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P R O C E E D I N G S

November 29, 2023

(9:04 a.m.)

(Whereupon, the following proceedings were held before Grand Jury B.)

GRAND JUROR: On the record.

MR. MICKLEY: All right. Good morning. We are back in the death investigation, Grand Jury Case Number 74, DA Case Number 2463342. I'm Chuck Mickley, M-i-c-k-l-e-y, Deputy District Attorney, OSB Number 973377. We're in front of Grand Jury B. I'm also here with?

MS. KYLE-CASTELLI: Kristen Kyle-Castelli, K-y-l-e, hyphen, C-a-s-t-e-l-l-i, Bar Number 213028.

MR. MICKLEY: And we have our first witness of the morning ready to be sworn in.

JARED MCGOWAN

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

DIRECT EXAMINATION

BY MR. MICKLEY:

Q Go ahead and have a seat. Can you tell the grand jury who you are and how to spell your name?

A Yup. I'm Sergeant Jared McGowan, J-a-r-e-d, and M-c-G-o-w-a-n.

Q And what do you do for a living?

1           A     I'm a sergeant with the Gresham Police  
2 Department.

3           Q     How long have you been a police officer?

4           A     In January, it'll be 23 years, 23 years.

5           Q     All right. And what is your current assignment?

6           A     I am currently a detective sergeant assigned to  
7 (indiscernible) Crimes, mainly doing homicides, serious  
8 assaults, physical and sex abuse to kids. I also have an  
9 ancillary duty of a team leader on our East Metro SWAT Team,  
10 which is a multijurisdictional team with the City of Gresham  
11 and the County of Multnomah.

12          Q     And how is the East Metro SWAT team different from  
13 Portland Police Bureau's SERT team, to the extent that you  
14 know?

15          A     Yeah. I would say that there's -- there's not a  
16 lot of difference. The components of the teams are the  
17 same. We have a negotiation element. We have an EDU (ph.)  
18 element, and we have the SWAT tactical element, which are  
19 the people that usually go into buildings. And the only  
20 difference would be is that we have two different  
21 jurisdictions of personnel that are on our team. So we're  
22 about 2/3 make up of the City of Gresham and a third of  
23 deputies with the sheriff's office with Multnomah County.

24          Q     And how long have you been part of the east county  
25 SWAT team?

1           A     I've been our team leader for ten years.  And  
2 prior to that, I was a patrol K-9.  I worked patrol dogs.  
3 And so I was attached to our team for probably ten years  
4 before that.  So associated with the team for 20 years  
5 probably and the team leader in a sergeant position,  
6 supervisory position, for ten.

7           Q     I want to draw your attention to July 22nd of this  
8 year.  Were you notified at some point in time that there  
9 was an incident where Portland Police had responded in the  
10 area of 181st and Gleason or Everett Street?

11          A     Ultimately, yes, I was.

12          Q     And where were you at when you got that  
13 notification?  Were you on duty at the time?

14          A     I was at home at my residence.  I lived in the  
15 state of Washington.

16          Q     Okay.  And so it may have taken you a little bit  
17 of time --

18          A     A little bit, about 30, 40 minutes probably.

19          Q     Okay.  Can you just describe what you observed  
20 when you arrived at the location where Portland Police  
21 Bureau had pinned in or had stopped a van in which a suspect  
22 had been involved?

23          A     Do you want me to address any of the phone call  
24 prior to, or any of that?

25          Q     Sure.  Let's --

1           A     We have -- patrol -- just to put it context,  
2 patrol sergeants have the ability to call me for -- call it  
3 consults to let me know the things that are happening within  
4 the City of Gresham underneath the area of coverage that  
5 we're responsible for. So I was notified that Portland SERT  
6 was out with a van at 181st and Gleason, which surprised me  
7 at the time because I hadn't heard anything about it, and  
8 they're already pinning a van in of this incident. So I was  
9 a little bit confused.

10                     During the conversation, I figured out this was in  
11 relation to a shooting that happened earlier in the day at  
12 Good Sam and that Portland had a lot of their assets already  
13 out. And so they just proceeded to 181 and Gleason  
14 (indiscernible) so it started making a little bit more sense  
15 of what was going on.

16                     So when I arrived, the first thing I did was  
17 contact Sergeant Livingston, which is Portland's team  
18 leader, and spoke to him briefly about the incident. And  
19 then what I observed was -- I would describe it as -- I  
20 always describe it as an old ambulance. It's kind of white  
21 with some red striping. It was parked right at about  
22 Everett on the west curb, facing southbound.

23                     And then there was three pieces of armor that had  
24 kind of surrounded it. One had pinned in front the front.  
25 One pinned in from the rear. And then they had a third

1 piece of armor that was kind of taking up what we would  
2 call the number one lane, or inside lane, and then kind of  
3 going into the middle, continuous, lefthand-turn lane,  
4 facing kind of a southeastern direction off the driver's  
5 side of the suspect's van.

6 Q Okay. And so on the screen behind you is a  
7 photograph --

8 A Yes.

9 Q Does that look like the scene that you are  
10 describing?

11 A Everything except for our piece of armor, the East  
12 Metro piece of armor, is the one that's the furthest to the  
13 west that's up on the curb. When I first arrived, that was  
14 a City of Gresham patrol Tahoe, and it was replaced with  
15 armor after I had arrived there.

16 Q And in terms of the circumstances, by the time you  
17 arrived at the location, how many people were in that van?

18 A There's one.

19 Q Okay. And was that person the person who was the  
20 suspect in the shooting?

21 A I was told that he was confirmed by picture to be  
22 our suspect, and also, the driver of the van had been taken  
23 out, debriefed, and verified a name that fit who we were  
24 looking for in relation to the shooting

25 Q And were you aware of whether or not there was

1 probable cause at that time to arrest the occupants for the  
2 van for a murder charge?

3 A Yes. I understood that there was probable cause  
4 for a murder, and I was told at the time also assault one in  
5 relation to a nurse that was also shot at the time.

6 Q And in terms of the role of Gresham Police and you  
7 there in particular --

8 A Yes.

9 Q What was kind of your role in assisting in this  
10 particular stop?

11 A Yeah. At that point, I just kind of rolled into a  
12 support role. I talked to Sergeant Livingston. It didn't  
13 make sense. I mean, obviously, it's our jurisdiction, the  
14 City of Gresham's jurisdiction. They had everything in  
15 place. It didn't make any sense to start moving assets.  
16 They have more pieces of armor than we have access to. So  
17 it didn't make any sense for us to start switching teams  
18 out.

19 I let him know that if he needed additional  
20 resources, I could facilitate getting extra people there.  
21 But at that point, I just went to fill an ancillary role of  
22 just to help the custody team, or whatever, whatever spots  
23 needed to be filled at the armor is where I went to help  
24 out.

25 Q Okay. What were your observations, if any, of the



1 suspect who is in the van at the time?

2 A I could not see him all that well. I knew he was  
3 in the passenger's seat. I heard a lot of things being  
4 broadcast by the radio, and those were being broadcasted by  
5 people that were either online with him, had a visual of him  
6 from a turret that's at the front of the suspect vehicle, or  
7 we also had a drone operator that was able to see inside.

8 My personal observations, I would be seeing the  
9 van move a little bit like there was maybe some thrashing  
10 around or some movement coming from the van. But as far as  
11 an actual visual of him, I didn't not have a visual of him  
12 from my location.

13 Q And what about oral? What, if anything, were you  
14 able to hear?

15 A I heard -- I heard just some yelling. And I  
16 wasn't able to discern what was being said other than things  
17 that were being broadcast that he was either yelling at or  
18 they were in a better position to hear than I was.

19 Q And what do you recall the information having been  
20 about what the communications were like with -- with the  
21 person who's inside the van?

22 A They weren't going well. He had stated multiple  
23 times that he wanted to talk to his children before he died.  
24 He was reading what appeared to be maybe a makeshift will.  
25 I was told that he was reading a will. And then the

1 observations coming from view of either turret or the  
2 drone, or that he had, like, a yellow piece of paper that he  
3 was reading from. He was saying that he had intent to shoot  
4 it out with police. He had no interest in surrendering,  
5 that we were going to have to shoot him. It was just kind  
6 of a repetitive circle of those types of statements.

7 Q In terms of the information that you're getting,  
8 is that stuff that is being relayed to you by the Portland  
9 Police officers there because they're the only ones that  
10 have the radios, or is that also coming to you as well as  
11 other officers from Gresham?

12 A We would all be on the same net. So I have a  
13 helmet with -- we call them ears -- with a headset. So all  
14 of that information is coming to me over a radio dispatch  
15 net.

16 Q At the point in time when you arrived there to the  
17 point in time when the person got out of the van --

18 A Yes.

19 Q Can you just give us a ballpark estimate of how  
20 much time that was?

21 A I would estimate it was between 40 minutes to an  
22 hour.

23 Q Okay. During that period of time, was there an  
24 effort made to try to get the occupant of the van out  
25 without causing injury to himself or other people?

1           A     Yes.  I think that we were -- our whole  
2 intent -- we defined the incident at the time is just we  
3 knew it was a barricade.  It was an armed barricade.  We  
4 were willing to negotiate with him as long as possible to  
5 get him out peacefully.

6                     He was in an area that was concerning for us.  
7 There was a ton of traffic that time of day.  There was a  
8 lot of pedestrian traffic.  It was a strip mall.  There was  
9 a high -- a high concern of him getting out or us having to  
10 engage him without it ending peacefully.  I think that any  
11 time you have a lethal engagement, there runs a risk of  
12 innocent bystanders being harmed.

13                    So, yes, I think that that was our only intent.  I  
14 know that we were both online with dispatchers with him, and  
15 then they would be -- he would be patched through to the  
16 phone number of our Crisis Negotiation Teams.  There was  
17 some -- the phone calls kept going back in to him, meaning  
18 there was some sort of disconnect that was happening,  
19 whether he was hanging up or something was happening with  
20 the phone.  But there was constant attempts at having him  
21 surrender peacefully.

22           Q     At the point in time when the person inside the  
23 van got out of the van?

24           A     I call it Portland's Cat, Bearcat, which is the  
25 one -- the small one right to the rear of the van.  And I

1 had a visual in between the cat and then also the Bear  
2 truck, which is this. So I had a visual right -- that could  
3 be me here. So I was looking up -- right up the driver's  
4 side. And there was probably a three or four-foot gap in  
5 between the kind of the back passenger's side of the Bear  
6 truck and the front driver's side of the Cat.

7 Q And with as much detail as possible, just describe  
8 what you saw prior to and as the person in the van was  
9 getting out of the van?

10 A So we -- I was getting information from -- and  
11 like I said, I didn't know -- I didn't know the voice of who  
12 was giving the information, whether it was the person in the  
13 turret from this location that was looking down through the  
14 windshield or whether it was the operator of the drone  
15 looking at the screen.

16 But he was -- I knew he was armed with a gun. I  
17 knew that they had seen a gun in his hand. I knew he kept  
18 trying to conceal his hand, putting rags over it. At one  
19 point, he tried to put a sunshade up into the windshield to  
20 stop people from looking in. At one point, an update came  
21 that he was moving from the passenger's side seat to the  
22 driver's seat. And again, I don't know whether that was  
23 from the person in the turret or the operator of the drone.

24 Q And then after that, the piece of information, how  
25 long was it before the person inside the van --

1           A     It was almost immediate. They said he was  
2 coming across the driver's seat, and then almost instantly,  
3 I saw a gun come out of the windshield. And I didn't feel  
4 like it was a pointing a gun out the windshield. It was  
5 more of the gun kind of broke the threshold of the window as  
6 he's trying to manipulate the door, looking back, and he's  
7 trying to think of kind of what I was seeing. It wasn't a  
8 deliberate point. It was more of like I saw it just for a  
9 brief second, tried to manipulate the door, and then the  
10 door was coming open and him starting to come out.

11           Q     And when the person was starting to come out of  
12 the van, what did you see him do?

13           A     He was focused on this team over here at the front  
14 of the -- of the Bear truck. And as he came out, he kind of  
15 focused his shoulders at them and started to move up towards  
16 their location.

17           Q     And in terms of your vantage point, were you in a  
18 position where you were potentially able to provide lethal  
19 cover or to take a shot at the person getting out of the  
20 van?

21           A     I think that if it was a different circumstances  
22 that wasn't this well contained with people in the positions  
23 that they were in, then I was prepared to use lethal force  
24 at that point.

25           Q     And why is it that you would have felt that lethal

1 force was justified at that point in time, or would you  
2 have felt like lethal force was justified?

3 A I felt like he's been given multiple opportunities  
4 to surrender, was not, has stated his intent to engage law  
5 enforcement with lethal force. I understand he was -- we  
6 had probable cause to arrest him for murder. I felt that  
7 any -- any person that he were to come in contact with were  
8 in danger of death or physical injury at that point. And  
9 whether it was police officers or citizens that were  
10 everywhere in this area, I felt that this person needed to  
11 be stopped or somebody else was going to get killed.

12 Q You ultimately did not end up taking a shot. Did  
13 you see who or from where any of the shots came from?

14 A I did not. I mean, I assumed -- I was familiar  
15 with where people were located. And that's why I chose not  
16 to because I knew the different assets that I had out there  
17 that would have a better opportunity, a better backdrop,  
18 just a much better engagement that would provide a higher  
19 likelihood of success than I did.

20 Q When you talk about having a better backdrop, what  
21 do you mean by that?

22 A A better backdrop of -- meaning what is downrange.  
23 So we are responsible for our rounds wherever they go  
24 whether it were justified to engage somebody with lethal  
25 force or not. We're still liable for things that happened

1 beyond that person.

2 And the vantage point that I have, I'm looking up  
3 through the pieces of armor, and it's 181st. If I would  
4 have moved a little bit and had a backdrop, I might have had  
5 the rear of what I would call the G-3, which is this, as a  
6 backdrop. But to me, my backdrop would have been straight  
7 up 181st, which is obviously a main thoroughfare with  
8 Burnside and the Max platform, and every other thing, that I  
9 wouldn't have been happy with my backdrop.

10 Q So you're trying to figure out what is potentially  
11 in the way that will stop the bullet if it misses the --

12 A Correct, or goes through.

13 Q Okay. After the person inside the van got out,  
14 and they were shot, what did you see happen?

15 A So I heard two or three rounds, one, two, three  
16 rounds, something like that, go off. The suspect kind of  
17 went down on his side, kind of rolled back. He was kind of  
18 on his left, or I don't remember, the left or the right  
19 side, went down, and then kind of rolled back towards the  
20 same direction that he was fixated on when he was first  
21 coming out of the van.

22 At that point, I heard another one or two rounds  
23 being discharged, and the suspect had laid down on the  
24 ground. When he laid down on the ground, I could still see  
25 the gun in his hand. I could see still the finger on the

1 trigger. He was kind of -- although it was pinned  
2 underneath him. And so his arm was this way, and it was  
3 pointing -- he was kind of right in this location, and he  
4 was pointing directly back at the Bearcat, where I was at.

5 I had concerns about that. We have what we call  
6 skirts. Skirts are ballistic paneling that you're able to  
7 hang on the bottom of the rails of the pieces of armor that  
8 will drop down and kind of prevent you from being struck  
9 with ricocheted rounds or rounds that go underneath armor.  
10 We didn't have those in place. And so when I saw the  
11 direction of his gun, finger still on the trigger, I was  
12 worried that a round may go off. So I had stepped up on top  
13 of the rails right here just to get my legs out of the area  
14 that wasn't covered by armor.

15 Q So you were actually able to see from your vantage  
16 point that the person, even though they were -- had been  
17 shot and was on the ground, still had the finger on the  
18 trigger?

19 A I was.

20 Q And you were still concerned at that point in time  
21 for your physical safety?

22 A I was.

23 MR. MICKLEY: I don't think that I have any  
24 additional questions.

25 I don't know if the grand jurors have any



1 questions?

2 GRAND JUROR: No.

3 MR. MICKLEY: Okay. Thanks so much.

4 MR. MCGOWAN: Thank you.

5 MR. BOYD: Morning.

6 GRAND JURORS: Morning.

7 JUSTIN BOYD

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

10 DIRECT EXAMINATION

11 BY MS. KYLE-CASTELLI:

12 Q Okay. Have a seat.

13 A Thank you.

14 Q Can you please state and spell your name for the  
15 record?

16 A Yes. It's Justin Boyd, B-o-y-d.

17 Q And where are you employed?

18 A The City of Gresham Police Department.

19 Q And how long have you been employed with the  
20 Gresham Police Department?

21 A With the Gresham Police Department since 2015. I  
22 transferred from Ohio. I was in law enforcement -- I've  
23 been in law enforcement since I was 18.

24 Q Okay. And what role do you -- what position do  
25 you have at Gresham Police Department?

1 A Detective.

2 Q And how long have you been assigned to that role?

3 A Coming up on four years now.

4 Q Okay. In an officer-involved shooting where a  
5 firearm is involved, do detectives that are conducting the  
6 investigation, do they typically conduct what's called a  
7 round count?

8 A That's correct.

9 Q And during the investigation in this case from the  
10 officer-involved shooting that occurred on July 22nd of  
11 2023, did you review the investigation of other officers as  
12 it pertains to the round counts?

13 A I have.

14 Q Can you just explain to the grand jury what a  
15 round count is?

16 A Sure. It's kind of an informal phrase for a  
17 formal inventory and inspection of an officer's weapons or  
18 weapons systems after a deadly force incident.

19 Q And so the grand jury can kind of understand a  
20 little bit better about what a round count is, assuming that  
21 not all of them have a lot of experience with firearms, can  
22 you kind of explain what a round count would be for a  
23 standard bureau-issued firearm? And I'm going to put a  
24 photograph up on the screen behind you that you can kind of  
25 use to help explain what a round count is.

1           A     Absolutely.  When we use the term "round," we're  
2 referring to a live cartridge that's designed to be fired  
3 out of a handgun or a rifle.  Not to dumb it down, I know  
4 you guys are past that, but I just want to start back at the  
5 beginning.

6                     So what this is on the right is it's a magazine  
7 for a handgun.  This magazine will hold a certain amount of  
8 rounds, live rounds and will feed the handgun the rounds as  
9 one is fired out of it.  It's often informally referred to  
10 as a clip in popular culture.

11                    What we have here is an empty magazine.  And what  
12 we have on the left is the rounds out of that empty  
13 magazine.  So the process of conducting a round count would  
14 be to gather the magazine, photograph it, and then inventory  
15 the number of rounds we have in it.  So this particular one  
16 had 5, 10, 15, 17 9mm rounds in it, which is pretty standard  
17 for that magazine.  The capacity is probably going to be 17  
18 rounds.

19           Q     Okay.  So let's talk about when the magazine is  
20 attached to an actual sidearm.  How does the round count --  
21 how does that impact round count?

22           A     Sure.  With a -- the firearms that we're talking  
23 about today, that are relevant today, are striker fired  
24 handguns and rifles, semiautomatic in nature, meaning the  
25 ones we're talking about today will use some of the energy

1 from the expended cartridge to cycle an action and reload  
2 it. That goes for both of the rifles we're talking about  
3 today, and if we discuss handguns at all, it's the same  
4 thing.

5           So this magazine would be loaded with these rounds  
6 and inserted into the handgun. An action would be cycled,  
7 loading a round into the chamber of a handgun. The chamber  
8 of the firearm, again, for the firearms that we're talking  
9 about today, not all of them, but the ones that we're  
10 talking about today, you can think of as the last place that  
11 live round is going to be before it fires. The bullet part  
12 of it is facing down the barrel, and it's in a solid steel  
13 encasing, and it's ready to be detonated by the primer. The  
14 bullet goes one way. The casing -- the spent casing is  
15 ejected out of the other.

16           So that being said, when this is loaded into a  
17 rifle and the action is cycled, and one of these rounds is  
18 picked up and put into the chamber, you have one round in  
19 the chamber, and you have 16 rounds if you had 17 rounds  
20 left in the magazine.

21           Some -- it's standardly taught in law enforcement  
22 for the agencies that I've been involved in that then you  
23 would unload that magazine and top it off with one more  
24 round. So you would have one in the chamber, and you'd have  
25 17, a full magazine, in the handle of the firearm. And that

1 goes for the way that these handguns are generally carried  
2 in law enforcement, with a live round in the chamber, on the  
3 person's body.

4 Q Okay. So if they actually cycled the very first  
5 round, you're supposed to take the magazine back out and  
6 then add another one? That's typically what is done?

7 A Yeah. That's standard law enforcement practice,  
8 what's generally taught.

9 Q Okay. So if a weapon had been fired and that had  
10 happened on, say, the sidearm of, like, a Glock, right, you  
11 would expect to see about 18 rounds?

12 A Yeah, about 18 rounds if we inspected a Glock that  
13 we didn't think we had been fired, typically. And that goes  
14 for the specific kind of Glock that we're talking about in  
15 this investigation. That's not all Glocks. Some hold 15,  
16 14, 13, et cetera. But the ones we're talking about today,  
17 you can say 18.

18 Q Okay. So based off of your last statement, does  
19 that mean that if there's a different type of magazine and a  
20 different type of gun, sometimes those magazines contain  
21 different numbers of rounds? Like, the magazine can hold a  
22 different amount of rounds?

23 A Correct. Are we talking about rifles?

24 Q Just in general, do guns -- firearms in general  
25 have magazines that carry different amounts of rounds in

1 them?

2 A That's correct. Depending on a bunch of factors,  
3 different firearms carry a different amount of magazines and  
4 different kind of rounds in those magazines.

5 Q Okay. Detective Boyd, is this the first round  
6 count that you've conducted in an officer-involved shooting?

7 A It is not.

8 Q Okay. Approximately, just very roughly, how many  
9 do you think that you have conducted in previous  
10 investigations?

11 A In general, I think somewhere between 10 and 15  
12 through the course of three or four different deadly force  
13 incidents.

14 Q And through that experience, have you found that  
15 all officers use kind of the methodology you were talking  
16 about and use the exact number of rounds that you would  
17 expect to find in one particular handgun?

18 A Yeah. I think that's an important point. We  
19 don't always see the maximum amount of rounds loaded into  
20 the magazine between officer to officer. Some may be a  
21 little bit low. Some may be a little bit high. There are  
22 some inconsistencies in that.

23 Q So to kind of supplement the round count, do  
24 detectives that are conducting an officer-involved shooting  
25 investigation, do you also kind of review the evidence

1 that's kind of collected at the scene?

2 A Yes.

3 Q And what type of evidence as far as round count  
4 goes are you specifically looking for at the crime scene?

5 A The most telling thing to indicate that a firearm  
6 has been shot of the variety that we use in law enforcement  
7 is an ejected spent casing. You can also count bullet  
8 strikes, stuff like that, but the most telling thing that we  
9 see is an empty -- expended casing on the ground.

10 Q Okay. And just in case we're not familiar with  
11 guns, in the weapons that are used during this incident, can  
12 you explain the process of how the casing gets ejected?

13 A Sure. Both the handguns and the rifles utilize  
14 the energy that is produced from the explosion inside the --  
15 or the burning of the powder to cycle an action. But the  
16 handgun and the rifles that we're talking about here use  
17 that to eject -- to extract the old casing out of the  
18 chamber, which we talked about, and throw it away, eject it,  
19 and then scoop up a new round, live round, and put it in the  
20 chamber.

21 Q So these weapons actually eject the casing outside  
22 of the gun?

23 A Correct.

24 Q So that's very unlike kind of a revolver?

25 A That's very -- that's correct.

1 Q Okay. So a revolver, the shell casing would  
2 actually remain inside of the gun?

3 A Correct.

4 Q On July 22, 2023, did you respond as a member of  
5 the MCT, the Major Crimes Team, to investigate the officer-  
6 involved shooting that occurred involving three Portland  
7 Police Bureau SERT members?

8 A I did.

9 Q And did you actually go to the crime scene that  
10 day?

11 A Yeah. I started off -- I responded directly to  
12 the crime scene to try to stabilize that.

13 Q And did you conduct the round count involving  
14 Officer Wingfield, Thurman, and Officer Hoerauf?

15 A I did.

16 Q So let's begin with Officer Wingfield. How many  
17 weapons did he have on his person when you interacted with  
18 Officer Wingfield?

19 A He had one, I would say, firearm. He would have  
20 one firearm on his person.

21 Q Okay. And did he also have a taser on his person?

22 A He did.

23 Q Okay. Where ultimately was Officer Wingfield's  
24 rifle located?

25 A On top of the rescue vehicle known as the G-3.



1 Q Okay. Is that the G-3, was that the piece of  
2 armor that was in front of the van?

3 A I believe so, yes.

4 Q Okay. And were you able to determine which weapon  
5 of the weapons that Officer Wingfield had access to that day  
6 he more than likely shot?

7 A Yes.

8 Q And which one was it?

9 A The rifle that was located on top of the armor,  
10 the armored vehicle.

11 Q Okay. So what type of weapon is that?

12 A It's a semiautomatic -- I would call it an  
13 AR-15-pattern rifle. There's a lot of manufacturers that  
14 make these, so I couldn't give you the exact manufacturer --  
15 well, I could. Let me see. Actually, I didn't inspect that  
16 one. It was on the scene. So -- but it's an AR-15-pattern  
17 pretty standard law enforcement rifle.

18 Q Okay. So if that particular rifle had a magazine  
19 and a round in the chamber, how many rounds did you  
20 typically expect to have found in that rifle if it had been  
21 unfired?

22 A If it had been unfired and there was a round in  
23 the chamber and there was a magazine in it, and we're  
24 talking about a magazine that's advertised as a  
25 30-round-capacity magazine, because there are different

1 capacity magazines that fit in these firearms. But we're  
2 talking in this case about a 30-round-capacity magazine. I  
3 would expect to see between 27 and 29 or so in the magazine  
4 and one round in the -- live round in the chamber.

5 Q Okay. And how many rounds did you actually find  
6 in that rifle?

7 A There were 26 rounds in the magazine and one round  
8 in the chamber, for a total of 27.

9 Q Okay. And Detective Boyd, if you could turn  
10 around, is this the round count that was conducted on  
11 Officer Wingfield's rifle?

12 A That's correct.

13 Q Okay. And can you walk us through what all of  
14 this is down here at the bottom with all of the rounds?

15 A Sure. This is the rifle. This is -- this is the  
16 magazine that we're talking about. This magazine gets  
17 inserted into the magazine well of this rifle. It's  
18 upside-down. It would go into it this way. These are  
19 rounds that are extracted and inventoried from the magazine.  
20 And this is a round that's noted by the criminalist, I  
21 believe, that conducted this, that reviewed this, that did  
22 this, the round that was in the chamber, one in the chamber.

23 Q So one round in the chamber, and 26 were remaining  
24 in the magazine?

25 A Correct.

1 Q For a total of 27?

2 A Correct.

3 Q Okay. How many additional magazines did Officer  
4 Wingfield have?

5 A He had two additional magazines on his person.

6 Q Okay. And was a round count conducted of both of  
7 those?

8 A Yes.

9 Q And can you turn around and see, is this the first  
10 magazine or one of the magazines?

11 A That is one of the magazines.

12 Q And how many rounds is in the first magazine?

13 A So there's 28 in that magazine.

14 Q Okay. And during the round count of the second  
15 magazine, how many rounds were counted?

16 A There's 28 in that magazine, as well.

17 Q Okay. So did you also -- I think you said that  
18 you went to the crime scene. Were you able to look for  
19 shell casings that likely came from the area where Officer  
20 Wingfield was located?

21 A I was.

22 Q Okay. And how many on the date of the incident,  
23 on July 22nd, how many casings were found near Officer  
24 Wingfield?

25 A We found one in the proximity that would make

1 sense for it being fired from his gun.

2 Q Okay. And where was that in relationship to the  
3 G-3?

4 A It was outside of it on the ground, just slightly  
5 outside, offset from the above turret.

6 Q Let me --

7 A If you guys have talked about that.

8 Q Let me actually pull up a picture. So if we're  
9 looking at this photograph right here, could you  
10 approximately show me where that casing was found?

11 A I believe it was in this V area right there.

12 Q Okay. And was that the cartridge casing noted in  
13 Exhibit Number 2?

14 A That's correct.

15 Q Okay. So let's turn to Officer Thurman. How many  
16 weapons did he have on his person when you encountered  
17 Officer Thurman?

18 A One.

19 Q Okay. And what type of weapon was that?

20 A The standard issue Glock handgun.

21 Q Okay. Where did you -- did you find ultimately a  
22 second firearm that was affiliated with Officer Thurman?

23 A We did.

24 Q And where was that located?

25 A In his take-home SERT vehicle.

1 Q Okay. And was it locked and key -- was it under  
2 lock and key when you guys went and recovered it?

3 A I believe so.

4 Q Okay. Were you able to determine which of those  
5 two weapons Officer Thurman most likely fired?

6 A Yes.

7 Q And which one was it?

8 A His LaRue semiautomatic rifle.

9 Q Okay. Can you explain how Officer Thurman's rifle  
10 was different than Officer Wingfield's rifle?

11 A Sure. Officer Thurman is a dedicated sniper for  
12 the SERT team. So his rifle is going to be a little bit  
13 different than the ones that are the general assignment SERT  
14 officers. His fires a little bit of a heavier of a bullet  
15 that has a little bit more ballistic penetration if  
16 necessary. And it has some optics on it that are a little  
17 bit more precision-oriented.

18 Q Okay. Can you explain what that means, the optic  
19 part and the precision-oriented? What does that mean?

20 A Sure. His rifle is going to have a little bit  
21 more magnification for more precise engagements if  
22 necessary. And also, that magnification can go as  
23 observation, too. You can see things and target  
24 identification and stuff like that through a more higher  
25 power optic.

1 Q Okay. And with a magazine and a round in the  
2 chamber, how many rounds would you typically find in a LaRue  
3 rifle?

4 A So because this rifle fires a little bit larger  
5 diameter bullet, the casings are a little bit larger  
6 diameter, and therefore, the magazines are going to hold  
7 less of them. So the magazines -- are you able to pull up a  
8 photo? Okay. This particular magazine, I believe, is  
9 likely advertised as a 20-round-capacity magazine. So I  
10 would expect to see close to that as a standard load for  
11 that magazine.

12 Q And how many rounds did you actually find in the  
13 LaRue rifle?

14 A So when we recovered the LaRue rifle from his  
15 vehicle, there was one live round in the chamber and 16 in  
16 the magazine. As you can see in this photo, one chambered  
17 round, the 16 live rounds.

18 Q How many additional magazines did Officer Thurman  
19 have on his person?

20 A He had one.

21 Q And did you conduct a round count of that?

22 A I did.

23 Q Okay. And how many rounds did you find in the  
24 magazine?

25 A Eighteen.

1 Q Did you review the crime scene or photographs to  
2 determine how many shell casings were recovered in the area  
3 where you knew Officer Thurman had been located?

4 A I did.

5 Q And what did you learn?

6 A There was one casing in the area in the caliber  
7 that would be consistent with Officer Thurman's firearm.

8 Q Okay. And is this a photo of the room that you  
9 believe that Officer Thurman had been located?

10 A It is.

11 Q Okay. Is that the window that we believe that  
12 Officer Thurman fired out of?

13 A That is the window I believe Officer Thurman fired  
14 out of, yes.

15 Q Okay. And is this the cartridge casing down here?

16 A Yes.

17 Q Okay. And was that cartridge casing marked as  
18 Exhibit Number 15?

19 A It was.

20 Q So, finally, let's turn to Officer Hoerauf. How  
21 many weapons did he have on his person?

22 A Oh had three weapons on his person.

23 Q Okay. And were you able to determine which weapon  
24 Officer Hoerauf likely fired?

25 A I was.

1 Q And which rifle -- which weapon was that?

2 A It was the rifle.

3 Q Okay. Was Officer Hoerauf using the same type of  
4 rifle as Officer Wingfield?

5 A It would be similar, yes.

6 Q Okay. But it was unlike the one that Officer  
7 Thurman had in his possession?

8 A Correct. It was unlike, a different caliber. It  
9 was the same caliber and general layout as the one that the  
10 officer -- not Thurman's -- Wingfield.

11 Q Okay. And so just to refresh our recollection,  
12 with a magazine and a round in the chamber, how many rounds  
13 would you have expected to find -- typically expect to find  
14 in that type of rifle if it had been unfired?

15 A One round in the chamber, and again, if it's a  
16 30-round advertised magazine capacity, somewhere between 27  
17 and 29.

18 Q How many rounds did you find in Officer Hoerauf's  
19 rifle?

20 A Twenty-seven rounds.

21 Q Okay. Was there a round in the chamber when --  
22 actually, let's start with this, Detective Boyd. Did  
23 Officer Hoerauf actually have his rifle on his person?

24 A He did.

25 Q Okay. And so when you made contact with Officer



1 Hoerauf and he still had the rifle in his possession, and  
2 he hadn't left the scene, had he entered the Gresham Police  
3 Department at that point?

4 A That's correct. For context, we're doing these  
5 round counts in my captain's office deep within the inside  
6 of the Gresham Police Department.

7 Q So the training and experience for officers, are  
8 they expected to do anything to their weapon before entering  
9 a police department?

10 A It would be -- it would present a safety issue if  
11 an officer was to bring their rifle in. It could be  
12 perceived by that officer as a safety issue if he was to  
13 bring his rifle through the middle of a very, very busy at  
14 this time police department with a lot of people running  
15 around with one live round in the chamber.

16 Q So was it -- did you find a live round in the  
17 chamber of Officer Hoerauf's rifle?

18 A We did not.

19 Q And did that surprise you in any way?

20 A That did not surprise me in any way based on what  
21 I would expect to be his general concern and safety training  
22 and familiarity with firearms to take that -- to just  
23 instinctively almost remove that cartridge, live cartridge  
24 from the chamber of his weapon before you walk through a  
25 very populated area of the police department.

1 Q Okay. So how many rounds did you ultimately  
2 find in Officer Hoerauf's rifle?

3 A It was 27 in the magazine.

4 Q Okay. And is this a photograph of the magazine?

5 A I believe so, yes.

6 Q Okay. Was this a photograph of Officer Hoerauf's  
7 weapon?

8 A I believe so.

9 Q And how many magazines did Officer Hoerauf have on  
10 him?

11 A He had two additional magazines on his person.

12 Q Okay. And how many rounds would you have expected  
13 to have found in those magazines?

14 A Twenty-eight to thirty or so.

15 Q Okay. And how many rounds did you find?

16 A Twenty-seven in one and twenty-eight in the other.

17 Q Okay. And is this one of the magazines here?

18 A I believe so.

19 Q Okay. And is this the second magazine that you  
20 think that came from Officer Hoerauf?

21 A I do believe that.

22 Q Okay. Did you also review the crime scene to  
23 determine how many shell casings were recovered in the area  
24 of where Officer Hoerauf was located?

25 A I did.

1 Q Okay. And how many shell casings did you find  
2 at that location?

3 A There were two shell casings of the caliber in the  
4 location that would be consistent with Officer Hoerauf  
5 firing his rifle.

6 Q Okay. And if you could turn around. Were those  
7 marked as Exhibit Number 13 and 14 during the investigation?

8 A They were.

9 Q Okay. So, Detective Boyd, between Officers  
10 Wingfield, Thurman, and Hoerauf, what did you believe is the  
11 likely number of shots that were fired at this particular  
12 scene?

13 A Four.

14 Q Can you please explain why you came to that  
15 conclusion?

16 A I primarily came to that conclusion through the  
17 evidence on the crime scene. Like we talked about, the  
18 round count is an important step for us to understand more  
19 about what happened. And it's an important thing for us to  
20 do (indiscernible) but it's not -- you can't make a final  
21 determination of how many rounds were fired because there's  
22 some inconsistencies in the way some of these are loaded.  
23 So when I made a determination that I think there were four  
24 rounds fired, I'm basing that on the crime -- the evidence  
25 on the scene.

1 Q Okay. I want to go back and cover one  
2 additional thing. After the crime scene on July 22nd, after  
3 that was processed, was the G-3 where Officer Wingfield was  
4 located, was that looked at further at a later time?

5 A yeah. The Major Crimes Team received a call that  
6 when Portland Police took possession of the G-3 back over,  
7 an additional casing of that same caliber of the two rifles  
8 in this case was located in or around it.

9 Q Okay. And to your knowledge, does the SERT team,  
10 the Portland Police Bureau SERT team, do they conduct  
11 training and things along those lines involving their  
12 armored vehicles?

13 A Sure. Their armored vehicles, to my knowledge,  
14 are going to be an integral part of their training in order  
15 to familiarize themselves with how they work and what they  
16 do, and everything like that. When I had heard they had  
17 found that, it's noteworthy to me, but also could be from  
18 that training. I believe it could be from the training. We  
19 don't know.

20 MS. KYLE-CASTELLI: Okay. Thank you.

21 Does the grand jury have any questions?

22 THE FOREPERSON: Between the two reviews that were  
23 done from Wingfield and, I believe, the G-3 where he was  
24 located, how long before the first shell casing was found  
25 and then there was, like, a second review or second look-

1 over, and then the second shell casing is found? Do you  
2 know approximately how much time was between those two  
3 reviews?

4 MR. BOYD: So the night of, the first shell casing  
5 that was outside the G-3 was found pretty instantaneously  
6 and marked as evidence. The night I personally crawled all  
7 over the top of that G-3 -- it's a big vehicle, huge --  
8 crawled over the top of it, inside of it. There's almost an  
9 infinite amount of places where things can fall and  
10 equipment and bags and various tools that connect to the  
11 outside of it. It's very complex inside. When we received  
12 the call, it wasn't until the next day or after that that  
13 when they took possession of it, they had found this casing.

14 THE FOREPERSON: Okay. So the next day, you would  
15 say?

16 MR. BOYD: Yeah, after that night.

17 THE FOREPERSON: After that night.

18 MR. BOYD: Whether it was the next day or a couple  
19 of days later, after that night.

20 THE FOREPERSON: Okay.

21 MR. MICKLEY: Any other questions?

22 (No response.)

23 MS. KYLE-CASTELLI: No further questions.

24 And if we could pause the record?

25 MR. BOYD: Thank you, guys. It's a heavy lift,

1 and I thank you guys for doing it.

2 GRAND JURORS: Thank you.

3 (Off the record at 9:48 a.m.)

4 (On the record at 9:59 a.m.)

5 MR. MICKLEY: Okay. We are back on the record  
6 after a break in DA Case Number 2463342. We are ready for  
7 our next witness.

8 FREDRICK HUFFMAN

9 was thereupon called as a witness; and, having been first  
10 duly sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. KYLE-CASTELLI:

13 Q Can you please state your name and spell your name  
14 for the record?

15 A So full name is Fredrick, F-r-e-d-r-i-c-k, middle  
16 of W, last of Huffman, H-u-f-f-m-a-n. I'm the fourth, so  
17 there's an I-V behind it.

18 Q Okay. And where are you employed?

19 A City of Gresham.

20 Q And in what capacity do you serve with the City of  
21 Gresham?

22 A I work for the City of Gresham as a detective for  
23 the police department.

24 Q And how long have you been a detective?

25 A Since January of 2006.

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

2 A Since January of 1997.

3 Q Okay. Were you called in your capacity as a  
4 detective of the Gresham Police Department to investigate an  
5 officer-involved shooting that occurred on July 22nd, 2023,  
6 at Northeast 181st and Northeast Everett?

7 A I was.

8 Q Okay. And have you prepared a PowerPoint today to  
9 kind of explain to the grand jury what your investigation  
10 was?

11 A I have.

12 Q Okay. I am going to let you use your PowerPoint  
13 to explain your investigation.

14 A Okay. So as related to the Portland metro area,  
15 when there's a critical incident, whether it be an  
16 officer-involved shooting with our agency or east Multnomah  
17 County, a homicide, sometimes it's a violent sexual assault,  
18 those type of cases, we use what we call the East County  
19 Major Crimes Team.

20 It used to be way back when comprised of Troutdale  
21 Police Department, Fairview Police Department Multnomah  
22 County Sheriff's Office, the Gresham Police Department,  
23 Oregon State Police, the DA's office, as well as the Oregon  
24 State Police Crime Lab. In this time, since I've been at  
25 Gresham, it has now changed. And it is now Troutdale and

1 Fairview have been absorbed. And so it's the Multnomah  
2 Sheriff's Office, the Gresham Police Department, as well as  
3 Oregon State Police, the DA's Office, and the Medical  
4 Examiner's Office.

5 So how this differs in what I'm going to talk  
6 about here as the critical incident that led to this, you'll  
7 see behind me, I have critical incident. I have the Gresham  
8 Police case number. That is regarding the critical incident  
9 of the officer-involved shooting. The other case number  
10 that you see below there is the Portland Police Bureau case  
11 number that is related to the homicide that occurred, which  
12 lead to the officer-involved shooting, if that makes sense.

13 So the homicide, which I believe people have  
14 already testified to from Portland, is that correct --

15 Q Yeah.

16 A -- that happened at Good Samaritan Hospital then  
17 leads to why I'm here today and how we got involved.

18 So I've kind of laid out the East County Major  
19 Crimes Team. So how that works is, like, say, Portland may  
20 send six detectives to a homicide scene or six detectives to  
21 a violent assault-type scene, where maybe somebody is going  
22 to pass away. Our agency, because we work together with  
23 everybody, we pull detectives from all of those agencies.  
24 So at times, we can have anywhere from 10 to 30 detectives  
25 that come out all at once.



1           So, in essence, we frontload real heavy on the  
2 investigation to get a lot of things done, because, not to  
3 use the cliches of the first 48 hours, but there is a lot of  
4 stuff in today's world that will disappear within a couple  
5 weeks if you don't -- i.e. video, i.e. witnesses, things  
6 like that.

7           So moving forward, as I've kind of discussed,  
8 talked about the PPB -- let's see which one came up. Okay.  
9 So this came up. So these are just again showing who else  
10 was involved. And I forget to mention the Port of Portland  
11 Police Bureau. We also team up with them, so the airport  
12 and port police, they come out, as well. And they have some  
13 also connections with the Federal Bureau of Investigation,  
14 but typically, the FBI is not involved in our investigations  
15 unless we specifically ask for them or if it's something  
16 specifically they are deemed to be in charge of.

17           So I briefly will touch on how we got to why I'm  
18 here today, with the officer-involved shooting, which I know  
19 you guys have already kind of heard what has kind of led up  
20 to this, so I'll kind of move through this a little bit  
21 quicker, per se. But I do have some videos, and stuff like  
22 that, that may enlighten to kind of clarify their case and  
23 how we are where are today.

24           So we have 9-1-1 call and police dispatch that  
25 you're going to hear, surveillance video from Good Samaritan

1 Hospital, and police response and actions is basically  
2 what I'm going to briefly talk about. So the location of  
3 the homicide, as you guys know, is 1015 Northwest 22nd  
4 Avenue in Portland, Oregon.

5 Now, the way, for you guys that don't understand  
6 what BOEC is, Bureau of Emergency Communications, it's the  
7 9-1-1 dispatch. So we all run on different nets, so  
8 different channels, if you will. Like, if you had a regular  
9 CB radio or something like that, same thing for, like, if  
10 you use drones or other things, gigahertz, it's the same  
11 type of thing. We're working on a different channel.

12 So Portland works on what they would call Portland  
13 central net or northeast or north depending on how they have  
14 it broken up in their city. We simply have East Multnomah  
15 County, which is county net, Gresham net. And so we are  
16 on -- Multnomah County and Gresham Police Departments are on  
17 that net. So if you call 9-1-1 in Gresham, it's going to go  
18 through BOEC, which will go to a 9-1-1 dispatch who will  
19 send it through Gresham. If you call 9-1-1 and you live in  
20 Portland, it would go to north, northeast, central, wherever  
21 you live.

22 So the Good Samaritan Hospital is where that took  
23 place. This is just frame of reference for you guys. Right  
24 in the middle is where the big red dot is. It's Good Sam  
25 Hospital. I believe you've been talked to about Bobby

1 Smallwood who was the security officer who was killed.  
2 From my familiarity, if you will, with Good Samaritan, they  
3 are unarmed security there at Good Sam. Again, just  
4 touching on who he is.

5 Another victim, I believe, was the person in  
6 charge of that hospital that day or that unit that day, and  
7 I believe you've already heard from him, so I'm sure he's  
8 clarified that exactly. So don't hold mine to 100 percent  
9 there. On-duty hospital supervisor injury to left leg from  
10 shrapnel is what he sustained, I believe. I believe he  
11 talked to you about that.

12 Also, what you're going to see is this person came  
13 into dispatch as Reginald Jackson. He had changed his name,  
14 if you will, in 2017, I believe, to PoniaX Calles. That's  
15 what he changed his name to. So he's referred to back and  
16 forth in many reports as Reginald Jackson or PoniaX Calles.  
17 So they're the same individual, but just a change of name.  
18 And we learned that through the investigation.

19 So here we have -- if it'll play, hopefully. Do  
20 we have speakers? We should. Let me go back maybe. Let's  
21 try. Anybody hear anything? Volume is up there. Okay. I  
22 may have to unplug this and see if it works that way. Does  
23 that work?

24 Q Sure.

25 (Audio playing.)

1           A     So that was the, obviously, the 9-1-1 call  
2 coming in from security there, asking for police assistance.  
3 Obviously, you've heard and stated, and I believe it's  
4 already been talked about, there was a bag that PontiaX had  
5 that contained weapons in it, specifically guns that they  
6 had already found. And he was possibly armed with a third  
7 one, which came from his girlfriend/mother of his children.

8                     All right. Is it not seeing it now?

9           Q     No.

10          A     Let's see if that wakes it up.

11                     THE FOREPERSON: You're going to have to change  
12 your display settings, I think.

13                     MR. HUFFMAN: Have to go back again?

14                     GRAND JUROR: If he uses that one.

15                     MR. HUFFMAN: Yeah, what do you need me to do?

16                     GRAND JUROR: Yeah, hit the Windows key. Go to  
17 settings.

18                     GRAND JUROR: Press the Windows key and P.

19                     MR. HUFFMAN: Thank you.

20                     GRAND JUROR: Extend -- needs to be duplicated.

21                     MR. HUFFMAN: Duplicate? Thank you. See? Okay.

22 Well, now it's showing all of that, but that will work.

23 Trying to get it back to -- let's try (indiscernible) back  
24 in that way.

25                     All right. I apologize for this, but we usually

1 have it a lot more, but I've had a lot of problems with my  
2 computer, and our IT department sometimes works offsite. So  
3 work through this.

4 So, obviously, we heard the call from 9-1-1 from  
5 security that came in at Good Samaritan Hospital. With that  
6 being said, we move to, obviously, responding officers are  
7 coming in. This is as the call would come in from dispatch.  
8 This is what they're getting -- reading on, if you will, the  
9 MVT (ph.) system that is in the car, small computer system  
10 that they dispatch calls to so they can see there's -- and  
11 obviously, I highlighted "Complainant took bag," which we  
12 talked about, "with handgun and shot gun, may have a third  
13 gun on him." And his name.

14 BY MS. KYLE-CASTELLI:

15 Q And just so we're clear, this occurred -- this 9-  
16 1-1 call appears to be before the shooting actually occurs  
17 at Good Samaritan?

18 A Correct. This before everything has happened at  
19 Good Samaritan. This is them calling in, saying, "Hey,  
20 this guy is kind of -- he's threatening us. We need to get  
21 some police here because we've already taken two guns off of  
22 him." Obviously, they're not armed. They can only do so  
23 much. So they're calling for police assistance because  
24 they -- it's above their, if you will, their -- I'm not  
25 going to say their skill level, but what they're prepared to

1 do.

2 Q And then BOEC, the Bureau of Emergency  
3 Communications would receive that information and distribute  
4 that last slid with the name and kind of alerting officers  
5 through their mobile units, digital units in their actual  
6 cars so that patrol officers would actually be advised of  
7 the incident that's going on?

8 A Correct. So this comes over verbally over the  
9 air, as well as then this is on the screen. So if they're  
10 working in a two-person car, a patrol unit, uniformed  
11 officers, one could be reading it while the other one is  
12 driving type of thing. So it comes in both ways.

13 So we have videos from video surveillance. So  
14 this is inside. Here is our victim, if you will, and here's  
15 PontiaX. This is the blue coat that was described. This is  
16 just outside the birthing center.

17 And here he is in the hallway. They've tried to  
18 ask him to get on the elevator multiple times to leave to go  
19 downstairs. They're obviously trying to have a civil  
20 conversation with him, trying to get him to comply just  
21 verbally that way.

22 This is killing me because this worked earlier and  
23 now it's not working. So let's try this. Another security  
24 guard is there. I'll let you guys watch and --

25 (Video playing.)

1 Q Detective, as we're watching this, is this a  
2 little difficult to watch?

3 A Yeah. I mean, I've been going the job for a long  
4 time, and any time you see this, what's going to occur, it's  
5 not easy to watch.

6 So the doctor who just came up is the one who  
7 testified earlier with you guys?

8 Q That's [Hospital Employee] and Bobby Smallwood?

9 A Correct, Correct.

10 And I don't know if you can see in there he had a  
11 gun in his hand as he fled.

12 Try and go back to presentation view now.

13 Q And pretty early in the investigation through  
14 Portland Police Bureau, had they -- had there been officers  
15 that had seen this footage?

16 A No. This is right -- not when -- obviously, this  
17 is just happening, so by the time security can get there and  
18 get that to them, there's obviously a time lag because you  
19 have to have people access the systems, those type of  
20 things. So, eventually, this is all radioed out over  
21 probably within 20 or 30 minutes. I would have to go back  
22 deep-dive into it to figure out exactly when it was radioed  
23 out. But there's obviously officers that are responding  
24 now.

25 There will be calls into dispatch again, saying

1 somebody has been shot, which raises the level of patrol  
2 response to even faster. And it turns into more like what  
3 you would see as an active shooter-type situation? That's  
4 how it's going to be treated. It's going to be treated as  
5 somebody that's in a building that's shooting people.  
6 Obviously, he shot security there as he moves through.

7 GRAND JUROR: A question?

8 MR. HUFFMAN: Yeah?

9 GRAND JUROR: Would you say when you were  
10 reviewing this video, is it (indiscernible) to say how many  
11 shots were fired between that --

12 MR. HUFFMAN: No. So the way the video came to me  
13 and the way that it is, I don't have any sound on it. And I  
14 don't believe there's any sound through the system itself  
15 because that starts getting into privacy laws, because,  
16 obviously, if there's sound in doctor's offices recording  
17 all that all the time. So we don't know that. I don't know  
18 how many rounds he's fired. And I can't tell from this  
19 video if he's hit the wall or -- all's I know is he's  
20 obviously hit somebody that's down.

21 BY MS. KYLE-CASTELLI:

22 Q Let me ask some follow-up questions, Detective  
23 Huffman.

24 A Sure.

25 Q Did Bobby Smallwood have a body-worn camera on his



1 person?

2 A Yes, he did.

3 Q Okay. Have you reviewed that?

4 A I want to say he did, but I don't remember the  
5 video showing anything that would be -- a lot of times, the  
6 body-worn camera is -- because our agency has them, as  
7 well -- depending on what's going on, it doesn't always pick  
8 up everything that is right here.

9 Q The body-worn camera that Bobby Smallwood is  
10 wearing, are you -- let me ask this question first. Were  
11 you the lead detective in the Good Samaritan shooting?

12 A No. So, therefore, I would not have a real  
13 purpose to dig through that and watch that.

14 Q Okay.

15 A My focus was on the criminal investigation of the  
16 actual -- what transpired out in Gresham. Part of this,  
17 though, for your understanding was to try and put this all  
18 together so you understood how we got to where we're at.  
19 That's why I'm not deep-diving into a lot of this. To me,  
20 that is up to those other detectives.

21 Q Okay. And to follow-up on the body-worn camera  
22 that Mr. Smallwood was wearing, are you aware as to whether  
23 that had audio with it?

24 A I am not aware either way.

25 Q Okay. So there could be an audio version?

1 A There very well could be.

2 Q You're just not familiar with --

3 A No.

4 Q Okay. And I understand that maybe it took the  
5 officers a little bit of time to be able to find this video  
6 because of the time lag with the hospital --

7 A Sure.

8 Q But by the time the scene is going at in Gresham,  
9 do you know whether or not Portland Police Bureau officers  
10 had actually had a chance to look at some of the video  
11 footage?

12 A That off the top of my head I do not recall.

13 Q Thank you.

14 (Video playing.)

15 A So this is -- hopefully, that's playing up there?

16 Q Yes.

17 A So here he is. He comes out. He's running down  
18 the hallway again, is pointing the gun at Jed, and then he  
19 goes down the stairwell. And again, this is -- a lot of  
20 this is under Portland's investigation, but I'm just laying  
21 out some -- kind of where we're -- how we got to where we're  
22 at.

23 Here is PontiaX leaving. This is the ground floor  
24 of Good Sam going out onto the street. And now -- so now  
25 I'm going to move into where our incident occurred. So part

1 of East County Major Crimes Team and almost every metro  
2 agency that I know nowadays for transparency reasons, we  
3 usually investigate each other's incidents for  
4 officer-involved shootings or any serious use of force that  
5 can lead to death.

6 Oftentimes, we're going to be involved vice versa  
7 agencies. Not always, but a lot of times. When it comes to  
8 shootings specifically, always, especially if somebody is  
9 hurt. That's obviously to put the -- everybody's mind at  
10 ease that this is not anything that it shouldn't be.

11 So Portland Police assist us in our  
12 investigations, but we have all of those other agencies that  
13 I've talked about that are working the cases actually in  
14 here. So this is an incident that took place in Gresham,  
15 with Portland Police being the ones that actually used  
16 deadly force.

17 So if you will, Gresham as the East County Major  
18 Crimes Team will do the investigation. We are investigating  
19 the Portland police officers that were the ones that  
20 actually used deadly force. And you'll hear from them later  
21 today.

22 So I don't know how many people are familiar with  
23 Gresham, but basically, this takes place at 181st and  
24 Everett or 181st and Gleason if you're looking for a major  
25 intersection. So Everett is just south of Gleason, located

1 in Multnomah County. It is basically in between Burnside  
2 and Gleason is Everett Street.

3           You will see off to the side here, if you will --  
4 I have to point here -- so, basically, where the traffic  
5 stop takes place by an Officer Filbert, which I understood  
6 he came in -- or Sergeant Filbert, he came in and talked  
7 already -- takes place here. You have U.S. Bank. You have  
8 a heavily trafficked area with Albertson's, Starbucks, as  
9 well as you've got surrounding neighborhoods. So that's  
10 where this incident is taking place in Gresham. That's  
11 where the traffic stop happened.

12           So I talked about our officer have body-worn  
13 cameras. We've had them for multiple years now. Basically,  
14 our policy states that when you're dispatched to a call, you  
15 turn it on. There is a short time lag in the aspect of  
16 audio that has been built into the system.

17           So you may see this originally, and I don't know  
18 if the speakers -- somebody was talking about the speakers  
19 actually working if we plug it in, something over here? Are  
20 they going to work? We'll give it a shot. So you'll hear  
21 some of this, but -- so what you're looking at here is  
22 you're going to be looking at -- this is one of our police  
23 Tahoes. This is the van, if it hasn't been talked about  
24 yet, that PontiaX was in. His friend was driving the van.  
25 I believe his name is Freedman, came in and talked about --

1 talked already, I believe.

2 So this is the Portland sergeant's car. They're  
3 facing southbound. So the opposite way would be Vancouver,  
4 if you will. To the right would be Portland. To the left,  
5 you go to Gresham, kind of frame of reference for everybody.

6 So this is one of our patrol cars, where it pulls  
7 up. This is another one of our officers, Scott McFarland.  
8 This is another one of our officers, Nathan Still (ph.), is  
9 on this side. And you're looking at Officer Matt Hardy's  
10 camera as he comes up. Hopefully, we have some volume with  
11 this. And --

12 (Video playing.)

13 So what this is going to show you is they're  
14 taking basically the driver of the vehicle into custody, who  
15 is not PontiaX, or Reginald Jackson. He knows him as  
16 Reginald, or Reggie, when he gets out and talks.

17 Q Why don't we pause -- oh, never mind.

18 (Video playing.)

19 A So as you can tell it's a very busy -- 181 is one  
20 of the major thoroughfares through Gresham, a lot of people,  
21 a lot of traffic, a lot of innocent people wandering around,  
22 and you have Everett, which is another neighborhood street.

23 (Video playing.)

24 So during that clip, you heard them talk about  
25 what are hands, who's our hands. That basically is simply

1 our communication with each other out there saying who is  
2 the going to be the one that actually physically takes him  
3 into custody, who's the one that's going to be putting hands  
4 on him. So that person, depending on how many officers you  
5 have there can either holster their sidearm, they can either  
6 put away their taser, whatever they have on their hands and  
7 notebook. They're the ones that are going to be physically  
8 controlling that person and putting them into custody.  
9 That's what the conversation was.

10           Regarding the keys, there was concerns that,  
11 obviously, you heard him say, "I picked up Reggie. I picked  
12 him up at, you know, a hospital, he just had -- a couple  
13 days ago or a day ago, just had a baby." It was something  
14 along those lines. You guys heard it. But at any rate, so  
15 again, that's confirming that's Reggie, Reginald Jackson,  
16 that's in this van, which matches the description of who we  
17 had at the hospital.

18           And regarding the keys was to make sure, again, we  
19 don't have a vehicle -- technically, he could have jumped in  
20 that driver's seat and taken off if there had been more keys  
21 in that vehicle. And then there's more danger to the public  
22 again, and we're -- we lose what we have to try and control  
23 the situation so both Reggie and everybody here, as well as  
24 citizens, can't get -- try not to have anybody get hurt.

25           So from there, here is the dispatch. So what ends

1 up happening at this point is everything slows down. So  
2 the traffic stop has happened. Due to, like I talked about  
3 at the hospital, there being an active shooter-type  
4 situation, Portland as well as almost every agency I know of  
5 in this country, would call out their SERT or SWAT team,  
6 Special Weapons and Tactics is what it's called, Special  
7 Emergency Response Team is what Portland calls theirs, I  
8 believe. I may be corrected on that later, but I believe  
9 that's what they call theirs.

10 And what those guys are is basically, people, men  
11 and women that are trained with multiple disciplines of  
12 weapons use training. They have extra training that goes  
13 above and beyond. And they train -- I was on a SWAT team  
14 for approximately 12 years. I was a sniper as well as and  
15 IPE. So we would train every month, to where our regular  
16 police training may be once every six months. So you're  
17 constantly being trained. You're constantly getting extra  
18 training.

19 Along with that comes the crisis negotiation part  
20 of it, where you're working -- I know when I was on SWAT, as  
21 well as I'm familiar with Portland's, you work together with  
22 your hostage negotiation team or crisis negotiation team,  
23 whatever acronym they want to work. But basically, it's a  
24 hostage-type situation. And you get them on the phone.  
25 They're trained specifically in that. I know Detective

1 Scott, or Officer Scott, had already talked about that  
2 with PPB.

3 So here is the call from Mr. Calles. So Mr.  
4 Calles is sitting in the van. As this is happening,  
5 Portland SERT had already been on its way to Good Samaritan  
6 Hospital, thinking that he was still there. They're getting  
7 information, no, he left. He was possibly at a Fred Meyer.  
8 They go to the Fred Meyer. So they have their SERT assets,  
9 if you will, already out.

10 So for, like, Gresham's team, we only have  
11 three -- three to four guys on typically per shift that are  
12 technically SWAT members. They're in uniform, taking  
13 regular patrol cars. You wouldn't know that they're SWAT  
14 members other than maybe a SWAT pin. But they have all the  
15 gear with them. They're just taking regular cars.

16 Portland has some of those, but oftentimes, they  
17 have to tap their team, and we have to tap our team. So  
18 that's usually, like, a half-hour to an hour response. So  
19 I'm at home when I was on SWAT. If something was going on,  
20 my pager goes off. I have to get up, you know, organize the  
21 family, whatever I'm doing, then get in the car and go, get  
22 my gear, get suited up, and then go control the situation.

23 So in that time period, that van sitting there,  
24 Portland's SERT had been already out and about. So I'm  
25 going to call it armor, okay? And what that is, is what you



1 would see is heavily armored vehicles. And we'll show  
2 them in a minute. But you'll have -- Lenco is a major  
3 manufacturer throughout the United States that makes these  
4 vehicles. They call them the Bearcat, the Bear, the G-3.  
5 They all have different names. They're all just different  
6 size of armored vehicles.

7 In essence, what they're meant to do is be able to  
8 do hostage rescue. If there's a situation where somebody is  
9 in a house with -- barricaded with somebody that's maybe in  
10 a crisis, and they're thinking about trying to kill  
11 themselves or somebody else inside that house, we use those  
12 vehicles to move up and evacuate citizens out of safety.  
13 That way they don't have to worry about being shot.

14 So, quite often, the vehicles will have a  
15 different armor rating. Most of them will be able to  
16 withstand, like, a .308 or a .223 round, which are two  
17 different common cartridges. .308 refers to the caliber, 30  
18 caliber. Easy way to explain it (indiscernible) my finger  
19 is. But if the end of my finger is a .30 caliber bullet,  
20 that's a .308 or a 30/30. A .223 would be smaller, so it'd  
21 be like my pinky. That's the easiest way I'm just going to  
22 use it to describe .223 or .308. Other people may come in  
23 and speak more clearly to it, but for this reference.

24 So this is Mr. Calles. Mr. Calles calls 9-1-1,  
25 and that's what we're going to listen to now. I believe

1 this is about a 10 or 15-minute -- this is brought in,  
2 obviously, through BOEC. And they send it to me. And here  
3 we are.

4 Before we begin, do I have any questions about  
5 kind of how it's happening at this point?

6 (No response.)

7 So at this point, Mr. Calles is in the van. He's  
8 got patrol officers that tried to do a traffic stop, and  
9 Portland SERT vehicles are arriving and starting to relieve  
10 the patrol officers, the guys that are maybe not SERT or  
11 SWAT members, putting them in place. And they're moving  
12 armor in to box that vehicle in.

13 So we don't have to worry about that -- Mr. Calles  
14 or that vehicle fleeing the area hurting himself or others.  
15 That's basically kind of what's happening. And that's what  
16 Mr. Calles is going to. At the same time, Portland's  
17 hostage negotiation team is getting set up to contact him to  
18 try and talk to him. Maybe --

19 (Audio playing.)

20 So at that point, there's a couple things to  
21 clarify that he talked about in there. I don't know how  
22 many people are familiar with Mossberg, what that is, but  
23 Mossberg is a brand of shotgun. It's quite commonly known.  
24 So when he talks about at the hospital, "I brought my  
25 Mossberg," he was talking about birdshot, for clarification

1 purposes. When you buy a shotgun shell, and they make  
2 also handguns, I've seen them more commonly usually in .22s,  
3 but they put little lead pellets inside a blue capped shell,  
4 and that's birdshot.

5 In a shotgun shell, you would see it as a lot  
6 more, obviously, would be in a shotgun shell, which is a lot  
7 bigger and bigger in diameter. So he at this point has  
8 called in -- and what he was talking about with the smashing  
9 of the vehicle, that's where I was talking about the armors  
10 pulling up both in front, behind, and off to the side. So  
11 that's what he's talking about when, "Oh, they're going to  
12 smash me.

13 He also makes comments about cameras, and stuff  
14 like that. There's obviously cameras and all those type of  
15 things that are coming in to play at this point because the  
16 vehicle is now stationary; it's being controlled.

17 If there are any questions on any of that -- I  
18 think you heard very clearly he was talking about his will.  
19 In the beginning, he's ready to meet his maker. He talks  
20 about his children, and those type of things. If that  
21 wasn't clear, I'm more than willing to back it up, and we  
22 can try and play that again if you guys didn't hear that.

23 Q Can I ask a few follow-up questions?

24 A Yeah.

25 Q In addition to bird shell, did he also talk about

1 hollow point?

2 A Yes, he had multiple different rounds. From  
3 Portland's investigation, they had located the vehicle he  
4 arrived in and found the box for the Mossberg shotgun in it,  
5 et cetera, which they may have already spoken to. So --

6 Q Okay. And for clarification purposes, hollow  
7 point is a different type of bullet, is that correct?

8 A Correct. So when you see something that says FMJ,  
9 it means full metal jacket. So basically, the way rounds --  
10 bullets are designed is you have the shell casing. And the  
11 shell casing itself contains the powder and the primer. The  
12 primer ignites so inside of a firearm, a handgun  
13 specifically, you have a primer that sits in the rear of the  
14 casing.

15 When the firing pin comes forward, which is  
16 basically, if you will, about the size of a pen tip, it  
17 activates that primer, which activates the power, which then  
18 takes the projectile, which is usually lead -- sometimes  
19 they're copper -- they can be different substances, but for  
20 the majority of the time when we're speaking of handguns,  
21 it's a piece of lead. That lead usually is covered in  
22 copper. It's a thin copper jacket. That's just for --  
23 basically, more for ballistics and trajectory and to make it  
24 fly true.

25 And so a full metal jacket is exactly that. It's

1 a piece of lead that is rounded that has copper on top of  
2 it. When you're talking about a hollow point, what those  
3 are is those rounds are designed -- typically designed to  
4 stop in a body mass. And what I mean by that is full metal  
5 jacket rounds, so chunks of lead, will go through wall,  
6 wall, wall, wall, wall, because they're a chunk of lead. A  
7 full metal -- or excuse me -- a hollow point is designed to  
8 where it's hollow like this, and so as a substance, if you  
9 will, of the body mass hits it, it flares open and starts to  
10 disintegrate, and it shreds off.

11 So, therefore, if it hits a wall, it may go only  
12 through one sheet of Sheetrock because when it hits like  
13 that, it's getting material in here, which causes it to open  
14 up. It's the same thing in a body mass. The fluid, it'll  
15 cause -- the fluid will then cause the round to expand,  
16 which then causes it to slow down and stop. So the energy  
17 of that bullet is stopping.

18 So when he's talking about a hollow point, that's  
19 what he's referring to. If you hear somebody say full metal  
20 jacket, that's what they're referring to. There's all sorts  
21 of different rounds and bullets in this world, and that is  
22 actually the projectile that comes out, not the casing that  
23 they make. So -- and they do the same thing with shotguns  
24 with a .308, with a .223, with handgun rounds. So that's  
25 basically how those work.

1 Q Okay. And so we understand when -- this  
2 conversation is happening with a 9-1-1 dispatcher, correct?

3 A Correct.

4 Q So the 9-1-1 dispatcher is -- are they relaying  
5 some of this information to the officers that are at the  
6 scene?

7 A Correct. So you heard the noises in the  
8 background. That's the dispatcher typing what he can as  
9 fast as he can to let patrol or sergeants or, in this  
10 situation, probably command, as well, over the MVT (ph.),  
11 which looks very similar to my computer, what's going on.  
12 That also goes to the dispatcher. So it's not only -- it's  
13 being put in the call manually, but it's also verbally being  
14 said over the net for everybody that's listening that's on  
15 this call. So they understand what is happening, his frame  
16 of reference, frame of mind, and how it's proceeding.

17 Q Thank you.

18 A So Gresham, I'll briefly talk about this. Gresham  
19 has UASes, unmanned aerial surveillance -- system -- excuse  
20 me -- not surveillance -- system. Drones, in a sense, is  
21 what it is. Our program started, whew, probably six years  
22 ago kind of leading this area in them. So we have multiple  
23 drones that we sent up. We use most of the time what they  
24 would call a DGI, which is a Chinese-based company, the  
25 Matrice 300 or 30 is what we usually use. Its camera,

1 you're not going to get any audio with this, but you're at  
2 least going to see what they're seeing.

3 (Video playing.)

4 So again, this is the traffic stop. And what will  
5 happen is when we have a critical incident, if we're looking  
6 for people, even in a search and rescue type situation, they  
7 will usually position themselves off a little distance. So  
8 Officer Franklin, Officer Kalpe (ph.), and Officer Skihan  
9 (ph.) were the three that, through this investigation, were  
10 in charge of using the drones at different times.

11 Officer Franklin was the one that is flying with  
12 Officer Kalpe near a Rite-Aid, which is approximately three  
13 blocks away, if you will, from a location where they  
14 monitor. They also, for instance, will position a detective  
15 or a communicator, as I would call them, to the arrest. So  
16 as I'm flying the drone, I'm telling the communicator to  
17 tell the people what I'm seeing, basically.

18 He can also see the screen just like we're looking  
19 at it. He can see it, as well, but the drone operators  
20 usually have been out on so many things especially at night,  
21 thermal imaging, and stuff. They may pick it up quicker  
22 because they've been trained in it more. It's as easy as  
23 that. So we're going to watch the drone video now, so  
24 you'll kind of -- and I'll kind of walk you through it.

25 (Video playing.)

1           So the drone is looking almost straight down on  
2 the van. It's panning north. You're going to kind of see  
3 these are just the patrol cars, as I described earlier, as  
4 they were initial traffic stop. The U.S. Bank would be on  
5 the lefthand side of the screen.

6           So you can kind of see the drones can zoom in, as  
7 well. I don't remember what the exact zoom is on the  
8 Matrice camera, but it can zoom in quite a bit. This is  
9 Everett Street, 181st, U.S. Bank. There's a massage parlor  
10 that's off to the right.

11           Again, this can be a frame of reference.  
12 Obviously, the driver is taken into custody at this point,  
13 and Mr. Calles is in the passenger's seat. While he's in  
14 the passenger's seat, he keeps a -- basically, like, a  
15 sunshade that you put on the front of your windshield,  
16 silver material to keep the sun from penetrating your car to  
17 burn up the dash, and stuff like that, with UV rays. He  
18 keeps that on his right side during almost this whole  
19 situation.

20           It's learned through the investigation, which  
21 you'll see here in a little bit, that's also where he's  
22 keeping a revolver, a black revolver, in his hand that he  
23 also referenced on the phone when he said, "I've got it here  
24 with me with my finger on the trigger.

25           Q     It's not currently moving?



1           A     Yeah, I was going to say it should be done.

2                     So I think you guys have already talked -- gone  
3 through this -- talking to CNT. That would be Officer --  
4 Detective Scott. When he was talking about his will, we  
5 executed a warrant on his vehicle as part of the  
6 investigation after everything had been concluded in this,  
7 we execute warrants on multiple different things, including  
8 the vehicle that he was in. Oftentimes, it'll be the person  
9 that we're investigating, et cetera.

10                    So you can see what we've put on there. It's  
11 obviously what was read. A closer zoom-in look, it talks  
12 about Lulu. You heard Lulu on the name that he called in.  
13 He has -- I believe that's "POA" there, "All my" -- I can't  
14 quite read it, but at any rate, this is his will -- oops --  
15 that's his will that he was reading as we were going through  
16 this.

17           Q     And Detective Huffman, I think you said that that  
18 was found --

19           A     This is found in the van, and I have photos of  
20 that.

21           Q     I know. I think you said it was pursuant to a  
22 search warrant?

23           A     Yes.

24           Q     Was it a search warrant or was a consent to search  
25 granted to you?

1           A     It was consent to search. We also -- so we  
2 usually write search warrants, but there's times that we  
3 also get consent to search. And a lot of times, we  
4 reference to the District Attorney's Office to get the frame  
5 of reference of whether we need to do that or not. They're  
6 just more familiar with updated laws, appellate court  
7 decisions, et cetera. So, typically, we write a search  
8 warrant. This one specifically was actually under consent  
9 to search.

10           Q     Thank you.

11           A     Yup. So in a little bit, you're going to hear  
12 officer testimony, so I won't touch on that too much. Here  
13 is one of the officer's testimony you're going to hear from  
14 is Officer Thurman -- and I can't remember the other --

15           Q     Officer Hoerauf.

16           A     I'm sorry?

17           Q     Hoerauf?

18           A     Hoerauf. Thank you. They're inside the massage  
19 parlor. So in frame of reference, the massage parlor is  
20 sitting here, and the van is sitting here. And you'll see  
21 that in a minute. I'll show you. But that's basically  
22 frame of reference. And they're going to testify to what  
23 they saw and did later, so I'm not really going to touch on  
24 that too much.

25                     This is the massage parlor. It has those two

1 front windows. This is looking east. So it would be  
2 looking -- if we went back to 181, the two windows are  
3 looking this way in that general direction, east -- or  
4 west -- not east -- excuse me.

5 Q So Officer Wingfield, Officer Wingfield, I'll show  
6 you, was positioned inside one of the SERT armored vehicles  
7 at the front of the van. This was his weapon. This is a  
8 .556/.223 caliber semiauto.

9 Basically, the difference between .556 and .223 is  
10 the shell casing length. So they basically shoot the same  
11 projectile, in essence. So if you bought a AR-style weapon,  
12 if you bought it in a .556, it could shoot a .223 round, but  
13 if you bought at .223 caliber only weapon, you could not  
14 shoot a .556 because the casing is longer, so it doesn't fit  
15 up into the barrel.

16 SERT Officer Thurman. And these are photo taken  
17 with their gear as they would have been that day, for  
18 clarification, so it's not -- they weren't running around in  
19 black ninja suits with nothing on that described who they  
20 were. Again, this is Officer Thurman again, 7.62 or .308.  
21 It's just a different -- I'm forgetting the name of it --  
22 English versus -- anyway -- like, metric versus feet type of  
23 deal. Thank you. Sorry.

24 And then we have Officer Hoerauf. He also has a  
25 .223. So Thurman has a .308, and the other two officers

1 have a .223/.556, if you will. And again, this is a photo  
2 of his gun. And this is where -- this is Officer Wingfield.  
3 That's the front of it. I don't know. Did you have  
4 somebody testify to robots already or no?

5 Okay. So you guys are aware that the robots came  
6 out and kind of their situation on how they helped. And  
7 from there, this is actually going to show what transpired  
8 from our drone. So this is the benefit of having a drone  
9 nowadays, so not only do we have body-worn cameras, Portland  
10 hasn't quite gotten there onto their officers yet, but we  
11 also -- we have drones up, so we can basically see what  
12 happens.

13 (Video playing.)

14 So our drone is obviously facing west. That's Mr.  
15 Calles inside the van.

16 Q Is that the sunshield that you were talking about?

17 A Correct. So that's the end of that. Would  
18 anybody like to see it again for any clarification of what  
19 was transpiring?

20 GRAND JUROR: I hate to be that guy.

21 MR. HUFFMAN: No, that's fine.

22 GRAND JUROR: Thank you.

23 MR. HUFFMAN: So now that we've watched it once,  
24 I'll kind of explain it as it happens.

25 (Video playing.)

1 MR. HUFFMAN: So Officer Wingfield here  
2 obviously has a clear view in here, as well as there's  
3 people inside this vehicle that can see in, okay? So  
4 there's a driver and, I believe, a passenger in here.

5 You have two officers up here. This is Officer  
6 Brad Dyke (ph.) with Gresham Police Department. This is  
7 Officer --

8 BY MS. KYLE-CASTELLI:

9 Q I believe that's Officer -- is that Officer Josh  
10 Howery?

11 A Howery. Thank you. So Officer Howery is here,  
12 Brad Dyke is here. And so he comes out of the vehicle.  
13 It's hard to tell because the camera is zoomed in pretty  
14 close. If it backed off it would have been a little bit  
15 better, but he comes out, and he's -- the weapon is pointing  
16 in the general direction. They're standing at the front of  
17 this. And as he comes out, that's -- and as he gets up  
18 again, you'll see it. Oops. I'm going to go back one.  
19 That's the sunshield, obviously. He's off and on the phone  
20 back and forth.

21 GRAND JUROR: And for a brief second, you can see  
22 the gun for a (indiscernible) second when he's trying to  
23 shuffle the sunshield just briefly. Should be coming up  
24 here soon. And you can see that just right there.

25 MR. HUFFMAN: So I don't know if you can see there

1 at the end, he was pointing the gun again at Officer  
2 Howery.

3 Anybody have any other questions with that?

4 (No response.)

5 MR. HUFFMAN: So the overall scene here as  
6 described. So this would be our Bearcat, Gresham Police  
7 Department's. This is Portland's, all their armor. I'm  
8 going to leave it alone of what's called what because I'm  
9 not a Portland SERT guy, and they're going to know, and if  
10 need be, they can talk to it.

11 So what ends up happening here is after he is  
12 down, they basically attempt to move up, which we can move  
13 forward with photos. This is -- they moved people that were  
14 here are now over here to do a custody team, also check to  
15 try and render medical aid, just an overview from above  
16 (indiscernible) how the vehicles were actually positioned  
17 now with not everybody there, so you can kind of see.

18 And again, this is -- this part was operated by  
19 Officer Skihan as part of our crime scene processing.

20 Excuse me.

21 BY MS. KYLE-CASTELLI:

22 Q And Detective Huffman, the PPB Bearcat, that was  
23 directly behind the van --

24 A It had to be in the back.

25 Q Okay. It had been moved back by the time that

1 this was taken, correct?

2 A Yeah. So this had to be moved back. So part of  
3 when they take somebody in custody to make sure there's  
4 nobody -- other innocents or anybody else inside of that  
5 van, they have to clear it. And since the Bearcat was  
6 pushed up against it, they couldn't really get around to  
7 that backside, so they had to back it up so they could move  
8 around inside it.

9 Q Thank you for that clarification.

10 A So there's some evidence photographs we'll go  
11 through here. I only put one post photo in there. I know  
12 you had a question who attended the autopsy earlier, and  
13 I'll touch on that. It's not really a gruesome photo, but  
14 there is one, so I warn you guys of that.

15 So when he was finally -- you can see the robot  
16 arm there. You can see the gun that's here with his finger  
17 in the trigger in his right hand. That's the gun after it's  
18 been removed, obviously.

19 Q And we don't have to go back two slides, but how  
20 was the photograph taken with the finger -- with his hands  
21 still in the gun and the finger in the trigger?

22 A Correct.

23 Q How was that taken? Was it taken with a robot  
24 or --

25 A This was -- I'm not sure if this was taken by

1 robot or taken via drone and cropped down.

2 Q Okay. But no one --

3 A Nothing has been moved.

4 Q No one had moved anything by the time this  
5 photograph had been taken?

6 A No. And that's why the robots are still in the  
7 photo. Everything is still in place as it was.

8 Q Okay. Thank you.

9 A And here's the van again talking about we cleared  
10 it. This is just, again, clarification showing it's the van  
11 with the California license plate, et cetera, that was  
12 spoken to.

13 You'll notice in there the orange piece of paper  
14 off to the left. That's the will that was inside there that  
15 he was reading.

16 So part of our investigation -- which now I'm  
17 going to kind of go back to our investigation into this  
18 since I've kind of laid out the scene for you guys. So part  
19 of the MCT, what we do is we have a lead and a co-lead,  
20 which is what any agency would do. I was the lead  
21 investigator on this. So I'm controlling all the moving  
22 parts. But it's simply -- it's like I'm the captain of the  
23 ship, and I'm steering the direction of that ship. I am  
24 steering the direction of the investigation.

25 I'm taking in all of the information that



1 everybody is telling me, and hey, we need to do this way,  
2 or hey, we need to go that way, or this makes sense, or hey,  
3 we need to go interview that person. That doesn't make any  
4 sense. Or we need to clarify that. Oh, we need to do this.  
5 So I'm kind of the captain of the ship.

6           And I have a copilot. It would have been  
7 Detective Lindsay Fredrich (ph.). She assists, as well, as  
8 well as we also have what we call a desk person. That desk  
9 person, what we do is if we -- you are all working for me as  
10 detectives in this room, I would say I need you to go  
11 interview so-and-so. I need you to go do a video canvas. I  
12 need you to do this.

13           What then happens is that desk person creates a  
14 list, and basically, it's a checks and balances system to  
15 make sure we're doing a thorough and complete investigation.  
16 All those reports that come in, you would give me a report,  
17 you would give me a report, and you would give me a report.  
18 I have to read all those reports, take in that information,  
19 and then make more decisions based upon that. And then from  
20 that, we have it in a system, and that system says so and so  
21 did this report, checked. It's completed. Checked. It's  
22 completed. Checked. It's completed. That way I know. So  
23 it's a task list, and we keep track. That's how we run our  
24 investigations. We do that for evidence, digital evidence,  
25 interviews, you name it. We keep some sort of Excel

1 spreadsheet with some sort of tracking, as well as in  
2 another system, our report management system, that we track  
3 it. That way we know all these things are covered.

4 So if you came in and said three days later a  
5 eyewitness called in, we need to go talk to them, we create  
6 a new what we would call lead, and I would say, okay, let's  
7 create that lead. Let's go interview them to figure out  
8 what they know and don't know. So that's basically how it  
9 works.

10 Q Can I follow up with you there, as well?

11 A Sure, yeah.

12 Q So at the end of the day, have you reviewed as the  
13 lead detective in a case, have you reviewed all of the  
14 reports that have come in regarding this particular case?

15 A I have.

16 Q Okay. And in addition, when there's an officer-  
17 involved shooting, the process that occurs there, or  
18 actually in any homicide, is the District Attorney's Office  
19 also contacted?

20 A Correct. They are.

21 Q So a representative comes out from the District  
22 Attorney's Office, as well?

23 A Correct.

24 Q What about command staff and other sergeants? Is  
25 there anything unusual or unique about an officer-involved

1 shooting as to who might actually come out and respond to  
2 the scene?

3 A Quite oftentimes, you'll get mostly command that  
4 comes out. And command staff for us is a lieutenant or  
5 above. So, like, I'm a detective. Then you have a  
6 sergeant. Like, Sergeant McGowan came and testified  
7 earlier. He's my supervisor. And then above him is a  
8 supervisor, would be a lieutenant. That's command staff to  
9 us.

10 So quite often in these incidents, you get  
11 lieutenants, captains, deputy chiefs, sheriffs, depending on  
12 the agency of what it is that will come out or at least be  
13 apprised of it and show up sooner or later. And that's just  
14 to make sure that everything is flowing, if we need  
15 anything, if there's any hiccups with any other agencies, or  
16 anything else.

17 Q Okay. And do criminalists also respond to major  
18 scenes like this?

19 A Correct. So what I showed you with the crime  
20 scene video, where it went around where there was really --  
21 there was no officers there. So Gresham is really lucky.  
22 East Multnomah County is. We have very skilled  
23 criminalists, which are different than, like, a property  
24 person, property tech.

25 A property tech is somebody that I basically give

1 them some property. Like, I take your wallet because  
2 you're under arrest. I give it, and I put it in property.  
3 That property person puts a code on it, scanned into a  
4 system, and it goes into a locked system. So, hey, when you  
5 come to get your wallet, you get your wallet.

6 Criminalists are trained in multiple different  
7 disciplines, including fingerprinting, shoeprints, all the  
8 stuff you see on CSI or the old school CSI that you would  
9 see, forensic stuff, which is really cool. It just doesn't  
10 happen as fast as you see on TV. But, yes, so criminalists  
11 come out and process our scenes, which we're very lucky  
12 because we have three really talented criminalists that come  
13 out, as well as we have multiple property techs.

14 When we have a crime scene like that, one of the  
15 other things we have is we have a detective out there  
16 because criminalists aren't necessarily trained in the eye  
17 of what a detective would be. So there may be something  
18 that they may not see that's important to them, but it's  
19 important to the investigation.

20 So, therefore, we have a detective that out there  
21 on the scene, as well, helps (indiscernible) the  
22 investigation. They're also in communication with the lead  
23 detective at the office, or if I'm out there, "Hey, we have  
24 this. What do you want to do with it?" type of thing. So  
25 yes.

1 Q Thank you.

2 A All right. So we did a canvass for witnesses, a  
3 video. During that time span, we had a few -- it's not  
4 uncommon to get interesting tips that come in, and stuff  
5 like that. And part of it is, again, with transparency, we  
6 have to figure out if this person is telling the truth or  
7 not, telling the truth.

8 So we also look for multiple different videos from  
9 not only us, but Ring cameras, U.S. Bank, Starbucks. All of  
10 those places have cameras everywhere. And if we have that,  
11 then we obviously put that in a part of the investigation.  
12 At this point, basically, the only thing that we came up  
13 there with were our drone video and body-worn camera videos  
14 just because of the exact position of that.

15 There was where two of the SERT officers were  
16 positioned at the massage parlor. There was video there,  
17 but it was only indoor video. So it really doesn't show  
18 anything. It doesn't show anything on the outside. It just  
19 shows the inside of the business, which obviously a lot of  
20 businesses do things for liability purposes, especially like  
21 a massage parlor might have something for liability issues.

22 So we do a canvass. And we send that out. And so  
23 what I'll do is I'll send a team of detectives out. Usually  
24 it's anywhere from four to twelve detectives to go out and  
25 canvass and area. And we usually do a block or two around

1 the crime scene. And then depending if that crime scene  
2 has moved multiple blocks, then we canvass a long ways for a  
3 long time and interview anybody and everybody.

4 If we knock on a door, and somebody is not home,  
5 we leave our card, and we try two or three more times. At  
6 the end of the day, I can't make somebody talk to me. So --  
7 but we knock on all the doors and make sure that, hey, if  
8 you want to talk to us, we're here. We want to listen to  
9 what you have to say, right, wrong, or indifferent. We're  
10 here, impartial, to figure out what the heck happened.

11 So we went with this, as you can see. We also did  
12 video surveillance. Nothing of the area was located that  
13 would be of any value. I mean, I could -- something seven  
14 blocks away might have been going off, might have heard a  
15 gunshot, but that's not of any real value, and then we have  
16 to prove it's a gunshot, not a backfire seven blocks away.

17 So post photos. Again, this is just the one that  
18 I'll briefly talk about. So the post was done on Mr.  
19 Calles. I attended that post. And at that time, obviously,  
20 DA Castelli also went. I'm sorry. I'm just going to use  
21 the -- the one --

22 Q Okay.

23 A And so it was down at the Oregon State Medical  
24 Examiner's Office, which is in Clackamas right near the  
25 Costco. If you guys ever go by Costco in Clackamas, it's

1 right down there. So we attended. Dr. Millius did this  
2 post if you will.

3 He had multiple gunshots to him. Now, when I say  
4 multiple gunshots, the problem with a lot of times with this  
5 type of incident is you can't figure out -- this -- I'm just  
6 going to show you this one photo briefly because this is one  
7 very distinct photo of where we know a round came in. And  
8 so while I put that up -- just not to -- to spare you guys  
9 any further, it's very hard to tell, like, entrance/exit.

10 So if a bullet goes through you, it's very hard to  
11 tell oftentimes if it's right, depending especially if  
12 you're moving, et cetera, et cetera. So how many times was  
13 he hit with rounds? I'm not -- I can't give you a specific  
14 number. Obviously, it was more than -- it was more than  
15 one, and it was enough to obviously end what Mr. Calles was  
16 doing. So that's kind of where I'll leave it. And the  
17 other officers can testify to that later. And if you have a  
18 follow-up, you can --

19 Q Let me just ask you a question. Have you worked  
20 cases before where, like, a single gunshot has been fired  
21 and maybe goes into an arm, exits an arm, and then enters  
22 into the body? And so, like, maybe it was one bullet that  
23 was fired, but it may have caused several different entrance  
24 wounds?

25 A Correct. So I've been to multiple autopsies with

1 rounds, with bullets, death caused by bullets. And if you  
2 will, it can enter into here, hit your brachial artery, go  
3 through hit your lung, bounce around, hit your rib, and come  
4 back out in your groin. And it'll look like it was three  
5 different bullets. But I know there's only one been fired.  
6 So it's hard to determine all that.

7 Q Okay. So in this particular case, Dr. Millius, do  
8 you have the report that Dr. Millius prepared in front of  
9 you?

10 A I do.

11 Q And is that -- does that look to be a certified  
12 copy of the report?

13 A It does.

14 Q Okay. And what was the cause of death and the  
15 manner of death in for Mr. PoniaX Calles?

16 A So what caused the death is multiple gunshot  
17 wounds, and the manner of death was a homicide.

18 Q Okay. And was the identity of PoniaX Calles, also  
19 known as Reginald Jackson confirmed either during the  
20 autopsy or after the autopsy?

21 A Yes, it was.

22 Q And if we could just pass around the autopsy  
23 report?

24 A Oh, yes. Thank you.

25 So as we continue the investigation, one of the



1 things that, obviously, I said, we look for witnesses,  
2 canvasses. We get tipline callers, et cetera. So one of  
3 the tipline callers was a Brandon Luce (ph.) that called and  
4 made some allegations that didn't really make sense compared  
5 to where he lived. So later that evening while we still  
6 controlled the crime scene, we -- Mr. Luce came out and  
7 decided to have a conversation with us.

8           And that's kind of, here we go. He talked to *The*  
9 *Oregonian*, and that's kind of how we got this tip info.  
10 Lives on 181st. Said he was in the yard when he heard the  
11 gunshots. He said he didn't hear any police commands before  
12 the gunfire rang out. It was incredibly loud, two concise,  
13 and then a pause, and then one more. Looked over to his  
14 friend, saw police putting up yellow tape on the street.

15           So not knowing exactly -- once we figured out  
16 where he was, he wouldn't have always had exactly the  
17 clearest line of sight. So we kept interviewing him, tried  
18 to figure out what he was talking about. Again, as a  
19 thorough investigation, we have to figure out who this guy  
20 is and what he's talking about.

21           So we set up a lead. We tried to get a formal  
22 statement from him, but he would not talk to us. So that  
23 didn't work out so well. We -- phone calls as well as  
24 knocking on his door, et cetera. He would not talk to us.

25           So we go from there into -- there it is. You can

1 see what we put here. So I reviewed body-worn camera,  
2 which is from our investigation, which is something I have  
3 easy access to and is part of my investigation specifically.  
4 And he's what he was, basically, belligerent on crime scene  
5 and uncooperative is how he kind of turned out as an  
6 individual on this.

7 So we are looking, at this point, we're looking  
8 southbound. Everett would be on the right there, just  
9 barely visible on the street, and we're looking down towards  
10 Burnside. Behind this would be Gleason.

11 I'm going to skip forward -- no, it won't let me  
12 do it. Sorry. I was trying to skip forward because we have  
13 that 30-second delay when it's -- there's no audio.

14 (Video playing.)

15 So I think you kind of got the idea of his general  
16 demeanor. We can continue to watch that if you like. He  
17 actually lived the opposite direction from there. So when  
18 he's trying to go home, and all this other stuff, he's  
19 crossing through a crime scene that we're trying to control  
20 for a very thorough and complete investigation, so we don't  
21 have to worry about anything being messed with or tainted.  
22 And those are some of things.

23 So Mr. Luce's statement came in. We wrote that  
24 down as part of the case, but also as his demeanor and  
25 obviously his actions when we're trying to help control our

1 crime scene.

2 THE FOREPERSON: How were you able to determine  
3 the identity of the individual on the camera and then Mr.  
4 Luce with the statement given to *The Oregonian*? Like, how  
5 were you able to connect the statement and then --

6 MR. HUFFMAN: So what we do is -- so I would --  
7 Mr. Luce, what we would search is our database and by phone  
8 number our database, and Mr. Luce may have had some  
9 contacts. And so therefore, we then can pull him up by name  
10 and date of birth. So I can then check into Department of  
11 Motor Vehicles and pull up a photo of Mr. Luce.

12 And then through our body-worn camera photos look  
13 at his DMV photo and that photo and determine, yeah, that's  
14 the same guy, especially if he's walking in the exact same  
15 area where, you know, he supposedly lives. And then he  
16 references on the, "Eight hours later, you still have the  
17 same crime scene up?" So, to me, that was our individual.  
18 So multiple detectives looked at the photos and looked at  
19 him and confirmed that that was him independently.

20 BY MS. KYLE-CASTELLI:

21 Q Let me ask a follow-up question on that. He went  
22 to (indiscernible) statement to *The Oregonian* --

23 A Sure.

24 Q Regarding not hearing kind of warnings before the  
25 fire -- the gunshots were fired. They wouldn't have heard

1 any warnings, force warnings being given at the scene if  
2 those were being communicated over the phone?

3 A Correct. He wouldn't have heard anything being  
4 communicated because it was all via phone because he's on  
5 the phone with HNT, and he's inside a van.

6 Q Okay. Thank you.

7 MS. KYLE-CASTELLI: Does anybody else have any  
8 questions?

9 THE FOREPERSON: Just curious.

10 MR. HUFFMAN: Sure.

11 THE FOREPERSON: Why is there 30 seconds of no  
12 audio?

13 MR. HUFFMAN: That's a good question. I would  
14 love to be able to tell you that, but I'm not a captain, and  
15 I'm not Motorola, and I have no idea why that is  
16 specifically. But it is on our camera systems, and I think  
17 it's on most. Even -- we use Motorola, but I think Axon  
18 (ph.), as well, does that. And I don't particular know why.

19 THE FOREPERSON: Thank you.

20 MR. HUFFMAN: I'm sorry I don't have an answer for  
21 that. I don't.

22 MS. KYLE-CASTELLI: Do you have a question?

23 GRAND JUROR: I have a question.

24 MS. KYLE-CASTELLI: Sure.

25 GRAND JUROR: I believe we heard testimony at some

1 point that there was a force warning given by the initial  
2 officers who went to the scene before the response team  
3 came. Would that be captured on body-worn cameras?

4 MR. HUFFMAN: It could, but if it happened, again,  
5 in that 30-second window, I'm not going to be able to hear  
6 it. I'm not going to know about it. And as much as we all  
7 try to be 100 percent perfect all the time, our officers  
8 sometimes don't turn on their cameras right away. So  
9 sometimes it picks it up and sometimes it doesn't.

10 And I shouldn't -- let me rephrase that. It could  
11 have been given. I don't know if it was or wasn't. I just  
12 know from body-worn camera footage and what I've listened  
13 to, I don't hear it.

14 GRAND JUROR: Okay.

15 MR. HUFFMAN: It could have been given by the  
16 patrol officer since he made the stop on the car. I don't  
17 know.

18 GRAND JUROR: I have one question. When you do  
19 the round count, you're only looking at the guns that -- of  
20 the officers you know shot? So, like, say, for instance,  
21 somebody else had fired a shot, would that be known?

22 MR. HUFFMAN: Sure. Yes. So we -- it depends on  
23 the investigation. Everything is independent. So if it's  
24 something we believe that multiple people shot, five, six,  
25 seven, eight officers shot, we're probably going to know

1 that. One, because in these type of situations, we're  
2 going to see it. And two, usually the officers are going to  
3 make a statement of, you know, "I discharged my firearm."  
4 And that point, we have to -- they are considered different  
5 than a witness officer.

6 So if I'm an officer on a scene and I just hear  
7 something, I might be an ear witness, but I'm not  
8 necessarily an eyewitness. So -- but if I shoot, I'm  
9 definitely one that is going to be an officer that used  
10 deadly force. So therefore, there's going to be a  
11 notification that has to happen. So there are ways, a  
12 checks and balances system, that we do that.

13 GRAND JUROR: Okay. Thank you.

14 BY MS. KYLE-CASTELLI:

15 Q Gresham Police Department, when they were  
16 investigating the officer-involved shooting, however, did  
17 not do a round count of each member of SERT that was present  
18 at the scene?

19 A Correct. We did not. We had no reason to believe  
20 other than the three officers that came forward for the use  
21 of deadly force.

22 Q Okay. And the three officers that came forward  
23 and the expended cartridge casings that were found at the  
24 scene, those all lined up?

25 A Correct. They were where they said they were

1 positioned at.

2 GRAND JUROR: Okay. Thank you.

3 MS. KYLE-CASTELLI: Any other questions?

4 MR. MICKLEY: I have just a couple of questions.

5 MR. HUFFMAN: Sure.

6 MR. MICKLEY: So when you talked about the medical  
7 examiners report, it listed as a homicide?

8 MR. HUFFMAN: Correct.

9 MR. MICKLEY: A homicide, does that mean that a  
10 crime has been committed?

11 MR. HUFFMAN: No.

12 MR. MICKLEY: What are the possible articulations  
13 from a medical examiner's report in terms of cause of death?

14 MR. HUFFMAN: So cause of the death, usually  
15 either homicide, accidental, natural, and undetermined if I  
16 remember correctly. You're asking me one to (indiscernible)  
17 my brain there a little bit.

18 MR. MICKLEY: And so a homicide is an intentional  
19 killing of another human being as opposed to, like, somebody  
20 fell and hit their head and died as a result of that?

21 MR. HUFFMAN: Correct.

22 MR. MICKLEY: In this particular case, there was  
23 clearly an intentional killing of PoniaX Calles, or Calles?

24 MR. HUFFMAN: Correct.

25 MR. MICKLEY: The ME's report was not able to

1 determine which of the gunshot wounds was fatal or if they  
2 were independent fatal, or do you know?

3 MR. HUFFMAN: To my recollection, I do not know.  
4 My recollection is, no, there wasn't, like, an independent  
5 saying this specific bullet is the one that killed PoniaX  
6 Calles.

7 MR. MICKLEY: And they also wouldn't have been  
8 able to determine which bullet was fired just by looking at  
9 the injuries to --

10 MR. HUFFMAN: The only way you -- correct. For  
11 the most part, no, correct. The only difference, obviously,  
12 is I've spoken to is a .308 versus a .223 might leave a  
13 different bullet size hole, but you're also dealing with  
14 skin that's elastic. So it also can stretch, heat,  
15 contract, so my real answer is, no, there's no real way to  
16 tell. Obviously, if you're shot with something that's that  
17 big compared to a .22, yes, there might be --there's  
18 obviously a way.

19 MR. MICKLEY: From your perspective, having been  
20 an officer who's worked on a SWAT and has been a police  
21 officer for a number of years, what all options were  
22 available to Officer Wingfield, who was in the turret of the  
23 G-3 at the point in time when Mr. Calles came out of the  
24 van?

25 MR. HUFFMAN: At that point, the only use of force



1 that, in my mind, would have justified is deadly force.  
2 He's coming out with a gun. He's pointing the gun at  
3 officers. He's made comments, because obviously, everything  
4 has been articulated over the radio. "I want to meet my  
5 maker. Here's my will."

6 I know as a SWAT officer this is the guy that just  
7 shot and killed somebody. Because that took over an hour,  
8 so they were on the phone with him for about an hour-ish  
9 from the time of him being stopped before the actual end  
10 result, Mr. Calles coming out with a gun. So you had about  
11 an hour there alone. So officers are being told, hey, this  
12 is the homicide down here at the hospital, and this is the  
13 guy that did it.

14 So I now am in the frame of mind I'm trying to  
15 protect myself, I'm trying to protect the innocence of the  
16 community. I'm trying to protect the other officers. This  
17 guy is coming out of the vehicle with a gun. He is not --  
18 he's had options to come out of the vehicle with out the  
19 gun. He's been talked to multiple times, saying, "We don't  
20 want this to happen, so please come out. Let's end this  
21 peacefully."

22 MR. MICKLEY: Same question for the officers who  
23 were stationed across the street at the -- at the massage  
24 parlor. What options were available to them at the point in  
25 time when Mr. Calles came out of the -- out of the van?

1 MR. HUFFMAN: I'd rather not speak to that just  
2 for the fact that they're further away, and to me, that is  
3 they have a different perspective. Officer Wingfield's  
4 perspective is pretty much right there (indiscernible) that  
5 same exact perspective.

6 THE FOREPERSON: Was it -- and I know this hasn't  
7 been, I think, explicitly said yet, but was there any  
8 indication that Mr. Calles fired his -- the weapon he had in  
9 his hand?

10 MR. HUFFMAN: Do you mean at the --

11 THE FOREPERSON: At this scene with the -- with  
12 the police when he's exiting the vehicle or even within the  
13 vehicle?

14 MR. HUFFMAN: Yeah, there were -- to my -- no.  
15 During the investigation, we came up with no indication of  
16 that.

17 BY MS. KYLE-CASTELLI:

18 Q I have another question. I want to follow up on a  
19 question that Mr. Mickley asked about autopsies and kind of  
20 the trajectory of bullets. It is possible in homicide  
21 investigations for -- to determine kind of like a path.  
22 That's one of the things that medical examiners look for is  
23 the path of the bullet, right?

24 A Sure.

25 Q Is it front to back; left to right? They do look

1 for that. Would an ME -- and if you can confirm that --  
2 what a medical examiner often cannot tell you is the order  
3 of when a bullet struck, like, if there's multiple  
4 gunshots --

5 A Correct.

6 Q Which one entered the body first? Which one  
7 entered the body second?

8 A Correct.

9 Q Sometimes they can, but that is a very difficult  
10 thing for a medical examiner to often --

11 A Correct, to mean when we start getting into  
12 trajectory and paths, and all that, what a medical examiner  
13 can tell you is front to back, left to right, you know, when  
14 it's slightly the same goal, you know, those type of things.  
15 Depending on the situation, again, if I'm standing, like,  
16 perfectly upright, standing at you and somebody shoots me  
17 from the side, it's going to be easy to tell the bullet came  
18 through here and went through here.

19 But if in that motion I turn slightly, okay, well,  
20 then it can -- so we start getting into this real dynamic  
21 situation that it's -- you can't really tell unless it's,  
22 again, one shot, or -- you know what I mean? We're also  
23 dealing, as I testified, you have two officers with the same  
24 caliber weapon, .223/.556. So if there's two or three  
25 bullet holes in them, you're not going to know which round

1 went where per se. So at the end of the day, they don't  
2 always give us that. Sometimes they do. It, again, is  
3 case-specific. This is not one of those cases.

4 Q Okay. I also wanted to follow-up with the crime  
5 scene itself, I just wanted to make sure. After -- after  
6 the shooting at Northeast 181st and Everett, was that crime  
7 scene secured?

8 A Yes.

9 Q Okay. And was there a crime scene log that  
10 started?

11 A Yes.

12 Q Okay. And so with an entry -- there was a  
13 specified entry point even as to where people were supposed  
14 to enter and exit from?

15 A Correct. So if you guys don't know from other  
16 testimony, as well as here, but -- so a crime scene, if this  
17 room was a crime scene, and we have two different doors, the  
18 people that could come into here, we would position one  
19 person here. That door would either have somebody  
20 positioned at it or be completely locked to control the  
21 people coming in and out.

22 That's an age-old if you bring into some -- go  
23 into a crime scene, you can also leave (indiscernible) crime  
24 scene. That's why a lot of times we even tell -- I've told  
25 chiefs, et cetera, "I don't need you in my crime scene.

1 Please leave." Because they have no purpose for being  
2 there. So it needs to be detectives or people involved or  
3 criminalists that are there and not just random people or  
4 command staff that are just -- they want to see what's going  
5 on. So --

6 Q And PoniaX Calles's gun, was that recovered as  
7 evidence?

8 A It was.

9 Q And prior to its collection, was the Gresham  
10 Police Department advised that the gun had been moved from  
11 its original location?

12 A Yes.

13 Q Okay. Can you please explain what a communication  
14 restriction order is?

15 A So, basically, what a communication restriction  
16 order is, is it's basically is the police department -- it  
17 usually comes from command staff, a lieutenant or above that  
18 basically says you've been involved in a critical incident.  
19 I am now telling you you are not to speak to this.

20 The only person you can speak to is your attorney,  
21 your wife, or a protected member like the clergy. That's  
22 it. Other than that, you can't talk about this. And you're  
23 not to talk to other officers. You're not to talk about  
24 other people that might have been involved. You're not to  
25 talk to anybody about it until that restriction order has

1 been lifted.

2 MS. KYLE-CASTELLI: Thank you.

3 Any other questions?

4 GRAND JUROR: I have one question. Was his gun  
5 loaded?

6 MR. HUFFMAN: It had bullets in it, yes. It had  
7 casings in it, yes.

8 GRAND JUROR: Okay.

9 MS. KYLE-CASTELLI: Any other questions?

10 (No response.)

11 MS. KYLE-CASTELLI: Thank you.

12 MR. HUFFMAN: I have one question. Did I lay it  
13 out clear enough kind of how they all intertwined before I  
14 get out of here?

15 GRAND JUROR: Yes. Very well.

16 GRAND JUROR: Good work.

17 MR. HUFFMAN: Thank you. No, thank you.

18 MS. KYLE-CASTELLI: Off the record, please.

19 (Off the record at 11:34 a.m.)

20 (On the record at 11:39 a.m.)

21 MS. KYLE-CASTELLI: And we are back on the record  
22 after a short break in the death investigation under DA Case  
23 Number 2463342, Grand Jury B, Case Number 74. And we're  
24 going to proceed with our next witness, which is Officer  
25 Seth Wingfield.

1 Swear him in, please?

2 SETH WINGFIELD

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

5 DIRECT EXAMINATION

6 BY MS. KYLE-CASTELLI:

7 Q Okay. You can have a seat.

8 A Thank you.

9 Q Can you please state and spell your name for the  
10 record?

11 A Yes. Seth, S-e-t-h, Wingfield, W-i-n-g-f-i-e-l-d.

12 Q And Officer Wingfield, how old are you?

13 A I am 29.

14 Q Can you please kind of explain your educational  
15 background?

16 A Yes. I am a high school graduate, and that's  
17 where the formal education stops. From there, I went on to  
18 volunteer with the Portland Police Bureau.

19 Q Okay. And when did you ultimately decide that you  
20 wanted to become a police officer?

21 A It's -- ever since I can remember since I was  
22 little, it was something that I was enamored with and  
23 decided to pursue throughout my life.

24 Q Okay. Were there years in between when you  
25 were -- graduated high school until you became a Portland

1 Police Bureau officer?

2 A Yes.

3 Q And what did you do in those intervening years?

4 A I worked from high school, or during high school  
5 until about 18 just in a metal fabrication shop in town.  
6 And then knowing that I wanted to go into law enforcement,  
7 one of the challenges being faced and still is today is  
8 people -- dealing with people in crisis, mental health  
9 crisis. So I worked -- took a job as a security member at  
10 a local hospital that dealt a lot with psychiatric patients  
11 to get the experience of dealing with people in crisis, with  
12 the hopes of taking that experience with me when I got here  
13 as a police officer.

14 Q And did you ultimately decide to apply to become a  
15 police officer with the Portland Police Bureau?

16 A I did, yes.

17 Q Did you successfully complete the standard DPSST  
18 Academy for a new officer based in Salem?

19 A I did, yes.

20 Q And did you successfully complete the advanced  
21 academy through the Portland Police Bureau?

22 A Yes.

23 Q Can you briefly take us through what some of the  
24 areas of training you received during the basic and the  
25 advanced academy?



1           A     Yes.  So basically the -- the basic academy is  
2 everything you'd expect to learn to be effective as a law  
3 enforcement officer, so basic law, best practices throughout  
4 the nation, which includes dealing with people in crisis,  
5 responding, like, anything from -- police call that you  
6 could imagine, DUI stuff, firearms, defensive tactics,  
7 driving, everything you'd expect a police officer to know on  
8 a basic level to go out and be able to do your job.

9                     Once you finish that and graduate the basic  
10 academy, Portland has a really good program that we call the  
11 advanced academy.  And we take a look -- it's almost as long  
12 as the basic academy is, and we come back and study the  
13 specific issues faced by Portland.

14                    So that's much more training focused on the  
15 challenges our city faces, so mental health, homelessness,  
16 all these issues that we face as a city and what resources  
17 we can provide the community and additional training as far  
18 as we're better trained than I can confidently say most of  
19 the state, with our skills as far as driving, firearms,  
20 defensive tactics, and then our people skills.  We put a lot  
21 of emphasis on scenario-based training to help us get a good  
22 feel for what it's going to be like on the street.

23           Q     And do some of those skills often (indiscernible)  
24 deescalation techniques?

25           A     Yes, a huge emphasis on that.  It's incorporated

1 heavily into our policies as well as our training  
2 scenarios.

3 Q Do you also receive firearms instruction?

4 A Yes.

5 Q And so throughout the training, is there kind of a  
6 spread of mental health that is kind of in the basic and the  
7 advanced training?

8 A Yes.

9 Q Did you successfully complete all of the training  
10 required of an active sworn member of the Portland Police  
11 Bureau?

12 A I did, yes.

13 Q And did that also include a probationary period?

14 A It did, yes.

15 Q And what is the probationary period?

16 A The probationary period is a year and a half in  
17 length. So from that, that starts from the day you get  
18 sworn in till the year and a half. And a big portion of  
19 that is the academies, and then once you're done with the  
20 academies and training, you start field training.

21 And there's five different phases. And what they  
22 are isn't super important, but basically, you go from you're  
23 with a coach being taught the very basics of police work, to  
24 the last phase, phase five, where you're on your own  
25 learning -- kind of being remotely supervised by your coach,

1 just learning the job at that point, and proving that you  
2 can be a Portland police officer.

3 Q And throughout all of your time, after you  
4 finished all that training, right, and you've gone through  
5 your probationary period and you're a sworn police officer,  
6 do you continue to undergo ongoing training as just a  
7 Portland police officer?

8 A Yes, yeah. Portland puts on, as mandated by the  
9 state, yearly in-service training, and we generally tend to  
10 do more training than the state requires.

11 Q After you completed the probationary period, what  
12 was your first assignment?

13 A I was assigned to North Precinct, working  
14 nightshift.

15 Q Okay. And how long did you hold that particular  
16 position?

17 A Roughly five years, and to be specific, I was a  
18 patrol officer then. So --

19 Q Okay. And after that five-year period, what was  
20 your next assignment?

21 A Still patrol. I just rotated to our afternoon  
22 shift, and I'm still assigned to that.

23 Q You're still assigned to that? Okay. How long  
24 have you been a police officer?

25 A A little bit over seven and a half years.

1           Q     Does Portland Police Bureau in addition to your  
2 assigned position as a North Portland patrol officer, do  
3 they have what's called a detached position?

4           A     Yes.

5           Q     And are you affiliated with any detached positions  
6 or have you been for the last seven and a half years?

7           A     Yes, two.

8           Q     Two?

9           A     Well, three, I guess, technically. So --

10          Q     Okay. Can you please walk us through what a  
11 detached position is and what roles you have placed as a  
12 detached position?

13          A     Yeah. So a detached position is you've gone  
14 through training -- like, my specific detached positions are  
15 I'm a firearms instructor and then a member of the SERT  
16 team, or Special Emergency Reaction Team, which is I'm sure  
17 you've heard that it's our -- the equivalent to a SWAT team.

18                     Detached, all that means is it's not your full-  
19 time job. So my full-time job is what you normally see a  
20 police officer do, driving a marked patrol car in uniform,  
21 taking calls for service. The detached portion comes in for  
22 the firearms stuff, I will go and help run our yearly or our  
23 quarterly qualification period for the precinct. And I will  
24 also be occasionally asked to go to the training division  
25 and assist with instructing our new shooters or help teach

1 training topics at the training division related to  
2 firearms.

3 And with SERT, that is an on-call 24/7 position.  
4 So it's not a full-time job, but we're frequently called out  
5 to do a variety of different tasks for the police bureau.  
6 That's taking people into custody with kind of very detail  
7 planned search warrants, callouts where something that gets  
8 over the capability of patrol to deal with. They'll call  
9 the SERT team to come and assist them in dealing with them.

10 Q And how long have you been a member of the SERT  
11 team?

12 A Almost three years, I think, yeah, almost three.

13 Q And in order to become a member of the SERT team,  
14 did you have to undergo additional training on top of what  
15 we've already discussed?

16 A Just the testing process, and then once you are  
17 accepted to the team, it's a lot from there.

18 Q Okay. So describe -- give us in broad brush  
19 strokes as to what type of training after you become a  
20 member of the SERT team that you had to complete in order to  
21 be a member of the SERT team?

22 A Yeah. So there are two main schools put on by the  
23 state, essentially. And it's called -- the first one is  
24 basic SWAT, and that's a weeklong program where you go and  
25 learn the very basics of kind of higher-level tactical

1 thinking and basic techniques. The next school after  
2 that is the basic sniper program. So it's the same concept.  
3 It's just learning precision weapons systems and kind of  
4 educating you on what you and your weapons system can be  
5 capable of.

6 And from there, we're very fortunate in Portland.  
7 We train every Thursday, and it's a variety of topics that  
8 we can choose from to -- things that we're going to  
9 encounter in real life. So we're a very -- we put a lot of  
10 emphasis in our training and train a lot.

11 Q And so on those Thursdays, are they -- do you run  
12 kind of, like, different scenarios like a hostage scenario  
13 or a barricaded individual scenario?

14 A Yes.

15 Q Does SERT also talk about and have training about  
16 deescalation techniques?

17 A We do, yes. A huge emphasis is put into that  
18 because it's safer for everyone. The situations we get  
19 inserted to are naturally very dangerous. A lot of them  
20 involved armed people. So we try everything we can to  
21 assist our negotiators to have a positive outcome.  
22 Ultimately, in every situation we go to, the goal is a  
23 peaceful resolution. That's the surrender of the person  
24 we're trying to assist, take into custody.

25 Q Is your appearance here before the grand jury

1 compelled in any way whether it's the District Attorney's  
2 Office or any other agency?

3 A No.

4 Q Are you under subpoena today to testify before the  
5 grand jury?

6 A No.

7 Q Are you appearing voluntarily because you would  
8 like to come and speak to the grand jury?

9 A Yes.

10 Q Following the incident that occurred on July 22nd  
11 of 2023, were you placed under a communications restriction  
12 order?

13 A Yes, I was.

14 Q And is that still in effect?

15 A It is.

16 Q So I would like to kind of turn to the incident on  
17 July 22nd of 2023. Were you activated as a member of the  
18 Portland Police Bureau's SERT team that day?

19 A I was.

20 Q Was there anything out of the ordinary going on in  
21 your personal life on July 22nd of this year?

22 A No.

23 Q And on that day, were you at any point under the  
24 influence of any substances that would materially have  
25 affected your job functions or decisionmaking ability?

1 A No, I was not.

2 Q Were you originally paged to respond to the Good  
3 Samaritan Hospital shooting?

4 A Yes.

5 Q And at some point, did you also transition from  
6 Good Samaritan to the Fred Meyers location?

7 A Yes, I did.

8 Q Okay. And eventually, were you asked to respond  
9 to Northeast 181st Avenue and Northeast Everett Street?

10 A Yes.

11 Q Okay. Was that in your capacity as a member of  
12 SERT or as a North patrol officer?

13 A As a capacity of SERT.

14 Q Okay. On that day, what firearms -- by the time  
15 you got to Gresham, and we're just going to focus now on  
16 Gresham and what happened at 181st and Everett. On that  
17 day, what firearms did you have readily accessible to you?

18 A I had my Colt AR-15 that was provided to me by the  
19 police bureau and then my Glock 17 pistol, also from the  
20 bureau.

21 Q Okay. Did you also have a taser with you, as  
22 well?

23 A I did, yes. Thank you.

24 Q So I would like to focus kind of on the rifle at  
25 this point. How many rounds would you typically have in



1 that firearm just on a typical day?

2 A Twenty-eight?

3 Q Twenty-eight?

4 A Yes.

5 Q Okay. And do you often carry magazines for that  
6 rifle, as well?

7 A I do, yes, two extra.

8 Q And how many rounds would be loaded in each one of  
9 those magazines, typically?

10 A Twenty-eight, as well.

11 Q Okay. So once you were at Northeast 181st and  
12 Everett, were you assigned a particular position within  
13 SERT?

14 A I was, yes.

15 Q And what position was that?

16 A I was in -- or asked to get into the turret of an  
17 armored vehicle.

18 Q Okay. And is there a difference in SERT between  
19 lethal and less lethal options?

20 A Yes, there is.

21 Q Okay. Your assigned position on July 22nd, would  
22 that fall into the category of a lethal position or a less  
23 lethal position?

24 A That would be lethal.

25 Q Okay. I am going to put up a picture behind you,

1 Officer Wingfield. Can you stand up and tell -- explain  
2 to the grand jury where you were on this day?

3 A Yes. So this armored vehicle right here, which  
4 would be on the south end, this is the armored vehicle that  
5 I was in. And you can see this armored -- what we call the  
6 turret, for lack of a better term. It's -- it in encases  
7 you in metal that is about a foot and a half high that kind  
8 of surrounds you. So I was here, looking down on the van  
9 there.

10 And the reason I wanted that is, obviously, we're  
11 dealing with an armed person, someone I believe to be armed,  
12 has already shot somebody. I do not want to be -- like,  
13 this older piece of armor right here does not have that  
14 armored casing all the way around it. So I wanted the most  
15 protection for myself as possible, which is why this vehicle  
16 is in the position that it is.

17 Q So in that position right there, did you have a  
18 good vantage point of the individual that was in the  
19 vehicle?

20 A Yes. Probably the best vantage point out of  
21 anybody at the scene at the time.

22 Q Okay. Let's talk about that turret for a minute.  
23 Can you explain how that turret is designed to protect you?

24 A Yes. Like I said, the difference, obviously, is  
25 that big wall of metal. And being -- the turret system is

1 so heavy because it's surrounded by ballistic protection.  
2 It's got windows that you can see through that are  
3 bulletproof inside it. And the cutout where you would  
4 normally use binoculars or put your rifle through is about a  
5 foot and a half wide, which if you were trying to deal with  
6 a house, that's perfect to be able to -- it gives you a lot  
7 of view.

8           The problem with that being so close to an armed  
9 individual is that's a lot of space for a bullet to come at  
10 me. And even if it misses me, I'm encased in bulletproof  
11 material, which is designed to deflect bullets. So that --  
12 if that round passes me and hits the turret behind me, it  
13 has the potential I'm going to get hit just based on the  
14 fragmentation and the ricochet of the bullet.

15           But if you picture the sunroof in a normal car,  
16 the part that would normally slide, there is a big metal  
17 hatch like a trapdoor that opens and stands vertically  
18 behind you, typically. And that trapped door has, like, an  
19 eight-by-ten window port in it that you can push a spring,  
20 and that window port falls out, and you can still look  
21 through it and put a rifle through if you needed to.

22           So I turned the turret the other way. So I'm  
23 looking through that eight-by-ten section, or six-by-ten  
24 section, whatever it is. So that's all I have exposed,  
25 which is my head and my rifle just to maximize the

1 protection to myself, knowing that I'm so close to  
2 somebody that I believe to be armed.

3 Q And so in order to see the individual that's in  
4 the passenger's side of the van, am I understanding you  
5 correctly that there was a portion of you that was still  
6 exposed?

7 A Yeah, yeah, it'd be my head and then part of my  
8 upper body --

9 Q Okay. And to ask the silly question, is there any  
10 type of bulletproof protection for your face?

11 A No.

12 Q And for your head?

13 A Just a helmet that, obviously, from the forehead  
14 below is exposed.

15 Q Okay. And so in order to have that view of the  
16 passenger in the vehicle, you had to be partially exposed?

17 A Correct, yeah, to be able to effectively maintain  
18 my job, which was the lethal cover at the time, I have to be  
19 exposed to do that.

20 Q Okay. During this incident, were there other  
21 officers that were assigned to less lethal positions?

22 A Yes.

23 Q Okay. And had you been distributed a photograph  
24 of the shooter from Good Samaritan Hospital by the time you  
25 were in position in the G-3?

1 A Yes, I had.

2 Q And were you able to see the suspect in the  
3 passenger's seat of that vehicle?

4 A I was, yes.

5 Q Were you able to compare that individual to the  
6 photographs that you had seen from Good Samaritan Hospital?

7 A Yes, and it looked like the same person.

8 Q Okay. What would have been the most successful  
9 scenario outcome of this scenario?

10 A If the suspect just gave up, came out and  
11 surrendered, and we took him into custody peacefully.

12 Q Okay. And throughout the day, were you learning  
13 information about what was happening?

14 A Yes.

15 Q And how were you receiving that information?

16 A Through the radio that's in my earpiece.

17 Q Okay. So when you were up in the turret, you  
18 still had a radio earpiece?

19 A Yes, yeah.

20 Q And so you were still learning information from  
21 the chain of command and from -- or from whoever was talking  
22 on the radio, correct?

23 A Correct, yeah.

24 Q How far away do you think that you were from the  
25 passenger in the van?

1           A     It's probably five yards maybe, possibly six or  
2 seven. It's very close. Literally from this turret here to  
3 the van, so very close.

4           Q     So with that type of vantage point and having  
5 confirmed that it appeared to be the same person from the  
6 Good Samaritan shooting, were you did you believe that you  
7 had probable cause to arrest the individual that was sitting  
8 in the passenger's side of the van?

9           A     Yes.

10          Q     Okay. And did you have probable cause to believe  
11 that he committed a violent felony?

12          A     Yes, I did.

13          Q     Okay. So you can have a seat if you'd like to,  
14 Officer Wingfield. From your vantage point at the turret,  
15 if you could describe the movement before the passenger got  
16 out of the van? Can you kind of describe the movement that  
17 you were seeing while you were in that turret?

18          A     Yes. He was very animated throughout the course  
19 of my time there. He -- I could never make out what he was  
20 saying, but I could tell several times throughout this he's  
21 on the phone. He would kind of raise his voice, yell, and  
22 then kind of come back down. He's constantly looking around  
23 kind of everywhere, and occasionally, he would, kind of  
24 consistent with the yelling, start to amp himself up.

25                   And what I saw was he would take several rapid,

1 deep breaths like he's pumping himself up. And my  
2 thought of that was it's looking like he's getting the  
3 courage to go and do what he's already stated that he wants  
4 to do. And I'm sure we'll get to that.

5 But the whole time I was watching this guy, I did  
6 not feel comfortable taking my eyes off of him because it  
7 felt that the way he's acting, trying to get the courage  
8 to -- I felt that he was trying to get the courage to do  
9 what he wanted to do. I didn't feel comfortable taking my  
10 eyes off him even for a second during the course of this.

11 Q When you say what he wanted to do, what did you  
12 think that he wanted to do?

13 A So he had made statements early on in my arrival  
14 to the scene. He had called in to 9-1-1. And the  
15 dispatcher is providing this information to us. And the  
16 first thing that they tell us is he is reading his will to  
17 the dispatcher. They followed that up with he's saying that  
18 he wants to die in a shootout with police and that we're not  
19 going to take him into custody. And then the last statement  
20 I remember they provided us was he's got -- he's saying that  
21 he has a gun in his right hand with his finger on the  
22 trigger.

23 So those statements coupled with what I'm seeing,  
24 that he's trying to get the courage to -- I feel like he's  
25 trying to get the courage to act on that. And he's being

1 pretty careful about keeping his right hand concealed  
2 underneath his leg throughout the course up until the very  
3 end, but clearly trying to get the courage to do something.

4 Q Okay. Did you believe that he as armed even when  
5 you couldn't see the gun?

6 A I did, yeah.

7 Q Okay. And why did you think that he was armed?

8 A Well, he's already shot and killed somebody, and  
9 the information he had was that he left the hospital while  
10 still being armed. And then his statement of, "I have a gun  
11 in my right hand with my finger on the trigger." I truly  
12 believed him.

13 I've been in this situation before, where I've  
14 heard that same statement and didn't believe it, thought it  
15 was a tactic. But something about the gravity of this  
16 situation, I totally believed him. And the way he was  
17 keeping his right hand concealed from me, to the point where  
18 we made contact and I was right above him with the armored  
19 vehicles, he covered himself up with, like, a reflective  
20 blanket to further conceal that hand. So I truly believed  
21 that he was armed.

22 Q At any point in time while you were standing in  
23 the turret and he was in the van, did he make any motions to  
24 you or you specifically, did he do anything that you thought  
25 was directed at you?



1           A     Yeah.  He -- like, we made eye contact,  
2 obviously, several times throughout the course of the hour,  
3 or whatever it was, that we were there because we're so  
4 close.  At one point, he looks up at me, points at me.  And  
5 I can't hear him.  But I can -- we're so close I can read  
6 his lips.  And he says, "Get ready," and then points to his  
7 forehead and says, "Headshot."  And I was going to put that  
8 out on the radio, but as it happened, somebody -- he must  
9 have been on the phone with somebody.  So somebody on the  
10 radio said, "Hey, he's talking about a headshot."  And I  
11 tried to clear up the context like, "Yeah, he's pointing at  
12 me asking or telling, like, a headshot."

13           Q     Did you believe that he was indicating that he was  
14 going to conduct a headshot on you?

15           A     It could have been.  I have no idea.  Yeah, I  
16 don't know.

17           Q     Can you please explain while he was still in the  
18 van how you were kind of assessing whether he posed an  
19 immediate threat in terms of motive, intent, and  
20 opportunity?

21           A     Yes.  So the motive is obviously he stated what he  
22 wants to do.  He wants to die in a shootout with police.  
23 Not really mistaking that, it's obviously very clear he's  
24 made that -- he's already murdered somebody.  He's capable  
25 of doing that if he so chooses.  So his, basically, his

1 intent has been stated by him. The opportunity, there's  
2 police officers everywhere, just do to the nature of the  
3 scene, and people everywhere. I remember looking out -- you  
4 can kind of see, like, this -- the shopping center there.  
5 There's residential behind us and then businesses on the  
6 east side of 181st Avenue, with people, essentially,  
7 unrestricted access.

8 The police officers on the scene are trying their  
9 best to control the situation, the intersections and prevent  
10 traffic, but there are people filming us. The police car up  
11 here, I watched somebody run up and yell at that deputy  
12 there. So the opportunity is all over. If he decides to  
13 point his weapon and fire, there's a decent chance that  
14 somebody is going to get hit.

15 And then the -- the means, he's -- like I said,  
16 he's already used the gun. I haven't seen it yet, but I  
17 truly believe that he has it. So he is a dangerous  
18 individual. It's just we're on his timeframe and what he --  
19 at his mercy of what he wants to do. Hopefully, that's  
20 negotiate a surrender, but obviously, we're at his mercy.

21 Q Did you ever see him giving any targeted glances?

22 A Yes, yeah.

23 Q And what does that mean?

24 A It's kind of a shift. It's natural for someone,  
25 obviously, to look around at all of the police cars, armor.

1 We bring a lot of people to these events. What's not  
2 natural and you kind of switch from now I'm looking for  
3 specific people, like, where are the police officers at  
4 around me. And I remember him intently looking out the  
5 passenger's side, looking for police there. He's looking in  
6 his mirrors. And he's kind of, like, very meticulously  
7 looking 360 degrees, trying to keep track of where people  
8 are at.

9 And that's obviously troubling because it's not --  
10 like, you wouldn't expect that from someone who -- who was  
11 going to be peacefully surrendering. That's something that  
12 you're building your plan further and kind of checking boxes  
13 as to what you -- where people are at. So --

14 Q So as you're sitting in the turret, you're a short  
15 distance away from the passenger, were you considering the  
16 scenarios that you would use deadly force in?

17 A Yes.

18 Q And can you explain what the scenarios were that  
19 you were sitting there actually contemplating?

20 A Yeah. I've kind of alluded to it a little bit,  
21 but I realized with all the people and police officers that  
22 are around this incident, if I could articulate -- or I --  
23 if the suspect pointed his gun out the window and I could  
24 articulate that it was in the direction that anyone could be  
25 in danger if that gun was to go off, I would use deadly

1 force to prevent that because I can't --

2 Even if he was just to point the gun out the  
3 window, I can't wait for that gun to go off because there's  
4 like -- so there's residential homes, there's shopping  
5 center, there's all of us there, all the people that are out  
6 trying to go about their day on a Saturday at, you know,  
7 1:00 in the afternoon. So I'd prevent that if he decided to  
8 point the gun out the window.

9 The second scenario I could picture was the  
10 suspect pointing a gun at our armored vehicles. And I would  
11 use deadly force to prevent that, as well, because even  
12 though there are armored vehicles, like I said, that bullet  
13 is going to go somewhere after it hits the armored vehicle,  
14 and there -- as you can see here, there are police officers  
15 kind of all over our custody teams around the armored  
16 vehicles, and then the potential for that round to go  
17 somewhere after it hit the armor.

18 And then the third option was I would use deadly  
19 force to prevent the suspect from getting out of the car  
20 while remaining armed with the revolver. The reason for  
21 that is he's already made statements that he wants to shoot  
22 it out with us.

23 There's no reason for a reasonable person to get  
24 out of the car knowing that we're the police, being  
25 surrounding by the police, having every opportunity to

1 surrender, to get out of the car while retaining that  
2 revolver. The only reasonable -- reason why you would do  
3 that is to carry out that threat to find a police officer to  
4 shoot or someone to shoot at to initiate that deadly force  
5 encounter.

6 Q Okay. In dynamic scenarios like this involving  
7 kind of a barricaded suspect where the used of deadly force  
8 may become necessary, do you ever kind of broadcast your  
9 intent as a legal cover for other officers?

10 A Yes.

11 Q And did you do so in this particular case?

12 A I did, yes.

13 Q Did you receive a response?

14 A I did.

15 Q And what was that response?

16 A It was just "copy."

17 Q Okay. At that point in time, if you had mentioned  
18 that intent and command staff had had additional information  
19 that they would like you to consider, would they have  
20 interjected at that point in time?

21 A Yes, yes, they would have.

22 Q Okay. And they did not?

23 A No.

24 Q So did Mr. Calles start -- or the passenger, did  
25 he start moving once the robot came up to the passenger's

1 side of the vehicle?

2 A Yes.

3 Q Okay. Can you take us through and explain to us  
4 what happened once that robot came up and there was  
5 significant movement inside of the van?

6 A Yeah. Like I had mentioned earlier, he'd been  
7 very careful, or the suspect had been very careful about  
8 concealing his right hand and his right side with kind of a  
9 reflective blanket. And at the moment he decided that he  
10 was coming out of the car, it was an incredibly fast motion.

11 But the van is set up in a way that if it was an  
12 old ambulance van, it kind of makes sense, but there's a  
13 void space where your center console would normally be. So  
14 there's nothing there. You can walk back and forth from the  
15 back of the van to the front cabin without stepping over  
16 anything.

17 So he wheels his body to face directly to the  
18 driver's side of the door, putting both knees in that kind  
19 of void space. And he puts his left hand on the driver's  
20 seat. And as he does that, he bring his right hand up above  
21 his thigh. And I can clearly see a revolver in his right  
22 hand.

23 He -- I could tell, like, he's coming out of the  
24 car, or (indiscernible) moving so fast. He gets one knee up  
25 on the driver's seat. And as soon as that knee hits the

1 seat, his right hand comes up and brings the gun to his  
2 eye and points it directly out the window, which is  
3 important because as you can see here, this armored vehicle  
4 is directly off the driver's side of the van.

5 My view is limited to the van's cabin,  
6 essentially, because of the position that I've placed myself  
7 in. But we as -- unless there's a specific circumstance  
8 where we have somebody on the site that's designated to be  
9 the lethal cover for this custody team, we would normally  
10 have an operator stand right here to be that lethal cover  
11 for that custody team. So I'm concerned that that person is  
12 being targeted.

13 I realize that gun is now pointed. He's pointing  
14 to, like, in a shooting position, essentially. And I  
15 realize that I'm kind of out of options at this point. I  
16 don't have a choice. I have to use deadly force since he's  
17 now chosen to become a threat of death or serious physical  
18 injury to anyone outside on 181st. I make that decision. I  
19 see him get the driver door, start to push it open, and he's  
20 coming out of the van when I fire one round.

21 And it's -- I can't -- normally we have ear  
22 protection with our helmets. But to be in the strange  
23 position that I was in with my rifle, I couldn't have it on  
24 just because I couldn't get a good grip on my rifle. And  
25 it's just deafening bang because I'm surrounded by metal.

1           But almost simultaneously with that bang, I hear him  
2 kind of cry out in pain, and I see him fall to the ground  
3 and kind of out of my view of this eight-by-ten port that  
4 I'm looking through. And I'm tall enough to be able to  
5 stand on the tips of my toes and look over this wall of  
6 metal. And I could see him land on his stomach. And he  
7 propped himself up on his forearms and elbows, I think.

8           And my first -- and as he's propped himself up, I  
9 see the revolver tumbling away from him, like, two or three  
10 feet, it looked like. And my first reaction was, like,  
11 okay, he's still alive. That's good. The revolver is no  
12 longer in his hand. That's even better. We can get him  
13 into custody, get him medical aid, and get him to the  
14 hospital, and he'll probably survive this.

15           And about the time I'm thinking about that, I see  
16 him look at the gun again, and I realize that he's probably  
17 going to go for it a second time. And I'm not in a position  
18 anymore where I can stop that from happening because of this  
19 wall of metal. I can just barely see over the top of it,  
20 but I can't get my rifle in a position to address that.

21           This turret is very heavy, so there's a crank  
22 level that you turn that's now behind me that you have to  
23 wheel in a circle, and it spins the turret slowly, and 180  
24 degrees to be able to use that larger viewport so that I'm  
25 now tall enough to use my rifle if I have to again. And so



1 I start spinning that -- that wheel, and sure enough, he  
2 moves towards the gun, picks it up, and then again points  
3 it.

4 And I'm kind of helplessly watching this -- this  
5 terrible feeling because I'm just waiting for the gun to go  
6 off. It felt kind of slow-motion-ish. And I'm not able to  
7 do anything about it. And shortly after he gets it pointed  
8 in the direction of where I thought people were, I heard  
9 gunshots, and he falls to the ground kind of on his right  
10 side.

11 Q So were you capable because of the position of the  
12 turret after he exited the vehicle, were you capable of  
13 firing your gun a second time?

14 A No, not physically capable, no.

15 Q Okay. So how many total times did you fire the  
16 rifle?

17 A Just one time.

18 Q So even though you were in a position of lethal,  
19 even though you saw him picking the gun back up a second  
20 time, you were unable to provide the lethal cover that you  
21 were kind of assigned to do at that point in time?

22 A Correct, yes.

23 Q What did you do with your rifle after firing the  
24 shot?

25 A After the scene had been -- was safe, I just left

1 the rifle in the turret as part of the investigative  
2 process.

3 Q Okay. And through officer-involved shooting  
4 protocols, did you notify someone that you had fired your  
5 weapon?

6 A Yes.

7 Q Okay. At the scene, when you were so close to  
8 him, and did you -- were you ever scared?

9 A Yeah, yeah, absolutely. Being, like I said, five  
10 yards from a person you truly believe is armed and has  
11 already murdered someone, that's not a great feeling. And  
12 just a little glimpse into kind of the mentality of some of  
13 the thoughts I had while I was there, there's the principle  
14 of action versus reaction.

15 So if somebody was to act, it takes your mind a  
16 little while to process and then react if you needed to. I  
17 realized pretty early on that if he decided to carry out his  
18 threat because I'm the first -- or shoot at me because I'm  
19 the first available person that he sees, there's nothing I  
20 can do to stop that before -- when I realized that it's a  
21 gun getting pointed at me and the round goes off, it's kind  
22 of too late at that point.

23 And the shooting through auto glass, your bullet,  
24 if you can kind of imagine, like, throwing a snowball  
25 through a chain link fence or a chicken wire fence, or

1 something, the bullet tends to break up a little bit, and  
2 it creates a cone effect that goes -- sprays out. So you're  
3 pretty likely at that distance to get hit with something.  
4 It's just a matter of what that something is going to be.  
5 So I just braced myself. I'm like if he shoots me, I'm  
6 probably going to get hit, but I'm still -- I'm going to try  
7 to do my job at that point.

8 So it was a very interesting realization that, you  
9 know, I'm right on top of this guy who's armed and already  
10 shot at least one person.

11 Q Okay. As he exited the vehicle, did you believe  
12 that the PoniaX Calles posed an imminent threat to yourself  
13 or another person?

14 A I did, yes.

15 Q And is that what ultimately led you to use deadly  
16 force?

17 A It was, yes.

18 Q And by imminent threat, you mean that -- did you  
19 think that he imminently going to use some type of force  
20 that could have at least cause serious physical injury if  
21 not death?

22 A Yes, absolutely.

23 MS. KYLE-CASTELLI: Okay. Does anybody have any  
24 questions?

25 THE FOREPERSON: Why were you assigned to the

1 turret position in that vehicle?

2 MR. WINGFIELD: That position gives us the best  
3 view of what's going on in the van. The -- like, you could  
4 see with the other custody teams, they would have a, like,  
5 lethal cover person somewhere with the custody team. Being  
6 most of the team was on the north end of this, we really  
7 didn't want anybody on the south outside of the armored  
8 vehicle because we're essentially in their way at that  
9 point.

10 Being in the turret is really the only place that  
11 you can safely put somebody where I'm not going to create a  
12 risk of, you know, if the suspect comes out and does  
13 something and forces the team on the north end to have to  
14 act with either less lethal, K-9, something like that, I'm  
15 not going to be in their way to -- for them to effect that.

16 And there needs to be somebody here because all  
17 these doors on the armor are unlocked, as well, so if he was  
18 to run out, there's not really -- yeah, the custody would  
19 respond to it, but I'm just in a position to provide  
20 information and then have a good view of him, essentially.

21 THE FOREPERSON: I'm sorry. I meant more why you  
22 and not someone else in that position? Were you just  
23 randomly chosen or --

24 MR. WINGFIELD: I get your question. So I'm a  
25 part of the inner perimeter of our team. Has that been --

1 MS. KYLE-CASTELLI: We've discussed what inner  
2 perimeter means.

3 MR. WINGFIELD: So that's -- we just -- the only  
4 difference between us, essentially, and those guys is we  
5 have telescopic sites on our rifles, so it gives us an extra  
6 tool to use kind of in that position.

7 THE FOREPERSON: Thank you.

8 MS. KYLE-CASTELLI: Any other questions?

9 MR. MICKLEY: The communication order, did you  
10 comply with that order?

11 MR. WINGFIELD: Yes.

12 MR. MICKLEY: You talked about having a taser on  
13 you. Were you able to or would you have been able to deploy  
14 your taser at any point in time during the interaction that  
15 you had with the person inside the van?

16 MR. WINGFIELD: No.

17 MR. MICKLEY: Why not?

18 MR. WINGFIELD: The distance would have been right  
19 on the edge of the taser probes, and it never crossed my  
20 mind because he is -- what I believe is he is responding --  
21 representing a deadly force threat. He's using a firearm.  
22 So my training would be against using a less lethal option  
23 against what I believed to be a firearm being used against  
24 police.

25 MR. MICKLEY: Those are the only questions I had.

1 BY MS. KYLE-CASTELLI:

2 Q And because we have not really discussed tasers  
3 often, this is not a scenario where you could have used a  
4 taser from the turret to the passenger's side because -- we  
5 have discussed how tasers worked.

6 A Yeah.

7 Q So would that have been an option, with him  
8 sitting in the passenger's seat and you in the turret to be  
9 able to deploy a turret?

10 A No. Yeah, and even when he got out of the van,  
11 the door would have -- sorry -- the door would have blocked  
12 the second probe that would have been required to -- for  
13 incapacitation, essentially.

14 Q So a taser has to have direct contact with the  
15 skin of an individual?

16 A With both probes, yes. If it's just one probe,  
17 it's ineffective. So both probes have to make positive  
18 contact with skin to be -- to deliver the electric effect.

19 Q Okay. And while you were standing in the turret  
20 and he was in the passenger's side, there was a windshield  
21 in between the two of you?

22 A Yes, yeah.

23 MS. KYLE-CASTELLI: Any other questions?

24 (No response.)

25 MS. KYLE-CASTELLI: Okay. Thank you. We can

1 call, then go off the record.

2 (Off the record at 12:20 p.m.)

3 (On the record at 1:45 p.m.)

4 MS. KYLE-CASTELLI: Okay. We are back on the  
5 record after a break in DA Case Number 2463342, Grand Jury  
6 B, Case Number 74. Kristen Kyle-Castelli again for the  
7 state.

8 You can go ahead and swear him in.

9 JUSTIN THURMAN

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

12 DIRECT EXAMINATION

13 BY MS. KYLE-CASTELLI:

14 Q Can you please state and spell your name for the  
15 record?

16 A My name is Justin Alan Thurman, J-u-s-t-i-n,  
17 T-h-u-r-m-a-n.

18 Q And how old are you?

19 A I am 45.

20 Q What is your educational background?

21 A I have a bachelor of science at Lambuth University  
22 in Tennessee in sociology.

23 Q Okay. And when did you decide to become a police  
24 officer?

25 A Shortly before I got hired in 2007. I started

1 going through the testing, the background stuff about six  
2 months prior.

3 Q Did you ultimately become a police officer with  
4 the Portland Police Bureau?

5 A Yes, I did.

6 Q And how many years have you been a sworn police  
7 officer?

8 A Over 16.

9 Q Did you attend the standard DPSST academy for new  
10 officers that is conducted in Salem?

11 A Yes.

12 Q And then did you successfully complete the  
13 advanced academy through the Portland Police Bureau?

14 A Yes.

15 Q Did you successfully also then complete the  
16 probationary period, as well?

17 A Yes, I did.

18 Q And then were you a sworn, active law enforcement  
19 officer with the Portland Police Bureau?

20 A Yes.

21 Q After you completed and you were sworn in, what  
22 was your initial assignment?

23 A I was initially assigned -- after my probationary  
24 period, I was assigned to East Precinct?

25 Q Okay. In what role?



1 A As just a patrol officer.

2 Q Okay. And when did you become a member of SERT?

3 A September of 2012.

4 Q Did you complete the SERT training requirements,  
5 as well?

6 A Yes, that's correct.

7 Q Okay. And as a Portland Police Bureau officer and  
8 a SERT member, have you had continuing ongoing training over  
9 the course of the 16 years?

10 A Yes. For patrol, we maintain a yearly in-service  
11 training with SERT. We train extensively once a week.

12 Q Okay. Pretty much every Thursday?

13 A That's correct.

14 Q Okay. Is your position currently with SERT, is  
15 that a detached position?

16 A Yes, it is.

17 Q So what is your full-time role with Portland  
18 Police Bureau?

19 A I work patrol at East Precinct.

20 Q Okay. Is your appearance here before the grand  
21 jury compelled in any way by the District Attorney's Office  
22 or by any other agency?

23 A No.

24 Q Are you under subpoena today to testify before the  
25 grand jury?

1 A No.

2 Q Are you appearing voluntarily because you would  
3 like to come and speak to the grand jury?

4 A Yes.

5 Q Following the incident that occurred on July 22nd  
6 of 2023, were you placed under a communications restriction  
7 order?

8 A Yes, I was.

9 Q And is that order still in effect?

10 A Yes, it is.

11 Q Have you complied with that order?

12 A Yes.

13 Q Turning to July 22nd of 2023, were you activated  
14 as a member of SERT that day?

15 A Yes, I was.

16 Q Was there anything out of the ordinary going on in  
17 your personal life on that day?

18 A No.

19 Q And were you at any point during that day under  
20 the influence of any substance that would material affect  
21 your job functions or your decisionmaking ability?

22 A No.

23 Q So on July 22nd of this year, were you originally  
24 paged to respond to the Good Samaritan Hospital shooting?

25 A Yes, I was.

1 Q Were you then transitioned to respond to the  
2 Fred Meyers?

3 A Yes, I was.

4 Q And ultimately, did you respond to Northeast 181st  
5 Avenue and Northeast Everett Street in Gresham?

6 A Yes.

7 Q Was that in your capacity as a patrol officer or  
8 as SERT?

9 A That was for SERT.

10 Q Okay. So when you actually arrived at the scene,  
11 were you assigned a specific position?

12 A Yes.

13 Q And can you tell us what that position was?

14 A One of the SERT operators that got there earlier  
15 was setting up kind of a perimeter to get a view of the van  
16 that the person was in. I ended up eventually ending up at  
17 the massage parlor, which was south of Gleason, just south  
18 of Everett.

19 Q Okay. I'm going to put this photo up behind you.

20 A I'll stand so I'm out of the way.

21 Q Yeah, that's great.

22 A Sorry (indiscernible). Okay.

23 Q Does this photograph look familiar to you?

24 A Yes.

25 Q Okay. And can you please explain to the grand

1 jury where you were positioned that day?

2 A We ended up -- well, I ended up in this building  
3 here, and then this is the massage parlor, and then I ended  
4 up ultimately in this room here.

5 Q Okay. So looking at this picture, to the left  
6 of --

7 A That's correct.

8 Q Okay. And was Officer Hoerauf also in that  
9 building?

10 A Yes.

11 Q And where was he positioned?

12 A He would have been to the north of me in this room  
13 here.

14 Q Okay. So on the photograph, that's to the right  
15 of the picture?

16 A Yes.

17 Q And what was your role that day aside from just  
18 being in the Amethyst Massage, were you a lethal position?  
19 Were you a less lethal position? Can you describe in the  
20 SERT structure?

21 A It would be a lethal position, correct.

22 Q Okay. What type of weapon were you carrying that  
23 day, Officer Thurman?

24 A A semiautomatic .308 rifle.

25 Q Okay. And did you also have a Glock pistol, a

1 bureau-issued sidearm on you, as well?

2 A Yes, yes, just on my side here.

3 Q Okay. So let's focus on the .308 rifle that was  
4 in your possession. How many rounds would you typically  
5 have had in that firearm?

6 A In the magazine, I keep 18, and then I had an  
7 additional magazine in a bag that would have 18, as well.

8 Q Okay. So is that only one additional magazine  
9 that you would have had?

10 A I just had two magazines, and so, yeah, that  
11 was -- that's -- I just had two with me.

12 Q Okay. Were there other officers on the scene that  
13 day that were assigned within SERT to handle less lethal  
14 positions?

15 A Yes.

16 Q Okay. But that was just not your role that day?

17 A Correct.

18 Q Throughout the day, how were you learning  
19 information about what was going on?

20 A Radio updates for the most part. Initially, we  
21 had some pictures that were emailed to us, but we got that  
22 information back when we were at the hospital earlier at the  
23 beginning of this incident.

24 Q Okay. What were those? What were the emails  
25 about?

1           A     Just pictures of the -- of the suspect at the  
2 hospital.

3           Q     Okay. And so you received that before you arrived  
4 at the scene here?

5           A     That's right.

6           Q     Let's talk about the rifle that you were using,  
7 the .308 rifle for a second. Can you tell me about kind of  
8 the scope or the optics on that rifle and what that would  
9 allow you to see?

10          A     I have -- it's called a two-by-ten. So if you  
11 think about what you can see right now, the lowest setting  
12 on it would be twice as strong as what you can see right  
13 now, all the way up to I can turn it to ten times. And  
14 that's in the mid-range kind of level for what I can see,  
15 which is plenty.

16          Q     Okay. So from your location in the Amethyst  
17 Massage using this -- well, did you use the scope while you  
18 were inside the massage?

19          A     Yes.

20          Q     What were you kind of -- can you tell us a little  
21 bit about what you were able to see actually with the bulk  
22 of the activity where the van was?

23          A     I could see -- from where I'm at, I've got an  
24 angle, and I -- almost all of my view is the front driver's  
25 side window, not -- the windshield I can't see because it's

1 the angle on the glare. I couldn't see anything there.  
2 But what I could see is basically what you could see in this  
3 area. So with him, I was able to see upper body, head, with  
4 a little bit of room for the ceiling. But that's it.  
5 Shoulder, a bit of arm, but that's it.

6 Q And that's when he was sitting in the passenger's  
7 side?

8 A That's correct.

9 Q Okay. So were you able to see -- visualize his  
10 face using the scope that you had?

11 A Yes.

12 Q And were you able to kind of compare that to the  
13 photographs that had been disseminated of the suspect from  
14 the Good Samaritan shooting?

15 A Yes.

16 Q Were you able to say that that was the same  
17 person?

18 A Yes.

19 Q Okay. Did you believe when you arrived at the  
20 scene when you were looking the scope and you positively  
21 identified that person as the same person, did you believe  
22 that you had probable cause to arrest him?

23 A Yes.

24 Q And for what crimes?

25 A It would have been for murder.

1           Q     So while he was sitting in the passenger's  
2 seat, through your scope, what were you able to see him  
3 actually doing?

4           A     So his movements were very erratic. I could see  
5 at some point he -- there was -- after everything got set  
6 up, then our negotiators, CNT, started to try to make  
7 contact with him. So I could see him talking. Every once  
8 in a while, I could see a phone, but it would be his left  
9 hand. I could never see his right hand. There was always  
10 something covering his right hand.

11                     So he would sit there and would be on the phone.  
12 And then he'd make erratic movements, just shifts. It would  
13 surprise me. You know, just for no apparent reason. Or  
14 he'd slam the phone somewhere or, you know, just there'd be  
15 moments of calm and then just quick, explosive movements.

16           Q     So did you -- up until the point he started  
17 moving, did you ever see him with a firearm?

18           A     I did not until he came out the door. I couldn't  
19 see just from where my view was.

20           Q     Did you believe, based on the facts that you  
21 learned over the radio and throughout the day, that you --  
22 did you believe that he was armed?

23           A     Yes, ma'am.

24           Q     Okay. What would you have done if Mr. Calles had  
25 exited that vehicle without a firearm in his hand?



1           A     I would have -- I would have waited to see a  
2 little bit more. I would like to have seen what his actions  
3 were at that point. We have -- there are less lethal assets  
4 there at that point. I would have just liked to have seen a  
5 little bit more, you know, what is he going to do? Is he  
6 going to stand? Is he going to keep running? Is it -- you  
7 know, I'd just need more. My feeling at this time is I'm  
8 information-gathering at that point.

9           Q     Okay. If he had exited the vehicle without a  
10 firearm, would you have shot your weapon?

11          A     No.

12          Q     So as he began moving from the passenger's seat to  
13 the driver's side -- driver's seat, which I think you've  
14 alluded to, what were you able to see then?

15          A     When he exited out the driver's?

16          Q     Yeah, as he was making his move outside the  
17 driver's side door, just tell us what you saw.

18          A     So it was -- it was very quick. First I saw him  
19 make a move towards the passenger's seat. And he wasn't  
20 able to get -- well, he turned towards the passenger  
21 window -- excuse me -- passenger's side window. And all I  
22 could see was his back. He was unsuccessful to try to get  
23 out, so he sat back down and then made a move towards the  
24 driver's seat.

25                   At this time, though, he was going crazy. He

1 exits out the driver's seat with gun in hand, and I hear  
2 a shot go, and then I hear -- I see him fall. And in my --  
3 my brain said, okay, I think this is over. And I mean, just  
4 a tenth of a second, he rises back up, somehow gets his body  
5 up. I saw that when he had fallen, the gun had went about a  
6 foot ahead of him toward just this way from where the door  
7 was when -- a foot ahead of him.

8 He had moved forward, and I actually had to adjust  
9 myself because my -- where -- the way I had my stuff set up,  
10 I didn't want to be seen especially with him having a gun.  
11 I didn't want him to see me and shoot me. So I had to kind  
12 of move myself so I could kind of see it again. At that  
13 point, he picked the gun back up again and was pointing it  
14 downrange.

15 Q Okay. So I want to make sure that we're clear.  
16 The very first gunshot that you heard, was that from your  
17 rifle?

18 A No.

19 Q So you did not fire the first shot?

20 A No.

21 Q Okay. And so when you saw him back down on the  
22 ground, did you see him pick the gun back up?

23 A Yes.

24 Q And did you see it then in his possession in his  
25 hand?

1 A Yes, yes, I did.

2 Q At what point did you actually fire your weapon?

3 A When he pointed it towards the officers that were  
4 in this area and also my -- I had -- I was concerned  
5 about -- we had all of -- there were police officers that  
6 had Gleason shut down, or 181st shut down and Gleason.  
7 There's people all over the street. It's in the middle of  
8 the day. It's very busy. There's people everywhere. You  
9 can't contain them. And I believed that he was going to  
10 shoot at either these officers or shoot at folks that were  
11 downrange.

12 Q And how many shots did you fire?

13 A One.

14 Q And was that from your .308?

15 A Yes.

16 Q What did you do with your weapon after the scene  
17 had kind of calmed down and was static?

18 A I made it safe, but I know that this is now an  
19 investigation with my involvement, so I left it as is. When  
20 sergeant came in to check on us, I notified immediately,  
21 hey, I -- I had been in the shooting, as well. This is  
22 where it is. You know, we tried to keep the folks that  
23 worked there -- they were very nice, but they didn't  
24 understand us very well.

25 We just kind of tried to just guide them away from

1 that room, and where Tim was, as well, and I just left it  
2 as is. The casing was down on the ground. I just left  
3 everything as it was and then just waited for to kind of be  
4 shoveled off.

5 Q So the employees that work in the Amethyst  
6 Massage, were they in the building?

7 A Yes. They weren't in our rooms.

8 Q Okay. Did somebody escort them to the back of the  
9 building, like, towards away from the scene?

10 A During this issue?

11 Q Yes.

12 A I kind of -- I kind of asked, "Hey, would you guys  
13 stay" -- because I believe this guy has a gun, and he's  
14 already used it. And my concern was, I mean, there was  
15 glass, and stuff like that, but rounds can go through that  
16 all the time, and I had some concerns about people walking  
17 around where they could get hurt.

18 So I kind of said, "Hey, you guys hang out in the  
19 back." And then I didn't see them again for -- but they  
20 popped out when everything was moving around  
21 (indiscernible). Once we left, I have no idea what they did  
22 at that point. I'm sure some other folks were with them at  
23 that point.

24 Q Okay. So going back to what you did with your  
25 weapon after the firing, did you put it in some place safe

1 or did you -- what happened with that?

2 A I put the weapon on safe. I wish it was just a  
3 switch at that point.

4 Q Okay. Did you leave it in the room or did you --

5 A I did. I was able to -- I mean, it's one room  
6 with one entrance in and one entrance out. I -- this is --  
7 despite what this looks like here, it's a small building,  
8 and some of the rooms aren't very large. So I was able to  
9 try and control it until other folks came to take over  
10 watching it. So I wasn't leaving an unsafe weapon there.

11 Q Okay. So when you fired your rifle, did you  
12 believe that PoniaX Calles was going to imminently use  
13 unlawful force that could cause serious physical injury?

14 A Yes.

15 Q And did you believe that that unlawful force could  
16 have actually caused death, as well?

17 A Yes.

18 MS. KYLE-CASTELLI: Does anybody have any  
19 questions for Officer Thurman?

20 MR. THURMAN: Would you guys rather I sit? I  
21 thought maybe you'd want to -- so I don't want to --

22 THE FOREPERSON: That's fine. You can sit.

23 MR. THURMAN: Okay.

24 MS. KYLE-CASTELLI: Any questions?

25 GRAND JUROR: Did I hear you say you stayed with

1 your weapon?

2 MR. THURMAN: Momentarily. So I was able to --  
3 you can't see it from -- I don't know what you've seen about  
4 the structure of this building. But there's two major rooms  
5 in the front section of this --

6 GRAND JUROR: Oh, sorry.

7 MR. THURMAN: And then there's a couple small  
8 rooms towards the back of this building. So I was just kind  
9 of able to just kind of keep some span of control by the  
10 doorway, make sure nobody got in, while talking to the  
11 sergeant that eventually came in, checking on Tim and, you  
12 know, just kind of keeping a view of the entire area. So,  
13 yeah, I was the only one in there until I was relieved. And  
14 when I was relieved, they bring somebody in immediately.

15 BY MS. KYLE-CASTELLI:

16 Q So, Officer Thurman, is this a picture of the  
17 outside of the building that you were in?

18 A Yes.

19 Q And can you point out which window you were  
20 actually in -- behind?

21 A I was this one right here.

22 Q Okay. And was the window kind of cracked like  
23 that?

24 A It was just like that.

25 Q Okay. And obviously, this picture seems to be

1 taken at nighttime. Were you there in broad daylight?

2 A Yes.

3 Q And the interior of the room, does this look like  
4 the room that you were in?

5 A Yes. That's the first time I've seen this, so  
6 it's --

7 Q Okay. And is that kind of the chair that you were  
8 using?

9 A I was actually sitting on the bed.

10 Q You were sitting on the bed?

11 A Um-hum.

12 MS. KYLE-CASTELLI: Okay. Any other questions?

13 THE FOREPERSON: When you're about to like -- or  
14 shortly before you discharge your weapon, was he -- was the  
15 suspect, was he standing or had he been kind of on a prone  
16 position on the pavement?

17 MR. THURMAN: He was --

18 THE FOREPERSON: What was his motions like?

19 MR. THURMAN: He was laying -- that's what -- so  
20 he didn't stand back up, but he rose his upper body up and  
21 was able -- and grabbed the gun and was kind of getting up  
22 on all fours, but wasn't quite -- didn't seem to be quite up  
23 on all fours. But what stood out was I clearly see his  
24 face, what he's looking at, and pointing the gun. And I  
25 mean, his whole body is kind of shifting forward as he's

1 doing it. But he wasn't standing at the time.

2 MS. KYLE-CASTELLI: Any other questions?

3 MR. MICKLEY: What was the -- can you just  
4 demonstrate or show where the gun was pointed the point in  
5 time when you shot?

6 MR. THURMAN: Yes, yes. It was pointed to the  
7 north.

8 MR. MICKLEY: Okay.

9 MR. THURMAN: Just so (indiscernible) just  
10 pointing to the -- from my angle, I just -- barrel pointed  
11 to the north.

12 MR. MICKLEY: And when you mentioned that you had  
13 to move to try to avoid not being seen, but to still have a  
14 visual on his position, is that because -- were you trying  
15 to not be seen because you were in a position of  
16 vulnerability in the building itself?

17 MR. THURMAN: So it's twofold. When, yes, I am in  
18 a very -- can you go back to the picture?

19 MS. KYLE-CASTELLI: Yeah.

20 MR. THURMAN: I'll explain something a little bit  
21 about that.

22 MS. KYLE-CASTELLI: From the window?

23 MR. THURMAN: Yes, please.

24 MS. KYLE-CASTELLI: This one or the other one?

25 MR. THURMAN: Well, I can do it from here. So the



1 one that would show us the actual --

2 MS. KYLE-CASTELLI: I can pull them up  
3 simultaneously.

4 MR. THURMAN: Yeah, why don't you show the picture  
5 and I can explain this real quick. Okay. So this is taken  
6 -- this incident happened in the middle of the day. Problem  
7 is is that the sun is coming straight down. And so my  
8 weapon is -- I have a bipod that I have on the windowsill of  
9 this thing. I don't want to be seen, one, because I don't  
10 want him to shoot me, and two, I'm not trying to kick  
11 anything off. I'm -- there's negotiations happening.  
12 There's things that are happening and taking some time.

13 What I don't want to have is -- is kind of  
14 deescalating it by not being seen. I don't want him to  
15 discover me, see my rifle pointed at him, and then make  
16 it -- make him -- I don't want to make him do something that  
17 in his mind he wasn't even thinking about doing. But the  
18 shock of seeing that -- he knows police are there, but the  
19 shock of seeing that, something pointing at him or me in a  
20 room, or something like that, may start something. So I'm  
21 trying to keep him from doing that.

22 So when he first came out of the vehicle, I don't  
23 have a lot of room here, or I don't have a big -- I don't  
24 have a lot of room here. My bipod is kind of resting on the  
25 sill. When he came out of the van, he kind of -- he moved

1 forward. I had to kind of move with it in order to see  
2 him again, you know, make sure nothing (indiscernible) --

3 GRAND JUROR: Yeah.

4 MR. THURMAN: I'm sorry.

5 MR. MICKLEY: Yeah, and in terms of the position  
6 of vulnerability, a bullet will go through the wall and  
7 siding?

8 MR. THURMAN: Absolutely. Well, and glass and,  
9 yeah, absolutely.

10 MR. MICKLEY: No additional questions.

11 MS. KYLE-CASTELLI: Any other questions?

12 (No response.)

13 MS. KYLE-CASTELLI: All right. Thank you.

14 GRAND JUROR: Thank you.

15 TIMOTHY HOERAUF

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

18 DIRECT EXAMINATION

19 BY MS. KYLE-CASTELLI:

20 Q You can have a seat. Can you please state and  
21 spell your name for the record?

22 A My name is Timothy Hoerauf, T-i-m-o-t-h-y. Last  
23 is H-o-e-r-a-u-f. And I'm a Portland police officer.

24 Q Okay. How old are you?

25 A Thirty-eight.

1 Q And can you explain a little bit about your  
2 educational background?

3 A Following high school, I joined the Navy. I was a  
4 hospital corpsman for six years. After that time, after my  
5 enlistment, I ended up returning back home. I'm from  
6 Portland and obtained a job with the Portland Police Bureau.  
7 I've had education in regards to policing through the  
8 Department of Public Safety and Standards in Training. I've  
9 attended our Portland Police Bureau's advanced academy, and  
10 then since then, I've had thousands of hours of follow-on  
11 and advanced training.

12 I'm part of the Special Emergency Reaction Team.  
13 As part of that, we're receiving well over 500 hours a year  
14 of ongoing training in a myriad of different subjects.  
15 Anything else --

16 Q When did you become a Portland Police Bureau  
17 officer?

18 A In 2011, in January of 2011.

19 Q I assume that you also did the probationary period  
20 at the Portland Police Bureau?

21 A Yes, I did.

22 Q Okay. And when did you become a member of SERT?

23 A In 2016.

24 Q Okay. Is your position with SERT, is that a  
25 detached position or is it a full-time position?

1           A     Yes, I split roles in part of our Specialized  
2 Resources Division. Kind of my day job is with the Enhanced  
3 Community Safety Team, where we're kind of focused on  
4 shooting investigations and then split the other part of the  
5 time, at least a day a week, and then during missions or  
6 callouts with SERT.

7           Q     Okay. Officer, is your appearance here before the  
8 grand jury compelled in any way by the District Attorney's  
9 Office or any other agency?

10          A     No.

11          Q     And are you under subpoena today to testify before  
12 the grand jury?

13          A     Yes.

14          Q     Are you under subpoena and have you received --

15          A     No, I haven't. I'm sorry. I misunderstood.

16          Q     Are you appearing voluntarily because you would  
17 like to come and speak to the grand jury today?

18          A     Yes.

19          Q     Following the incident that occurred on July 22nd  
20 of 2023, were you placed under a communications restrictions  
21 order?

22          A     Yes.

23          Q     And is that still in effect?

24          A     It is.

25          Q     Have you complied with that order?

1 A Yes.

2 Q So I want to turn a little bit to July 22nd of  
3 2023. Were you activated as a member of SERT that day?

4 A I was.

5 Q Was there anything out of the ordinary going on in  
6 your personal life on that day?

7 A No. It was a day off, and I was at home.

8 Q Okay. Were you at any point during that day under  
9 the influence of any substance that would materially affect  
10 your job functions or decisionmaking abilities?

11 A No.

12 Q Were you originally paid to respond to the Good  
13 Samaritan Hospital shooting?

14 A Yes.

15 Q And then shortly after that, were you transitioned  
16 over to the Fred Meyers location?

17 A Yes, I was.

18 Q Okay. And ultimately, did you eventually respond  
19 to Northeast 181st and Northeast Everett Street?

20 A Yes.

21 Q Was that in your capacity as a member of SERT?

22 A Yes.

23 Q So let's talk about the weapon that you -- I think  
24 -- how many weapons did you have on your person that day?

25 A I had a rifle. It's an AR-15 rifle equipped with

1 a telescopic scope, a pistol, and a breaching shotgun.

2 Q Okay. Did you also have a taser on you?

3 A Yes.

4 Q Okay. Did you discharge anything besides the  
5 AK -- the rifle?

6 A The AR-15? No.

7 Q Okay. So let's focus on the AR-15. How many  
8 rounds would you typically have loaded in the firearm?

9 A I carry three magazines for that weapon. Each one  
10 is loaded with 28 rounds. They're 30-round magazines. We  
11 load them with fewer rounds.

12 Q So when you say you're carrying three magazines,  
13 it wouldn't be inserted into the actual weapon itself --

14 A One --

15 Q Two additional magazines?

16 A One is inserted, two additional magazines with a  
17 round chamber.

18 Q Okay. And so each of your magazines would carry  
19 28?

20 A Correct.

21 Q Okay. Once at the scene in Gresham at Northeast  
22 181 and Northeast Everett Street, were you assigned a  
23 particular position within SERT?

24 A Yes. As soon as I arrived, I'm part of our inner  
25 perimeter, which is like a containment element. I spoke to

1 Sergeant Akunzi (ph.). I asked what the priority was and  
2 what he needed done next. And he told us a containment to  
3 the east was not there, and that he needed me to move to  
4 that position.

5 So I did so. There are two structures. They look  
6 residential, but they're actually commercial structures, one  
7 of them being a massage parlor. I ended up finding a  
8 position off the driver's side of the suspect vehicle there.

9 Q Okay. Can you -- would you mind just standing up  
10 and kind of demonstrating where you were?

11 A Sure.

12 Q Is this the scene, first of all, from that day?

13 A Yes. So I approached from the north. We parked  
14 to the north. What I ended up doing is finding a place  
15 around the east side of this structure. There's a break.  
16 There's, like, a driveway here, and parking in the back  
17 that's outside of the -- outside of view.

18 And initially, I ended up in -- behind a vehicle  
19 right here, almost directly off the driver's side. But I  
20 realized that if he was looking over at me, he could see me.  
21 So I didn't want to be in that position. A lot of times  
22 it's better for the overall goal of the negotiation if he  
23 doesn't see a person dressed, like, in, you know, green  
24 army-looking stuff and a helmet looking at him. So in an  
25 effort to deescalate that and to maintain safety for myself

1 knowing he was armed.

2 I moved farther to the south to this fence line.  
3 From there, I ended up prying one of the fence boards down  
4 along the bottom of the fence line so I could see him pretty  
5 clearly through, like, the windshield and A-pillar part, and  
6 then partially through the open driver's side door window.

7 It wasn't perfect because there was, like, metal  
8 and glass from the car in the way.

9 So, ultimately, we ended up -- both Officer  
10 Thurman and I ended up inside of this structure, which is a  
11 massage parlor. And I was on a window on the northwest  
12 corner and had a view almost directly into his open window  
13 and the side of his face.

14 Q So you used the term A-pillar, which not everyone  
15 is familiar with that term.

16 A Just referring to, like, the front part where the  
17 windshield meets up with the door kind of where the rearview  
18 or the sideview mirror is. That's referred to typically as  
19 an A-pillar.

20 Q And were you -- from that distance, were you kind  
21 of a lethal position or less lethal position?

22 A Primarily a lethal position in the event that  
23 something changed, we could have transitioned into, like, a  
24 less lethal, but I'd have to get out of the building to do  
25 that. Like, if he went running towards where I was at,



1 potentially, we move from the position if I can't see  
2 him. So our job is both containment and eyes on, on the  
3 east side.

4 Q Okay. And were you also communicating kind of  
5 over the radio with what you were seeing?

6 A Yes. So I had probably one of the better vantage  
7 points just through that open window. I could see what he  
8 was doing throughout the duration of the event. And I was  
9 able to give pretty regular updates on the radio.

10 Q Okay. And were you also learning regular updates  
11 via the radio?

12 A Yes.

13 Q Okay. Had you received via email a photograph of  
14 the suspect from the Good Samaritan shooting?

15 A Yes. I received at least two, two that I recall.  
16 One was from inside the hospital with, like, interaction  
17 with the security, and then another one was, like, either a  
18 DMV or a mugshot photo of, like, a face.

19 Q Okay. And were you able to -- did you have some  
20 type of, like, scope or something on top of the gun --

21 A Yes.

22 Q That allows you to visualize what's going on --

23 A I have a two-by-six optic, where I can zoom in to  
24 six power. So this is measured at 33 yards from my window  
25 to the side of the van, so not very far. So I can zoom in

1 six times, and I can see, you know, facial expressions.  
2 One of the photos that I saw of his face had sort of a scar  
3 on the right side of his forehead that's kind of running  
4 vertical, very faint. But when he looked at me, I could see  
5 and I could confirm that the photos that I was given and  
6 then name I was given is this person that I was looking at.  
7 So there was no doubt --

8 Q Okay. Sorry to interrupt. Did you believe that  
9 you had probable cause to arrest the passenger in that  
10 vehicle?

11 A Yes. I knew he was involved in a shooting at the  
12 hospital where one person was murdered, and then another  
13 person was shot in addition to that.

14 Q So just from your vantage point, using the scope  
15 on your lens, and I apologize if I'm using the wrong  
16 terminology for that --

17 A That's okay.

18 Q You said you had a very good view of what he was  
19 doing while he was inside the van. Can you kind of describe  
20 to us what his movements and what his actions -- what could  
21 you see?

22 A Yeah. So I'd estimate that I observed him for  
23 probably close to 30 minutes throughout the duration of  
24 this. When I first arrived there, this piece of armor to  
25 the south that's nosed into the front of the van, that

1 wasn't there.

2 My first real -- the first thing that really  
3 caught my attention with that is when the armor went to move  
4 around, you can see in his right hand, he picked up a gun, a  
5 revolver. I could see the barrel shroud part of it, and I  
6 could tell what kind of gun it was. It was kind of shining  
7 through the windshield. And that was in his right hand. I  
8 don't know if he pointed it at his own head or if he pointed  
9 it just up in the air just to maybe demonstrate that he had  
10 it.

11 Ultimately, the vehicle was boxed in from the  
12 front, which effectively immobilizes it so it can't drive  
13 away. And throughout the course of, you know, the next 20  
14 or 30 minutes, he would kind of cycle up and down. So,  
15 like, become very animated, looking around, trying to find,  
16 like, where people were. Like, when -- trying to figure  
17 where positions were, it seemed like.

18 That was my -- my perspective is that he's doing  
19 something called target glancing. So, like, if he's trying  
20 to figure out where he could run to or run away from or who  
21 he could target, that's what it looked like he was doing to  
22 me. So he's like head on a swivel, sitting in the  
23 passenger's seat of the van.

24 Other times, he would pick up this yellow sheet of  
25 paper. It looked like he'd be reading something or saying

1 something. Sometimes he'd be, like, very animated,  
2 almost yelling, and other times, he would get very quiet  
3 and, like, cycle back down. So, like, drop everything, you  
4 know, stroking his bear, just, like, very calm, solemn  
5 almost. And then for whatever reason -- I don't know why.  
6 But he would cycle back up. So I was just seeing this --  
7 this cycling of emotions and, you know, attempts to find out  
8 where we were.

9           At one point kind of later on towards this, he  
10 ended up grabbing a gas can from the backseat behind the  
11 driver's seat and positioning it up on the windowsill on the  
12 driver's side door. And my perspective on what he was doing  
13 is almost to block the mirror as though, like, he didn't  
14 want us to see him. Like, the officers behind him in armor  
15 didn't want them looking in the mirror to see what he was  
16 doing. So it seemed like it was just, like, an effort to  
17 conceal his position from us.

18           Ultimately, the gas can dropped out pretty  
19 quickly, and -- but that was my general take of his  
20 behavior. So I would update that any time there was any  
21 changes. The weapon I knew was in his right hand because he  
22 would gesticulate quite a bit with his left hand. The  
23 gun -- or the hand I saw his gun in was the righthand side,  
24 and he covered that with a sunshade like the kind you put up  
25 on a windshield to keep the sun out in the summertime. So

1 he was concealing it under that, like, down by his leg.

2 Q And hypothetically, if Mr. Calles had exited the  
3 van without a firearm in his hands, would you have taken --  
4 would you have shot?

5 A No. If I didn't perceive him having the means to  
6 harm other people, then no.

7 Q Okay. So can you describe what you were seeing as  
8 you start to see him move to the passenger's side to exit  
9 the vehicle through the driver's side?

10 A So shortly prior to that, he had opened the  
11 passenger's side door a little bit, but that had been  
12 blocked by one of the robots. It's a very heavy robot and  
13 keep -- kind of keep him from getting out that direction,  
14 which is the direction -- he exited that way with a handgun.  
15 It's that view into the parking lot here with a lot of  
16 people in there. So we wanted to prevent that.

17 Before he got out of the driver's side, he was  
18 seated in the passenger's seat, and then very quickly, he  
19 moves from the passenger's seat over to the empty space in  
20 the middle of the van. Like, usually, like, where the  
21 center console would be, the vans typically are open. So he  
22 covers that distance, like, in about a second, jumps over  
23 into the driver's side seat. And I see that gun coming up  
24 in his right hand, which I was broadcasting on the radio,  
25 and it was pointed back north and east towards where these

1 officers are in this piece of armor, pointed in that  
2 direction.

3 Almost as quickly as his, like, chest presents,  
4 the door pops open, and he hits -- like, almost hits the  
5 ground, like, with both feet. And he's making, like, a  
6 quick movement off to the east. At that time, I heard a  
7 shot break. I didn't perceive him shoot. I didn't see the  
8 gun go off. I had a clear view of it, and I anticipated  
9 having to shoot him at that point as he was moving towards  
10 officers. But I didn't.

11 I heard the shot break, and he immediately started  
12 going down, but like, with his forward momentum off, like,  
13 towards the -- towards the north and east. And he ended up  
14 falling to the ground on his right side. And the gun came  
15 out of his hand. And he was laying on his side, like, kind  
16 of propped up on his right side, like, on his elbow and  
17 maybe on his hip. And I could see that the gun was about  
18 maybe two feet away, I'd estimate, that was kind of directly  
19 up above his head. So, like, clear separation between  
20 suspect and the gun.

21 So I had made the decision to fire and then not  
22 fire because he didn't have the means. It looked like he  
23 had been shot. He could just lay there. He could just lay  
24 there and get arrested, go to the hospital, and this is  
25 done. But that's not what happened.

1           He ended reaching for that gun, still postured  
2 up. It appeared to me like he is still looking for where  
3 officers were. All these officers that are pictured back  
4 here, he's got a view of all of them, potentially. So  
5 they're behind there during the negotiations, but those  
6 officers potentially have to expose themselves if he's out  
7 moving. So I'm very concerned that he's going to get a view  
8 of one of these guys because they have to start moving to  
9 counter what he's doing. They can't just hide behind armor  
10 and allow him to maneuver.

11           So I believe that he posed an immediate risk of  
12 death or serious physical injury to anybody out there that  
13 he saw. At the point that he was laying, he's only five to  
14 seven yards away from any of them at any given time, and if  
15 they show him any part of their body, that's an easy shot.  
16 If he can point his finger, he can hit them with that gun.  
17 Like, it's close to as me to a lot of you right now. And  
18 that was just not acceptable. So when he reached for that  
19 gun, I fired a shot in his back. That's the part that I  
20 could see that was exposed, and that's the part I could hit  
21 most quickly that would -- that would in theory change his  
22 behavior.

23           After I fired the first shot, I paused, waited to  
24 see what the effects of that were. And there wasn't any.  
25 Like, he still had the same posture. I still believed he

1 had the gun in his hand, and I believed that he, if he  
2 could orient himself to somebody, would shoot that gun. So  
3 I fired a second shot, and at that point, I saw some  
4 movement. After the first shot, I received nothing, but the  
5 second one, it looked like he got shot, shot in the sense  
6 like he put his head down. His body posture dropped, and  
7 didn't think he would pose that threat anymore, so I didn't  
8 shoot anymore.

9 Q So in total, how many rounds did you fire?

10 A Two.

11 Q What did you do with your weapon after you fired  
12 it?

13 A I maintained control of it. Ultimately, a  
14 supervisor came in. I kind of showed him the brief layout  
15 of where I was at. The scene wasn't totally controlled.  
16 There were other people inside this business where I was, so  
17 I couldn't leave it there for photographs. But I pointed  
18 out where I thought my shell casings landed, and then they  
19 maintain control of it until I spoke to investigators at  
20 Gresham Police Department.

21 Q Okay. Did you clear the round from the actual --

22 A Yes.

23 Q Okay. When you fired your rifle, did you believe  
24 that he was going to imminently use unlawful force to cause  
25 either serious physical injury or death?



1           A     Yes.  Based on everything I knew, the totality  
2 of the circumstances, everything he said up and to, like, "I  
3 want to die in a shootout with the police," I absolutely  
4 believe that he posed that threat.

5           Q     So you were getting updates from 9-1-1 or BOEC,  
6 right?

7           A     Yes.

8           Q     And from the radio?

9           A     Yes.

10          Q     And officer, could you just -- from this  
11 photograph, obviously, this is taken at nighttime.  Were you  
12 there at nighttime or in the daytime?

13          A     I was there in the daytime.  And my position was  
14 just inside this window.

15          Q     And from the inside, does this look familiar to  
16 you?

17          A     Yes.

18          Q     Okay.  And can you explain kind of where you --  
19 what this is and where you were?

20          A     I was -- I was seated on that desk and kind of  
21 braced up against the window frame.

22          Q     Okay.  And is that hole, that opening in the  
23 window, is that where your gun was pointing out of?

24          A     Yes.  Um-hum.

25                MS. KYLE-CASTELLI:  Okay.  Does anybody have any

1 questions?

2 MR. MICKLEY: You indicated that you load fewer  
3 than the maximum number of rounds in the --

4 MR. HOERAUF: Yeah, just a standard practice. It  
5 makes it so that the -- when you insert the magazine, that  
6 it actually seats. At times, if you load them with a lot of  
7 spring tension, there's a tendency for them not to stay in  
8 the gun. So we do that just as a mechanism to ensure that  
9 the gun functions reliably and that it's a standard number  
10 that, like, when you're asked a question like this, that you  
11 remember it, and I can say that it's 28 and not 29 or 27.  
12 That's just standard.

13 MR. MICKLEY: Do you know the sequence of -- you  
14 said that you heard a first shot. Do you know where that  
15 first shot came from?

16 MR. HOERAUF: I wasn't sure initially. I figured  
17 it out afterwards, but I wasn't -- I wasn't initially sure.

18 MR. MICKLEY: And do you know how -- how many  
19 total did you register having been made?

20 MR. HOERAUF: I heard the first one. I know I  
21 fired two, and I did not hear any other shots -- or that --  
22 do I think in hindsight to the fact that they may have  
23 happened close to the same time. And I couldn't hear it  
24 over the report of my own gun.

25 MR. MICKLEY: Okay.

1 MS. KYLE-CASTELLI: Anything else?

2 GRAND JUROR: In a span of between the two shots,  
3 was it, like, a minute or sections --

4 MR. HOERAUF: I would estimate within a couple  
5 seconds. I don't know. But it was shot, assess, nothing  
6 has changed, so I fired another one.

7 MS. KYLE-CASTELLI: Anything else?

8 (No response.)

9 MS. KYLE-CASTELLI: Okay. We can go off the  
10 record.

11 (Whereupon, the proceedings ended at 2:28 p.m. on  
12 November 29, 2023.)

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I hereby certify that the proceedings set forth in the above-entitled matter were reported by audio recording; that thereafter I caused the said audio recorded notes to be transcribed into the foregoing transcript and the foregoing 163 pages constitute a full, true and accurate transcript of the proceedings as noted herein.



December 15, 2023  
Date

DANIELLE S. VANRIPER  
Official Transcriber

Within this transcript of proceedings, some of the names and/or technical terms are spelled phonetically, inasmuch as exhibits, files and support documentation were not made available to us for reference.