out. So I make
23 my way to the driver's side. Can we get that view?

24 Q BY MR. REES: Yeah, let me see if we can
25 switch it around here.

1 A That's probably good.

2 Q Let me back up. This angle was intended to
3 approximate the area you were in at the time of the
4 shooting. Does that look right?

5 A That looks right. I might have been even a
6 little farther over here just because of the way --
7 where he was sitting, I would be shooting to his right
8 instead of him. So I am probably a little farther over
9 this way, in reality.

10 Q Meaning farther in this direction?

11 A Yeah. Farther that way. So I make my way
12 around to the door that's open. And he's -- Bellew is
13 not responsive. His eyes are rolling in the back of his
14 head. I give him a couple of commands like, Hey, don't
15 move or I am going to shoot you, or something. I don't
16 remember what I said.

17 Mike gets on the radio, Hey, shots fired.
18 We need more officers here. Suspect down. We're okay.
19 So Mike starts to control the other two people that were
20 at the scene, tells them to get on the ground. They
21 comply. They are completely cooperative and they get on
22 the ground.

23 A JUROR: And they were in the back of car
24 or behind the car?

25 THE WITNESS: I think -- this is

1 speculation. I wasn't really tracking them.

2 Q BY MR. REES: Well, if you don't know, you
3 can't answer the question.

4 A I don't know. I can tell you they ended up
5 toward the Taco Bell, off of our patrol car. I think
6 they were probably standing by the pit bumper, like I
7 told her to do. And then when the shooting starts they
8 naturally want to flee, because it's scary.

9 So they ended up on the ground and they are
10 compliant. I get on the radio. I was like, Hey, next
11 officer that comes in, we will make a plan to extract
12 this guy, because he's not a threat anymore. We need to
13 get him medical care.

14 So Officer Kerwin was the first officer to
15 arrive. She actually comes around the passenger's side
16 first, and then I tell her, Hey, come over here. We're
17 going to drag him out. So I tell her to glove up,
18 because he's bloody. I tell her, Hey, we're going to
19 need another officer to drag him out.

20 So I don't remember who the other two were.
21 I am guessing it was Steiner and Jungling, maybe,
22 because they rarely leave their district. And I
23 remember when the officers showed up to control the
24 other two at the scene, that they showed up as a pair.
25 So I believe it was Steiner and Jungling. I could be

1 wrong.

2 So they take control of -- Steiner and
3 Jungling. I call Mike over, Hey, glove up, we're going
4 to drag this guy out and get him some medical care. So
5 I keep my weapon out, and until they get ahold of him
6 and it's clear he's not going to be resistive at all. I
7 holster up, we drag him out. Where the yellow sheet is,
8 I am guessing that's him.

9 We drag him to the back of the car. I
10 raise his shirt up to see where he had been hit, and I
11 see he's got multiple gunshot wounds to his upper back.
12 And I tell Kerwin, does anybody have Quickclot, which is
13 a bandage with a clotting agent in it.

14 Kerwin pulls one out, and I go, You know,
15 it's probably not going to help him, but we got nothing
16 to lose. We don't want this guy to die. So about that
17 time Sergeant Hughes arrived and grabs me by the
18 shoulder, and says, Hey, are you involved? Yeah, I am
19 involved. He looks at Mike, Are you involved? And
20 we're like, Yeah, we are both shooters.

21 So he pulls us from the scene, because
22 that's just sort of the procedural thing. You want to
23 separate everyone who is involved. And that's really
24 the last participation I had in trying to get medical
25 care to Bellew.

1 Q Let me back you up to the moment when you
2 said you first saw a gun.

3 When did you believe that deadly force was
4 the appropriate option?

5 A As soon as I saw the revolver and it was
6 pointed at me I thought, I am going to get shot. I
7 might die.

8 Q And did you believe that another level of
9 force, per your training, would be appropriate; that is,
10 something less than deadly force?

11 A No.

12 Q Why not?

13 A Well, I don't like to use the definition of
14 question, but it's just not appropriate. My force
15 options at that point are pepper spray, which isn't
16 appropriate against a gun; a taser, which isn't -- at
17 that range isn't appropriate with a gun, and it's
18 probably never appropriate if you are alone and that's
19 your sole force option you are relying on, because
20 taser, despite popular belief, is really hit and miss.
21 Sometimes it works and sometimes it doesn't.

22 At that distance it would not work. It
23 wouldn't be effective. You wouldn't get the result you
24 wanted. Had the window been open, I probably would have
25 tried to grab the gun, because that's quicker than me

1 getting to my -- but the window was up, so that wasn't
2 an option.

3 You know, using physical force, punching
4 him or grabbing him, none of this is appropriate because
5 he's got a gun, and he can shoot me through the window
6 if he wants to. So in my mind, that was my only option.

7 Q And when you moved around the front of the
8 car, at some point did you lose sight of the gun held by
9 Mr. Bellew?

10 A Yes. So I move back, and then as I start
11 to move toward the hood of the car, you will notice that
12 there's a hedge row and it's got a curb with, like, bark
13 dust. My main concern was navigating that and not
14 tripping onto that curb, because there was very little
15 room. I remember being up on the flower bed, because I
16 was looking down into the cab, or the passenger
17 compartment of the car. So I was concerned about not
18 tripping, because that would have put an end to my plan
19 to be a hard target.

20 Q So when you were in that position now, with
21 the car and the engine block of the car between you and
22 Mr. Bellew, at least apart, where did you perceive the
23 threat?

24 A So I lost sight of him as I made my way,
25 and navigated the curb there, and the bed. I see him

1 sitting with his back toward me, and I was hearing
2 gunshots. I am thinking, he's shooting at my partner.
3 I was scared for my partner.

4 This guy and I have worked together for
5 four years. We hunt together. We fish together. Our
6 families take vacations together. I am accountable to
7 his little girls. I was afraid he was going to get
8 shot. I thought, he's getting shot right now.

9 Q And at that time, could you see whether
10 Mr. Bellew was having any kind of reaction or response
11 as you are hearing gunfire? Could you tell what was
12 happening?

13 A No.

14 Q And when you fired your weapon, could you
15 see immediately whether that was having any effect, or
16 whether you were even hitting Mr. Bellew?

17 A I remember firing, seeing the glass, little
18 poofs of the glass. And I can remember seeing my rounds
19 impacting him on his shirt. It was like a little
20 flutter.

21 I mean, when I replay it in my mind, he
22 kind of reacts physically, and does this (indicating),
23 and it wasn't until I, like, maybe shot him five times
24 or something, that his hands come up. And I see there's
25 no gun.

1 Q And you said that's when you stopped
2 shooting?

3 A That's when I stopped.

4 Q And was that pursuant to your training?

5 A I am sorry. What?

6 Q Was that pursuant to your training to shoot
7 and stop at a certain point?

8 A Well, you want to shoot until there's no
9 longer a threat, or the threat has changed. Because of
10 the car, I couldn't see what was going on. Honestly, I
11 thought he was sitting on the edge of the car shooting
12 at my partner like this, from a tucked position.

13 So once I saw he had no weapon in his hand,
14 that changed my threat assessment. He no longer poses a
15 deadly threat to me and my partner.

16 Q I assume you have replayed this incident in
17 your mind many times since it happened?

18 A Thousands.

19 Q And as you have told us step by step what
20 has happened, it's taken you a fair amount of time.
21 When this event actually happened, can you give us a
22 sense of how quickly or slowly it actually unfolded from
23 the time you saw the gun?

24 A From the time I saw the gun until the time
25 I had my gun out was probably about two-and-a-half

1 seconds. The only reason I say that is because me and
2 my lawyer restaged this. Hey, I want to you run from
3 where you were to where you think you started shooting,
4 and it was about two, two-and-a-half seconds.

5 I mean, as it happens, the time slows down.
6 It seems like we hear the number two-and-a-half seconds,
7 I think, wow, that seems like a lifetime. I don't know.
8 I have never timed myself or anything like that, but I
9 was thinking, oh, three-quarters of a second, no
10 problem. That's completely unrealistic. So two,
11 two-and-a-half seconds. But like I said, time slows
12 down. It's weird. It seemed like an eternity.

13 Q Do you know how many times you fired your
14 weapon?

15 A My guess is seven to nine. Having counted
16 the holes on the windshield, 10.

17 Q You stated you were in the Marine Corps
18 prior to your career in law enforcement. In the
19 military had you been in a fire-fight type situation
20 or --

21 A Yes.

22 Q On the scale that -- the threat scale, or
23 the scale of just shear fear --

24 A I feared for my life, certainly.

25 Q -- where did this situation rate?

1 A Oh, I was scared for my life. I mean, in
2 some ways the two instances -- they are hard to compare.
3 But having feared for my life before, this certainly put
4 me in fear of my life. I thought my partner was getting
5 shot. I was in fear for his life.

6 Like I said, the last thing I thought about
7 was my two kids. I didn't want them to come home
8 without a father, and didn't want Mike's kids to not
9 have a dad after this was done.

10 Q In replaying this in your mind, is there
11 anything you would have done differently, given this
12 particular situation?

13 A No. No. I mean, me and Mike have --
14 conservative estimate is we probably do this 1,000 times
15 a year, and that's a conservative estimate. And we have
16 been doing this for almost four years. So literally him
17 and I together have done this thousands of times.

18 There were no indicators. We pride
19 ourselves in -- body language is huge. Half the time
20 when I am talking to someone, I don't even pay attention
21 to what they are saying. I am looking at what they are
22 doing.

23 There was just no indication whatsoever
24 that this was going to go from a low-level suspicious
25 incident to this guy is going to point a gun at me like

1 that. There was nothing. It was out of the blue. I
2 mean, we were here probably ten minutes before this
3 happened. That's not typical. In a deadly force
4 situation, in my recollection, you know, normally it's
5 going to be a traffic stop and a guy pulls a gun.

6 If someone is in the mindset they are going
7 to kill you, they are going to do it sooner rather than
8 later. They are not going to hang around for 10 minutes
9 and then decide to pull a gun on you.

10 So, no, I wouldn't have done anything
11 different.

12 MR. REES: Any questions from the Grand
13 Jury?

14 A JUROR: Am I the only one? Did he -- so
15 he's bending over, reaching into the pocket of the car?

16 THE WITNESS: Uh-huh. On the door.

17 A JUROR: And you are kind of looking at
18 your flashlight to -- I am just wondering, like if he's
19 bending over, and -- like, did you see when he was
20 pulling out the gun, or did you not see it until like he
21 actually turned around and pointed it at you?

22 A JUROR: Can you draw on the white board?

23 A JUROR: I think he turned the other
24 way --

25 THE WITNESS: Here's the car --

1 Q BY MR. REES: Before you start drawing,
2 that would be helpful, and you can do that, or you can
3 use this. Because there was a couple of --

4 A That doesn't give a sense of the angle, to
5 be honest. I think it might make more sense from a
6 birds-eye view.

7 Q Okay.

8 A JUROR: Because the passenger door is
9 open, correct?

10 THE WITNESS: Right. And this is the back,
11 and here's the front, and here's the little map pocket,
12 here.

13 A JUROR: There's a picture of that.

14 A JUROR: So it's actually the front
15 passenger door that he's in?

16 THE WITNESS: Yeah.

17 A JUROR: Okay. I am sorry. I was
18 thinking it was the back passenger door.

19 THE WITNESS: No, I didn't mean to lead you
20 to believe that.

21 A JUROR: No, that's my mistake. So front
22 passenger door and he's digging around in the pocket --

23 THE WITNESS: And he's digging around in
24 the pocket like this. And I am behind him, so I can't
25 see where it is he's digging, other than it's somewhere

1 in the lower portion of the door.

2 A JUROR: Okay.

3 THE WITNESS: So when he comes up, I am
4 looking on the outside of the door, standing behind him.
5 So I am like this, cocked over to the side. And next
6 thing I see is a gun, and it's sweeping at me. So the
7 first indication I had that he had a gun in his hand was
8 as he's pointing it --

9 A JUROR: Can you show how he moved?

10 THE WITNESS: I am not sure which hand he
11 had the gun in. But he's digging like this, and comes
12 up like this (indicating). So I don't know if it was in
13 his left hand or right hand. I don't remember, but he
14 was going this way with it.

15 A JUROR: So he actually swung around and
16 it was pointed at you before you could make any kind of
17 move to get away from him?

18 THE WITNESS: Yeah.

19 A JUROR: So you didn't see it with your
20 flashlight? Because it sounded like you were looking to
21 see what he was digging for, but you weren't able to see
22 what he was digging for?

23 THE WITNESS: No, not until it was in his
24 hand, and he's swinging it at me. That's the first time
25 I saw the gun.

1 A JUROR: And one other question. How many
2 rounds does your clip hold?

3 THE WITNESS: 17 in the magazine and one in
4 the chamber, so 18 when it's fully loaded.

5 A JUROR: And it was fully loaded?

6 THE WITNESS: Yes.

7 A JUROR: Thank you.

8 Q BY MR. REES: And to follow up on your
9 question, you said you dropped your mag. So the
10 magazine that is on the hood of the car that we saw in
11 the picture, that would be your magazine?

12 A That was the spent magazine. So there was
13 still rounds left in it, but I reloaded just because
14 it's good practice.

15 Q Is that per training to do what they call a
16 tactical reload?

17 A A tactical reload. It's situational. I
18 mean, I don't think it was really necessary, because I
19 didn't expect this to be some prolonged engagement. It
20 was pretty clear to me that this was over, but it's good
21 practice so it's sort of muscle memory.

22 Q In this picture that shows the open front
23 passenger door, on the ground is a police officer's
24 flashlight. Is that your flashlight, do you think?

25 A Yes. So when I saw it, the first thing I

1 did was let go of the flashlight, because I wanted to
2 push off the door and obstruct his efforts to point the
3 gun at me.

4 Q Do you remember dropping your flashlight,
5 or was that just instinct?

6 A No, I just dropped it. It wasn't something
7 I did consciously like, Dominic, drop your flashlight.
8 In my brain, the most important order of business is
9 moving and getting my gun out.

10 A JUROR: You can see you had very little
11 room between the bushes in the front. I can see why you
12 were worried.

13 THE WITNESS: It was a tight fit.

14 Q BY MR. REES: So when that happened,
15 assumedly that flashlight would be pretty close to the
16 area you were standing when you dropped it, I assume?

17 A Honestly, because it's round, those things
18 can roll. Generally, I was in that general area, yeah.
19 How far the flashlight rolled would be pure speculation
20 on my part.

21 Q But at that moment in time, did you have a
22 clear sense of where your partner, Officer Carrier, was
23 standing?

24 A I know he would be back toward the patrol
25 car.

1 MR. REES: I am sorry. Did you have some
2 other questions?

3 A JUROR: No, I am good.

4 MR. REES: Any other questions from the
5 Grand Jury?

6 A JUROR: He might stop me, so you might
7 look at him before you answer this.

8 But you mentioned the military shooting.
9 Since then, in any line of duty as an officer, have you
10 been engaged in any other shootings?

11 THE WITNESS: No. Nope.

12 A JUROR: That's all I have.

13 MR. REES: Anything else? If there's no
14 further questions from the Grand Jury, thank you very
15 much for coming in today.

16 A JUROR: Thank you.

17 (Concluded at 2:23 p.m.)

18

19 MICHAEL CURRIER,
20 produced as a witness, having been first duly sworn,
21 was examined and testified as follows:

22 THE WITNESS: I do.

23

24

25 ///

EXAMINATION

BY MR. REES:

Q When you are ready, please be seated and then if you would state your first and last names, and spell your first and last names.

A My name is Michael Carrier, common spelling, C-U-R-R-I-E-R.

Q And are you a Portland police officer?

A Yes, I am.

Q How long have you been a police officer?

A Approximately six to seven years.

Q And for a moment, just going back in time, what is your educational background?

A Right after high school I went into the military, US Army. I was a combat engineer in the Army. I got out. I got two-year tech degree in civil-mechanical engineering. And shortly after that, I became a police officer.

Q And during your time with the Portland Police Bureau, have you had various assignments or the same essential assignment?

A Same. Patrol.

Q And what is your current assignment?

A I work night shift at East Precinct.

Q And we heard earlier testimony that you,

1 for a good part of the time that you have been working,
2 have been paired up with Officer Lovato?

3 A Lovato.

4 Q Is that correct, then?

5 A We have been partners for about four or
6 five years now. 40 hours a week, sitting 12 to
7 18 inches apart from each other, every night.

8 Q Sunday, June 28th, 2015, was that a regular
9 workday for you?

10 A Started off as normal as any other day did.

11 Q And what time does that shift begin?

12 A 10:00 p.m.

13 Q Earlier in the day, anything unusual
14 happen?

15 A No, just completely normal sleep schedule,
16 and everything was normal.

17 Q Any mental or physical infirmities?

18 A No.

19 Q Any use of intoxicants before work?

20 A No.

21 Q Then directing your attention to the
22 contact with two males and a female that we have heard
23 about in the parking lot of the Winco at 122nd and
24 Halsey, do you recall why you and your partner contacted
25 those three people?

1 A Like I said, the night started off
2 completely normal. We were just driving around on
3 patrol. Total random act that we came out here. We
4 drove to about 122nd and Halsey, and at that
5 intersection there's a Winco that is 24 hours, and a
6 Shari's that's 24 hours, and then the late-night Taco
7 Bell.

8 So we just decided -- Officer Lovato was
9 driving that night, at that point. We decided to just
10 drive through the parking lot. We entered the west
11 parking lot, and when we came in we noticed a silver
12 Passat sitting on the west side of the Winco building.
13 Now, this is -- I don't know exact time frame, but
14 11:00, 11:30 at night.

15 The Winco parking lot was completely open.
16 On that west side of the building there's no doors, no
17 way to enter the business. Typically people at that
18 time of night would park right in front of Winco,
19 shortest distance in and out of the store. But this car
20 was parked, as you can see, on the west side of the
21 Winco, kind of in an obscure spot.

22 There were lights to the west side of this
23 area, but none directly right there. So it was
24 indirectly lit up, but not completely. We felt that was
25 kind of an odd place for that vehicle to be, and we

1 could see that there were three people standing at the
2 trunk of the Passat.

3 So we turned north into this area of the
4 parking lot, and as we got closer, I could see that
5 there were two white males and a white female. I could
6 see they were kind of disheveled looking. I could see
7 the whole passenger's side of the Passat was dented and
8 dinged and missing a lot of trim. I could see that they
9 were huddled around something that was on the trunk of
10 the car. The trunk was closed.

11 And at this time I am in the passenger
12 seat, so I would say that I had the best view of them.
13 And as we got even closer I could see, particularly
14 Mr. Bellew, that he had a lot of scarring on his face,
15 pock marks, and a lot of open sores.

16 Q And if I may, to clarify, when you said you
17 were in the passenger seat, that would be the passenger
18 seat of the patrol car?

19 A The patrol car, yeah.

20 Q And as we see in this photo, that would put
21 you on the same side as the parked VW?

22 A Yes.

23 Q Are these observations that you are making
24 as you roll up on the scene about these individuals, or
25 are they observations you made after you got out of the

1 police car?

2 A These are as we were driving up to them. I
3 haven't gotten out yet. Like I said, when we came in
4 this was a strange place for this car to be parked. And
5 as we're approaching the car, as we're driving towards
6 the Passat, I am just taking in as much information as I
7 can visually, trying to understand -- a lot of times we
8 will drive by people and not even get out of the car,
9 because as we get closer we can see that, oh, that's
10 completely normal, whatever they are doing. And that's
11 fine, and then we drive away.

12 But like I said, I could see them huddled
13 around a bag on the trunk, a big leather bag. I could
14 see, as I described, their complexion, open sores, kind
15 of disheveled looking. In my experience, this a common
16 indicator of heroin use.

17 Q Sounds like you didn't think they were
18 Winco shoppers?

19 A Right. Like I said, the south side, which
20 is the far side as you are looking at this, is the main
21 entrance of Winco. And it's an enormous parking lot,
22 and it was nearly completely empty.

23 I would think most people would park right
24 in front if they were doing business there. There was a
25 Taco Bell that was open, to the north, but that was

1 approximately -- just a guess, but maybe 80 yards away,
2 and that parking lot was open. I remember the
3 drive-through being full.

4 So they weren't reasonably in an area that
5 one would think they were doing business at one of these
6 places.

7 Q Now, you were the passenger in the police
8 car, not the driver. But in terms of this kind of
9 contact where it sounds like at this point you don't
10 really -- you might have a police officer's suspicion,
11 but you don't have probably what is legally called
12 reasonable suspicion?

13 A No.

14 Q So in terms of the placement of your patrol
15 car, is there anything that you are mindful of?

16 A Yeah. So when we do get a little closer,
17 we understand there's something going on. I can see --
18 and before we stop and get out of the car, you know, I
19 can see that they are looking at what looks to be
20 obsolete -- what I would call obsolete cameras, an old
21 film camera and Polaroid. And they were looking at them
22 in a way that suggested to me that they weren't theirs.
23 It looked like they were trying to figure them out.

24 So when we did decide to stop and just kind
25 of see what was going on, just chat with them, we make

1 an effort to not block their egress if they want to
2 leave. We parked -- this is kind of a deceiving
3 picture, but just a little bit south of the rear
4 passenger corner there. So if they wanted to pull out
5 and leave, they had room to do that.

6 We didn't have our overhead lights on. You
7 know, at this point this is just normal get out and
8 chat. It's not a stop. No probable cause, nothing like
9 that.

10 Q And did you make the first contact with
11 these people?

12 A I did.

13 Q How did you go about doing that?

14 A So I get out of the passenger's side of the
15 patrol car, stand up, and I stay right there. I kind of
16 just say, Hey, how are you guys doing? And they are
17 kind of not really making eye contact as you would
18 expect somebody to, and they still kind of keep
19 tinkering with these cameras.

20 And I use a line that I use a lot. I found
21 that it's -- it's great at kind of bringing people down.
22 When the police show up, people's anxiety kind of goes
23 up, which is understandable. But what I did was I got
24 out, and say, Hey, are you guys fighting over here?
25 Just that exact tone.

1 And I forget who said, No, that's not us.
2 Oh, okay. Somebody might have thought you guys were
3 fighting over here. And what that does is it brings
4 them down, and not necessarily these guys, but anyone in
5 general. Typically they will be like, Oh, okay, they
6 are not looking for us. They will leave soon and it
7 works great. It really calms people down.

8 Q So that's really just a conversational
9 opener for you, and you say, are you fighting and people
10 say, no, not us?

11 A No, that's not us, is what they said. I
12 go, Oh, okay. And then I just started small talk about
13 the cameras, because there is a Polaroid where you have
14 to shake the old film. And I said, Wow, is that a
15 Polaroid? And it wasn't Mr. Bellew, but the other male
16 held it up, and he said, Yeah. And he was trying to
17 figure out how to open it.

18 So we had this conversation about these
19 cameras for a little bit, you know. And as I am talking
20 to him, I am making observations of -- observations or
21 assumptions of kind of trying to figure out what is
22 happening. And the way this looked, they will
23 commonly -- these bags will be, like could be taken from
24 a car prowler, a burglary. And often these items can be
25 traded for controlled substances. They can be sold. We

1 get a lot of calls where people will meet late at night
2 and do these Craig's list deals.

3 So like I said before, we don't know what
4 is going on, but we're wanting to see what is going on.
5 So as I am talking to him, I am still at the passenger's
6 side of the patrol car. And I noticed the female is
7 holding a purse, or Coach bag, or something, or
8 whatever. And she kind of shields it with her arms.
9 And she -- I don't know a better way to put it, but kind
10 of sneaks out of the conversation.

11 So I start -- I am talking to the two
12 males, and I notice her to sneak over to the driver's
13 side of the car and put the bag in there. I don't know
14 if it was a purse, or what. Officer Lovato picked up on
15 that. That's kind of an indicator we look for. So
16 he -- Officer Lovato moved over with her to the driver's
17 side, and started talking with her.

18 As I am talking with the two males at the
19 back, kind of at the back passenger corner, I step away
20 from the patrol car. And I can hear over the top of the
21 car, I can hear Officer Lovato say something about
22 needles in the car. I think he was asking the female
23 about needles, and asking if she was diabetic. I didn't
24 hear her response, but it seemed --

25 Officer Lovato and I have this routine that

1 we don't really talk about a plan, but we just kind of
2 read off of each other. And it seemed like there was
3 some drug paraphernalia in the car. I didn't see it,
4 but from his statements, I took it as that.

5 So then I just asked the two guys, Hey, you
6 guys got any ID? The -- not Mr. Bellew, but the other
7 male, handed me a state-issued photo ID. And Mr. Bellew
8 told me, No, I don't have any ID. Which is commonly an
9 indicator that somebody is going to lie about their
10 name, which you get it all the time. It's not a huge
11 issue.

12 And during this whole time, Officer Lovato
13 and I -- we take pride in the way we do things, because
14 we're really calm with people. We treat people just
15 as -- everybody is the same. When we come across
16 addicts we treat them as such.

17 These guys -- we tell them, you are not a
18 bad person. You just have a bad problem. A lot of
19 these guys, we ask them their story. I even carry
20 cigarettes. I don't smoke, but I carry them for people
21 that we talk to. A lot of these guys have just been
22 dealt a pretty hard hand in life, and they get addicted,
23 and these other crimes follow.

24 But we're just treating these guys like any
25 other people. We're not being controlling, loud. We're

1 not demanding they do things. We're just talking to
2 them like any other person.

3 So Mr. Bellew says he doesn't have an ID.
4 I asked him what his name is. And he tells me Alex
5 Bellew, and he gives a birth date that I can't recall.
6 So I write this down in my notebook, and I write down
7 the other male's info in my notebook and give him back
8 his ID.

9 My intention was to go back to the patrol
10 car and run their names on the computer, just to run a
11 quick records check. And typically these are where --
12 we run people and they are clear and everything, usually
13 we're just off, you know, out of there. We don't poke
14 and pry too much.

15 So Officer Lovato had already gotten the
16 female's name and came back to the driver's side, and he
17 was in the car before I got back to the car. So I just
18 kind of tossed my notebook in there, and said, Here's
19 these two guys' names, and he started running all three
20 of them.

21 Again, I continue -- now I am standing in
22 between the door and the car, and the patrol car with my
23 arms up on the window. Just completely relaxed. These
24 guys aren't giving us any indicators, they are calm,
25 they are conversing with me. They are not asking why

1 are you here, can we leave. They are not doing any of
2 that. They are just having a conversation with us.
3 Mostly about these cameras, because honestly, I thought
4 the Polaroid was kind of cool. I haven't seen one in a
5 long time.

6 So as I was talking to them, Officer Lovato
7 yells at me through the interior of the car and says, Is
8 this that guy, meaning Mr. Bellew? And he turns the MDT
9 towards me, and I look, and it's clearly not who I was
10 talking to, Mr. Bellew.

11 Q And just to clarify, you said he turned the
12 MDT to you?

13 A The computer, the computer screen swivels.

14 Q Was there a picture up on the screen?

15 A I don't know what he pulled, but it looked
16 like a DMV photo of the person, whoever's name he gave
17 me.

18 Q Didn't look like the person in the parking
19 lot?

20 A Absolutely not. Had a rounder face,
21 different hair. There was no scarring, no pock marks or
22 anything on his face. And he looked young. I remember
23 the picture looking young.

24 Q So I kind of stood back. I kind of leaned
25 back out of the car, and I approached Mr. Bellew. And I

1 was like, Look, I think you are lying about your name,
2 and I said it in this exact manner. Look, if you have
3 got a warrant that you are trying to hide from, that's
4 just something you have to deal with from your past.
5 You are not in trouble with us, but we need to figure
6 this out.

7 And a lot of times that will get somebody
8 to just kind of drop their shoulders and give some sort
9 of indicator, Okay, yeah, you are right. Here's my
10 name. Usually that's the first step. He didn't do any
11 of that. He stuck with it, said, No, that's my name.

12 So then I told him again, I just looked at
13 a picture of the name you gave me. It's not you. He
14 said, no, that's me. Okay. So my next step that I
15 always do is ask the last four of their Social Security
16 number.

17 If I am going too fast let me know.

18 Typically these guys -- if somebody is
19 going to lie about their name or have a bad ID, they
20 will memorize everything on the ID, the address, birth
21 date, middle name, but they absolutely never ever know
22 the Social Security number of the person they are
23 claiming to be. 100 percent of the time if an adult
24 person says, I don't know my Social Security number, we
25 always find a warrant, and we figure out who they are.

1 So I asked him, What's the last four of
2 your Social? And he says, I don't know. I said, Come
3 on, man, everybody has to know their Social Security
4 number. Do you have a job? Yeah, I got a job. Didn't
5 you give them your Social when you applied? Yeah, I did
6 it when I applied, but I forgot it.

7 Okay. How old are you? Because he gave me
8 a birth date. So when I asked how old he was, he kind
9 of looked up and past me, and it took a few seconds. I
10 could tell he was trying to remember the year he gave
11 me, and trying to add it up.

12 So I just stopped him before he could
13 answer, and I was like, Look, what is your warrant for?
14 He says, I don't have a warrant. I said, Okay. We have
15 got this IBIS machine, and what that is is it's a mobile
16 fingerprint machine that takes your thumbprints. And it
17 runs it through a huge database, and we're able to do
18 that from our patrol cars.

19 We didn't have one, so I had to request
20 another car to come out with one and I said, Look, we
21 have a thumbprint machine. I will have him come out,
22 take your thumb prints, and we'll figure out who you
23 are. If you are who you say you are, we're out of here.
24 He said, Okay. I took that as, yeah, okay, let's do it.
25 So I call on the radio for Officer Grant Smith to come

1 out and bring the IBIS to do Mr. Bellew's fingerprints.

2 So at this point we're waiting. More small
3 talk, and they are free to move around. So we're not
4 saying, hey, don't go here, don't go here, sit on the
5 curb, don't do this. We haven't patted them down.
6 There's no reason to. They are not giving us any
7 indicators. Their demeanor is completely calm, and they
8 are engaging us in conversation. Absolutely no problem.
9 Totally typical.

10 So at this point I noticed Bellew grab a
11 pack of cigarettes out of his pocket. And then he went
12 to the back passenger door, opened that, and while still
13 standing up, he leaned into the car, and he was going
14 through like a black -- like a gym bag, or duffle bag on
15 the seat.

16 So because he was going through something
17 in the car, I just say -- you have the open door. He
18 was in the car, I was just on the other side of the open
19 door, just kind of looking with my flashlight, making
20 sure that he didn't pop out with any kind of weapon or
21 anything.

22 Like I said, we haven't searched the car.
23 We haven't had any need to search the car. So I am just
24 watching to see what he's going to grab, and he doesn't
25 grab anything, from what I saw. Comes back out of the

1 car, and stands up. Now he's facing north, over the top
2 of the car, and I am standing almost behind him. And I
3 can see his wallet, and what looks to be an ID sticking
4 out of it. So I slip that out, and I can see the ID. I
5 can see it's an Arizona ID. Look at the picture, and
6 this is who I am talking to. And it's not the name he
7 gave me. I think the name on the ID was Alan Bellew if
8 I remember, correctly. But I could see the photo. This
9 is who it is.

10 So just kind of look at him, and I go, Come
11 on, man, and I could hear him sigh. This was the sigh
12 that you typically get. I said, What, did you give me
13 like a younger brother's name or something? He goes,
14 Yeah. So at this point, I am kind of standing where
15 that -- can you see that orange triangle in between
16 the --

17 Q Go ahead, if you want step up to the
18 screen.

19 A So at this point, I am kind of standing
20 here (indicating), talking to Mr. Bellew at the
21 passenger door. So I go, Hey, you mind having a seat
22 right there, and I point to the front passenger door
23 because it's open. This kind of puts him in what I
24 thought would be kind of a safe place. I asked him to
25 do it, and he did. He sat down and was smoking a

1 cigarette with his feet sticking out of the car, facing
2 south in the front seat with that door open.

3 At this point, Officer Lovato had cued in
4 on what we were doing, and he had cued in that I found
5 the actual name. And Officer Lovato knows now that my
6 next step is to go back to the car and run this name.
7 So we don't want to be both distracted at the same time,
8 so what he does is comes around and takes my spot right
9 there while I am talking to Mr. Bellew.

10 So Officer Lovato is right by the front
11 passenger door, Mr. Bellew is facing him, and I turn to
12 walk back to my seat in the patrol car, because I was
13 going to use the computer and run his name. So like I
14 said, to this point, everybody was calm and they
15 weren't -- Officer Lovato and I talk with a lot of
16 people. And I would say that we're pretty good on
17 picking up on indicators, but these guys weren't giving
18 us any, really, other than the name game, which we get
19 that on a daily basis.

20 A JUROR: So you went back to the
21 passenger's side of the police car?

22 THE WITNESS: I started moving back to my
23 seat on the passenger's side, because I was going to use
24 the computer,, everything swivels and moves. So when I
25 did this, I turned and something got my attention. I

1 don't know if it was noise or movement, but I turned
2 around, and I can see Mr. Bellew. Now he's frantically
3 digging through the pocket in the door, that long map
4 pocket that's on the bottom of the door.

5 So he's got his back to me. He's standing,
6 bent over, and everything changed right at that instant.
7 Things started moving faster at this point.

8 My first -- what I did was I turned around,
9 and I had his ID, and put it in my back pocket. And I
10 turn around, and look, and my first thought was, he's
11 going for some sort of drugs or something, and he's
12 going to eat them. Because that's happened to Officer
13 Lovato and I quite a few times.

14 And some guys have gotten really injured by
15 doing that, because they, you know, they freak out.
16 They know whatever they have in the car, they try to get
17 to it and they eat it, and just without thinking they
18 just do it. And a lot of times if it's meth it will put
19 them in some sort of cardiac arrest.

20 So my initial thought was, we're going to
21 have to grab this guy. We're going to put our hands on
22 him and keep him from ingesting these drugs, or whatever
23 he's going for, because like I said, at this point we
24 had no reason to believe there was any weapons or
25 anything in the car. We didn't know. But we didn't

1 believe so at that point.

2 So I take a step towards him, and Officer
3 Lovato -- like I said, Officer Lovato is maybe three
4 feet from the door (indicating). He starts moving
5 towards him. And we're kind of, you know, what we're
6 going to do is just put our hands on him to quit digging
7 through the car, because his whole demeanor has changed.
8 Like, there's a purpose he's doing this now. It's not
9 like before when he was calm, just going through the
10 bag. This is -- I would describe it as frantic.

11 So I don't know if I even got a step, and
12 Mr. Bellew stands up and points a revolver right at my
13 partner. He --

14 And just real quick, when I say partner,
15 just to kind of stop for a second, when I say partner,
16 this guy, Officer Lovato, like I said, we have been
17 riding together for four or five years, sitting 12 to
18 18 inches apart from each other. We go hiking, camping,
19 our wives go out to dinner together, our kids play.
20 He's got two kids same age as mine. I know everything
21 about this guy; he knows everything about me.

22 This isn't just some random guy that I got
23 partnered up with this night. So to say partner is kind
24 of an understatement. I would equate him more to a
25 brother than a partner.

1 So when I saw -- what's that?

2 Q BY MR. REES: Well, if I could interrupt,
3 maybe you are going to get to this. But just so we're
4 clear on your perspective, when you said you saw
5 Mr. Bellew point a gun at your partner, are you able on
6 this image to show us where you were, approximately,
7 when you saw that, or should we go to a different view?

8 A So --

9 Q And we can change the view if it's not
10 clear from here.

11 A Is there a view that shows from back here,
12 from the south looking north?

13 Q Let me see --

14 A No, that's where it's going to be at.

15 A JUROR: Any of the triangles in the back?

16 THE WITNESS: See if you can go to this
17 one, perfect. Absolutely perfect. So I am
18 standing about at the passenger door here, not quite in
19 but right at the door.

20 Officer Lovato is -- and I will get to -- I
21 don't know exactly where he is right now. And I will
22 get to why, but he's somewhere in this area, real close
23 to the passenger door.

24 I don't want to get choked up, but -- so
25 Bellew extends his revolver at my partner. And Bellew

1 is almost perpendicular to me. I can see, you know,
2 when that happened, that instant in time, my vision went
3 right to that gun, and almost -- it's almost like the
4 Terminator if you have seen the movie, zoom right in to
5 it. Is that what I think it is? And what I know to be
6 a revolver, I could see the outline of that.

7 Officer Lovato, now he's in defensive mode.
8 He doesn't have his gun out. I hear him say, quote,
9 unquote, Oh, shit, back peddling, trying to create some
10 distance. I know from that distance Mr. Bellew doesn't
11 even have to know how to operate a gun. He can just
12 point it and shoot my partner in the face. Distance is
13 our friend in this situation, but we didn't have it
14 here. This happened like that. And it was completely
15 out -- we were not expecting it.

16 So like I said, my auditory went out, my
17 vision went down to that gun, and these are just
18 physiological things that happen in a high-stress moment
19 that I learned that day.

20 So my partner, Officer Lovato, is in
21 defensive mode. He's moving backwards. He's not in any
22 way, shape, or form prepared for this. I have a little
23 distance. I am standing here. I have got my body armor
24 presented to Mr. Bellew, and I want him to get his
25 attention off of my partner. I don't want him to shoot

1 my partner.

2 And because my auditory went out and my
3 vision shut down, I don't know if he shot my partner,
4 because my partner went out of my peripheral vision --
5 Officer Lovato went out of my vision.

6 So I yelled at him. I am -- if anybody is
7 going to get shot, this might sound ridiculous, but I
8 think I might be in the better position to, because I
9 have the protection facing the threat. So I yell at
10 Mr. Bellew. I go, Hey, and this is all -- I have
11 already started drawing my pistol. You know, this took
12 a second. But to describe it, I could take ten minutes
13 to describe this second in time.

14 So Mr. Bellew turns towards me, and he's
15 standing in the pocket of this door, in between the car
16 and the door. He turned toward me, and he's kind of
17 tall. And I remember looking -- I am just following
18 this gun, just making sure, is this -- I can't believe,
19 is this what I think it is? And I remember he's kind of
20 holding it high. I thought it was kind of strange, but
21 he was holding it high, and he's 6-2.

22 And as I am getting my gun up, I am
23 looking, and I am picking apart what I know. This is a
24 revolver, because I am looking right down the barrel. I
25 could see the plunger that holds the cylinder in, I

1 could see that that had rings around it. I could see
2 the cylinder where the bullets are held, and I could see
3 the sides of the cylinders, because he's got it
4 pointed -- I am looking right down the barrel of this
5 thing.

6 And I am still drawing my gun, and as I
7 push my gun out -- like I said, we're facing each other.
8 I equate it to like a Wild West movie where they are out
9 in the street facing each other, and it's going to be a
10 gun fight.

11 As I am pushing my gun out, I started kind
12 of wincing in pain, because I remember specifically
13 thinking, this is going to hurt, because I thought I was
14 going to get shot. He had his gun out and pointed at me
15 for a split second before I could get mine out. I
16 resigned myself at that moment that I was going to get
17 shot.

18 This happened so quick, that I didn't even
19 get to look at my front site. It was muscle memory. I
20 was looking at him, and I started shooting because I
21 thought this was just going to be a hail of gunfire, and
22 one person or nobody standing at the end, I didn't know.

23 So there was no doubt in my mind that
24 Mr. Bellew was going to shoot me and my partner. So I
25 fired as many times and as fast as I could to stop

1 Mr. Bellew from shooting me at that time. Again, at
2 this point, I don't know if my partner was shot or not,
3 because I didn't see him.

4 A JUROR: So you didn't know where Officer
5 Lovato was at this time?

6 THE WITNESS: Like I said, my vision really
7 shrunk down. And he backed up this way. Not far, he
8 didn't take off running. I don't want to mix that up.
9 But he just started backing up to gain some distance.

10 And this is when I got Mr. Bellew off of
11 him and onto me.

12 A JUROR: Weren't you worried that you
13 could have shot Lovato?

14 THE WITNESS: Yeah. I am getting to that
15 point.

16 A JUROR: Sorry.

17 THE WITNESS: So I fire three to five
18 rounds. I don't know exactly how many. And then this
19 is when I see Officer Lovato coming around the front of
20 the car. And about that same time Mr. Bellew went into
21 the passenger's side of the car. I don't know if --
22 still I don't know if I hit him. I don't know if he was
23 trying to take cover. I don't know. I don't know what
24 was going on. I just lost sight of him, because he went
25 into the car.

1 Q BY MR. REES: So when you fired the rounds,
2 you just described, Mr. Bellew was standing up in that
3 open area?

4 A Right where that triangle is, basically.
5 This one hear (indicating).

6 Q And you fired those rounds, and then you
7 saw him appear to what, crouch down, or sit down in the
8 car?

9 A I can't even tell you how he got in. He
10 was just out of my sight real quick. And part of the
11 reason was because my eyes went to Officer Lovato.

12 Q So and maybe you said this, but were you
13 able to tell whether you had hit him, or otherwise had
14 any effect on him?

15 A No.

16 Q Could not tell?

17 A To this day, I don't know if I did or not.

18 Q Okay.

19 A So Officer Lovato started walking around --
20 at this time he's got his gun drawn. I could see that.
21 He's moving around the front of the car. So at that
22 point, I stop shooting, because A, Mr. Bellew had gotten
23 into the car, be it purposeful or falling into it, I
24 don't know. And B, my partner was coming into my line
25 of fire, so I stopped.

1 Officer Lovato then, I could see he was
2 moving around the front and firing through the
3 windshield. Again, I couldn't see Mr. Bellew, so I am
4 pretty much kind of out of it here, because I can't see
5 what is going on in the car.

6 So because of this cross-fire issue we're
7 getting into here, that pushes me out into this area.
8 Usually what we do is we try to keep an L, we call it.
9 You never want to get yourself in a position where you
10 are in line with another person. So we try to stay
11 perpendicular. So that's why I started moving out here.
12 Not the best place, but it was probably the only place I
13 had to go to avoid any crossfire.

14 Once I did that, Officer Lovato I could see
15 stop shooting, and then I could see into the car. And I
16 remember kind of leaning so I could look into the
17 passenger door, and I could see Mr. Bellew laying on his
18 back, across the passenger and driver's seat of the car
19 with his feet out.

20 And it was almost surreal, because I looked
21 in there, and it looked like he was looking at me,
22 directly at me. And I remember before this happened he
23 was smoking a cigarette. And when I looked in, he went
24 like this, looking at me (indicating). I remember
25 thinking, he's still smoking a cigarette. I was just

1 floored by that. I don't know if he was, but that's
2 what it looked like.

3 So Officer Lovato then moved to the front
4 driver's door, and as he's moving around I am kind of
5 looking at him. I am looking him up and down, I am
6 making sure he's acting right. I don't know if he's
7 shot. I don't know how to describe it, but I just don't
8 know if he's shot or not. I don't know if anything
9 happened. When I was firing I didn't even hear my
10 rounds going off.

11 So I am just kind of looking him over
12 making sure he's acting right, and he looked fine. So
13 as he moves back there again, we're kind of lining up
14 again. So I moved back to the door here. And this is
15 when I yelled at him, I said, Hey, are you okay? And
16 Officer Lovato yelled back, Yeah, I think so.

17 And I could see Lovato was covering
18 Mr. Bellew, so this is when I got on the radio. This
19 was a point in time when I could get out on the radio,
20 and this is when I called out "shots fired." I called
21 out, "shots fired." I said, We have got one guy down
22 inside the car, and two others being compliant. I said
23 the officers are okay, and we asked for Code 3 medical,
24 all within the span of -- it would be a guess, but I
25 would say 20 seconds.

1 So I could see Officer Lovato was covering
2 Bellew, and there was no more active fighting going on
3 there. So I moved around to the driver's side of the
4 patrol car, because the other two people were still back
5 here.

6 A JUROR: So they were there the whole time
7 the shooting was going on?

8 THE WITNESS: Yeah. Like I said, I don't
9 know exactly where until now. They were just kind of
10 right back here behind the car, maybe a couple yards
11 behind the car. This is when I yelled, Hey, keep your
12 hands up, and I verbally push them way out into in the
13 open parking lot, where I could see them and they were
14 under this light. And I told them, Lay out, keep your
15 hands out where I can see them.

16 And then we just waited what seemed like
17 just a couple seconds for more cars to come. So at
18 first, like I said, medical was enroute already. But
19 now our intention was to get Mr. Bellew some medical
20 help right away. So the first car that came up said,
21 hey -- talking to me, What do you need us to do? Hey,
22 go get those -- because I still don't know who we're
23 dealing with, or what their intentions are, or if they
24 even have any weapons on them.

25 Get those two guys, and get them detained,

1 and get them back to a patrol car. So they did that.
2 Then Officer Kerwin came up and said, What do you need?
3 And I said, Let's got to the car, meaning this car.
4 Let's get this guy out of here, meaning Mr. Bellew.

5 So Officer Kerwin and I ran up to the
6 driver's side door with intentions to get him out of the
7 car, and provide him any medical aid, if we could. We
8 have basic first aid knowledge. We carry tourniquets.
9 I was in the military. I know maybe a few more advanced
10 things, but we're not medics. But we can do something.

11 So I grab Mr. Bellew's right wrist and I go
12 to -- like I said, he's laying on his back, and I can
13 see he's unconscious across the whole front of the car.
14 And I reach in to grab his belt to give him a yank, and
15 get him out of there.

16 I remember pulling on the belt and the belt
17 broke, and I thought, wow, I barely pulled on that. So
18 I don't know why his belt broke, but it did. And I
19 remember looking him over on the front of his torso, and
20 I didn't really see any wounds because I remember
21 thinking, wow, I thought I would see something.

22 So put two fingers into his belt loop and
23 we drug him out the car. We lay him at the back corner,
24 driver's corner of the car, and at that time he was
25 unconscious. At that time I didn't see any wounds, and

1 laid him down. And that's when I got pulled off the
2 scene.

3 We attempted to give him medical aid
4 within, I mean, it was under a minute. You know, we
5 were waiting for the fastest possible second we could do
6 it safely. And with these other two people out there,
7 we didn't know yet, so we had to get them out of there
8 first. But that happened really quick.

9 So as I am getting pulled off the scene,
10 because that's routine if an officer has been in a
11 shooting, they usually pull them off the scene pretty
12 quick. Another male officer took my place. As I am
13 walking away I look back and I could see them rolling
14 Mr. Bellew over, and I could see wounds on his back.

15 And that male officer was attempting to
16 hold pressure on those wounds, and medical was there
17 real quick. Like I said, if I need to go back over
18 anything, I might have gone too fast.

19 Q BY MR. REES: Well, let me take you back
20 just for a couple of questions, and then see if the
21 Grand Jury has some questions.

22 But when you stopped firing, did you
23 perceive any gap in time before your partner started
24 firing? Do you have a sense of that?

25 A It was pretty quick. Like I said, he had a

1 different vantage point. Once Mr. Bellew went in the
2 car, I didn't know what was happening. It was nearly
3 probably simultaneously.

4 Q And did you ever see the gun after
5 Mr. Bellew disappeared from your viewpoint?

6 A I didn't see it until probably five or
7 10 minutes after this whole thing had gone on. I was
8 standing out by the -- we marked this area off with
9 tape, and I was standing outside the tape. And I looked
10 into the scene and somebody's flashlight was right by
11 it, and I could see it. It was lighting it up. Then I
12 saw it there.

13 Q And I meant during kind of the shooting
14 sequence. It sounds like you did not see it once it
15 disappeared from your view?

16 A Yeah. I want to be clear on that. After I
17 shot and Mr. Bellew went into the car, I didn't know
18 where the gun was at, at that point.

19 Q That's what I thought. Because you
20 couldn't see his hands at that point?

21 A I couldn't see any part of him, yeah, that
22 I remember seeing. And like I said before, my vision
23 kind of went to Officer Lovato to make sure he was okay.
24 And then I didn't see Mr. Bellew again until I came
25 around and looked into the passenger's side of the car.

1 Q I assume you have reviewed this in your
2 mind?

3 A Every day since.

4 Q Every day since?

5 A Yeah.

6 Q So upon reflection, do you see any other
7 option that you had in this situation?

8 A No. It happened so fast, and we were so
9 close. We just -- typically people will give
10 indicators. They will project what they are going to
11 do. This didn't happen. It happened, I mean, that
12 quick. He had a gun. There was no other option. I was
13 absolutely 100 percent sure that that was a gun. I had
14 two profiles of it. I saw the side profile of it, what
15 I know to be a revolver, and then I was looking right
16 down the barrel of it. So without a doubt, I knew it
17 was a gun.

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

20 (No response.)

21 MR. REES: If there's no questions, then we
22 will excuse Officer Currier.

23 THE WITNESS: Thank you, folks. I know you
24 have been through a long couple of weeks.

25 A JUROR: So have you.

1 (Concluded at 3:17 p.m.)

2
3 WESLEY HOWE,

4 produced as a witness, having been first duly sworn,
5 was examined and testified as follows:

6 THE WITNESS: I do.

7
8 EXAMINATION

9 BY MR. REES:

10 Q Thanks. Go ahead and have a seat. And
11 when you are ready, if you could tell everyone your
12 first and last name, and spell your names, please.

13 A First name is Wesley, W-E-S-L-E-Y, last
14 name Howe, H-O-W-E.

15 Q And can everyone hear Mr. Howe all right?
16 I am going to ask you to try to keep your voice up as
17 much as possible.

18 Mr. Howe, how old are you?

19 A 28.

20 Q You are 28. And do you have a permanent
21 residence these days?

22 A I have a permanent mailing address. I am
23 actually in the process of moving into a studio this
24 week, actually. I don't have that address for you.

25 Q That's fine. Where have you been living in

1 the last couple of weeks?

2 A Good friends and family.

3 Q So you have gone through a period of
4 homelessness, is my understanding?

5 A Yeah. I was in a full-time job until
6 September, so this last winter has kind of been up and
7 down as far as living situation. And this summer, I
8 have managed to land two part-time positions, which I
9 have saved and I am moving tomorrow to Springfield to a
10 studio.

11 Q And over the last couple of months have you
12 been living mainly in the Eugene-Springfield area?

13 A Yes.

14 Q Have you also been up in the Portland area?

15 A My sister lives here, and my dad lives here
16 most of his life. I come up and visit family, yes, but
17 not live up here. No.

18 Q Just visiting?

19 A Yeah.

20 Q And did you know Mr. Bellew?

21 A Yeah, Alan.

22 Q Yeah. Alan Bellew?

23 A Yes, uh-huh.

24 Q How long do you think you knew him?

25 A I have it was going on a year, nine to

1 10 months.

2 Q And do you remember where you met him?

3 A Eugene.

4 Q And then what about Danica Hall? Did you
5 know her?

6 A Yes.

7 Q And how did you know her?

8 A His girlfriend.

9 Q Do you remember how long you had known her?

10 A I believe they started dating in the
11 winter, December or January, maybe February at the
12 latest. But I think it was right around Christmastime.

13 Q And had you seen them together in the
14 Eugene-Springfield area?

15 A Yes.

16 Q And did you ever know Mr. Bellew to use any
17 drugs, like heroin or methamphetamine?

18 A Once in a while, I think a lot of people
19 kind of fall into that once in a while thing. I didn't
20 know him to be a die-hard, every day, gotta have it
21 person.

22 You know, me and him -- I will be honest,
23 like me and him, for the most part, we enjoyed smoking
24 Cannabis, and you know, as far as doing other things,
25 like I said, it's something -- and I did know him

1 occasionally to use, yes, but not all the time. He
2 didn't like it.

3 Q I think the way you put it to the police
4 who asked you about this was that you and he dabbled in
5 methamphetamine and heroin. Does that sound right?

6 A Yeah.

7 Q Is that how you would put it?

8 A Once in a while. I mean, yes. When I
9 first met him, he was totally clean and so was I, except
10 for smoking pot, like I said. But we don't really
11 consider that in that same category of drugs. Neither
12 does the law.

13 Q Right.

14 A But, yeah, it was something that would come
15 up and once in a while. I mean, and drinking beer. I
16 think it would be one thing where we would be drinking
17 and smoking, and once in a while you get too drunk or
18 something, and all of a sudden somebody offers you
19 something -- your inhibitions are loose, because you are
20 inebriated, and you say yes to things. But it doesn't
21 mean you are going to get up in the morning and reach
22 for that again, type of thing.

23 Q Did you ever know Mr. Bellew to use
24 injected drugs with a syringe and a needle?

25 A He didn't do that around me. Most of us

1 doing it, as far as like methamphetamine, and smoking
2 it, was the most we ever did. Which we really didn't --
3 wasn't into that very much.

4 And then as far as like the use of heroin,
5 was like smoking it for me. And I knew that he had a
6 past where he had used needles, and it's very hard for
7 somebody to dabble around with something like that, and
8 not use a needle.

9 But he was still keeping it together the
10 last fall and winter. He really was. I know that he
11 would -- he would be around people who did it,
12 sometimes, or like, you know, myself included, you know.
13 It's pretty widespread in the Eugene-Springfield. I am
14 sure it is here, too. I think me and him could really
15 stay clean where we really wanted to, and there were
16 times where -- but as far as injecting, yeah, he
17 wouldn't do it around me.

18 Q Let me ask you now about what happened on
19 that Sunday night, which was June 28th. As I understand
20 it, at some point you had some contact with Alan Bellew
21 in the Portland area, and you decided to connect with
22 him?

23 A Yeah.

24 Q Do you remember how you had that
25 connection? In other words, was that a phone call or

1 face-to-face that led you to the area by the Winco?

2 A Phone call.

3 Q And do you remember what, generally, the
4 conversation was about?

5 A Yeah. Alan and Danica had been up there
6 for three, maybe four days. They were kind of
7 vacationing, getting out of our small town and enjoying
8 this big city, renting a hotel, and having a good time,
9 blowing a lot of money.

10 I just, I know Sunday night they were
11 planning on leaving Monday. Danica had to work the
12 following day. And I come up on the weekends
13 occasionally. I have a sister here, who lives in that
14 part of Portland that I was coming up to see.

15 And you know, he contacted me Friday,
16 Saturday, I think. He was like, if you come up, give me
17 a call or something, let's hook up, let's hang out. So
18 me, him, and Danica, we did meet up that night through a
19 phone call. And mainly I thought, you know, get
20 something to eat, or something like that.

21 Q And do you remember when you first
22 connected with those two in the Winco parking lot?

23 A Yes.

24 Q And so if you could just describe, how did
25 that meeting take place? This is before the police

1 arrived. Did you park elsewhere?

2 A Yeah. That parking lot, there's a video
3 lottery deli on the other side of the parking lot. I am
4 guilty of playing those once in a while. And they
5 weren't there yet, so I did kill some time playing
6 those. And then I killed some time, I went into Winco
7 and did some shopping.

8 They showed up about 11:00, maybe five
9 after, ten after, at most, yeah. And they said, We're
10 here, and I said, Okay, cool. I am done shopping.

11 Q And then what happened when you connected
12 with them? What were you guys doing?

13 A At the Winco there's like the exit, there's
14 a bench, you know. And we sat there for a while, and
15 they told me about their weekend, and what they had been
16 doing. Just sounded like they had been having a good
17 time, you know. And that was pretty much it. We were
18 all just talking to each other.

19 They expressed to me that they were broke.
20 They were hoping for some money order to come through,
21 and it didn't. And they were hoping to get me to --
22 they wanted me to check out these cameras they had, if I
23 would maybe spend a few bucks with them, and you know,
24 take these cameras off their hands.

25 And they were like really old. They were

1 like 35 millimeter cameras, and a Polaroid camera, and
2 everything is digital nowadays. And at that time I was
3 looking at the camera. That's when the cop -- two cops
4 in one car arrived. And they asked us if we had been
5 involved in a fight, which we hadn't.

6 Alan and Danica, I remember mentioning to
7 the cops -- like, when they arrived, and I was in the
8 store, but when they arrived they heard like yelling
9 from another part of the parking lot. And they kind of
10 pointed that direction to the officers. And the
11 officers believed us that we weren't involved in a
12 fight. But they said, Okay, before we go, we are going
13 to run your names.

14 Q How were the police officers in terms of
15 their demeanor or the way they talked to you?

16 A At first I thought it was pretty
17 straightforward, professional, you know, cop ethics. I
18 didn't like, you know, they were -- we weren't involved
19 in this fight that they were called to that parking lot
20 for, and I don't know what the description was of the
21 suspects or whatnot. And I don't think we matched that,
22 either.

23 I just thought they should have kept on
24 going, looking for them, you know, but they wanted to
25 run our names. And, you know, at first I thought it was

1 pretty professional. I thought as time went on they
2 knew Alan was lying, you know, and he -- and they knew
3 he was lying about the insulin, but they kept -- kind of
4 let him keep lying, I felt like, a little too much. And
5 let him dig through the vehicle when they had permission
6 to search the vehicle. Like why were they letting him
7 ruffle through the vehicle after getting permission,
8 type thing.

9 But, you know, overall, I think what I
10 would expect from a cop, or cops who are there for
11 public safety, you know. I genuinely believed them,
12 like there was a fight there probably. And we weren't
13 the ones in the fight, but they wanted to verify that,
14 and --

15 Q Did you give your name to the police
16 officers?

17 A Yes.

18 Q And what about Danica?

19 A Yes.

20 Q And what about Mr. Bellew?

21 A He gave his brother's name.

22 Q And did you hear him do that?

23 A Yes.

24 Q And what did you think when he gave his
25 brother's name?

1 A I thought that's stupid. You should give
2 your own name. But it's -- I wasn't about to -- I don't
3 know. Now I wish I would have -- I wish I would have
4 maybe stepped in. He probably would have been pissed at
5 me for doing it, but if it would have meant he was still
6 here, it would be a lot better.

7 Q Were you suspicious when he gave his
8 brother's name, or what did you think was going on?

9 A That he was running from a warrant. He
10 didn't want to go in on a warrant. And that's the only
11 reason why.

12 Q Does this picture that we have on the large
13 screen show the Winco parking lot, and do you recognize
14 the Volkswagen that Mr. Bellew and Ms. Hall were driving
15 that night?

16 A Yes.

17 Q And can you see on the trunk of the
18 Volkswagen, looks like there's an equipment bag sitting
19 on the trunk?

20 A That was the camera.

21 Q Okay. So I want to ask you now about the
22 shooting itself.

23 A Okay.

24 Q First, just so we have an understanding of
25 where you were when these things happened, do you recall

1 about where you were standing? Is that shown in the
2 picture?

3 A Yes.

4 Q Why don't you just take a second and come
5 up here and point for the Grand Jury, please, where you
6 were standing.

7 A Standing to the rear right of the trunk,
8 pretty much leaned up against the trunk. I was putting
9 all the camera gear away and such, as the cops basically
10 cleared me and Danica's name. And they kept questioning
11 Alan, who was standing right around this vicinity
12 (indicating). I was on the rear right. I believe
13 Danica was on the rear left, to my left.

14 Q Okay. Go ahead and have a seat, and I want
15 to ask you about what you saw from that position. And
16 why don't you just go ahead and tell us in your own
17 words what happened.

18 A Well, like I said, he cleared -- or there
19 was a police officer at the vehicle, at the first --
20 closest police car you see there, and with the door
21 open. And I believe he was on the radio, kind of
22 radioing for a fingerprint machine to come, because they
23 knew Alan was lying.

24 And the other cop was standing in front of
25 the passenger door that is open on the Volkswagen

1 Passat. Alan was standing on the inside of that door.
2 And then like I said, I was at the right of the trunk.
3 And Danica was at the left of the trunk.

4 And at this point Alan was nervous, he
5 started smoking a cigarette, and his whole demeanor, the
6 way -- you could tell he was worried. He was really
7 worried about going to jail. And he stuck to his -- he
8 held his ground. They kept saying, Just tell us who you
9 are, avoid a charge -- we will still give you a chance
10 to avoid the charge, because we are going to know when
11 you put your hand on the fingerprint machine.

12 He wouldn't do it. He said, My name is
13 such-and-such Bellew, whatever he was using. And after
14 they kind of -- after that whole thing was kind of in
15 limbo, because they were waiting for the fingerprint
16 machine. They were calling it out, they found a cap to
17 a rig, an orange cap. And Alan took -- sorry I can't
18 find the word.

19 Oh, Alan took like responsibility for the
20 rigs. Danica said, No, I don't use intravenous drugs or
21 insulin. Alan said, Yes, I use hypodermic syringes, but
22 I am diabetic. The cops wanted to see insulin and
23 wanted Alan to produce some insulin to go with his
24 story.

25 I felt like, in the back of their heads,

1 and we all knew it, he doesn't have insulin on him. If
2 he did, it would be in a fridge somewhere, but I knew he
3 wasn't diabetic. I think we all concluded that. But
4 like I said, it's like he was lying about his name and
5 lying about that. And just getting really nervous at
6 this time.

7 I remember Danica had given permission to
8 one officer to search the vehicle, and they really
9 hadn't started searching it, but Alan was. They were
10 allowing him to look for that insulin, and he couldn't
11 find it. He said, I left it at home.

12 So that's kind of weird for somebody who is
13 diabetic not to bring their insulin with him, and he
14 just stuck to his ground. Like I said, Well, I left it
15 at home. And it was kind of silent for a second. I
16 don't think anybody was really talking when Alan started
17 reaching into the passenger door. He had like a pocket,
18 you know, on the door there to the bottom of it.

19 And I could see like fast food, looked like
20 wrappers in there, and garbage. I could see him
21 ruffling through it with his arm, his right hand. And,
22 you know, real quickly he pulled -- and it looked to me
23 as real as a gun could look. Black six-barrel -- or
24 revolver, looked like a brown handle. No cap on the end
25 to signify a cap gun. It looked very real.

1 He then, once he had the gun in his hand it
2 was pretty much instantly he was turning around with it.
3 He didn't look at me in the eye or Danica. I don't know
4 if Danica could see him from the angle she was at and
5 her height, but I could see it -- I was maybe the first
6 one to see the gun.

7 Q What did you think when you saw that?

8 A This isn't happening. It was kind of slow
9 motion, how could you pull a gun out with officers here
10 right next to us, you know. Like, what are you doing,
11 type of thing.

12 Q And what did you think was going to happen?

13 A Honestly, I have no idea. He's -- how
14 nervous he was, like I said, he's -- to pull the gun, I
15 don't know if he knew what he was doing when he did
16 that. But he -- you know, he's at the door and the
17 cop's on the other side of the door, very close to him.
18 And the other cop is in the car. And he grabs it and he
19 turns around, and he kept the gun. He never did raise
20 it like at me or Danica, and there's a cop over at that
21 car, but it looked like the way he did it -- and it was
22 pretty quick -- he grabs it out.

23 He looked like a confused look on his face,
24 kind of to me. What is he doing? I don't know if he
25 knew. But once he got to like a 270 rotation, or

1 something like this, the cop in the car saw it, and
2 yelled, and something like, "drop it." Something of
3 that nature.

4 And Alan, you know, it was so quick. It
5 was like "drop it," and it was a second. And I just
6 heard gunshots. And I know he got hit by that angle,
7 because he went into the car. And this is when I
8 started moving out of the way. Like at the rear of the
9 trunk I moved to the left of the trunk, past Danica and
10 I went and laid down on the sidewalk over there.

11 But what I saw was Alan getting hit, what
12 looked like to me, from the officer at the car, and into
13 the vehicle. And then all I saw was the officer that
14 had been standing next to Alan on the other side of the
15 door, moved to the front left of the vehicle and
16 unloaded like a whole clip into the windshield, it
17 seemed like, maybe eight, 10 bullets.

18 And then the cop after unloading his --
19 after shooting that many bullets, he opened the driver's
20 side door, said, Hands where I can see them. I think
21 Alan was probably already gone by then. And he -- and
22 then the cop at the car was telling me and Danica, on
23 the ground.

24 So I don't really -- I wish I had an
25 answer. I don't know why Alan did it. I don't know if

1 he knew why he did it. You know, I never really saw him
2 raise it or point it at anyone. Like I said, he
3 definitely didn't raise it at me, Danica, the officer at
4 the vehicle. But his motion, how quick he was turning
5 around -- and he wasn't just calmly, like, slowly, it
6 was a very -- it was pretty quick motion, and, Hey,
7 stop. Drop it. Bam. You know, and it very quickly all
8 happened.

9 Q Do you know whether Mr. Bellew fired the
10 gun?

11 A I don't.

12 Q Did you remember telling the detectives
13 that you were afraid that you might be shot yourself,
14 either by a police officer or by Mr. Bellew?

15 A I was concerned with like ricochet bullets.
16 I kind of immediately moved out, and so did Danica. Me
17 and her both instinctually went to the side there, but I
18 watched it. I wasn't really on the ground until, I
19 guess, most of the bullets had been fired. I was kind
20 of like -- I moved to the side plenty where I felt safe,
21 out of range of the bullets, and then proceeding to move
22 onto my belly.

23 And then, you know, it took a couple
24 seconds to fire all the bullets in the windshield, and
25 the cop at the car had only fired a couple shots.

1 Q And when you showed us, you stood up, for
2 the record, and you showed Mr. Bellew spinning around
3 holding the gun. So when he did that, was he turning
4 the gun, did you think, towards the -- from one officer
5 to another officer, or was he turning it, you know, away
6 from the police, if you remember?

7 A I believe he turned around with it, and was
8 eventually going to turn around to where he was
9 standing, facing before, with the officer on the other
10 side of the door. I mean, he almost did that full 360.
11 The gunshots started going off, and he was just about to
12 do the full turn around, I believe. And his arm --

13 Q Given the tragic set of circumstances, was
14 it surprising to you that the police used deadly force
15 against Mr. Bellew? And I realize it was shocking, but
16 was it surprising to you?

17 A To the extent that they did, I felt it was
18 excessive, so yes, surprising. For them to fire,
19 because he pulled a firearm, or something that looked
20 like a real firearm, that didn't surprise me. But to
21 the extent of how many bullets they fired, and how
22 little time it took, that was surprising.

23 Q Okay. But it wasn't surprising that they
24 fired, but the number of shots was surprising to you; is
25 that right?

1 A Yeah. It was more surprising to me, I
2 would say. I don't know what the standard procedure is,
3 you know, but I just know that when a person is
4 displaying a weapon, they usually, you know, say, Hey,
5 you need to drop it, or we're going to shoot.

6 And he wasn't standing still. And I think
7 that's what really made the first officer shoot. He was
8 still in movement, and he might have not raised it and
9 pointed it at anybody, but the fact that he was moving
10 around and he didn't drop it yet, it was surprising to
11 me how many were unloaded through the windshield.

12 I felt like that cop was kind of maybe in a
13 panic for firing that many times. I know -- maybe he
14 didn't know it, but I remember walking away from the
15 scene in cuffs and looking at the car, and the gun was
16 sitting on the ground where Alan had originally been
17 standing.

18 So I feel like those first shots, one or
19 two or whatever, from the side, disarmed him right then.
20 And then he's in the seat slouched or whatever, and then
21 he had that many more bullets come into him. And that's
22 what surprised me the most, because -- but then, again,
23 he was in the vehicle by then. Maybe they couldn't see
24 him as well. Did he have another gun, or did he still
25 have the gun? It was all, I guess, to me,

1 understandable, and yes, somewhat surprising. Shocking,
2 definitely.

3 MR. REES: Are there any questions from the
4 Grand Jury?

5 A JUROR: Wesley, did you hear him say
6 anything, Mr. Bellew? Did you hear him --

7 THE WITNESS: (Witness shakes head.)

8 A JUROR: You didn't hear him saying
9 anything when he -- when you saw him get the gun? He
10 didn't make any comments like, I have a gun, or nothing?

11 THE WITNESS: No. No, I never did. The
12 only words I heard spoke was, drop it. He might have
13 said he has a gun. I may -- I remember hearing
14 something like, drop it.

15 Alan -- yeah, I was looking at him. He had
16 turned his back to me at the final position he was
17 standing when he got shot, but I never heard him say
18 anything.

19 A JUROR: Did -- through this whole
20 process, did anybody ever threaten you with charges, or
21 maybe talk about what they wanted you to say in coming
22 in here, or anything like that?

23 THE WITNESS: No. No one. Definitely not.
24 (Telephone ringing.)

25 Sorry about that. I meant to shut this

1 phone off.

2 I haven't really talked about it with
3 anyone, little bit. I had to feel I could talk with
4 other friends of his, and people who knew him, and
5 Danica. Me and her talked about it. But, you know,
6 definitely none of us talked about, we should say this.
7 We just both agreed we have to say what we saw. Just
8 definitely no persuasion or cops, definitely no
9 persuasion from outside parties.

10 MR. REES: Anything else?

11 (No response.)

12 MR. REES: Thanks again, Mr. Howe, for
13 coming in. And we can go off the record.

14 (Concluded at 4:50 p.m.)

15

16 PROCEEDINGS

17 Monday, July 20, 2015, at 9:11 a.m.

18 CLIFFORD NELSON, M.D.,

19 produced as a witness, having been first duly sworn,
20 was examined and testified as follows:

21 THE WITNESS: I do.

22

23 EXAMINATION

24 BY MR. REES:

25 Q Thank you, Doctor. If you could please

1 state your name, and spell your first and last name.

2 A Clifford Nelson, C-L-I-F-F-O-R-D,
3 N-E-L-S-O-N.

4 Q What is your occupation?

5 A I'm the Deputy State Medical Examiner for
6 the State of Oregon.

7 Q And can you give the Grand Jury a summary
8 of your training and experience in the field of
9 medicine?

10 A Sure. Went to college at Oregon -- excuse
11 me, University of Portland, graduated in 1984,
12 bachelor's in biochemistry. Then I went to Oregon
13 Health Sciences University School of Medicine, graduated
14 from there in 1989.

15 Went directly into the combined anatomic
16 and clinical pathology residency program, and finished
17 that in 1993. From there, I went to Atlanta, Georgia,
18 and did a fellowship with Fulton County Medical
19 Examiners Office in forensic pathology. Finished that
20 in June of 1994. Stayed on staff for, I think it was
21 six or seven months in Atlanta.

22 Then came to Clark County, Washington,
23 where I was the first medical examiner working under the
24 old coroner system. I still work a lot in Clark County,
25 Wahkiakum, Pacific, and Cowlitz counties. I do all of

1 their autopsies for them, as well.

2 And then in August of 1996 there was a new
3 position created here in Oregon, and I came over to take
4 that position as a deputy state -- the fourth deputy
5 state medical examiner.

6 Q Are you certified in a particular medical
7 specialty?

8 A I am certified in anatomic, clinical, and
9 forensic pathology.

10 Q And how did you obtain that certification?

11 A Well, to be certified, you have to go
12 through each one of the residency programs, fill the
13 required rotations in each one of those. Anatomic
14 pathology is like the area that deals with autopsies on
15 people who die in the hospital, looking at surgical
16 specimens, cytologies, other biopsies.

17 Clinical pathology is the area of pathology
18 that deals with wet laboratory medicine. So things like
19 microbiology, immunology, serology, blood banking, those
20 kinds of things, chemistry testing. Toxicology is
21 actually an area of clinical pathology.

22 And then after you have completed those
23 sections and done that satisfactorily, they basically
24 get signed off by your advisors or supervisors, in each
25 one of those sections. And you put your resume

1 together, you give it to the American Board of
2 Pathology, and then they let you take a two-day long
3 test -- actually, it was a three-day long test then, for
4 anatomic and clinical pathology, at the then-cost of
5 \$1,500. Now I think it's about \$4,000. And if you pass
6 that, then you get your certification.

7 When I took it, it was for a lifetime. Now
8 they have to repeat that every ten years. I think it
9 was because the Board needed more money.

10 Q Have you presented professional lectures on
11 gunshot injuries?

12 A Yes.

13 Q In what context or to what audience?

14 A In the state of Oregon I have done them for
15 Department of Public Safety Training, for the medical
16 examiner's training, for the DA's Association, for
17 the -- I think I did one for the Defense Bar. For
18 Oregon law -- Oregon Washington Lawmen's Association,
19 couple of other groups.

20 I have done them up at Sea-Tac for the
21 Washington state group. I just got done doing them as
22 part of the lectures that I gave for the Washington
23 Association of Coroners and Medical Examiners. I have
24 done them for the Southern Police Institute.

25 I have gone back to Maine -- I go back to

1 Maine every year to teach at Colby College for their
2 summer program. And I have given the gunshot lectures
3 there a couple times, so all over.

4 Q Do you know about how many autopsies you
5 have performed?

6 A At this point, it's in excess of 4,000,
7 plus another 1,000 external examinations -- more than
8 1,000 external examinations, as well.

9 Q In this case, did you perform an autopsy on
10 a subject named Alan Lee Bellew?

11 A I did.

12 Q When and where was that conducted?

13 A That was done on June 29th at our office in
14 Clackamas at 9:40 a.m.

15 Q Who, besides yourself, was present for that
16 procedure?

17 A Let me take a look. The criminalists were
18 Dan Outhanthip and Paul Ware. You were the district
19 attorney in attendance, and then Michelle Michaels and
20 Anthony Merrill were the two detectives that were there.

21 Q Can you describe for the Grand Jury what an
22 autopsy is?

23 A Sure. Autopsy, in case of a gunshot -- I'm
24 going to go through in case of a gunshot wound. In the
25 case of a gunshot wound, autopsy is part of a total

1 death investigation. First thing we do is get as much
2 information from people who were out at the scene, to be
3 my investigators -- could be the police investigating
4 the incident -- as far as what happened, as we can.

5 And then we -- the next thing that will
6 happen is the body will come to us, and we will get full
7 body X rays to find out if and where bullets are
8 located, any foreign bodies, anything like that. Also
9 gives us an idea of the type of injuries the person is
10 going to have.

11 Then we will undress them -- excuse me,
12 we'll uncover them out of the body bag, describe them
13 fully dressed and clothed with everything on, how it's
14 positioned, if there's holes in whatever items of
15 clothing there are.

16 The next thing will be to basically take
17 their clothes off, clean them up, and incorporate
18 another head-to-toe description of all the injuries they
19 have.

20 And then also in that description of their
21 injuries, we include all the normal findings, like what
22 color was their hair, how much they weigh, what is their
23 eye color, et cetera.

24 After we do that, then we start what most
25 people think of as the autopsy, which is a Y-shaped

1 incision starting at the shoulders, ending at the
2 sternum, and carried down just above the genital region
3 so we can take off the rib cage. We reveal all their
4 organs. And look for what damage, in case of gunshot
5 wound autopsies, were done by the gunshot wounds.

6 We also make an incision from behind the
7 head in this area we call the mastoid, over the top of
8 the head to the other side, so we can reflect the scalp
9 to see if there's any bleeding under the scalp that we
10 can't see by looking, or parting the hair, or whatever.
11 Look for any breakage in the skull, look for any damage
12 to the brain.

13 And then at the same time we're looking for
14 all the injuries, I am also looking for evidence of
15 natural diseases that somehow may or may not have played
16 a role in this person's death.

17 Q Generally, what is the purpose of
18 conducting an autopsy after a police shooting?

19 A It's basically to gather information and do
20 the documentation of the injuries. So that when it
21 comes to Grand Jury, somebody can go and present the
22 information there, and if it moves beyond Grand Jury,
23 potentially, it would be to present it in court.

24 Q What did you observe about the body of
25 Mr. Bellew?

1 THE WITNESS: In the crook of his arm.

2 Q BY MR. REES: So from that physical
3 observation, did you have an impression of the extent of
4 his abuse at the time of his death?

5 A Well, he looks like he's a chronic user.
6 And in addition, he's been using a lot acutely, because
7 things look like it's just somebody who is constantly
8 shooting things into their arms.

9 Q That's what you saw in this case with
10 Mr. Bellew?

11 A Correct.

12 Q What is meant by the terms "cause and
13 manner of death"?

14 A Cause of death is that thing that happens
15 to a person that ultimately leads to them dying. Which
16 is different than -- I am going to use another term, the
17 "mechanism of death," which is how the cause of death
18 makes somebody die.

19 So for instance, if somebody has a gunshot
20 wound of their back and that involves their chest and
21 abdomen, that is a cause of death. The fact that they
22 bled out from those wounds, or exsanguination, is the
23 mechanism of death.

24 And the cause of death is also whatever it
25 is that gets the whole -- for lack of a better term --

1 snowball rolling. Because it's not necessarily set by
2 time. We have people that are shot and die shortly
3 after, like Mr. Bellew did, who, when they are shot in
4 the chest, cause of death is a gunshot wound to the
5 chest; the mechanism of death is exsanguination.

6 But if they are, like, say, shot by
7 somebody in whatever circumstances, and they get
8 paralyzed, and ten years later, because they are
9 quadriplegic get a bed sore, or they become septic, or
10 get bacteria in their blood, their cause of death is
11 still their gunshot wound of the chest. Their
12 mechanism, though, goes from exsanguination to
13 complications of the gunshot wound, parenthesis,
14 infection.

15 Q In this case, what was the cause of death?

16 A Cause of death in this case was listed as
17 multiple gunshot wounds, because I couldn't -- of those
18 six that involved his back, chest, and abdomen, I
19 couldn't pick out one that I could say was the only one
20 that was lethal.

21 Q And what did you declare the manner of
22 death to be?

23 A Manner of death is homicide.

24 Q Can you explain what that means in a
25 medical context?

1 A Sure. Yeah. Our definition of homicide is
2 one, as Mr. Rees said, that is for the medical
3 profession or medical examiners and coding. It just --
4 all it means to us is one person's death was directly
5 caused by another, or death -- the actual technical
6 definition is, death at the hands of another.

7 Now, that's different than the legal,
8 because there's lots of different legal terms for
9 homicide, depending on all the circumstances. If it's a
10 murder or manslaughter or whatever, we don't get into
11 that.

12 Q In terms of the gunshot wounds you
13 observed, in addition to the six in the back, there's
14 one in the thigh and a graze to the thumb?

15 A Uh-huh.

16 Q Would a person be physically able to pose a
17 threat after sustaining the injury to the thigh and the
18 graze on the thumb?

19 A Sure.

20 Q And can you explain why?

21 A The thigh wound went in the front of the
22 thigh, and went up. Didn't hit any large vessels,
23 didn't hit bone. May not have even knocked him down, if
24 somebody received that wound. I kind of doubt if it
25 actually would necessarily be what we call a take-down

1 wound.

2 The graze of the thumb would hurt. It
3 would -- let me see exactly what happened with the -- it
4 says it's just a graze, and it really doesn't completely
5 rip up the thumb, like another one I had the same week.
6 It may have compromised his use of the thumb, but it
7 would not have stopped him from using his hand, his
8 fist, holding something.

9 And aside from if he had a weapon, you can
10 think about it. Like I am holding this, if you don't
11 have control here, you have still got everything going
12 on here (indicating).

13 A JUROR: Which thumb?

14 THE WITNESS: It was his right.

15 Q BY MR. REES: But this was a -- I don't
16 know if you used the term superficial, but a grazing,
17 meaning it didn't penetrate the bone, or --

18 A Didn't blow the bone apart.

19 Q Of course, we have all seen in TV and
20 movies persons depicted as being shot, and then
21 instantly incapacitated, or sometimes even dramatically
22 blowing back through a window, or something.

23 In reality, when a person is gunshot, do
24 they have that kind of dramatic -- the body, does it
25 have that kind of dramatic reaction?

1 A No. Normally when somebody is shot, they
2 are essentially -- their movement is, if they have any
3 as the result of being shot, it's just going to be that
4 they go straight down.

5 Q Dropping by gravity?

6 A Right.

7 Q In this case, did you consider suicide by
8 cop as the manner of death?

9 A I considered it and I have used that,
10 occasionally. But we have to have something really
11 tangible before we put that on a death certificate. And
12 what I mean by that is a recording, a computer note, a
13 handwritten note or letter saying, I am going out with
14 the intent to die at the hands of the police, or I am --
15 I am going to kill myself by having the -- making the
16 cops shoot me, or something to that effect.

17 If I don't have that, I just call it as I
18 know the facts, which is this person is doing something
19 that got him killed, but it's still a homicide, because
20 his death was at the hands of another.

21 Q In your field, is that a documented
22 phenomenon where people deliberately take actions in
23 order to have the police shoot them?

24 A Sure. Sure. Some offices never use that
25 term, some offices use it more liberally. It actually

1 developed in Dade County, Florida, and was kind of
2 written about first by a now-retired medical examiner --
3 I think actually now he's now deceased -- named Joe
4 Davis, with one of our medical examiners here in Oregon,
5 who used to be in Salem, a guy by the name of Peter
6 Batten, who was a psychiatrist.

7 Q In these cases of suicide by cop,
8 so-called, are the suicidal actions carefully planned
9 out and thought out, or are they sometimes spontaneous,
10 spur-of-the moment type actions?

11 A If they are thought out and planned and
12 documented, then I would know that that is what it is.
13 If it's spontaneous and/or where there's been no real
14 planning about it, or the person hasn't given a lot of
15 thought to it, I don't know that. You know -- you know,
16 their actions in either case don't make a whole lot of
17 sense. If it was -- you figure it was somebody who
18 didn't want to die, but --

19 Q Well, as a follow-up --

20 A JUROR: Can I ask a question then?

21 MR. REES: Sure.

22 A JUROR: Is that all right to do that?

23 MR. REES: Of course.

24 A JUROR: So if he picks up a gun that he
25 knows isn't real, and he's like -- he changes his

1 manner, the whole thing, the cop said -- that was when
2 they finally said, Listen, you are Alan, and we have
3 figured out you are Alan, and he said there was a sigh,
4 and then he took steps toward where the side of the car
5 was.

6 And both the officers became on alert, and
7 started moving with him. This is what I remember and
8 understand. And then he was digging, and then -- what's
9 his name -- Wes. Wes saw him moving quickly, and then
10 he comes up with a gun that can't possibly kill
11 anything. It's a shot -- a starter gun.

12 Do you think maybe he decided, you know, I
13 am doing something that is really going to endanger me,
14 and I know it?

15 THE WITNESS: I don't know. I don't know
16 the reason. And this is why in this case I would call
17 it a homicide, because I don't know his reason at that
18 particular instant for picking up that gun.

19 A JUROR: Right.

20 THE WITNESS: I don't know if he thought
21 that he could, like, pose his way out of a threat. If
22 he thought that that would -- if he knew that picking up
23 a gun would ultimately, you know, set off a trigger of
24 events that would end up with him being shot, or if he
25 was reaching down to the gun to say, look, I have got

1 this, it's no big deal.

2 There's no way to know, because all we know
3 is from what I have been told is he reached down, and
4 pulled up a gun. Doesn't seem like a good idea to do
5 when you are surrounded by a bunch of people. And why
6 you would do that is not something I am going to
7 speculate about.

8 A JUROR: That's for us.

9 Q BY MR. REES: Let me ask you, in the
10 general context of suicides, in cases in which you have
11 looked at and declared suicide as the manner of death,
12 are those always preplanned, or are those sometimes
13 spontaneous, or is it impossible to say?

14 A No. A lot of times they are fairly
15 spontaneous.

16 Q And that's, I just -- from the reading that
17 I have done, and the talking to you and your colleagues
18 in cases of someone jumping off a bridge, for example,
19 has been presented as being spontaneous. A person is on
20 the bridge, sees the bridge, and suddenly has suicidal
21 ideations and they jump off.

22 A Correct. For somebody who, you know, gets
23 upset because they just broke up with their girlfriend,
24 they walk into the other room, and they will they pull
25 out a gun and shoot themselves in the head.

1 Q And in these cases, the person doesn't
2 leave a note or say goodbye, or any of those things that
3 you might suppose?

4 A Correct.

5 A JUROR: They do it to themselves.

6 THE WITNESS: But -- exactly. Which gets
7 back to the definition of suicide, which is death at
8 one's own hand.

9 MR. REES: Right. Okay. Thank you.

10 And any other questions from the Grand
11 Jury?

12 A JUROR: Just out of curiosity, because
13 you talked so much about the difference between cause of
14 death and mechanism of death, what was the mechanism of
15 death?

16 THE WITNESS: It would be exsanguination.

17 A JUROR: And that's bleeding out?

18 THE WITNESS: Yeah. From multiple
19 different injuries to different organs and vessels,
20 large vessels.

21 A JUROR: Did you find anything else that
22 would be --

23 THE WITNESS: That we haven't talked about
24 that would be important for you guys to know --

25 A JUROR: Yeah.

1 THE WITNESS: Let's see, total of eight
2 gunshot wounds; no evidence of blunt force trauma.
3 That's probably important, because it indicates that
4 there was no physical altercation between this person
5 and either the police, or anybody else at this scene, or
6 immediately around that time.

7 And nothing that, as far as any disease
8 that he had going on that is notable to the naked eye at
9 autopsy that would have, like -- such as, like, a brain
10 tumor, or a big brain tumor, or a -- or something going
11 on where he was depressed about a heart condition, or et
12 cetera, that played into this.

13 A JUROR: The heart is probably torn up
14 quite a bit?

15 THE WITNESS: I don't remember exactly -- I
16 don't think it was torn up. As much as it just had --
17 let's see. (Reading document.)

18 No, I am just looking to see if it even
19 actually went through his heart. I know I have major
20 vessels in his lungs and in his liver. I think it got
21 his right ventricle, as well, but I am not -- (Reading
22 document.)

23 Injuring all of the following organs -- no.
24 It did not get his heart. Did not get his heart.

25 A JUROR: Were you able to -- you might

1 have already answered this, but were you able to say
2 which officer -- kind of which wounds went with which
3 officer at all?

4 THE WITNESS: My understanding -- the
5 interesting thing about all of the wounds that entered
6 his back is they were all what I would classify as
7 atypical entrance wounds. So something -- for some
8 reason, the bullet didn't hit the person nose first, as
9 it was going in and leave a nice, round hole with a nice
10 small marginal abrasion.

11 It was kind of a flattened and irregular
12 abrasion around the entrance holes, which were anything
13 from square to more round. And that indicates that the
14 bullets either are doing two things: One, they are
15 coming in on their side, or from -- or on the back end,
16 or some other thing besides just nose first with nothing
17 being in front of them, or they are starting to expand.
18 So they have gone through or they have hit something
19 before they hit him.

20 So my interpretation of that is that those
21 were probably all shot from the same direction by the
22 same person.

23 Q BY MR. REES: Would it be consistent for
24 those rounds going through a windshield before striking
25 Mr. Bellew?

1 A Absolutely. And I believe I asked that at
2 the autopsy is, did these come through a door or
3 windshield or window, or something like that.

4 A JUROR: And probably a stupid question,
5 but he wasn't diabetic? People can act crazy when their
6 blood sugars get low.

7 THE WITNESS: It was never raised that he
8 had a history of diabetes, or something that we look at,
9 but I am wondering if there's any way we could test at
10 this time, because I don't recall if we saved vitreous
11 or not. Let me look.

12 That's not something we usually look at
13 unless we have a reason to believe they are, like they
14 have got skin deep vacs that would indicate vascular
15 insufficiency -- how old was he?

16 A JUROR: 29 I think. Well, only because
17 he told the officers he was diabetic. He was 29 years
18 old, that was the reason he said he had all the insulin
19 needles.

20 THE WITNESS: Well, I think I know the
21 answer to why he had all the insulin needles.

22 A JUROR: Well, obviously, he was an IV
23 drug user, but I am just saying if his blood sugar was
24 low --

25 THE WITNESS: If it came up, I don't think

1 at this point we have any way to check that. Because --
2 yeah, we stopped -- we used to routinely take vitreous,
3 which is the only way you can test for somebody's blood
4 sugar levels after they are dead. Blood levels aren't
5 accurate, urine levels aren't accurate.

6 So we stopped about a year and a half ago
7 doing the vitreous testing on everybody, or even drawing
8 it on everybody because it had such a low yield on
9 somebody who we didn't think it was associated with
10 their death.

11 You know, if somebody at the time of an
12 autopsy tells us that this person is diabetic, or may be
13 diabetic, or whatever, then we will get it. But if we
14 don't know at the time of the autopsy, then -- and it
15 really doesn't seem to play any role in their cause of
16 death, which is obviously because of a gunshot wound,
17 then we probably won't draw it.

18 A JUROR: You might not be able to answer
19 this, since it's probably not your specialty or
20 anything. But, for example, if I spent a weekend with
21 you intimately, and you were diabetic, is it likely that
22 I would not know that you were -- is that -- I don't
23 know how often people have to do things.

24 THE WITNESS: Number one, somebody who is
25 29 years old is unlikely to be diabetic unless -- unless

1 they are Type 1 diabetic.

2 A JUROR: Which is the only reason he would
3 be using insulin.

4 THE WITNESS: No, Type 2 diabetics use
5 insulin.

6 A JUROR: Very rarely.

7 THE WITNESS: It depends, as you get older.
8 At 29, yes, you are right. Somebody who is first --
9 extremely obese and has a family history and has got
10 type --

11 A JUROR: It's very rare a Type 2 diabetic
12 would be using insulin. It's extremely rare.

13 THE WITNESS: Okay, that's not my --

14 A JUROR: It's extremely rare. I am going
15 to argue with you on that. It's extremely rare.

16 MR. REES: You don't need to argue, because
17 you are not testifying. And you are a pharmacist, but
18 you are not testifying. He's testifying, so if you
19 don't agree with his answer, that's fine but -- okay.

20 At this point, is there a question that he
21 can answer?

22 A JUROR: Yes, there is. So just to be
23 clear, just to be clear, the thigh wound and the thumb
24 wound came from a different direction? Were they
25 atypical.

1 THE WITNESS: They both -- no. No, neither
2 one was. And that's why I presume -- the thumb, it's
3 hard to know exactly what direction it's coming from
4 because your thumb can be anywhere. But there was
5 nothing that made it look atypical for a grazing wound.

6 The thigh wound was absolutely a typical
7 gunshot entrance wound, so it's coming from -- at least
8 it's not going through anything. And it's also coming
9 from a different direction, as least as opposed to the
10 back, if he was in the same position when he received
11 both of them.

12 Now, I don't know that, but that's
13 something that is best to ask people at the scene who
14 can explain where he was at what time when whoever
15 fired.

16 A JUROR: Okay.

17 MR. REES: Anything else? Okay. Thank you
18 very much.

19 (Concluded at 9:47 a.m.)

20
21 TRAVIS GOVER,
22 produced as a witness, having been first duly sworn,
23 was examined and testified as follows:

24 THE WITNESS: Yes, I do.
25

EXAMINATION

BY MR. REES:

Q Please be seated, and when you are ready, if you could please tell us your first and last name, and spell your first and last name.

A My name is Travis Gover, T-R-A-V-I-S, last is G-O-V-E-R.

Q And what is your occupation?

A I'm a forensic firearm and tool mark examiner with the Oregon State Police, and I work out of the Clackamas lab.

Q And what does that mean that you do on a daily basis?

A Daily routine is basically we do a lot of general firearm examination. We test firearms for functionality to see if they work, examine components of the firearms identification, which consists of like cartridge cases, bullets, cartridges which is the unfired component.

We do what we refer to as gunshot residue examination, serial number restorations, and we do all the comparison work of comparing bullets and cartridge casings back to firearms, or fired evidence between scenes that don't have firearms, as well.

Q What is your educational background?

1 A I have a bachelor's of science degree in
2 biology, and my training is primarily on the job. But I
3 attended what is called a National Firearms Examiner
4 Academy, which is a Bureau of Alcohol Tobacco and
5 Firearms year-long intensive study course. Three months
6 was spent Back East in the ATF lab, but doing hands-on
7 experience, and visiting most of the manufacturers of
8 firearms Back East.

9 Q So through the course of that year-long
10 program, did you get the opportunity to look at and
11 compare different types of operational firearms?

12 A Yes.

13 Q And are you familiar, also, through your
14 work with the appearance of different types of firearms
15 that are available in the United States, and I guess
16 internationally?

17 A Yes, basically we had the opportunity to
18 examine -- I probably had the opportunity to examine
19 several thousand firearms, plus we have about 2,000
20 firearms in our reference collection back in the lab.
21 So it's an ongoing process for always seeing something
22 new, but the overall general designs have been fairly
23 constant for probably 100 years or more.

24 Q Were you asked to examine and -- what's
25 been identified to me as a starter pistol that was

1 associated with an officer-involved shooting that
2 occurred on June 28th, 2015, in the city of Portland?

3 A Yes. I was asked to examine it and
4 document it for documentation purposes.

5 Q And what did the examination consist of?

6 A Basically, you know, looked over to see
7 what's the internal parts -- or what the function of it
8 was, just by how it looked, how it differed from a
9 potential real firearm.

10 So it's not something I could actually test
11 fire, because I was unable to generate a projectile
12 being fired from it by the use of powder, so --

13 Q How is this starter pistol similar or
14 dissimilar to a fully operational revolver?

15 A With this particular starter pistol, the
16 barrel is blocked in this. It has a small opening,
17 basically a blockage with a small opening through the
18 front, so it allows gases from what we call a blank
19 cartridge. It allows those gases to have someplace to
20 go, so it doesn't potentially blow up the starter
21 pistol.

22 Q Did you bring the starter pistol with you?

23 A I did.

24 Q Why don't you go ahead show the Grand Jury.

25 A (Complies.) So this is the starter pistol

1 that I was asked to examine. So everybody can get a
2 good view of it.

3 Q And is this similar in appearance to
4 operational firearms that you have seen, and what
5 firearms, in particular, would that be?

6 A This does have a very similar appearance to
7 a lot of -- some of the older .22 caliber revolvers that
8 were actual firearms. Everything from the barrel, the
9 locking pin underneath, the hammer, trigger, trigger
10 guard, the overall frame, shape, the grip, the cylinder
11 has the same general appearance, has the same, what we
12 call flutes cut into it. This basically has the
13 appearance of a firearm, an older .22 caliber, .22
14 long-rifle caliber revolver.

15 Q And you said the barrel is blocked to
16 prevent the projectile from coming out, but opening for
17 gas. Is the cylinder operational?

18 A The cylinder does have a slight blockage to
19 it. It doesn't come out, but I can turn it backwards.
20 On a regular firearm, revolver, .22 revolver, the
21 cylinders have chambers, but they are drilled straight
22 through.

23 This one has like little fins that are
24 basically blocking half of each of the chambers. So it
25 allows the gases to escape and move forward without

1 generating enough pressure to actually blow the cylinder
2 up. Whereas a regular firearm, that would be completely
3 drilled through to allow the bullet to pass through and
4 pass down the barrel. So there is a slight blockage to
5 it.

6 Q And just for the record, in terms of
7 physical appearance this has a brown handle, a black
8 body, and at least from where I am sitting, no markings
9 or coloration to indicate that it's a starter pistol?

10 A No, there's nothing here that would -- to
11 indicate or show that it's not a functional firearm,
12 basically.

13 MR. REES: Any questions for Mr. Gover?

14 (No response.)

15 A JUROR: We wanted to know if you can tell
16 whether it's been fired or not.

17 THE WITNESS: No, it's pretty old and beat
18 up. And if we could, we wouldn't be able to put a time
19 stamp on it.

20 A JUROR: You wouldn't notice if it had
21 been shot or not shot?

22 THE WITNESS: No. No.

23 A JUROR: Does it have to be loaded with
24 blank cartridges in order to be fired?

25 THE WITNESS: The purpose is for like track

1 and field, so it would -- they would make what they
2 call .22 blanks, which basically it's like a regular
3 piece of ammunition, but cut off, and then the brass of
4 the cartridge case is crimped down with just a little
5 bit of powder inside so it makes a loud pop. So in
6 order for it to be fired or to make that sound, it would
7 have to have those blank cartridges loaded into the
8 chambers.

9 A JUROR: Would there be anything left over
10 afterwards?

11 THE WITNESS: Just the cartridge case
12 itself.

13 A JUROR: Was there anything in this one?

14 THE WITNESS: I didn't receive anything.

15 A JUROR: There were no cartridges in it?

16 THE WITNESS: Not that I received.

17 A JUROR: So to be clear, that seems like
18 evidence that it wasn't fired to me.

19 THE WITNESS: As far as I know.

20 A JUROR: Would a gun like that, like if
21 that was a real gun like that, could that have hurt --
22 could that have killed somebody?

23 THE WITNESS: Absolutely. We have seen it
24 quite a few times. So yeah.

25 A JUROR: So a .22 the size of that one

1 could have actually killed somebody?

2 THE WITNESS: Yeah.

3 I did have that other picture for
4 reference?

5 Q BY MR. REES: Yeah, sure. You have a
6 comparison photo with a .22 caliber revolver?

7 A I actually did take a picture, kind of a
8 side by side, just to show an actual firearm, which is
9 on the bottom there. And then this is the exhibit that
10 is on the top, so you can see the similarities.

11 A JUROR: So the one on top is the --

12 THE WITNESS: That is the starter pistol,
13 and this is an actual .22 long-rifle revolver. So it is
14 a functional firearm out of our reference collection at
15 the lab. About the same size. So basically just one
16 sitting over the top of each other.

17 A JUROR: And starter -- I am sorry.
18 Starter pistols, I was wondering about orange markings
19 like you see in paint ball and Airsoft rifles. Starter
20 pistols don't require anything like that?

21 THE WITNESS: No. No. No.

22 A JUROR: When you said rifle, what does
23 that mean?

24 THE WITNESS: .22 long-rifle, it's a
25 specific caliber. So they have calibers like .38

1 special, 9 millimeter, it's the primary name.
2 Long-rifle cartridge was originally developed for a
3 rifle back in the 1800s. So --

4 A JUROR: All right.

5 MR. REES: If there's no other questions
6 for Mr. Gover, we will excuse the witness.

7 (Proceedings concluded at 10:01 a.m.)

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1 STATE OF OREGON)
2) ss
3 COUNTY OF YAMHILL)
4

5 I, Deborah L. Cook, RPR, Certified Shorthand
6 Reporter in and for the State of Oregon, hereby
7 certify that at said time and place I reported in
8 stenotype all testimony adduced and other oral
9 proceedings had in the foregoing hearing; that
10 thereafter my notes were transcribed by computer-aided
11 transcription by me personally; and that the foregoing
12 transcript contains a full, true and correct record of
13 such testimony adduced and other oral proceedings had,
14 and of the whole thereof.

15 Witness my hand and seal at Dundee, Oregon,
16 this 2nd day of August, 2015.

17
18
19 /s/Deborah L. Cook

20 DEBORAH L. COOK, RPR
21 Certified Shorthand Reporter
22 OREGON CSR #04-0389
23 CALIFORNIA CSR #12886
24 WASHINGTON CSR #2992
25