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

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DEATH INVESTIGATION :
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GRAND JURY B
PROCEEDINGS
Case No. 74

Conducted by:
KRISTEN KYLE-CASTELLI, Deputy District Attorney
CHUCK MICKLEY, Senior Deputy District Attorney

DA Case No. 2463342

Tuesday, November 28, 2023

Transcribed by: Danielle S. VanRiper

Proceedings recorded on FTR audio recording; transcript
provided by legal transcriber.

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P R O C E E D I N G S

November 28, 2023

(10:12 a.m.)

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

MS. KYLE-CASTELLI: Okay. We are back on the
record in a death investigation following the use of
firearms by police, which caused the death of Mr. PoniaX
Calles, also known as Reginald Jackson, on July 22nd, 2023.
This is Grand Jury B, Case Number 74, and we are also a DA
Case Number 2463342. Kristen Kyle-Castelli again as the
State, joined by?

MR. MICKLEY: Chuck Mickley, also from the DA's
office.

MS. KYLE-CASTELLI: Okay. And we are joined by
the State's next witness. Would you -- we're going to
actually have somebody swear you under oath, okay?

MR. FREEDMAN: Okay.

JAY FREEDMAN

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

DIRECT EXAMINATION

BY MS. KYLE-CASTELLI:

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

1 A My name is Jay Freedman, J-a-y, F-r-e-e-d-m-a-n.

2 Q Okay. Mr. Freedman, when did you move to
3 Portland, Oregon?

4 A I want to say I moved to Portland, Oregon from
5 L.A., I want to say August 2nd of -- I want to say 2020.

6 Q Okay. In July of 2023, were you living in
7 Portland, Oregon?

8 A Yes.

9 Q Okay. And were you driving a -- what type of van
10 were you driving at that time?

11 A I was driving a 2006 E-250. It used to be a
12 medical transport van. It's a white van with a red stripe,
13 and it had handicapped symbols on either side.

14 Q Was it very distinctive looking?

15 A Yes, god-awful-looking if I do say so myself.

16 Q And in July of 2023, where were you working?

17 A I was working for a security company called Star
18 Protection.

19 Q Were you living in your van around that time?

20 A Yes.

21 Q Okay. And did you typically park your van in a
22 normal, like, one particular location that you would
23 normally park it there and just sleep overnight?

24 A Yes and no. As you guys know, the homeless ban
25 that's been going on has been going on for a minute, and if

1 you're living alone on the streets, it's not good to
2 normally be alone. You team up with people that you trust.
3 I'd park next to some neighbors who actually just got
4 housing recently, and yeah.

5 Q Okay. Did you often in July of 2023 park your van
6 around MLK and Broadway?

7 A Yes.

8 Q Okay. And in July of 2023, were the -- the
9 license plate on your van, were they expired?

10 A Yes. So the previous owner in California sold me
11 a lemon. Basically, you're responsible for re-smog. Well,
12 he knew it wasn't going to pass smog. So he just had me pay
13 him cash under the counter and never fully transferred said
14 title.

15 Q Okay. And Mr. Freedman, did you also know a
16 person -- I think you knew him as Reginald Jackson?

17 A Yes.

18 Q And when did you meet Mr. Jackson?

19 A Okay. So in L.A., you just want -- you know how
20 you have that one or two friends that they just -- you keep
21 running into around town, but nothing more, nothing less.
22 That's sort of the deal.

23 Q Okay. So he was more of an acquaintance?

24 A Yeah.

25 Q Did you meet him in Oregon, or did you meet him in

1 California?

2 A I want to say I met him briefly in California.
3 Honestly, it's so long, I don't remember.

4 Q Okay. Was it a coincidence that both of you were
5 kind of in Portland, Oregon?

6 A Yes.

7 Q Like, you guys didn't move up here together?

8 A No, no, not at all.

9 Q Okay. Did you know at all that Mr. Jackson had
10 changed his name or was going by a different name?

11 A I had no clue.

12 Q Okay. And prior to July 22nd of 2023, had you
13 seen Mr. Jackson in Portland?

14 A I want to say he bumped into me. I wasn't looking
15 for it. He bumped into me while I was out street
16 performing.

17 Q Okay. So you guys -- you randomly saw him in
18 Portland?

19 A Exactly.

20 Q Okay. In the days preceding July 22nd, had Mr.
21 Jackson offered to give you a ride to work or anything along
22 those lines? Had you been in a vehicle with him that you
23 can remember?

24 A He offered me one time to take me to work. In all
25 honesty, his driving scared me to death. I would not go

1 back in his car if he were alive and offered again.

2 Q Okay. Did you happen to know that his girlfriend
3 or his significant other was pregnant?

4 A (No audible response.)

5 Q No?

6 A I knew they had one child because he introduced me
7 to his daughter.

8 Q Okay.

9 A And I had given him friendly advice on, like, oh,
10 you're saying your relationship with your wife is not on the
11 best? Well, instead of hiding things, like, be open with
12 the relationship.

13 Q Okay. So on that day, on July 22nd of 2023, did
14 you see Mr. Jackson?

15 A Is that the day of the shooting or was that the
16 day after?

17 Q It was the day of the shooting.

18 A No. I did not see him the day -- oh, I'm sorry.

19 Q That's okay.

20 A You're talking about when the shooting happened at
21 Legacy or when the shooting happened at Gresham?

22 Q Let's talk about that day in general, right?
23 Let's go earlier in that day. Tell me what you were doing.

24 Do you remember what day I'm talking about?

25 A (No audible response.)

1 Q Okay. Yes.

2 A I had just pulled graveyard shift, and actually,
3 my generator was malfunctioning. So I was trying to figure
4 out what was going on with that, because my neighbors were
5 with child at the time, and they were living out of their
6 RV. And I'd say around noon, I was just about to go to
7 sleep. I was actually laying in my bed. And I get a knock
8 on my door. I'm like, "Who the heck is bugging me at
9 whatever?" I open the door, and he's standing there. And
10 he's like, "Oh, I'll pay you \$20 in gas if you drive me out
11 to Gresham."

12 Q Okay. And when you say he was standing there, who
13 were you referencing?

14 A Reggie, Reginald Jackson.

15 Q Okay. And so when he came up and he asked you to
16 take him for -- to drive him, right, for the \$20, what was
17 his demeanor like? How was he acting?

18 A He was acting weird, slightly. He was slightly
19 nervous. Even during the drive, he asked for me to pray for
20 him. And I almost was going to say no because I hadn't had
21 any sleep, but on the streets, \$20 can be make or break to
22 someone. I don't watch the news. All I have is my phone,
23 and I mainly watch YouTube or play -- I don't -- I had no
24 idea that the previous night that he went and did something
25 that even I condemn.

1 Q Okay. So you ultimately on that day, when he
2 showed up, you agreed to take him and drive him?

3 A Yes.

4 Q Do you happen to recall what Mr. Jackson was
5 wearing?

6 A I want to say he was wearing a dirty white t-shirt
7 that looked like it was stained with, like, tomato sauce, or
8 something, and a drawstring black pair of, you know,
9 basketball shorts.

10 Q Okay. During your day with him and the time that
11 you spent with him on that day, do you remember him changing
12 any clothes or anything along those lines?

13 A No.

14 Q Okay. Do you remember if he had shoes on? And if
15 you don't remember, that's fine.

16 A I don't.

17 Q Okay. And when he first came up to you when you
18 were in the van, did he say anything about his cell phone
19 and whether he had a cell phone or what the status of his
20 cell phone was?

21 A Yes. I asked him why he couldn't just call me
22 and, like, or even text me and say, "Hey, I need a ride," or
23 whatever. And he's like, "Oh, my phone's dead" or "I left
24 it at my girlfriend's." He said one of those things.

25 Q Okay. And let's talk about your cell phone for a

1 minute. Was it a Wifi-only cell phone, or tell us how --
2 was it able to make any phone call to any place?

3 A My phone, which I currently still have, has T-
4 Mobile service.

5 Q Okay.

6 A So when I drove him out to -- he said he wanted to
7 visit his dad -- what was that street. It was along the --
8 Columbia. We stopped at his supposed dad's house, and he
9 asked to borrow my phone to make a call.

10 Q Okay. So you go out to that location with him.
11 Was he inside the van or outside the van when he made the
12 call?

13 A He stepped outside the vehicle.

14 Q Okay. Could you hear what he was saying?

15 A No.

16 Q Do you know who he called?

17 A No. Generally speaking, if I'm letting someone
18 use my phone, I give them privacy because it's not my
19 business.

20 Q Okay. Do you happen to know his significant
21 other? Have you ever met Mr. Jackson's significant other?

22 A Briefly. I actually met her up here I want to say
23 maybe a month or two before the incident.

24 Q Did you know that she was pregnant?

25 A Not until the day of the shooting, and I was told

1 that she was expecting a son.

2 Q Okay. Who told you that?

3 A Reggie himself told me that.

4 Q Okay. And you mentioned that Mr. Jackson had
5 asked you to pray with him. Do you know what you guys
6 were -- what he wanted you to pray about?

7 A He was very vague about it. He didn't give me any
8 specifics. And he was a little bit, like, shaking, nervous,
9 like, physically on edge.

10 Q So after he gets out of the van and he makes the
11 phone call, just tell us what happened next?

12 A So after he made the -- while he was making the
13 call, actually, I saw a police car pull up, and I could see
14 Reggie's feet, like, between the car and the curb, but I
15 couldn't hear what he was saying. So the cop car looked at
16 my vehicle, pulled around the block, and I'm thinking at
17 this point I already have expired tags, so if I get rolled
18 for that, then, like, he already knows -- I've already told
19 him. Like, this is what's going on, and -- but I have no
20 wants and I have no warrants, so whatever.

21 So I -- he gets back in the car, and we start
22 driving towards 181st and Gleason. And now at this point,
23 the cop had doubled back around and is trailing me. So I
24 get to 181st and Gleason. I'm already thinking, okay, this
25 is just going to be a traffic stop. I'm just going to get a

1 ticket for expired tags, and whatever else, and that will
2 be the end of it. And so I saw an additional four cars --
3 cop cars fall in behind. And then they initiated the stop.

4 So at this point, we're by Outward Sins (ph.). I
5 think there's a bank of some sorts. I pull over. And the
6 cop is telling me to get out the vehicle. And Reggie got
7 pretty fidgety. And as I had my hands out the window so the
8 officer could see I was not a threat, I had failed to remove
9 my key from my ignition. And so he reached over and turned
10 the ignition on my vehicle, at which point I pulled my hands
11 back in the window and turned off the ignition.

12 And I told him, "I'm not going anywhere. I have
13 no warrants. I have no warrants. I don't know what you
14 did, but it's better to comply with law enforcement for the
15 sake of your -- you told me you just had a newborn son.
16 It's better that you comply and deal with whatever you did.
17 I'm not running. I'm not moving. I'm doing exactly what
18 the heck they're going to tell me to do, just keep my hands
19 outside the car and comply with law enforcement."

20 Q Okay. And did they ask you to kind of open the --
21 did law enforcement ask you to open the door from the
22 outside?

23 A Yes.

24 Q Okay. And how did they instruct you to kind of
25 walk back to them?

1 A So they had me -- if I'm not mistaken -- because
2 I was still seat-belted in at that point. They had me pop
3 the door open through the window with my right hand, slowly
4 remove the seatbelt, and walk back with my hands up here,
5 with my back facing towards law enforcement.

6 Q Okay. And did you do all of those things?

7 A Yes.

8 Q Okay. What was Mr. Jackson doing while you were
9 doing all of that?

10 A He was still seated in the car. And he was not
11 removing his seatbelt. Now, I had taken the keys with me.

12 Q Okay. Was there another pair of keys in the van?

13 A No.

14 Q Was there any type of weapons in the van?

15 A No firearms.

16 Q Okay. What in the van could have been construed
17 as a weapon?

18 A Maybe a machete, maybe -- I don't know -- tire
19 irons for, like, taking tires off your vehicle, stuff like
20 that.

21 Q Okay. Did you ever during your interaction with
22 Mr. Jackson that day, did you ever see a weapon on his
23 person?

24 A No, although with the clothing he was wearing,
25 which was pretty loosely fitted, it would be safe to say it

1 wouldn't be hard to hide one.

2 Q Okay. I want to backtrack for a second. After
3 you were at the first location, right, and he steps out to
4 make the phone call, did Mr. Jackson ask you to take him to
5 another location?

6 A Yes.

7 Q Where did he ask you to take him?

8 A Just -- because I never even got there. It was,
9 like, somewhere off Burnside. So I was to take 181st up to
10 Burnside and make a right. And he said some mechanic shop
11 if I remember correctly.

12 Q Okay. Did he tell you why he wanted to go to that
13 location or who was at that location or --

14 A His dad.

15 Q Okay. And did he have an address of where he was
16 supposed to go?

17 A He kept it very vague. He was just giving me
18 street by street where I needed to be. He did not give me
19 an address.

20 Q When those police cars followed him behind you --
21 and it was -- I think you said four?

22 A I want to say four. It might have been more.

23 Q Okay. At that point in time, did you know that
24 Mr. Jackson had been involved in a shooting earlier that
25 day?

1 A No, no.

2 Q At some point when the first police officer is
3 following you, and you see the first police officer, and
4 then you start seeing all of the other police officers
5 coming in, as well, did you mention to Mr. Jackson that you
6 thought the police were following you?

7 A Yes.

8 Q And what did he say about that?

9 A Silence. Absolutely nothing. Actually, seeing
10 that many cop cars, I was almost just going to pull over
11 anyways, because I sort of suspected that they were going to
12 initiate a stop.

13 Q Okay. So after you had walked back, and you had
14 spoken to the police in person, did you tell the police
15 officers who was the passenger in your van?

16 A They asked for a positive ID, and I confirmed said
17 positive ID.

18 Q Okay. So did they show you a photograph?

19 A Yes.

20 Q Okay. And you were able to say that that is
21 Reginald Jackson?

22 A Yes.

23 Q Okay. And you've known Reginald Jackson for a
24 while, right?

25 A Well, again, acquaintances, but yes.

1 Q Yeah, yeah. Do you remember also telling the
2 officers that, like, he had told you that he had just come
3 from the hospital? Do you recall that or no?

4 A Because the night before, he -- he dropped me off.
5 He said he was going to the hospital. He didn't tell me
6 why.

7 Q Your phone, when you came back and you were
8 talking to officers, where was your phone located?

9 A It was still located in the van, because I even
10 remarked to the officer since detectives wanted to speak to
11 me. And it's like, "Well, how are you going to get a hold
12 of me if my phone is in my vehicle and I'm free to go?"

13 Q So officers interviewed -- patrol officers kind of
14 interviewed you at the scene, is that right?

15 A Not -- yes, they took me to the local department,
16 which just happened to be across the street from
17 Albertson's. I want to say it was Rockwood -- or Rockwood
18 office.

19 Q Okay. And then the formal interview, Detective
20 Conroy conducted kind of a formal interview and asked you a
21 lot more questions later on in that day, is that right?

22 A Yes. I want to say around 6 or 7, at that point,
23 I was already passed out, sleeping on the table in the
24 graveyard shift.

25 Q And Detective Conroy, did he ask you for consent

1 to kind of search your van?

2 A Yes, and I did consent.

3 Q Okay. He also asked you if he could look through
4 your cell phone, as well, right?

5 A And I consented to that, as well.

6 Q Okay. And he offered you, like, if you change
7 your mind, you can revoke your consent, right?

8 A Yes, he did.

9 Q And it took a day or two, but you were ultimately
10 given back your belongings, is that correct?

11 A Yes. Not in the way I found them, but yes. Three
12 busted windows and a flat tire later.

13 MS. KYLE-CASTELLI: All right. Does anybody have
14 any questions for Mr. Freedman?

15 GRAND JUROR: When you interacted with Reggie on
16 the streets, was he known to ever carry weapons?

17 MR. FREEDMAN: There was a time where I got in a
18 scuffle with him literally a week before Fleet Week, and he
19 was acting out of line. He was trying to manipulate me into
20 dropping everything I was doing, which was actually going
21 kayaking with a couple buddies to come pick him up. And so
22 when I sort of bent the knee a little bit, we got in a
23 fight, and supposedly one of my friends said he was reaching
24 for a knife in his back pocket. I didn't see it because I
25 was already hands-on in the situation.

1 MS. KYLE-CASTELLI: Anything else?

2 (No response.)

3 MS. KYLE-CASTELLI: All right. Thank you so much,
4 Mr. Freedman. We can go off the record. We can pause for a
5 minute.

6 (Off the record at 10:33 a.m.)

7 (On the record at 10:36 a.m.)

8 MS. KYLE-CASTELLI: Okay. We are back on the
9 record in DA Case Number 2463342 and Grand Jury B Case
10 Number 74.

11 If we could swear in the next witness, please?

12 HILARY SCOTT

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

15 DIRECT EXAMINATION

16 BY MS. KYLE-CASTELLI:

17 Q Can you please state and spell your name for the
18 record?

19 A Yes. Hilary Scott, H-i-l-a-r-y S-c-o-t-t.

20 Q And where are you employed?

21 A I am employed with the Portland Police Bureau
22 currently as a detective.

23 Q And how long have you worked with the Portland
24 Police Bureau?

25 A I'm working on my 23rd year with the Portland

1 Police.

2 Q Walk us through some of your previous positions
3 since before you were a detective.

4 A Before I was a detective, I was a patrol officer
5 for approximately ten years. And yeah, ten years. And then
6 a couple years with the Neighborhood Response Team, which is
7 a more investigative kind of unit, but still on patrol a lot
8 of the time. And then I was promoted to the rank of
9 detective, I believe, in early 2013, so ten years there.

10 I've worked a variety of different things as a
11 patrol officer responding to calls for service. As a
12 detective, I worked with our burglary detail. I worked on
13 our sex assault detail for seven and a half years. And
14 currently, I'm assigned to our Major Crimes Unit, which is
15 all robberies and assaults, major assaults, anything less
16 than a homicide.

17 Q And in your role as a detective, do you also have
18 kind of a part-time role with the Crisis Negotiation Team?

19 A I do. They -- Portland calls it a detached
20 position, and it just means that you're not doing that for
21 your full-time job, but it is a extra job that I take on
22 with the crisis negotiation team.

23 Q Okay. And how long have you served with the
24 crisis negotiation team?

25 A I was appointed to the team in 2012. I'm not

1 precisely sure of which month, but -- so approximately 11
2 years.

3 Q Did you complete the basic DPSST Academy in Salem?

4 A I did.

5 Q And the advanced academy through the Portland
6 Police Bureau?

7 A Yes.

8 Q In addition to the basic kind of training that
9 most Portland Police Bureau officers have to go through in
10 order to be a sworn officer, did you also -- were you also
11 required to complete additional training in order to be in a
12 crisis negotiation team?

13 A Yes, I was. At the time that I did the advanced
14 academy, the Crisis Intervention Team, and Enhanced Crisis
15 Intervention Team was kind of in its infancy. And so I
16 completed all of the crisis intervention training, the
17 enhanced training, and then as part of the negotiation team,
18 there's a basic course that's run by the FBI. And then we
19 also use a company called Crisis Systems Management. And
20 they have a level one, two, and three course that is 40
21 hours each. So the basic and 120 hours on top of that.

22 Q Okay. So let's start off with the Crisis
23 Intervention Team. Can you explain what that is?

24 A So it started as kind of a smaller team, like I
25 said, in its infancy. Now it's at the point where every

1 single officer is CIT certified. So now it's just part of
2 our basic training.

3 Q What does it mean? What does crisis intervention
4 training mean?

5 A Oh, just it's concentrating all on mental health,
6 different mental health issues that we might encounter,
7 schizophrenia, all sorts of personality disorders, mood
8 disorders, things like that, dual diagnosis stuff with drugs
9 and mental health things. But now, across the board,
10 everybody is trained in that matter. So it's not a team
11 anymore. It's small teams that --

12 Q Okay. So does that training kind of -- for all
13 Portland Police Bureau officers now, but you, when you
14 initially took it, does that kind of help you as an officer
15 recognize one where there may be a mental health or a dual
16 diagnosis issue with maybe drugs and mental health, how to
17 approach that situation, and how to handle it?

18 A Yes. Yeah. Just provided us with strategies,
19 what might work best, deescalation techniques, things like
20 that.

21 Q Okay. And then that was with the CITs, the Crisis
22 Intervention Team, and then can you tell us a little bit
23 about what the content of the Crisis Negotiation Team
24 training would have been?

25 A So crisis negotiation, it's focusing more on not

1 dealing with a situation for 20 minutes and then moving on
2 to the next radio call. It's more we're talking about hours
3 of working through an issue, something where maybe somebody
4 is barricaded, maybe somebody is hostage. There's usually
5 more of a violent flavor to it, I guess not so much just one
6 person's mental health crisis, but the potential for
7 violence or an outcome like that.

8 Q Okay. So the potential for a very violent
9 outcome, that's when Crisis Negotiation Team kind of comes
10 in, and they're longer -- they typically last kind of a
11 longer scenario? Is that what I'm understanding?

12 A Typically, we average, it seems, around the
13 four-hour mark for when we get called out on negotiations
14 whether -- I mean, that can be an actual short negotiation.
15 We've had things that have been protracted for a couple
16 days. We've had 12-hour calls, things like that.

17 Q Okay. The members of the Crisis Negotiation Team,
18 are they kind of cross -- are you guys cross-trained?

19 A We are. We -- can I tell you a little bit about
20 the structure of the team?

21 Q Sure.

22 A Okay. So the structure of the team is that we
23 have two lieutenants and then an alternate lieutenant.
24 Below them, we have three sergeants. One of those sergeants
25 is the team leader, and below that, we have our negotiators,

1 which can actually be from a variety of ranks, from
2 detective, officer, criminalist, sergeants. It kind of
3 doesn't matter what rank you're in to be a negotiator.

4 Similar to the negotiators, we are all
5 cross-trained with the different tasks so that if we're
6 showing up at different times, we can just throw people into
7 whatever role is needed. We don't have to wait until the
8 phone person gets there, or something like that.

9 So we're cross-trained with negotiations actually
10 being on the phone, being in the secondary coach position
11 for a negotiator, intelligence, which is -- I'm so sorry. I
12 didn't silence my phone. Please let me do that so that -- I
13 got pulled in too quick. Okay. So sorry.

14 Q That's okay.

15 A And then some intelligence, in our truck we have a
16 variety of computers, which we use for open-source
17 information, closed-source databases that are only available
18 to police, and then our intelligence gatherers would -- that
19 would also include talking with family, making phone calls
20 to mom in Oklahoma or, you know, all these different things.
21 Our intelligence people are kind of sent out on little tasks
22 to get information and bring that back.

23 Q Okay. So let's break that down just a little bit
24 more, okay?

25 A Okay.

1 Q So you've mentioned several different kind of
2 positions amongst the members of the negotiations team that
3 the non-command structure, not lieutenants or sergeants, or
4 anything like that, but just the people that are actually on
5 the ground. So let's talk about intelligence. So is that
6 one of the positions that the Crisis Negotiation Team has?

7 A Yes.

8 Q So what does an intelligence position do? I mean,
9 you talked about closed and open databases. Like, what type
10 of information are they trying to look for?

11 A So what we're really looking for is something to
12 aid the negotiator in building rapport with whoever we're
13 speaking with. So that -- that information kind of spins
14 off of the initial information we get when we get to a call.
15 And everything that I'll provide for the sake of this
16 explanation is just fictional.

17 But if it was somebody that had just lost their
18 father, or something, so we would -- you know, we might
19 search obituaries. We might go talk to mom, and what was
20 the relationship between the son and his father, and what
21 did they enjoy doing together, or things that we might be
22 able to talk to the person about to build rapport with that
23 person.

24 We would look at maybe past police reports or past
25 police contacts and what those contacts looked like and if

1 they were positive with the police or if he has a negative
2 history with the police. So, yeah, I mean our intelligence
3 is drawn from real people and from technology.

4 Q So all the intelligence operation is going
5 simultaneous to the negotiation aspect?

6 A Yes, yes.

7 Q And so I just want to make sure I understand. The
8 intelligence operation is trying to inform the negotiator so
9 that there can be a more effective negotiation?

10 A Yes. And they are working feverishly and in a
11 separate area so the negotiator is really -- and the coach
12 is very isolated from all the buzzing going on trying to
13 gain that intelligence.

14 Q So is that so the negotiation can remain focused
15 on trying to build that rapport with whoever the person is
16 you're talking to?

17 A Yes. And there's so much information that is
18 usually gained that it is filtered, then, to the negotiator,
19 because then the negotiator does not need to have all the
20 information. And so it goes through a filtering process,
21 quite literally, from the intelligence area to the
22 negotiator.

23 Q And does the negotiation coach, do they kind of
24 play a pivotal role on what information is going from the
25 intelligence side to the actual person that is actually

1 doing the negotiations?

2 A They do. It will go from the intelligence
3 sergeant to the negotiation sergeant. Negotiation sergeant
4 will pass it to the secondary, and then the secondary
5 filters it further to the primary. So unless it were
6 something that the negotiation sergeant said, "Give this
7 info now," then he would act as a filter, as well.

8 Q Okay. And when you say primary and secondary, are
9 you talking about primary and secondary --

10 A Negotiator, yes.

11 Q Thank you. In general, what types of calls is the
12 Crisis Negotiation Team activated to kind of go out to?

13 A So we act in several different capacities. We do
14 a limited deployment, which for us means sending maybe one
15 or two negotiators that are on shift at that time to a call
16 that may be escalating, and patrol has asked for a little
17 more help than what they're capable of. Those negotiators
18 would probably act in just an intelligence and a support
19 role; they don't really take over the negotiation.

20 We respond to active violent incidents, high-risk
21 search warrants and arrest warrants, things that are planned
22 that we know SERT is -- you've explained SERT -- the name
23 SERT?

24 Q We have had, yes, we know what SERT means.

25 A Okay. So I can use that. So if we know SERT is

1 going to be executing a warrant, CNT would help with that
2 in case there are people in the home that don't want to come
3 out. So those are preplanned operations. Any kind of
4 hostage situation, any kind of sniper situation, where
5 somebody is in an elevated position, shooting, any kind of a
6 barricaded person that is armed. And then also if there's a
7 area search for somebody that has a weapon, we respond.

8 Q Okay. And generally, what are the goals for the
9 Crisis Negotiation Team when you were activated to go to a
10 scene?

11 A So our goal is to deescalate the situation, the
12 incident on a whole. We establish communications.
13 Sometimes phone numbers are not known, or things like that,
14 and so our intelligence will help to aid in establishing
15 communication with the person in general. We provide verbal
16 containment for -- just to keep the person occupied and busy
17 maybe while other things are happening or a plan to take
18 them into custody is evolving.

19 We gather intelligence, and then we just aid SERT
20 with the custody through clear communication with the person
21 if we do have them on the phone so that we can explain
22 what's going to happen, how it's going to happen so that
23 there's not confusion, and then, you know, when we're going
24 to hand the direction off to the actual SERT operators.

25 Q Okay. Is it important for the Crisis Negotiation

1 Team to try to slow down the scene in any way?

2 A Yes.

3 Q Tell us about that.

4 A So we -- no matter what, and always in our
5 training, too, it's -- when we arrive, everything seems very
6 chaotic. There's a lot of resources arriving. Things have
7 been escalating. That's why we get called. And so it is
8 our goal to establish that communication and just slow
9 things down, because nothing good comes from trying to hurry
10 through a crisis situation or get somebody into custody.
11 It's about having a strategy and a plan and being able to
12 execute that plan in a controlled manner. So --

13 Q Does it also take CNT and SERT times to develop
14 their plans?

15 A It does take time for us to develop plans and also
16 to arrive on scene in general, because we're getting called
17 out after the fact, and so it takes us a while to arrive.
18 And then any plans that are made, we don't get to decide
19 what they are. And our level, they arise to the level of a
20 CIC, which is the person in charge of the scene. And so
21 everything is fed and back down, which takes time.

22 Q Okay. Oftentimes when the Crisis Negotiation Team
23 is called to the scene, is it in conjunction with the
24 Special Emergency Reaction Team, or SERT?

25 A It is, and in fact, our policy is that we are

1 dispatched or paged out together. We work in conjunction
2 with each other constantly. The limited deployment that I
3 spoke about where there might be a couple people that
4 respond to a call to offer assistance at kind of a low level
5 might be the exception, but if it is an actual callout, both
6 teams go always.

7 Q Okay. Can you explain a little bit about how the
8 communication works between the Crisis Negotiation Team and
9 SERT?

10 A Yes. So the communication between teams, it
11 happens mostly by radio. So it is -- it's not necessarily
12 face-to-face. We're using radio, phones, and then we use
13 what is called a SERT intel officer, and they act as a
14 liaison between the two teams. They are embedded -- we have
15 two that are typically embedded with us at our CNT truck.

16 So they are physically there. And they're seeing
17 everything that's going on, on the crisis negotiation side
18 and then communicating that information back to their SERT
19 counterparts. And then some other liaisons are with SERT
20 doing the same thing, getting it -- getting information back
21 to CNT. So I don't know the exact number of how many SERT
22 liaisons we have, but it's -- they're always with us. It's
23 a requirement that they be with us. So --

24 Q So simultaneously to the individuals, you've got
25 somebody from SERT that's staging with CNT, right?

1 A Yes.

2 Q And somebody from CNT that is typically trying to
3 stage with SERT or --

4 A So we have not somebody from CNT. So these SERT
5 intel officers are their own entity. And suppose there were
6 six of them. Then there would be three with CNT and three
7 with SERT, and they're communicating constantly by radio.
8 So -- and they're trained to listen for the things that SERT
9 will need to know and then vice versa.

10 Q Okay. In addition to that level of communication,
11 is there another level of communication that kind of goes up
12 the command structure and then back down?

13 A Yes.

14 Q Can you explain that?

15 A So our negotiation sergeant and intel sergeant
16 with the CNT truck, or I'll just call it the truck because
17 that's what we're typically working out of. So we have
18 those two sergeants. Whenever they get something important
19 that they believe needs to go up the chain, then they will
20 use by radio, tell the lieutenants and the CIC what they
21 know or what they need or requests that somebody has made,
22 things like that. And so those go up the chain and then
23 come back down.

24 Q Okay. So they would go out to the critical
25 incident commander, essentially?

1 A Yes.

2 Q And then kind of go from CNT out to critical
3 incident commander and then back down to SERT?

4 A Yes.

5 Q And then vice versa?

6 A Yes.

7 Q From SERT up to critical incident commander and
8 back down to CNT?

9 A Yes. I feel like we need to draw.

10 Q So, typically, when CNT and SERT are both kind of
11 called out to the scene, where would the Crisis Negotiation
12 Team stage or be located during the incident?

13 A So we are typically located -- I'd say typically
14 within a half mile of the incident. There's exceptions to
15 that. If a precinct is close by, we may still work out of
16 our truck, but at that precinct. But we are away from the
17 scene, but close by.

18 Q So when a negotiation is ongoing, Detective Scott,
19 are you able to see what is actually happening in most
20 circumstances?

21 A No.

22 Q And is that part of the reason why that
23 communication relay is very important?

24 A That is why it's so vital because we do not have
25 eyes on at all. We only know what we're hearing over the

1 radio.

2 Q Okay. And I don't believe that you've ever been a
3 member of SERT, but in a typical situation, are you the one
4 as a negotiator the one speaking and hearing what's going on
5 versus the SERT members that maybe can see things going on a
6 little bit better?

7 A Yes.

8 MS. KYLE-CASTELLI: Okay. Does anybody have any
9 questions about how the Crisis Negotiation Team operates?

10 (No response.)

11 BY MS. KYLE-CASTELLI:

12 Q So, Detective Scott, let's turn to July 22nd of
13 2023. Were you activated in your role with the Crisis
14 Negotiation Team on that day?

15 A I was.

16 Q And where were you originally dispatched to?

17 A We were dispatched to Good Sam Hospital. We knew
18 that was the location of the incident. Usually while
19 everyone is en route, we're updated over the radio about an
20 actual safe staging location. And that ended up being
21 between 21st and 22nd, on Northwest Lovejoy on the south
22 side of the street in a parking lot.

23 Q Okay. And when East Precinct officers stated that
24 they believed that they may have a suspect on -- around
25 Northeast 181st and Northeast Everett, was Crisis

1 Negotiation Team then dispatched to that location?

2 A Yes. There were a fair number of people at the
3 scene at Good Sam when we received that news, and so
4 everybody just packed everything up, and it was head that
5 direction. We'll find a good staging location.

6 Q And where did you stage for that location?

7 A It ultimately was the Gresham Police Rockwood
8 satellite station. I googled it. I think it's 675
9 Northeast 181st.

10 Q Okay. From your vantage point, were you inside of
11 the truck that the Crisis Negotiation Team works out of?

12 A Yes.

13 Q And could you see anything that was actually
14 occurring on the scene?

15 A No.

16 Q So you've mentioned a lot of different type of
17 positions within the Crisis Negotiation Team. What was your
18 role on July 22nd, 2023?

19 A So I was designated as the primary negotiator that
20 day.

21 Q Were you assigned kind of a negotiation coach or a
22 secondary to kind of assist you during that process?

23 A Yes. So my secondary/coach was Jackson Oldham
24 (ph.).

25 Q Okay. Was there also a supervisor that was

1 present during that day?

2 A Yes, Joshua Silverman was the sergeant assigned to
3 the negotiation. So --

4 Q Okay. Was there a critical incident commander in
5 this particular case?

6 A Yes.

7 Q Okay. Do you happen to know, Detective Scott, why
8 you were selected as the negotiator in this particular case?

9 A So when we first arrived, I was with Jackson
10 Oldham, and Sergeant Silverman approached us, talked to us
11 about being primary and secondary. We always try to
12 strategize about who might be better in that position.

13 And Jackson Oldham had contact with somebody who
14 was standing by with the wife, Ashley -- I believe her name
15 is Ashley -- and they asked her directly in real time, "Do
16 you think a male or a female -- that he would respond better
17 to a male or a female?" And she said definitely a female
18 because all of his past therapists or counselors had been
19 females and that he typically responded well.

20 Q Okay. So the effect, essentially, of learning
21 that information was that you ended up being assigned as a
22 primary negotiator?

23 A Yes.

24 Q Okay. I'm assuming Jackson Oldham is a male?

25 A Jackson is a male.

1 Q As a negotiator on that day, on July 22nd, did
2 you speak with PoniaX Calles, or Reginald Jackson, AKA
3 Reginald Jackson?

4 A Yes, yes.

5 Q And did that conversation -- how did that
6 conversation end up occurring?

7 A So we ended up being patched through from 9-1-1.
8 He had called in to 9-1-1. We received word of that. And
9 then we have the ability for our 9-1-1 BOEC dispatcher to
10 patch that person through to the phone in our truck.

11 Q Okay. Is that conversation with the Crisis
12 Negotiation Team and PoniaX Calles, is that recorded?

13 A Yes, it is.

14 Q Okay. And have you reviewed that before today?

15 A I have.

16 Q At certain points in the recording, does the line
17 disconnect?

18 A Yes.

19 Q Several times?

20 A Yes.

21 Q And I just want to be very clear, Detective Scott,
22 did you hang up the phone on PoniaX Calles, also known as
23 Reginald Jackson at any point?

24 A No.

25 Q For brevity, I'm going to play part of the clip,

1 and I'm going to skip portions of it where -- during the
2 recording, are you actively trying to make contact again
3 with PoniaX Calles?

4 A Yes, it was difficult, the 9-1-1 patch through and
5 the disconnections.

6 MS. KYLE-CASTELLI: Okay. So for brevity's sake,
7 I'm going to skip through some of those portions of just her
8 trying to redial the number.

9 (Audio playing.)

10 MS. KYLE-CASTELLI: I wanted to ask can anybody
11 hear the other statements.

12 GRAND JUROR: Barely --

13 GRAND JUROR: Very faint.

14 MS. KYLE-CASTELLI: Can we pause it for a second,
15 pause the FTR for a second and then adjust the volume?

16 (Off the record at 11:06 a.m.)

17 (On the record at 11:08 a.m.)

18 MS. KYLE-CASTELLI: Okay. We're back on the
19 record after trying to fix some technical difficulties, and
20 we are going to resume playing the audio clip.

21 (Audio playing.)

22 BY MS. KYLE-CASTELLI:

23 Q Detective Scott, let's talk about the water first.
24 Is that something that the Crisis Negotiation Team can work
25 on, to provide somebody with water?

1 A Yes. That is one of the easiest requests that
2 we can receive and fulfill. It would, however, take time
3 and a vetting process. Again, it would have to go up that
4 chain of command and back down. Several discussions are had
5 at every level pertaining to a request even if it's as
6 simple as water, how much water to provide, will it energize
7 the person to lengthen the standoff, will it help to
8 deescalate and end the standoff.

9 I mean, all these things are weighed and talked
10 about. But that, logistically, is one of the easier things
11 for us to provide and do. Again, though, it would take a
12 ridiculous amount of planning to a normal person to deliver
13 this bottle of water. I wouldn't be walking up and handing
14 it to him. It would be delivered by a robot, and there
15 would be not only discussions, but lots of planning going
16 into that.

17 Q Okay. So an officer couldn't just walk up to a
18 barricaded individual that possibly could be armed and just
19 hand them a bottle of water, is that --

20 A No.

21 Q Okay. So it would have to be vetted and kind of
22 planned?

23 A Yes.

24 Q In order for that to happen?

25 A Yes.

1 Q So he asked several times to speak to his wife,
2 Ashley?

3 A Um-hum.

4 Q With your training from the Crisis Negotiation
5 Team, was that an option?

6 A It was not an option for us to conference her in
7 for them to talk live to each other. That was not an
8 option. Best practices is that you do not let somebody in
9 that position talk live with somebody else, the fear being
10 that they will say their goodbyes and then end their life.

11 What we use as a strategy is third-party
12 intermediaries, which is that third party would have been
13 Ashley. We obtain recordings from those people, and we do
14 that on a regular basis, very often, moms, grandmothers,
15 wives, anybody that could have some kind of positive
16 influence over the person or the outcome. And so had we
17 continued talking, I'm positive we would have obtained a
18 recording from Ashley, and then that is something that we
19 play for the subject. And then, you know, and then we see
20 how they respond.

21 The other thing that we have accommodated several
22 times is that once they are in custody, we have accommodated
23 a meeting between people, but they would be in custody,
24 likely in a car or an ambulance, something like that, and
25 then so we can control at least one side of that

1 conversation.

2 Q Okay. So you mention control. If you put a third
3 party on and conference them in, from the Crisis Negotiation
4 Team, are you able to control anything that's said between
5 those people?

6 A No. We could even tell her not to say certain
7 things, but ultimately, we can't control that.

8 Q Okay. Is it possible that a person could get on
9 the phone and talk to a barricaded individual and escalate
10 the situation and make it worse?

11 A Very much so.

12 Q Okay. And is that part of the reason why the
13 Crisis Negotiation Team uses the third-party intermediaries?

14 A Yes.

15 (Audio playing.)

16 BY MS. KYLE-CASTELLI:

17 Q Detective Scott, is it -- why did you -- why were
18 you so insistent to try to read a bible verse to PoniaX
19 Calles?

20 A So I was provided with information that religion
21 was very important to him. He had a bible with him when he
22 was at the hospital. Every -- all of the information I had
23 gotten to that point was that he was religious, and he was
24 saying a lot of things about meeting his maker.

25 And so if -- obviously, when he was reading his

1 will, we were kind of trying to interrupt that. And you
2 could hear the secondary saying, "Don't let him finish."
3 Interrupting something like that -- well, maybe not the will
4 reading, but through my training and experience, we find
5 that when people are about to kind of take that final step,
6 there's a bit of a countdown. And that -- the will seemed
7 like his countdown. And so we were trying to interrupt
8 that. And so, yeah, going to the bible, we were just trying
9 to provide some level of comfort.

10 Q Was it concerning when he started reading a will?

11 A Very.

12 Q Were you often trying to make connections with him
13 and his children?

14 A Yes.

15 Q Okay. Why would you do that?

16 A Again, strategy. Typically, we don't want to
17 instill any guilt if somebody is attempting to take their
18 own life, but at that moment, it did feel like the
19 countdown, and interrupting that and reminding him you're a
20 father, this is your only son, you just had this child, and
21 so, yeah, it just seemed important. His son was very
22 important to him. That seemed to be the source of a lot of
23 the issues at the hospital. So --

24 Q Okay. As you were having your conversation with
25 Mr. Calles, were other members of either the Crisis

1 Negotiation Team or somebody in the truck where the Crisis
2 Negotiation Team works, were they able to actually hear what
3 he was saying?

4 A Yes.

5 Q And tell us a little bit about that?

6 A So outside -- like I said, our negotiation cell
7 itself is very isolated. It is just myself and the
8 secondary. We have a big metal door and a window that we
9 can pass stuff through or show people notes, things like
10 that. But it's very isolated.

11 Outside that, we have the negotiations sergeant is
12 positioned right there. And he has on headphone because his
13 whole job is to listen to the negotiation and strategize as
14 things are going. And then next to him, we have a mental
15 health professional. We always have a mental health
16 professional on our callouts.

17 The one that was there in particular is somebody
18 that's been with us for years and years. She's exceptional.
19 I know that's my opinion, but she has a Ph.D. in psychology.
20 She's just very, very experienced. And so she was standing
21 there also with headphones on, doing nothing but listening
22 to the negotiation. As a mental health professional, she
23 has no interest in tactics or anything else that's going on.
24 That's all she's there for.

25 And so those people were listening for sure. I

1 don't know who was beyond that. But at every station
2 where we have a laptop, we have headphones so that people
3 can be listening to it. So there could be up to ten people
4 listening to the negotiation. And then we also have
5 speakers outside the vehicle so people could listen to it
6 outside if they wanted.

7 Q Okay. So as you're fully engaged, right, with the
8 conversation, are other people able to hear what's going on
9 and then relay that information to make sure it gets out to
10 the critical incident commander and to SERT?

11 A Yes.

12 Q Okay. Let's focus back on that mental health
13 professional that was present that day, as well? How is she
14 assisting? I know that you said that she's listening, but
15 how does she assist you in what you're doing?

16 A So in -- in a more protracted situation, this one
17 in particular was very chaotic and quick. But in a longer
18 negotiation, she would be able to pick up on those, you
19 know, mental health disorders or delusions or, you know,
20 things that she knows how to talk to those people, what
21 might work with somebody that's experiencing delusions,
22 something that might work with somebody that's experiencing
23 deep depression. And so then she would talk to the
24 negotiation sergeant, strategize about let's avoid these
25 topics, let's really focus in on this. Some people are not

1 able to have that forward thinking past the next minute of
2 their life let alone the next 20 minutes or two days. So
3 she's really able to advise on just how to speak with people
4 in different situations and what will work best.

5 Q And you said that her role often comes in when
6 it's a more protracted scene?

7 A Just when we have more rapport or more
8 conversation with a person, yeah. The more information and
9 negotiation she has to listen to, I believe the more she can
10 develop themes, and things like that.

11 Q Okay. Were you able to get any strategy or any
12 advice from her during this incident?

13 A Not that I remember.

14 Q Okay. Did this incident move fairly quickly?

15 A Yes. I was, frankly, very surprised when I got
16 the recording, and it was over 30 minutes.

17 Q Detective Scott, can you please explain to the
18 grand jury what a force warning is?

19 A So a force warning is something that we provide to
20 people in a lot of different capacities. On the street,
21 somebody could provide a force warning when they're going to
22 take somebody into custody. Keep your hands behind your
23 back. If you move from this position, you may be subject to
24 a taser or pepper spray, or a variety of things. So a force
25 warning can be given in that manner.

1 When we have our high-risk warrants and arrest
2 warrants, when the big armor pulls up with SERT, we will
3 announce our presence, ask for the people to come, and then
4 give a forced warning by PA that way. If, you know, if you
5 don't comply with these orders, this variety of things could
6 happen.

7 And so in this situation, we provided a force
8 warning when things were escalating, letting him know that
9 he -- if he did not comply with the orders that he was
10 getting from the people directly in front of him, that he
11 may be subject to force. It could be a K-9, taser, OC
12 spray, less lethal or lethal force.

13 Q Okay. And is there an advantage or a disadvantage
14 to, like, the very first time you make contact with a
15 barricaded individual of just jumping straight into a force
16 warning?

17 A Yes. I believe it would significantly inhibit any
18 kind of rapport that you would build with that person. We
19 are trying to deescalate the situation. So if we jump
20 straight into, hello, my name is Hilary, we may do all these
21 things to you that are force, then it would probably really
22 inhibit any kind of rapport we were to build. So, yeah, we
23 don't do that.

24 Q Is there -- so there's a strategy to when to give
25 a force warning through the Crisis Negotiation Team?

1 A Yes.

2 Q Okay. In this case, what prompted you to provide
3 a force warning?

4 A So I was instructed by, I believe, Sergeant
5 Silverman to provide a force warning. At the point, we felt
6 like he was making a move to exit the vehicle, or I could
7 just hear some rustling.

8 MS. KYLE-CASTELLI: Okay. And we're going to pick
9 back up in the recording at this point.

10 (Audio playing.)

11 BY MS. KYLE-CASTELLI:

12 Q And again, Detective Scott, were you able to see
13 what was actually happening at the scene?

14 A No.

15 Q Okay. I understand Mr. Calles was being patched
16 through to you via the 9-1-1 call system?

17 A Yes.

18 Q Were you able to hear what he was saying to 9-1-1?

19 A No, I did not hear any of the original call with
20 9-1-1 and didn't hear anything prior to them patching
21 through.

22 Q Okay. After the incident, did I request that you
23 listen to the 9-1-1 call?

24 A Yes.

25 Q And were you able to identify the voice on the 9-

1 1-1 call?

2 A Yes.

3 Q And were you able to identify it as the same
4 person that you had been speaking to through the Crisis
5 Negotiation Team?

6 A Yes.

7 MS. KYLE-CASTELLI: Okay. Does anybody have any
8 questions for Detective Scott?

9 GRAND JUROR: It sounded like on the phone call
10 there were two gunshots. Do you know is that's what those
11 were?

12 MS. SCOTT: I don't know if that's what those
13 were.

14 GRAND JUROR: Okay. And do you know when you
15 provided the use of force warning if he had -- was still in
16 the van or if --

17 MS. SCOTT: I don't know.

18 GRAND JUROR: Thank you.

19 MS. KYLE-CASTELLI: Any other questions?

20 MR. MICKLEY: You had mentioned 9-1-1 BOEC.
21 That's the Bureau of Emergency Communications?

22 MS. SCOTT: Yes.

23 MR. MICKLEY: And there were a couple of separate
24 instances in the very first conversation you had with Mr.
25 Calles, as well as the last one, in which he talked about

1 wanting to talk with the mother of his children before he
2 went out of this world or before he died. What is it that
3 you -- what is the concern you had when he was making those
4 statements?

5 MS. SCOTT: That he was suicidal, that he planned
6 on exiting the vehicle with the weapon that he had and
7 escalating the situation.

8 MR. MICKLEY: And when you were trying to talk to
9 him, reading him the verses from the bible, talking to him
10 about his newborn child, were those done in an effort to try
11 to prevent not only him getting out and potentially shooting
12 at other people, but also just shooting himself while he was
13 in the van?

14 MS. SCOTT: Yes.

15 MS. KYLE-CASTELLI: Any other questions?

16 (No response.)

17 MS. KYLE-CASTELLI: Okay. Thank you. We can
18 pause the recording.

19 (Off the record at 11:37 a.m.)

20 (On the record at 1:03 p.m.)

21 DON LIVINGSTON

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

24 DIRECT EXAMINATION

25 BY MS. KYLE-CASTELLI:

1 Q Can you please state and spell your name for the
2 record?

3 A My name is Don Livingston. First name is D-o-n,
4 and last name is L-i-v-i-n-g-s-t-o-n.

5 Q And where are you employed?

6 A I'm employed with the Portland Police Bureau.

7 Q How long have you been employed with the Portland
8 Police Bureau?

9 A Twenty-six years with the Portland Police Bureau.

10 Q And what is your current assignment?

11 A I'm a sergeant assigned to the Special Emergency
12 Reaction Team. We work out of the Specialized Resources
13 Division.

14 Q Is that a full-time position for you?

15 A For me, it is a full-time position. I'm the
16 senior sergeant. I'm the team leader for SERT.

17 Q And how long have you held that role?

18 A I've held that role for two years.

19 Q Okay. Can you kind of touch upon some of your
20 previous assignments with the Portland Police Bureau?

21 A Well, everybody starts out in patrol. So that's
22 where I started out for the first part of my career. In
23 2001, I was selected to be the lead defensive tactics
24 instructor for the training division, which is the hands-on
25 portion of the job, how to handcuff people, you know, how to

1 protect yourself in physical altercations. I also during
2 that time became a firearms instructor and a patrol tactics
3 instructor.

4 In 2009, or '8 -- excuse me -- I was promoted to
5 sergeant. Started out at Southeast Precinct, where I worked
6 nightshift for a year. And then in 2009, I was selected to
7 be on a street crimes unit, worked through the city focused
8 on gun crimes. And then in 2010, I went to the Gang
9 Enforcement Team on the uniformed side. 2011, I transferred
10 to day-shifting enforcement, which was the investigative
11 side. We investigated all of the measure 11 gang crimes in
12 the city, which were primarily shootings.

13 And then in 2015, I was selected to be on the
14 Special Emergency Reaction Team. I did both jobs for a
15 little while, and then in 2016, I transferred full-time to
16 the SERT office, and that's where I've been ever since.

17 Q On July 22nd of 2023, did you receive a page
18 regarding a shooting that occurred at Good Samaritan Legacy
19 Hospital?

20 A I did. It was actually kind of a strange page
21 because it didn't require our response. It read almost like
22 a consult, which we get those quite often, where a sergeant
23 that's on the scene asks to speak with one of us on the team
24 really for advice, say, "Hey, this is what I've done so far.
25 Am I missing anything? Should I activate you guys?" kind of

1 thing. So -- but there was nobody to call.

2 So I called dispatch just to try to get, like,
3 what's going on from the dispatcher. Basically, the
4 dispatcher said there was a shooting inside the Good
5 Samaritan Hospital. The sergeant on scene activated -- or
6 requested all on-duty SERT members respond to the hospital
7 for assistance. And the page was just a courtesy to let us
8 know that this event was going on.

9 Q Were you aware that video was recovered at Good
10 Samaritan showing the identity of the suspect, what he
11 looked like --

12 A I was. Eventually, we got activated. I responded
13 to the scene, the staging location, which was at 21 and
14 Lovejoy. And at that time, I was made aware that the
15 suspect had likely fled. They had video, and then I
16 received an email with a photograph of the subject.

17 Q So you were aware that there was a possible
18 sighting at Fred Meyers and that that included --

19 A Yes. I actually sent officers there to assist
20 with that clear. I knew that the patrol was moving through
21 the store itself, but there was a parking structure, as
22 well. I sent officers down there to assist with the parking
23 structure.

24 Q Okay. I want to just shift now to Northeast 181st
25 and Northeast Everett.

1 A Okay.

2 Q Sergeant Livingston, did you also respond to that
3 particular scene?

4 A I did.

5 Q And what was your particular assignment that day
6 at the traffic stop at 181 and Everett?

7 A So once I responded, it was my job to be the
8 overall supervisor for the scene. So I was coordinating all
9 the tactical efforts that were happening right there at that
10 intersection specifically with the members of the SERT team.
11 Additionally, I requested additional assistance from anybody
12 from East Metro SWAT, which is Gresham and Multnomah County.
13 They have a separate SWAT team. And I ended up getting
14 about five members of their team responding as well as a
15 piece of armor.

16 Q Okay. So what type of information -- kind of
17 around the time that you're arriving at Northeast 181st and
18 Northeast Everett, what type of information did you have as
19 the SERT sergeant at that point in time about what was going
20 on?

21 A So while I was still at Good Sam's I was made
22 aware that East Precinct was following a car that they
23 believe contained the suspect of the shooting. The email
24 that I received went out to every member of the police
25 bureau that was working, and Sergeant Filbert saw a subject

1 that he believed was the suspect in the passenger's seat
2 of a vehicle that was described to me as an ambulance. And
3 a traffic stop had occurred at 181 and Gleason. Commander
4 Lindsay, or Captain Lindsay, who was in charge of us at that
5 point said -- requested us to respond to the scene to
6 provide assistance at that stop.

7 On arrival, I knew that the traffic stop occurred.
8 They asked the driver to come out of the vehicle. The
9 driver came out of the vehicle. I knew that the driver had
10 identified the passenger as Reginald Jackson. They showed
11 him a photo of that subject, and he had identified the
12 passenger as the same individual of the photo that we
13 received.

14 I knew -- I spoke to my lieutenant to confirm that
15 there was probable cause to arrest Reginald Jackson for the
16 crime of murder that occurred at Good Samaritan Hospital. I
17 knew that Reginald Jackson had fled the scene with a gun. I
18 knew that security was evicting him and they found two guns
19 in a bag that was in his possession. I knew that he shot
20 the security guard. I knew the security guard was deceased.
21 I knew that it was either a nurse or a hospital
22 administrator was also shot during the process.

23 It was my belief originally that Reginald Jackson
24 fled on a scooter, but there was positive identification
25 that he was now the passenger in this vehicle that was

1 stopped. I also knew that during the traffic stop, each
2 precinct was giving commands to the subject to exit the car.
3 I knew that he refused to exit the car. And I also knew
4 that force warnings had been given to the subject.

5 Q Okay. And that was prior to your arrival?

6 A It was all prior to my arrival, correct.

7 Q Were you also aware that Portland Police Bureau
8 officers might have had a set of keys to the van?

9 A Yeah. I was concerned that he might be able to
10 drive away. He was sitting in the passenger's seat. So I
11 asked while I was in route if they were in possession of the
12 keys, which they responded yes. I was still skeptical. I
13 know the number one call in the city of Portland is theft,
14 theft of vehicles specifically. I just ran that number
15 about a month ago, and we were at 13,000 vehicles stolen in
16 the city of Portland up to this point in this year.

17 So I know that it's a common crime. That's an
18 older vehicle. I felt that it was possible for him even
19 without a key to get it started. I was also concerned that
20 there might be an additional key in the car. So one of my
21 primary focuses when I arrived at the scene was to take away
22 the mobility of that vehicle, specifically by boxing it in.

23 Q Why was the mobility of the vehicle a concern for
24 you?

25 A So a static problem is much easier to deal with

1 than something that's mobile. When I had it contained,
2 the people in the community that are in danger are just in
3 that vicinity. When it starts to drive around the city,
4 exposing more community members to danger.

5 And I was trying to take that away in this
6 situation. I already knew that this subject had committed
7 the crime of murder. I felt that his -- the value he placed
8 on human life was low. I felt that he was driving around in
9 a city that other citizens would be in danger of harm. So I
10 wanted to take that ability away from him.

11 Q Okay. Is it more dangerous for the police and/or
12 the community if there is kind of a vehicle chase of any
13 type?

14 A Absolutely. It adds another dynamic. The gun is
15 one thing. But speeding through the city is definitely
16 another thing. You know, you can just have a crash, for
17 instance, him running a light. I felt that the crime of
18 murder is very high and the chance that, you know, he would
19 be going away for quite a while, if not the rest of his
20 life. So the likelihood of him trying to elude or evade
21 that arrest would be also very high.

22 Q You mentioned that you had informed somebody that
23 there was probable cause to -- you believed there was
24 probable cause to arrest Reginald Jackson AKA PoniaX Calles.
25 Who did you inform, who did you tell that you thought you

1 had probable cause again?

2 A Well, I asked our lieutenant. So depending on
3 where our team is set up, I am the one that's coordinating
4 everything with the officers. I'm in the field coordinating
5 everything, and we have a lieutenant in the command post.
6 It was Chris Burley that day. So I asked Lieutenant Burley
7 to confirm with detectives that the person we have stopped,
8 Reginald Jackson, is in fact the person that committed the
9 murder at Good Samaritan Hospital and that we have probable
10 cause to arrest him for the crime of murder.

11 Lieutenant Burley verified that via the radio, and
12 then I ensured that every member of my team had that
13 information, as well, via the radio and face-to-face
14 conversations.

15 Q Okay. So you confirmed -- just to -- I want to
16 make sure that I'm clear. You confirmed -- it eventually
17 was confirmed by the detectives that were overseeing the
18 investigation at the Good Samaritan Hospital?

19 A Correct. Lieutenant Burley did that backchannel
20 stuff. I was not involved in that.

21 Q Okay. So by the time you actually arrived at the
22 scene, had the SERT vehicles or armor already arrived?

23 A I beat the armor there. I was out of my car
24 getting my gear all set. Armor started arriving, as well as
25 the rest of the team. And at that point, I wanted to box in

1 the vehicle. While we were en route, I asked Lieutenant
2 Burley for permission to do that through the chain of
3 command, and it was approved.

4 Q So when you arrived, was the armor already in
5 position?

6 A No.

7 Q Okay.

8 A There was patrol cars behind it, and they had set
9 up what looked like to me a traditional high-risk vehicle
10 stop that we would have done, you know, throughout my career
11 in patrol, using regular police cars behind the suspect
12 vehicle.

13 Q So could the patrol officers have boxed in the
14 vehicle in the same way that the SERT vehicles and the SERT
15 armor were able to actually box in that vehicle?

16 A Yes and no. They could, but with a high level of
17 risk to themselves. Those cars are not armored, so they
18 would expose themselves to danger and being shot. We knew
19 the suspect had a gun. Second thing is they're not as heavy
20 as armored vehicles. So the chance of being able to
21 maneuver your way out of that box, then, is higher. If you
22 get the armored vehicles in there, they weigh over 25,000
23 pounds. It kind of takes that out of play. And second,
24 their armored capability protects you when you drive into
25 place.

1 Q And unlike patrol vehicles, are the -- is there
2 bulletproof protection with armored vehicles?

3 A Yes. So we buy these armored vehicles from a
4 company called Lenco armored vehicles. They're specifically
5 made for police agencies throughout the country. We have
6 three of them, and their armor capabilities are all equal.
7 They're constructed out of half-inch steel, and they'll stop
8 up to .50 caliber rifle rounds. The windows themselves are
9 also bullet -- we call it resistant glass, and they'll stop
10 up to a .50 caliber rifle round, as well, but one round.

11 So those I feel much safer about moving into
12 position to box somebody that's armed in. It does two
13 things. For me, I see it gives us protection, but it also
14 gives that individual protection because we're able to
15 withstand more.

16 Let's say, for instance, as we're driving into
17 place, he shot at us. The armored vehicles are going to
18 stop -- if we're buttoned up inside the armored vehicle and
19 protected, we're not in danger. If you do that with a
20 police car and he shoots at you, we're going to return fire
21 and shoot him. So it's safer for him, and it's safer for
22 us.

23 Q When the SERT vehicles were put into place, were
24 you -- was SERT able to get a better vantage point and a
25 better view as to what PoniaX Calles or Reginald Jackson was

1 actually doing inside of the vehicle?

2 A Yeah. So initially had to move patrol cars out
3 from behind it. And I specifically chose vehicles for each
4 job. The G-3, which is the newer of our vehicles, it's got
5 the most protection in the turret, the top part of it. So
6 these vehicles have hatches that pop open. That hatch is
7 wrapped with armor, and it's got windows. So you can look
8 through the windows and see into the car. It's going to
9 give you a much better view.

10 The suspect was seated in the front seated on the
11 passenger's side. So we were behind it. So standing behind
12 it, I could see -- only see him through the sideview mirror
13 because there was so much stuff in the back of this
14 ambulance. So I could just kind of see his -- the path of
15 his face in that sideview mirror. So as soon as we were
16 able to get the G-3 around and box it in from the front, we
17 gained a lot more information from the officer that was in
18 the turret, or the top hatch, of that vehicle.

19 Second, boxed it in from behind with at Bearcat,
20 which is the smaller of our three vehicles came in directly
21 from behind and made physical contact. So we had him
22 pinched in from the front and the back.

23 And then, lastly, the Bear truck, it's the biggest
24 of our vehicles, kind of had to drive off to the driver's
25 side and then cant at an angle away from the vehicle. And

1 this kind of gives us angles into the vehicle. It allows
2 us to see better inside, and should he decide to hop out, it
3 gives us the opportunity to respond to his actions.

4 Q And Sergeant Livingston, in the future if you want
5 to, there's a photograph behind you. If it would help you
6 to explain anything you're talking about, feel free to
7 reference that.

8 A Okay. Thank you.

9 Q I want to go to the turret of the G-3 for just a
10 moment. You mentioned that there was -- it was bulletproof.
11 It's going to be standing in the G-3 turret as a legal cover
12 for other officers to make sure, you know they've got a
13 clear line of sight on a person inside of the van. Are they
14 100 percent protected as they're looking out of the turret
15 to the van?

16 A No. So in the front, this is the part I was
17 talking about that pops up. And you can see he -- it's kind
18 of hard to see, but you can see that's one of our officers,
19 Seth Wingfield. In the front, there's doors that pop open.
20 So in order for you to be able to respond to his actions,
21 you have to pop those doors out so you can actually get your
22 rifle through there. So there is a little bit of space
23 where you're exposed. So in this position, he's not 100
24 percent protected. He's better protected, but he's still
25 exposed if the suspect were to shoot at him.

1 Q Okay. And primarily, it would be kind of
2 his upper torso or at least his head that would be the
3 exposed portion of his body in that turret?

4 A Yeah. And wear a helmet, and it's ballistic, and
5 we wear a vest. So from about here to here, I have no
6 protection, and that's the part I would be concerned about
7 being exposed.

8 Q Okay. And just because we're on the record so I
9 can be clear, you're pointing to the top part of your --
10 like, the bottom part of your neck to the top part of your
11 head?

12 A That's correct.

13 Q Okay. Where a helmet would come down right above
14 your eyebrows?

15 A Um-hum.

16 Q After the van was kind of contained and boxed in
17 like that, did you contact the Crisis Negotiation Team?

18 A Yes. But right before, I just want to mention one
19 thing.

20 Q Absolutely.

21 A There is a fourth piece of armor. This is an
22 armored vehicle from East Metro Squad. And basically, when
23 they arrived, I asked them to do a similar thing on this
24 side, to kind of cant off and create another angle into the
25 car.

1 Boxing the car in prevents the vehicle from
2 being mobile, but it also places us in close proximity to
3 the suspect, so should he jump out with a gun in his hand,
4 it gives us less reaction time. So for that reason, I
5 created angles so you could see better into the car and
6 increase your reaction time to prevent him from doing
7 something to us. Additionally, we had officers posted in IP
8 (ph.) positions that could see him, as well.

9 Once this was established, my primary function is
10 to make sure that we start engaging this individual in
11 conversation. Ultimately, my hope is we were able to
12 negotiate with him, and he surrenders to us. We get him
13 into custody and get him medical attention if he needs it
14 and incarcerated for what he did.

15 So that's my goal. I knew at one point that he
16 had called 9-1-1. So I reached out to Lieutenant Burley,
17 who is my direct link to the command post just to ensure
18 that that call is being patched to our negotiators. So they
19 began engaging him in a conversation.

20 Q So I want to go back for a second. You mentioned
21 IP. What does IP mean?

22 A Sorry. Inner perimeter. So those are containment
23 officers. And they are posted off so should the subject get
24 out and run, they're in strategic spots to prevent that and
25 to keep the individual contained.

1 Q Okay. And Sergeant Livingston, we've talked a
2 lot about kind of those inner perimeter officers. Can you
3 also just walk us through kind of what the less lethal
4 options were if he came out without a gun?

5 A Yeah. So at each piece of armor, here and back
6 here, we had assigned a 40-millimeter operator, so somebody
7 to use 40-millimeter sponge rounds should the subject get
8 out and not comply to commands. Additionally, we had a K-9
9 officer on the scene.

10 So my direction was should the door open and it
11 looks like he's trying to get out, if we can prevent that,
12 because I'm concerned he's going to get out with a gun in
13 his hand, and we're going to end up having to shoot him
14 using 40 millimeters to force him back into the car. And
15 hopefully, he sees that as I don't want to -- I don't want
16 to get hit anymore and closes the door and stays contained.

17 The second part of that would be to release the
18 dog to get on him and hopefully get on a bite and prevent
19 him from hurting us and having to use that elevated level of
20 force. So those were my two phases to try to prevent us
21 from having me to use lethal force should he get out.

22 Q What if he got out with his hands directly up in
23 the air like this and it's clear he didn't have a weapon
24 on -- in his hands?

25 A None of that would have been necessary. We talk

1 through what we call contingencies. So at the base level,
2 if he gets out like that, with his hands in the air, it
3 would be commands, trying to get him to surrender to come
4 back to us to take him into custody.

5 Q Okay. And so it just escalates from that very
6 basic level all the way up to -- so you had -- you had the
7 basic commands to less lethal options and the 40-millimeter
8 kind of a bean bag shot, is that right?

9 A Yeah.

10 Q And then it would go -- escalate up to the K-9
11 unit? And then it would -- finally, there was a lethal
12 option if he chose to come out in a threatening way?

13 A Yes. And we try to assign all these roles, or we
14 do assign these roles so there's less chaos. Should
15 somebody get out, there's a plan in place. And all these
16 plans were made prior to him getting out of the car.

17 Q Okay. So you mentioned that the Crisis
18 Negotiation Team was -- had been patched over -- the 9-1-1
19 call had been patched over to the Crisis Negotiation Team.
20 Were you receiving any updates about how the negotiations
21 were going with the Crisis Negotiation Team and PoniaX
22 Calles?

23 A Yes. So, again, we have an overall commander who
24 is in the command post. There's a lieutenant from CNT, or
25 the Crisis Negotiation Team, and there's a lieutenant from

1 SERT. We work on different radio nets. There's just too
2 much chaos if we try to work on the same net. So all of the
3 information from CNT goes to the command post through their
4 lieutenant and then filters back to me. I also have an
5 intel officer in the CNT command area where they're
6 listening, and they're giving me, like, real-time
7 information.

8 I knew that the negotiation was not going well. I
9 knew that he was asking to write his will. I knew that he
10 asked them to say -- read him some specific bible verses.
11 All these things led me to believe that he was kind of
12 preparing for his final moments was my concern. I know one
13 time he hung up on the phone, and he -- I could hear him
14 screaming from the car like, "Let's get it on. Let's do
15 this" is what I remember.

16 Q Did you request at some point that the dispatcher,
17 or the Crisis Negotiation Team, provide a force warning to
18 Mr. Calles, or Mr. Jackson?

19 A We did. I knew that that had happened prior to us
20 getting there. I also feel that, you know, during a
21 prolonged event, one warning is not sufficient. So I like
22 to give several warnings. And there was no specific warning
23 from us, our team. I did not want to interject and start
24 giving him warnings because it could escalate the situation.
25 I did not know how the, you know, the rapport was with the

1 specific negotiator, and I felt if we started yelling
2 commands at him, specifically, force warnings, if then, if
3 you don't do this, this might happen, it might upset him.
4 So I asked through the command post, for them to work those
5 statements into their negotiation.

6 Q Through the incident while you were at Northeast
7 181st and Northeast Everett, can you kind of explain what
8 you saw to be threat concerns, that Mr. Calles made those?
9 Just generally, what was going through your mind as far as
10 the threat concerns?

11 A Well, first, I knew, like, during this event, the
12 officers in the G-3, they could see him kind of moving
13 around. At one point, he had raised his hand, and there was
14 a rag wrapped around his hand. I was concerned that the gun
15 that was used in the murder was in his possession and in his
16 hand, and he was trying to conceal it.

17 So the first concern was should he try to shoot --
18 either reach out and shoot at one of us throughout the
19 event -- he was kind of, like, sticking his head out and
20 looking around. I felt those were targeted glances to
21 figure out where officers were. I was concerned he might
22 reach out and, number one, just try to shoot at an officer.

23 Number two, I was concerned that he would exit the
24 car with the gun in his hand and maybe make a quick movement
25 towards us and be armed with a gun, and potentially cause

1 death or serious physical injury to one of us.

2 Q I was also concerned, if you look at the top of
3 the photo -- there's lots of cars there. There's lots of
4 people. It's a busy area. There was lots of citizens and
5 community members out there that were interested in what the
6 police were doing. And they were huddled up near the crime
7 scene tape.

8 I had asked patrol officers to get them as far
9 back as possible, but that's not always -- you know, people
10 aren't going to listen. They're going to stand there and
11 watch. So we had citizens in the area that I was concerned
12 about.

13 There is a house right here at 181st and Everett.
14 This is Everett right here. And in the southwest corner,
15 there's a house. There's an individual that kept coming out
16 of the house during this event and was upset with us, and he
17 was yelling at us. And I was concerned for his safety
18 should he get out in the middle of an incident. So it was a
19 multitude of concerns for people's safety based on Mr.
20 Jackson's behavior and the fact that I still believed he had
21 a weapon and was armed.

22 Q Okay. And I haven't pointed this out before, but
23 I'm going to take the opportunity. This photograph at the
24 top left corner, it is zoomed in from -- you can see the
25 full photograph in the top left corner, but this particular

1 image is zoomed in, just so the record is clear that
2 that -- it is a zoomed-in image.

3 Where were you located during -- on scene?

4 A So most of my time was, like, behind the Bearcat
5 and behind East Metro's piece of armor. I was kind of
6 moving back here. Sergeant Townley was in charge of the
7 inner perimeter officers was over here. So oftentimes, I'd
8 move over here and have conversations with him. But during
9 the whole event, I was back in this area.

10 Q Were you able to see Mr. Jackson during the day?

11 A Like I said, I could see him in the rearview
12 mirror only. Like, as I looked at the sideview mirror --
13 sorry -- I could see, like, the reflection of his face. I
14 did not see him until much later in the incident when he got
15 out of the car.

16 Q Were you being related information from other
17 officers at the scene as to what Mr. Jackson's were inside
18 the van?

19 A Yes, I was, and mainly from the officers in the
20 G-3 in front of him because they had that mirror -- or the
21 glass in the front, and they could see directly into his
22 car.

23 Q What did you learn -- you've mentioned some of
24 them, but is there anything else that you've learned from
25 the other officers about Mr. Jackson's movement inside of

1 the van?

2 A Well, one thing I -- you know, we were concerned
3 about and we prepared for is at one point, he pulled out a
4 gas can, so I thought he may light the ambulance on fire.
5 We have medics on our team. They are all Portland
6 firefighters. We had three medics there on scene.

7 So I coordinated them with -- to come up with a
8 plan to fight that fire should he light the ambulance on
9 fire. They staged a bunch of larger -- what I would
10 describe as fire extinguishers. They also reached out to
11 the local -- the closest fire department, which would have
12 been Gresham, to coordinate efforts with them.

13 And for us, I would also be concerned that
14 officers -- these vehicles might get engulfed with flames.
15 So our plan was if he did that, we would kind of back off
16 and give him a little space, use the fire extinguishers to
17 hopefully put out the fire. And then if we had a moment and
18 it was safe, move forward to get Mr. Jackson some medical
19 help.

20 Q And did you also learn from the other officers he
21 was using kind of something to kind of conceal inside of the
22 van?

23 A Yeah. Like I said earlier, he had a rag that he
24 was putting over his hand, so I felt like -- we were all
25 concerned, and discussions were had, and it's like that gun

1 is probably under the rag. He would lift his hand up, and
2 it'd be covered in a rag is what they described. I never
3 saw it, but that's the description that the officers in the
4 G-3 gave me.

5 Q So you mentioned that he was making kind of
6 targeted glances. From your perspective, like, what does
7 that mean, and why -- how does that factor into your
8 knowledge on the day?

9 A Well, if he's looking around, I felt like he was
10 trying to figure out exactly where our perimeter officers
11 were. I felt good about us, like, decent. I know there's
12 an exposure as you're looking on. If you can see him, he
13 can see you type thing.

14 There's exposure with less -- the inner perimeter
15 officers were -- they were using concealment. So they
16 didn't have cover. They were using things like fences,
17 bushes, to get into position to be able see and get angles
18 into that car.

19 So if he's glancing and trying to figure out where
20 they're at, it's a much elevated risk. And I was concerned
21 for their safety should he try to shoot them was my concern.

22 Q Okay. Based on the behavior that you were hearing
23 about that officers had a view on him, is communication with
24 dispatch and the Crisis Negotiation Team and from what you
25 were hearing about, like, "Let's get it on," what did you

1 believe Mr. Jackson was planning to do if he exited that
2 vehicle?

3 A Well, I believe he had two -- my feeling was he
4 had two intentions. Number one, he'd already showed the
5 intent to use deadly force against somebody. He had
6 committed the crime of murder at Good Samaritan Hospital.
7 He killed one person, shot another, fled the scene with a
8 weapon, was not cooperating with our attempts to negotiate
9 and deescalate the situation.

10 I believe he was still armed. He was making
11 movements and displaying behaviors that led me to believe he
12 still had a firearm in his possession. Should he try to
13 shoot at one of us or exit the car, I was concerned that he
14 would cause death or serious physical injury to one of us or
15 one of the community members in the area.

16 And I also believed that he probably had the
17 ultimate goal of having us shoot and kill him, based on his
18 words that he was using with the negotiator, talking about
19 his will and asking to hear bible verses. So those were my
20 ultimate concerns. But I definitely felt like he, in
21 addition to this suicide by cop type thing, I felt like he
22 had the intent to hurt one of us, as well.

23 Q Did one of the SERT officers that was at the scene
24 indicate over the radio that they may -- they -- based off
25 of the behavior that they were seeing and communications

1 they were hearing, that if he exited the vehicle while
2 holding a firearm, that they intended to use deadly force?

3 A Yes. And my recollection it was two officers that
4 said that. One was Officer Seth Wingfield, who is here.
5 And then Officer Matt Wells, who was somewhere to the west.
6 Both said that. And we do that quite often on the team.
7 It's just so everybody is on the same page and that it
8 wouldn't surprise you if something did happen.

9 So the statement, it's kind of an if/then
10 statement. And Officer Wingfield said, "If he exits the
11 vehicle with a gun in his hand, I'm going to use deadly
12 force to prevent him from causing death or physical injury
13 to one of us. He also stated that if he sees him pointing a
14 gun in the areas where there's specifically officers that
15 are exposed, that he's going to use deadly force to prevent
16 him from causing death or serious physical injury to one of
17 them.

18 After he made his statement, I acknowledged it,
19 and I agreed with it, and it's also for command to hear, as
20 well. Any one of us in that chain could say, "Hey, wait,
21 that's not the right move at this point; I don't agree with
22 you," we could halt that. Nobody did. We all concurred and
23 agreed with their statements.

24 Q And when an officer like Officer Wingfield makes
25 that statement, if there had been other information that

1 maybe Officer Wingfield or another officer at the scene
2 was not knowledgeable about, would that have given the
3 control -- central command the ability to provide that
4 additional information to Officer Wingfield?

5 A Yeah. If I had information specifically that
6 would have been counter to what his thought process was, I
7 would have said, "Standby on that," and we would have had a
8 conversation about that to try to get on the same page.
9 That's really kind of one of the major points of doing that.
10 But there was not any of that in this situation.

11 Q Okay. Were there robots, as well, at the scene?

12 A Yeah. So robots provide a couple things. As you
13 can see, we have what we refer to as UAS, commonly referred
14 to as drones. That's where this photo is from most likely,
15 above us, giving us information. And then we have robots.
16 Robots have cameras on them, as well. Robots can give a lot
17 of good information. They have audio, as well, so you can
18 kind of hear what the individual is saying.

19 And it also provides one more function that I like
20 in these situations. Over my career, I've had many
21 situations similar to this, where we have an individual
22 boxed in that's either armed or potentially armed. And I
23 mentioned earlier that close proximity causes concerns for
24 me because of reaction time. These larger robots we have
25 can pin doors. So they're big. They've got a lot of weight

1 to them. They're strong. So move up and pin the door
2 shut. And what that does is it gives us reaction time.
3 I've seen people fight through it and eventually get out.
4 But during that time, it allows us to work through and be
5 ready for that action of them getting out of the car.

6 We might have been able to utilize some less
7 lethal tools to prevent him from getting out if we have
8 warning. So I worked with Sergeant Defrain (ph.), who is
9 our EDU sergeant, Explosive Disposal Unit sergeant. And
10 they work all the robots for us. And I requested that he
11 move a robot into place to pin this passenger's side door.

12 Q And did you have more protection to the bottom of
13 the screen versus the top of the screen as far as inner
14 perimeter officers go?

15 A More protection? Is that what you said?

16 Q Were there additional -- I guess was the position
17 a little bit better if he exited from the driver's seat
18 versus the passenger's seat?

19 A I would have preferred -- like, if I'm getting him
20 commands to get out, I'd prefer him to come out the driver's
21 side of the vehicle. If you notice, we have these vehicles
22 kind of locking him in. We have more protection and cover
23 on that side. So that would have been -- that was our
24 custody plan should he comply with commands.

25 Q Okay. Was that robot also equipped with anything

1 else besides just pinning the door shut?

2 A Yeah. So it had a cannister of CS, which is gas,
3 commonly referred to, which is an irritant, would have
4 caused him some pain and hopefully got him to comply. And
5 that was just as a precaution.

6 Let's say he started shooting at us and ducked
7 down in the car. I may have the robot utilize the CS to
8 protect us. But you know, at some point in this
9 negotiation, we may work to that. And having it prepared
10 and ready up at the vehicle was our intent with that. We
11 had no intent to use it at this point, but it was in the
12 robot's claw.

13 Q Okay. So as that robot came up to pin the door
14 shut and have the gas cannister in its claw that wasn't --
15 we weren't ready to -- you weren't ready to use yet, and
16 you're still at the scene, can you describe what you saw and
17 heard after that?

18 A I didn't see anything because I was behind armor.
19 I heard a radio transmission that he's moving to the
20 driver's seat and then that he's getting out of the car.
21 And then I heard gunshots. I believe from where I was at, I
22 heard gunshots coming from Seth Wingfield's position, from
23 the turret of the G-3.

24 At that point, I moved. I was behind the Bearcat.
25 I moved to behind the Bear truck. So I just moved from here

1 to here. And I could see underneath the Bear truck. And
2 I could see the suspect was down on the ground, but he was,
3 like, braced with his arm like he was trying to get back up.
4 And then I heard a second volley of shots, which I believe
5 came from this vicinity here.

6 And then after that, I could see the suspect fall
7 back to the ground under the vehicle. Like, he did not --
8 like, his body was different. It wasn't like he was trying
9 to get up. He was still kind of moving around. But it
10 was -- he was more, like, horizontal, not pushing back up on
11 his arms.

12 Q Okay. So the communication over the radio when he
13 initially exits the driver's side door, was there any -- any
14 information relayed about whether or not he had a gun in his
15 possession at that point in time?

16 A Not that I recall or heard.

17 Q And after the shots were fired, was there
18 communication kind of indicating that an officer had shot
19 Reginald Jackson?

20 A Yeah. So sometimes on the scene -- I don't -- you
21 know, if you watch movies or see things on cops, and you
22 know, you'll hear, like, the term "shots fired." That's
23 confusing. I've been out -- I've been a cop for 27 years.
24 I've heard it a lot on the street. And my first question is
25 who shot? Was it the officer? Was it the suspect?

1 So on our team, we use the term "Zulu, Zulu,
2 Zulu." And Officer Anderson said that. And that means
3 shots away from officers. It's much more clear in my mind.
4 I knew that we had shot. I didn't believe the suspect had
5 shot. I heard one volley, and then I heard a second, and I
6 believe that they were two different weapons systems.

7 Q What do you mean two different weapons systems?

8 A The first one, to me, sounded like an AR-15. And
9 then the second, on our inner perimeter officers, they carry
10 some larger caliber rifles, and they're designed to get
11 through things like windows or barricades. I believe the
12 second is from a 308 rifle, which is a higher caliber.

13 Q Did it appear that at least one of the rounds had
14 actually struck Mr. Jackson?

15 A Yes. I believe he was struck multiple times.

16 Q Okay. And after he was shot, did you conduct kind
17 of another assessment of the potential threat at that point?

18 A Yeah. So I got information from multiple people.
19 The UAS operator could see the gun in his hand, could see
20 that his finger was on the trigger, Reginald Jackson. That
21 was verified by the robots, as well. And then the officers
22 in the G-3 also had the same vantage point. So I knew that
23 he was down. He was still kind of moving. I knew that he
24 had a gun in his hand and his finger on the trigger.

25 So I had two goals at that point. Number one, I

1 wanted to get him into custody, and number two, I wanted
2 to get him medical attention. But I had to work through
3 this gun still being in his hand. I had talked with
4 Sergeant Defrain. We have pinned people's hands before
5 using those robots. Sergeant Defrain started to work that
6 robot into that position.

7 As he got closer, he got a very up-close view of
8 Mr. Jackson. And it was his assessment that he believed he
9 was deceased. With that information in mind, I talked with
10 Sergeant Townley and had him organize a custody team to move
11 forward and actually take him into custody.

12 But I wanted two things to happen. I wanted
13 everybody to know their roles. And specifically, one person
14 was assigned to pin the gun to the ground to make sure that
15 it couldn't move. And then prior to moving up there, I
16 wanted to make sure that he wasn't faking or "playing
17 possum." So I asked them -- or ordered them to use one 40-
18 millimeter sponge round to hit the subject in the leg to see
19 if there was any movement at all.

20 Officer Ramsey was assigned to do that. He
21 delivered one 40-millimeter round to the subject's leg. No
22 movement. And then the team moved forward and took him into
23 custody, and they were able to control the gun and get him
24 in handcuffs.

25 Q Okay. And a SERT medic -- was a SERT medic part

1 of the custody team, right after the custody team?

2 A Yeah. I brought the SERT medic up to us, and as
3 soon as he was in custody, I had them go up and make an
4 assessment if there was anything we could do for this
5 individual medically. And he declared him deceased.

6 Q Okay. Were the officers that actually were
7 involved in the shooting, were they identified as having
8 fired their weapons?

9 A Yeah. That's part of the role of the supervisor,
10 number one, to identify who used deadly force, who was a
11 witness, and then get them physically separated. So once my
12 primary functions were done getting him into custody and
13 then, second, clearing the van, I wanted to make sure that
14 there was nobody else in the van, could be in danger or
15 hiding.

16 This was going to be turned over to investigators
17 in the crime scene. So we cleared the van. The van was
18 full of stuff. The driver lived in the van, so we had to
19 move some stuff around. The one thing we moved is the
20 Bearcat, which was behind it. I had to back it up to open
21 this rear hatch. Those doors kind of opened, like, towards
22 you like barn doors and -- or bar doors. And that was the
23 only way we could clear the back of it. So I did disrupt
24 the crime scene to do that, but I had a good reason to.

25 Once that was done and the van was clear, I

1 assigned individuals to be with the officers who used
2 deadly force and the witness officers and get everybody
3 separated and into vehicles.

4 Q Okay. And that's by OIS protocols?

5 A Yes, the Portland Police Bureau OIS protocols.

6 Q To clear the van, did officers end up having to
7 break a few windows of the van?

8 A Yes. Yeah.

9 Q And is that because there was so much stuff in the
10 van?

11 A There was just so much stuff, yeah, unfortunately.

12 MS. KYLE-CASTELLI: Does the grand jury or Mr.
13 Mickley have any questions?

14 GRAND JUROR: Just a couple questions. Why --
15 when you talk about reaction time, why is that an issue for
16 police officers, in your training and experience?

17 MR. LIVINGSTON: So distance equals time equals
18 reaction time, right? So if I'm further away from an
19 individual -- let's say I'm a block away and I see he has a
20 gun, I've got time to make decisions and maybe come up with
21 a different -- I could move. I could give him commands. I
22 might be able to use less lethal to prevent him from hurting
23 me.

24 If I'm like to me to you folks, that time is not
25 there, so the higher likelihood that I'm going to use deadly

1 force is unfortunately there if we come into an encounter
2 and we're very close. So that's the concern I have.

3 So there's positive and negatives with the box-in.
4 Number one, the box-in prevents it from being mobile.
5 Number two, I have to acknowledge that reaction time is
6 less. So to mitigate that, things like armor is great, less
7 lethal tools, great. The biggest thing is plans and talking
8 through contingencies and assigning roles so everybody knows
9 their job should the subject get out and try to hurt you.

10 GRAND JUROR: If the concern was that he might get
11 out of the van and be shooting at officers or trying to be
12 shot by officers, what, if anything -- I mean, why couldn't
13 you just shoot around at him into the van from one of the
14 vantage points? Why would that not have been appropriate or
15 why would that have been appropriate?

16 MR. LIVINGSTON: Well, his behavior up to that
17 point wasn't escalating to the point of us using deadly
18 force. It didn't -- that didn't happen until he actually
19 got out of the van. So throughout that whole encounter, we
20 were hoping we could just negotiate him out of the car.
21 That was -- that was my hope. His behavior just didn't
22 escalate to the point of using deadly force.

23 GRAND JUROR: And in terms of when a person is
24 being shot at, I think people oftentimes ask, oh, why not
25 just shoot the gun out of his hand or why not just shoot,

1 like, the arm so that the person won't be able to use
2 their arm. Is that consistent with your training and
3 experience?

4 MR. LIVINGSTON: No. So I've been the sergeant --
5 unfortunately, throughout my career, I've been the sergeant
6 for four officer-involved shootings. I can tell you they're
7 very chaotic. They're stressful. Me standing in front of a
8 paper target, I can put rounds in the center of that target.
9 But now you put me under stress, you put me moving, you put
10 that individual moving, you put them shooting at me, my
11 accuracy is going to go way down.

12 We shoot to shoot at the center of the target
13 available. That increases the likelihood of you actually
14 striking what you're shooting at. So that's why we shoot to
15 the -- we call it center mass. It just gives you the
16 highest likelihood of actually hitting and affecting --
17 changing behavior is what we're looking for.

18 GRAND JUROR: Any time -- if you are trying to
19 shoot a gun out of somebody's hand or trying to shoot their
20 arm and you miss, what happens to that round you've just
21 fired?

22 MR. LIVINGSTON: Yeah. So like I talked about
23 earlier, you could see all of -- we're accountable for every
24 round that we use. So if we shoot and miss and it goes down
25 here and hits somebody, that's our fault. So we need to

1 make sure that every round we shoot hits actually what
2 we're aiming at.

3 So if somebody is holding a gun out to the side
4 and I try to hit that, and they're moving and I'm moving,
5 and it zings down and strikes a citizen or a community
6 member, that's unacceptable. So that's another reason to
7 shoot at the center mass of the target that you see.

8 GRAND JUROR: That's all.

9 BY MS. KYLE-CASTELLI:

10 Q Do you happen to know where Officer Thurman and
11 Officer Hoerauf were located?

12 A Yeah. Down in this area. This was a business.
13 They were behind a fence down here.

14 GRAND JUROR: Just a quick question. You said you
15 heard two volleys of gunshots after the suspect kind of gets
16 out of the vehicle. Do you know approximate -- and I know
17 it was probably very quick, but approximately how long
18 between the two volleys?

19 MR. LIVINGSTON: It probably seemed like longer
20 than it was, but I would guess, like, one to two seconds at
21 the most, in that range. Yeah.

22 GRAND JUROR: With your training, do you ever
23 shoot at something you don't intend to kill?

24 MR. LIVINGSTON: Nothing I can think of.

25 GRAND JUROR: So if you fire a shot, your intent

1 is to stop the threat --

2 MR. LIVINGSTON: Well, stop the threat is -- yeah.
3 I mean, I don't want to kill anybody is my goal.

4 GRAND JUROR: Yeah.

5 MR. LIVINGSTON: But we're always shooting the
6 center mass, the available target, and the goal is to change
7 the behavior. The only thing I can think of, like, we do
8 train -- like, let's say somebody steals this armored
9 vehicle and they're driving through the city smashing into
10 cars and hurting people. We do train to shoot the engine
11 block of a vehicle to prevent it from continuing to drive.
12 That's the only thing I can think of where we're not --
13 like, that's going to affect the behavior of the car, not
14 the individual per se.

15 GRAND JUROR: Right.

16 MR. LIVINGSTON: But yeah, all of our training is
17 to change the behavior. Like, my goal is not to kill
18 anybody, and I never train people in that form. It's to
19 change behavior.

20 GRAND JUROR: Thank you.

21 MR. LIVINGSTON: Yeah.

22 MS. KYLE-CASTELLI: Any other questions?

23 (No response.)

24 MS. KYLE-CASTELLI: Thank you very much.

25 MR. LIVINGSTON: Thank you.

1 GRAND JUROR: I've got one question off the
2 record.

3 MS. KYLE-CASTELLI: Oh, can we pause the record,
4 please?

5 GRAND JUROR: Off the record. Okay.

6 (Off the record at 1:50 p.m.)

7 (On the record at 1:51 p.m.)

8 MS. KYLE-CASTELLI: Okay. We're back on the
9 record in DA Case Number 2463342 with Sergeant Livingston,
10 who's still under oath. We just wanted to -- there were
11 some questions about kind of the positioning of the
12 vehicles.

13 BY MS. KYLE-CASTELLI:

14 Q And Sergeant Livingston, can you kind of explain
15 the positioning of the vehicles, especially why that
16 fourth -- I think it would be the GPD Bearcat, why it was
17 positioned kind of behind the PPB Bearcat. And we have a
18 demonstrative aid up there so you can explain which one is
19 which.

20 A Yeah. So, earlier, I talked about IP officers, or
21 inner perimeter officers. And we had a team over here that
22 has a direct view into the car. And then we had a team over
23 here that has a direct view into the car. So if I took the
24 GPD armored vehicle and pushed it up here, it would block
25 their view. And they really have a great vantage point for

1 that reaction that I was talking about earlier. So the
2 reason I -- that's one of the reasons I put it back here.
3 And the second is it gives us an angle into this car. So if
4 I'm right up here, it gives a better angle, and we can see
5 more of the individual by creating that angle. So those are
6 the two reasons.

7 MS. KYLE-CASTELLI: Any other questions for
8 Sergeant Livingston?

9 (No response.)

10 MS. KYLE-CASTELLI: Okay. That's great.
11 Thank you so much, Sergeant Livingston.

12 MR. LIVINGSTON: Thank you.

13 GRAND JUROR: Thank you.

14 JOSHUA HOWERY

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

17 DIRECT EXAMINATION

18 BY MS. KYLE-CASTELLI:

19 Q Have a seat. Can you please state and spell your
20 name?

21 A My name is Josh Howery, H-o-w-e-r-y.

22 Q And where are you employed?

23 A I'm a police officer with the Portland Police
24 Bureau.

25 Q And how long have you been an officer with

1 Portland Police Bureau?

2 A Just shy of 23 years.

3 Q What is your educational background?

4 A I have a bachelor's degree from George Fox
5 University.

6 Q Okay. Over the years in your career with the
7 Portland Police Bureau, kind of what are your -- what have
8 been your assignments?

9 A I worked patrol. I've worked in the human
10 trafficking detail. I've worked in the training division
11 full-time. I've worked in the SERT office full-time. And
12 I'm currently back on patrol.

13 Q How long specifically were you with the training
14 division?

15 A I was with the training division six years, from
16 2012 to 2018.

17 Q Okay. And we've already heard about the Special
18 Emergency Reaction Team, or SERT.

19 A Yes.

20 Q Are you also a member of the SERT team?

21 A Yes.

22 Q And I think you said that you were currently in a
23 patrol assignment, is that correct?

24 A That's correct. That's my full-time assignment.

25 Q Okay. But you also have -- is it a detached

1 assignment to SERT?

2 A Yes, that's correct.

3 Q Okay. So I want to focus a little bit on your
4 time in the training division.

5 A Okay.

6 Q Can you kind of describe to the grand jury what
7 your responsibilities were in that particular position?

8 A I was the lead defensive tactics and control
9 tactics instructor. In addition, I was also the lead use of
10 force instructor.

11 Q Okay. And tell us about kind of what type of
12 training that -- well, when new officers are -- let's start
13 off with kind of the process when a brand-new officer comes
14 into the Portland Police Bureau, trying to get into the
15 Portland Police Bureau.

16 A Okay.

17 Q What type of training do they have to go through?

18 A So an officer typically gets hired, and then we
19 send them to the basic police academy in Salem. They get
20 training on tactics. They get training on law. They get
21 training on, you know, just the -- I'm sorry -- wide variety
22 of what police work entails. Then they -- that takes about
23 16 weeks.

24 Then they come back to Portland. And we put them
25 on the street with a field training officer, and they work

1 with a coach, if you will, learning how to do day-to-day
2 operations in the police car. And then at some point before
3 they get too many months down the road, we bring them back
4 in-house to an advanced academy.

5 And so then they go to the training division, and
6 they're trained for another -- I think it's 12 to 14 weeks
7 right now in the advanced academy. And they get more
8 training, more firearms training, more defensive tactics
9 training, control tactics, patrol tactics, for patrol
10 procedures now.

11 So they get more scenario-based training. They
12 get more law. They get more -- some -- they get some of
13 their CIT training, just everything that they started off at
14 the basic academy. We build on that.

15 Q And is that advanced academy kind of unique to
16 have? Kind of the Portland Police Bureau -- it's only
17 Portland Police Bureau officers that go through that
18 advanced academy, is that correct?

19 A Yes, that's correct.

20 Q So in terms of the training that officers receive,
21 how are -- how is that information given to them?

22 A A variety of ways. They receive lectures on a lot
23 of classes. They go -- with regards to control tactics and
24 use of force tactics and patrol procedures, they will go and
25 do -- practice skills. In firearms, they'll go to the range

1 and practice shooting. So there's skill-based training.

2 And then what we do is we bring it all together
3 with scenario-based training. And so they have -- they go
4 through scenarios, where they -- you know, the scenarios
5 mimic real-life situations, and they practice, you know,
6 police responses to certain incidents.

7 Q And does the advanced academy and the training in
8 general, does it include how to utilize kind of different
9 tools to determine which tool is appropriate in which
10 scenario?

11 A Yes.

12 Q Can you explain a little bit about that?

13 A So, I mean, I think everybody has probably seen a
14 police officer dressed with all of their equipment, their --
15 with their belt and their vest. And there's all kinds of
16 stuff hanging on it. Some of those are tools just to, you
17 know, help them accomplish their job, right? If they have,
18 like, a Leatherman tool on there, for instance, and they
19 need to unscrew a license plate off a car, okay, we can
20 use -- they can use that.

21 But then they have defensive tools, you know?
22 There's options, batons, taxers, pepper spray, firearms, and
23 that sort of thing. And when we put them in scenarios,
24 training scenarios where they may have to resolve a
25 confrontation, right, those are just some of the tools that

1 they may have to use, as far as using force, in some
2 cases.

3 There's other tools we give them as far as CIT.
4 We give them communication skills and ideas of how to
5 deescalate situations. And they're able to use those skills
6 as tools, as well, to resolve confrontations. So in the
7 academy environment, we try to give them all these different
8 resources and tools and teach them how to use them
9 appropriately.

10 Q Okay. So how are the officers that are trained
11 (indiscernible) sworn police officers, how are they
12 ultimately kind of evaluated to determine whether or not
13 they are ready to actually go on the street as a sworn
14 police officer?

15 A Okay. So during the course of the advanced
16 academy, there are written tests that they have to pass, the
17 law test being one example of that. In control tactics, we
18 would give them a written test, making sure they understood
19 certain policies as far as use of force and deadly use of
20 force.

21 And then within the scenario training, we would
22 use some of those scenarios as, you know, evaluate --
23 opportunities to evaluate how they're progressing as far as
24 how they're making decisions, and that sort of thing.

25 We have the skill-based training, but then when

1 they get into a scenario, and something is not exactly
2 orchestrated exactly where they would use a specific skill,
3 but they might have to choose from a variety of skills or
4 tools to resolve a confrontation or scenario. We would --
5 we would evaluate how they made that decision and then do
6 extensive debriefs. And they have weeks of scenario-based
7 training like that.

8 And so as they go through there -- every scenario
9 they get a chance to use their skills, use their tools, and
10 then be debriefed by an instructor and say, okay, this is
11 what worked. This is what didn't work. This is how you can
12 do stuff better. And then, you know, the next scenario, we
13 would see improvement.

14 Q Okay. And throughout all of this training that
15 you're talking about, are officers also kind of trained
16 about deescalation techniques?

17 A Yes.

18 Q Okay. As part of the training, are the Portland
19 Police Bureau officers taught these specific policies
20 regarding how to conduct themselves in terms of use of
21 force?

22 A Yes.

23 Q Okay. And when does that training start?

24 A As far as when -- how to use force or when --

25 Q When to use it, how they can use it? Does that

1 start pretty early in their training or --

2 A It typically starts even before they go to the
3 basic academy. When I was in the academy -- or when I was
4 at -- in the training division, teaching, new recruits would
5 come. And before they even got sent to the basic academy,
6 we would have them for several days of training. And we
7 would give them a use of force class and a use of force
8 decisionmaking class just so they had a basis of what the
9 policy was, what the law was, and how -- what gave them the
10 authority to use force and to resolve confrontations. And
11 then some ideas about how that would be -- what would be
12 reasonable in certain situations. I'm sorry.

13 Q Okay. And you had talked about deescalation.
14 What exactly do you mean when you talk about deescalation?

15 A We define it as a deliberate attempt to reduce the
16 amount of force necessary to resolve a confrontation.

17 Q Can every situation that a police officer gets --
18 every scenario that an officer kind of gets into actually on
19 the streets, not just a scenario or an actual situation, can
20 that be solved without force?

21 A Not every situation.

22 Q So do police officers have a duty to act? And if
23 so, what does that mean?

24 A They do. So in the sense of life safety, in the
25 sense of being sent to a call, police officers are required

1 to go and resolve confrontation that is happening in
2 society. And so as they're asked to go to those calls, the
3 expectation is that they act appropriately to resolve those
4 confrontations to make the public safer.

5 Q Okay. And is there any type of policy about the
6 sanctity of life and the protection of people that kind of
7 governs the Portland Police Bureau?

8 A Yes.

9 Q And can you explain that a little bit?

10 A Well, the Portland Police Bureau believes that
11 life is sacred and that there -- so we believe in the
12 sanctity of life and that we should strive to protect life
13 in resolving confrontations. That's our general belief.

14 Q And Officer Howery, have you also taught training
15 for officers who are specifically members of the Special
16 Emergency Reaction Team, or SERT?

17 A Yes.

18 Q Can you please explain kind of what additional
19 training SERT officers receive over a patrol officer?

20 A Okay. SERT, when an officer becomes part of SERT,
21 they initially go -- start going to training every Thursday.
22 Our team trains every Thursday in different skills, in
23 different scenario-based training, use of force type
24 training, a wide variety of things. But we get training
25 every single week.

1 Then that officer goes to the basic SWAT school
2 put on by Oregon Tactical Officer Association. That happens
3 once a year. They go for a week for that. So every new
4 officer goes to that once. Every year, our team also does a
5 weeklong training at the coast, which lets us give a little
6 bit more intensive training, where it's not broken up by a
7 week. But again, just like five, six days in a row, we can
8 train. We can build on some more training. We can do a lot
9 more -- I don't know -- intensive scenario-based training,
10 as far as that goes.

11 Q Okay. And in a certain situation, can you kind of
12 explain the difference between what an entry team is and
13 what the inner perimeter team is?

14 A The entry team is the group of officers on SERT
15 that typically would go into a building if we were doing an
16 entry to clear a building, look for hostages, you know, save
17 hostages inside of a structure. The inner perimeter is our
18 officers that would take the outside containment areas of
19 that building, just as an example of one thing that we do.

20 But the inner perimeter, again, they would be on
21 the outside. They would be the ones with optics. Their
22 weapons would have magnified optics on them. So they would
23 be able to see inside the structure from the outside. One,
24 we can contain if somebody tries to -- you know, get out of
25 that structure or area. But two, they are able to see,

1 observe, give information to our commander, basically, and
2 to CNT, which is our negotiation team. We work together.
3 And so a lot of the real-time information comes from our
4 inner perimeter. They are able to see in there. And then
5 they are also equipped to use force if necessary to resolve
6 confrontations, as well.

7 Q What would the entry team do when it's not a
8 building? Like, do they have a different role when, like,
9 they're not entering a building and there's no place to
10 actually enter? What would be kind of what the entry team
11 would do in that --

12 A The entry team does most of our custody, as well,
13 right? They're usually the ones that are going and making
14 contact with a suspect directly.

15 Q Going back to kind of patrol officers and not just
16 SERT officers, but kind of the training that would occur in
17 kind of a dynamic scene. Are patrol officers kind of taught
18 how to handle a dynamic scene where there is a suspect of a
19 violent crime in a known location like at a traffic stop?
20 Would a patrol officer learn kind of that training?

21 A Yes.

22 Q Okay. And is part of that training that a patrol
23 officer would receive the four C's?

24 A Yes.

25 Q Would they be taught about the four C's?

1 A Yes.

2 Q Can you tell us what the four C's are?

3 A Yes. So when we set up an incident, typically, we
4 want to start -- we came up with the four C's to try to make
5 it simpler for officers to remember priorities, as far as
6 how do we start working a specific situation.

7 So we -- the first one is containment. If the
8 problem -- if we have a problem in the city, if we can
9 contain that problem, we can keep it from getting bigger,
10 and we can actually start shrinking it down a little bit,
11 right, which makes it more manageable.

12 The next is custody, right? Typically, an
13 incident, we have a suspect that needs to be taken into
14 custody. That's what's causing this incident. So we start
15 to try to get a team of officers that have a plan to take
16 custody of the suspect.

17 Once we have those things in place, we want to
18 start thinking about communication, because, again, if we
19 can contain this problem and we have the plan to make this
20 person -- to take this person into custody, if we can
21 communicate with them, we can usually try to maybe negotiate
22 with them or convince them to give up, surrender anything we
23 can do, which makes our plan for custody go a lot smoother.
24 We can get information. We can communicate with each other
25 as far as how the plan is working and what other things we

1 need to fix.

2 And then the last one is contingencies. What
3 happens if our plan doesn't work? And what else are we
4 going to do? What are we able to do if the initial plan
5 doesn't work or the person doesn't give up? What's the next
6 step? What other resources do we need to bring here? What
7 are some of our other options? So that's pretty much how we
8 start to run our situations out on patrol and in SERT,
9 honestly --

10 Q And that was actually my next question.

11 A Yeah.

12 Q Does SERT build on those exact same principles of
13 the 4 C's and when you are in a more -- maybe even more
14 volatile situation?

15 A Yes.

16 Q Okay. So I'd like to move to kind of the use of
17 deadly force policy for the police bureau.

18 A Okay.

19 Q Can you first just explain to us what the term
20 "deadly force" means?

21 A Deadly force is force that is likely to cause
22 serious physical injury or death.

23 Q So deadly force doesn't necessarily have to cause
24 death, but it's just something that could be likely to cause
25 serious injury or death --

1 A Yes.

2 Q And what are officers trained with regard to the
3 use of deadly force?

4 A As far as policy-wise?

5 Q Yes, please.

6 A Policy states that a member -- that's the
7 officers -- may use deadly force to protect themselves or
8 others from what they reasonably believe to be an immediate
9 threat or serious physical injury.

10 Q Okay. And is that immediate threat of death or
11 serious physical injury, does that have to be to the
12 individualized officer, or could it be to other people?

13 A No. And that's why right of the bat, it says
14 member may use deadly force to defend themselves or others,
15 right? They could do a third-party defense. That officer
16 might not be in danger themselves, but somebody else is in
17 danger of being killed or seriously injured. And we
18 might -- you have to use deadly force against a perpetrator
19 of that to prevent that.

20 Q And that third person, could it be a civilian or
21 could it also be another police officer?

22 A Yes. Either one.

23 Q Okay. Does an officer have to actually be
24 experiencing deadly force before they're authorized under
25 the policy to respond with deadly force? So does it have to

1 be individualized? I think we just kind of covered this,
2 but it doesn't have to be a threat of serious physical
3 injury or immediate death to the officers themselves? It
4 could be to a third party?

5 A That's correct, yes.

6 Q Is the policy for Portland Police Bureau about the
7 use of deadly force more restrictive than the criminal law
8 has recognized?

9 A Yes, it is.

10 Q Okay. So is it possible for an officer to use
11 deadly force within the Bureau's policy, but still be --
12 outside -- I'm sorry. Is it still possible for an officer
13 to use deadly force outside of the Portland Police Bureau's
14 policy, but still be justified under the criminal law?

15 A It is possible.

16 Q I'd like to turn to just kind of a general threat
17 assessment in terms of firearms and a threat that a person
18 armed with a gun presents to officers and to others.

19 How are police officers trained to deal with a
20 situation involving a subject that is armed with a gun?

21 A With extreme caution, we do contact people who are
22 armed with firearms. Not every single one of those people
23 are an immediate threat of death or serious physical injury.
24 But when an officer is sent to a call involving somebody who
25 is armed, caution is the number one key. So, typically,

1 what we would teach our officers is to use different
2 tactics to keep themselves safe and try to resolve the
3 confrontation without escalating it to immediately a deadly
4 force confrontation, if that makes sense to everybody.

5 So, for instance, we might use distance as one of
6 those tactics. We might stay a little bit further away. We
7 might use cover. We might stay behind something that stops
8 bullets, right? And we might start to, like, try to get
9 that containment a little bit faster, but a little bigger so
10 we're not right up on a person, and then start thinking
11 about how do we communicate to this person? And maybe we
12 can take the threat away before we actually have to
13 approach, if that makes sense, right?

14 So, again, if we're behind a tree, and we have
15 some distance, and we tell the person, "Hey, can you put
16 that gun down?" or "Drop that gun" or, you know, there -- it
17 may be that the gun is next to him, and they're like, "Stand
18 up and put your hands up and move away from that gun"; if we
19 can do something like that to take that out of play, well,
20 now, we've taken that situation way down. And now we're
21 able to do whatever we need to as far as working that
22 incident, that call, that call for service, whatever it is.

23 Q You mentioned kind of an immediate threat. Are
24 officers trained to look for specific things and assessing
25 whether or not something is an immediate threat?

1 A Yes.

2 Q Can you explain what that is?

3 A So when we talk about immediate threat, we try to
4 break it down into three parts, means, intent, and
5 opportunity. If a person has all three of those, the threat
6 is quite high, and the threat is quite immediate, right? If
7 a person has the means -- say they have a firearm -- and
8 they have the opportunity because they're there, other
9 people are there or we're there, and -- right, they have
10 their gun, that's an opportunity.

11 And then we have to look and make sure that the
12 third -- there's the intent, right? And so intent can come
13 in different ways. We can look at intent as they can make
14 specific statements that show their intent. They can
15 have -- they can make certain actions that show intent. And
16 then sometimes the prior actions, what they've done just
17 prior to this incident, can show their intent, what they're
18 willing to do, what they mean to do with their means and
19 their opportunity, be that a gun or whatever other tool that
20 it might be.

21 Q So an immediate threat has to have all three, the
22 means, the opportunity, and the intent?

23 A Yes, that's correct.

24 Q So does the Bureau have any blanket type of policy
25 that any time an officer is confronted with an individual

1 armed with a gun, they are authorized to use deadly force
2 against that person regardless of what that person is doing?

3 A No. That officer has to show why that person is
4 an immediate threat of death or serious physical injury.

5 Q How, if at all, does the training kind of, like,
6 differ when you're responding to an armed person that was
7 known to have recently used a firearm against another
8 person? Does that change the means, the opportunity, and
9 the intent?

10 A It can show some intent if that person had just
11 used a firearm, right? It shows that they have the means.
12 It shows that they had the opportunity, and they may have
13 another opportunity depending on the circumstances there.
14 But it does show some intent that they're willing to use
15 that deadly force against another person. And it definitely
16 heightens the situation that officer would go to, right?
17 They should be more on guard. They should look at this as
18 more of a threat and be thinking or at least be looking at
19 some of the other factors as to whether this threat is still
20 immediate now.

21 Q Can you please explain a little bit about why --
22 if a threat presented by a firearm be different than a
23 threat presented by other type of weapons that an officer
24 might encounter?

25 A Firearms tend to be -- like, the threat is

1 different because of the distance that firearms are able
2 to be used. So whereas a knife, you have to be within
3 lunging distance of somebody for that threat to be more
4 immediate and maybe up to a certain amount of feet, or
5 whatever.

6 But a firearm, the distance that a firearm can be
7 dangerous can be miles. It can -- you know, as far as it
8 just gives the user of the firearm more range. And so that
9 person doesn't have to be right in front of you to be a
10 threat. They could be across the street. They could be
11 down the street and still be a threat with a firearm.

12 Q If an officer is presented with a situation where
13 an individual is armed with a firearm, what tools are
14 officers kind of trained to utilize or prepare to utilize
15 when they are confronting a subject that is armed?

16 A We have several tools that can help make us safer
17 as we're dealing with that type of situation. The vehicles
18 can be one of those. Some of our cars, the doors have
19 ballistic panels in them that will stop some bullets.
20 Shields, we have portable ballistic shields that are
21 available to officers through their sergeants' cars,
22 typically.

23 It's not a 100 percent if you have this, you're
24 magically safe from all bullet fire. But it's a tool that
25 we can use to make us a little bit safer and maybe give us a

1 little bit more time to work through a problem. And then
2 officers are issued firearms to also protect themselves and
3 others against deadly threats, as well.

4 Q Okay. When an officer is kind of deciding which
5 weapon to draw in their initial decision, explain why a
6 decision would be made to kind of move directly to a lethal
7 force?

8 A If the suspect is presenting an immediate threat
9 of death or serious physical injury, it is appropriate for
10 the officer to respond in kind with deadly force because the
11 chances of it working are just so much higher, right? It's
12 like if we are not able to stop this deadly threat with
13 deadly force, if we try to employ a less lethal technique,
14 and it doesn't work, the stakes are too high for us to take
15 that chance. So, you know, we give officers those tools,
16 understanding that they may have to use deadly force to
17 protect other people or themselves from that deadly force
18 threat.

19 Q Okay. And can you explain kind of the concept of
20 action/reaction?

21 A Yes. Action/reaction is a concept that we talk
22 about. It's in a contest of time. So we just break it down
23 to just strictly time. In a contest of time, the initiator
24 of an action has an advantage over the reactor, if that
25 makes sense to everybody, right?

1 So if I -- if two people are involved in a
2 competition of sorts, and we agree that one person won't act
3 until the other person acts first, the person who has to act
4 second has a disadvantage. The person who acts first
5 immediately acts. The person behind, there's at least a
6 fraction of seconds that it takes for the brain to recognize
7 that some motion or action has occurred.

8 And even if they have preprogrammed in their mind
9 what they will do when they see a certain action, it will
10 take a certain amount of time for the brain to process that
11 and then another certain amount of time to actually make the
12 body do that action that they've pre-programmed already.

13 Q Do you demonstrate that to the officers while
14 you're training them --

15 A We do.

16 Q And if so, how do you do that?

17 A So we set up an example. We have two officers.
18 We use blank-firing guns. And we'll have the officer who
19 has to react, we'll have them hold the gun, point it at the
20 other officer with their finger on the trigger pointed right
21 at them. The other officer will have the gun by their side.

22 And the rule of the game -- not game -- I'm
23 sorry -- the rule of the demonstration is that the officer
24 who was pointing the gun at the other officer, who has got
25 the gun down by their side, is allowed to fire as soon as

1 they see the officer with the gun down by their side move
2 the gun up to shoot them.

3 It's a race, if you will. But the rule of the
4 demonstration again of this race is that the officer holding
5 the gun, pointing it at the officer already can't fire until
6 they see the officer move their arm from down by their side
7 and point the gun at them. As soon as they see any motion
8 of that arm, they're allowed to shoot.

9 And what happens is the person who has their arm
10 down by their side will be able to get that gun up and fire
11 before the person can react to the movement and just pull
12 the trigger. Every single time. They even know it's
13 coming. We explain the demonstration to them.

14 Q And so that's one of the ways that you demonstrate
15 to an officer what action/reaction is?

16 A Yes.

17 Q When a person has decided to act, and they've made
18 the decision to kind of fire, do you know how fast a person
19 can fire either a semiautomatic handgun or a revolver?

20 A Yes.

21 Q Okay. How fast?

22 A Approximately five to six shots per second.

23 Q I want to just ask you based off the training, you
24 were present at the scene at Northeast 181st and Northeast
25 Everett, is that correct?

1 A That's correct.

2 Q And you've been training officers for a number of
3 years?

4 A Yes.

5 Q And SERT officers, as well?

6 A Yes.

7 Q So in a situation like this, where you have an
8 individual that's in a van and kind of contained, but
9 they've shot one person, they've fatally wounded them,
10 they've shot a second person, they're failing to obey
11 commands out of the vehicle, would you have expected the
12 officers to have lethal weapons drawn at that point?

13 A Yes.

14 Q So if an officer has made kind of the decision or
15 consider whether or not to use deadly force, what are they
16 taught -- what are they taught to aim at?

17 A When we talk about targets -- the target for using
18 deadly force, we talk about the center of available mass.
19 And what that means is the target that you have, the center
20 of that, right? So if you have only the upper body of a
21 person who is posing an immediate threat, it would be the
22 center of what you have as a target of that person. If you
23 have a quarter of the shoulder, it would be the center of
24 that.

25 And the reason we teach that is because, one, to

1 use deadly force, you have to -- you have to be effective
2 at it or to -- for -- to resolve the confrontation, so which
3 means you have to hit. So the best chance of hitting is to
4 aim at the center of what you have as a target. And if
5 that's only the shoulder, then it would be the center of the
6 shoulder. If it's only -- if it's the entire body, it would
7 be in the center of the body. Because, again, it's not
8 effective use of deadly force if we're not -- if we're not
9 hitting. Does that make sense?

10 So the notion that it's anything else other than
11 that, that's not what we train. We train to shoot the
12 center of available mass.

13 Q Okay. If the officer actually hits the person
14 with force -- with a gunshot, how does that actually operate
15 to stop a threat?

16 A It operates in several ways. Sometimes it's just
17 by pure pain, a person is hit by a bullet and it hurts. And
18 they decide to -- psychologically, they just -- they have no
19 more fight in them, and they stop.

20 Sometimes it's mechanically. There is enough
21 damage to either tissue or bone that whatever they were
22 using to be a threat, they're not able to do that. They're
23 not able to function mechanically, physically in the way
24 that they still want to.

25 In some cases blood loss will cause a person to

1 lose enough blood to either become unconscious or
2 eventually die. And that would stop the deadly threat. And
3 then a central nervous system shot would usually stop a
4 person.

5 Q Okay. If a person has been struck by a gunshot,
6 can they -- are they still -- can they still be capable of
7 doing harm?

8 A Yes.

9 Q Okay. Can you explain that -- explain about that
10 a little bit?

11 A Well, some people are highly motivated. Pain will
12 not stop them from accomplishing what they're trying to do.
13 In some cases, even a shot that would cause massive
14 hemorrhaging and enough blood loss to eventually make them
15 unconscious or die, that can take time. That could take
16 several minutes even. And that person would still be able
17 to be an immediate threat and cause death or serious
18 physical injury.

19 Q Okay. Before we move on to the actual incident
20 itself, I just want to pause and see if anybody has any
21 questions about training in particular or general?

22 (No response.)

23 BY MS. KYLE-CASTELLI:

24 Q Okay. All right. So on July 22, 2023, were you
25 activated to respond as a member of SERT to, initially, Good

1 Samaritan Hospital?

2 A Yes.

3 Q Okay. And eventually, were you kind of sent over
4 to the location at Northeast 181st and Northeast Everett?

5 A Yes, I was.

6 Q Okay. I would like to just focus on the scene at
7 181 and Everett.

8 A Of course.

9 Q What was SERT and Portland Police Bureau's goal at
10 the scene?

11 A Our goal at the scene initially was to still
12 accomplish our four C's, right? We still have our
13 priorities. We'll want to contain the situation, which at
14 this point was inside this van, right? We have a suspect
15 armed inside a van. We want to contain that.

16 And by containing, again, when I said we want to
17 shrink this problem down, right? Initially, this problem
18 had started at Good Sam. It had driven down the freeway.
19 It had gone all the way -- got off at 181st and ended up
20 here, right, with a stop in between, I believe.

21 But -- so, initially, the problem is the size of
22 Portland and Gresham. And then we -- the initial stop
23 happens. It kind of is contained within a couple blocks.
24 As we're getting other police cars -- may I stand up?

25 Q Absolutely.

1 A As we're getting other police cars here, right,
2 we're able to -- we have other police cars over here and
3 police cars over here. We're starting to shrink this down
4 into smaller blocks. Does that make sense, too?

5 So, now, the problem -- we're able to use -- we're
6 able to bring more resources into a smaller area and be more
7 effective. So that's our goal, right? Containment. As
8 we're able to bring our armored cars in, we've contained
9 this now, right? This car can't drive away, or the van
10 can't drive away, right?

11 That's big for us because if he -- if it drives
12 away, again, our problem is big again. Containment, shrink
13 the problem down. We brought it down to the size of the van
14 almost, right? Now, he has avenues of escape this way and
15 maybe out this way, right?

16 And we have to leave some options for, again,
17 custody, right? We started with containment and our
18 custody. If we want this guy to give up, he has to have a
19 way to give up. So we have to leave something open. But
20 again, we've shrunk this down so much now that these guys
21 out here are just blocking traffic.

22 And these folks in here are starting to work
23 through how do we get a custody plan. How do we take this
24 guy into custody safely? How do we resolve this as safe as
25 possible, right? Because our goal is just -- is to resolve

1 it without using deadly force. That's always our goal.

2 And then we start bringing other tools to contain
3 it further and limit the options of the suspect to be able
4 to be a threat to the -- to the public. And we're able to
5 control how the suspect gives up and -- or if we have to use
6 force or anything like that, it's in a very small, contained
7 area, which, again, makes it safer for the rest of the
8 public.

9 Q All right. So we've talked about custody and
10 containment --

11 A Containment. Now, then what we do is we set up
12 our communication. I believe communication on this incident
13 went through -- a lot through the phone. The suspect was on
14 the phone almost the entire time, so -- either through 9-1-1
15 or through our negotiators. And so we have communication to
16 him. They're relating how do we want him to give up? What
17 we're trying to do -- they're also doing some negotiation,
18 right, crisis negotiating, as far as that goes. So that's
19 happening through the phone. And then our contingencies.

20 Q I'm going to stop right there and ask you a
21 question about communication.

22 A Yeah.

23 Q Are the SERT officers that are actually at the
24 scene, are they also playing a role, especially the ones in
25 the G-3 at the front of the van, are they playing a role as

1 far as internal communication between officers?

2 A Yes. And so what happens is if we have officers
3 in the G-3, they can see into that van. If we have officers
4 over here, they can see into the van. And officers over
5 here that we're able to use our perimeter units to see with
6 optics and actually give us information, everything that the
7 suspect is doing when he's doing it within visual sight,
8 they're communicating that with us so we can start making
9 decisions:

10 How is this going? What else do we maybe need to
11 do, right? Is this guy armed right now? We can see if he's
12 got the gun in his hand if he puts it down, all these
13 things. And so all that information is important as we make
14 decisions on how we're going to solve the problem. And so,
15 yes, everybody that's seeing something happen in there is
16 communicating that over the radio so we can all be on the
17 same page.

18 Q Okay. And now we can move on to contingencies,
19 okay? I just wanted to clarify that point.

20 A Okay. And so then we talked about our
21 contingencies. What happens if he gets out and he runs
22 without a gun? What if he gets out with a gun? What if he
23 runs out the other way, right? Where do we have people that
24 can take him into custody? How can we still contain this
25 problem? Does that make sense, too?

1 So we start making sure that the officers that
2 are on perimeter over here have the correct tools that they
3 need. Maybe they need a K-9 with them. Maybe they need
4 less lethal. Maybe they need more lethal resources,
5 whatever it is.

6 Same thing over here. We're able to put perimeter
7 units over here, and we're able to make sure that they have
8 the correct tools that they need to resolve these
9 situations. And then back here with our custodies, you
10 know, initially, a custody team is really we need somebody
11 to be able to give them commands. And we need somebody to
12 cover him probably with lethal force and put handcuffs on
13 him.

14 But as we get more resources there, we also start
15 thinking what other less lethal tools could we bring to this
16 in case he comes out and he doesn't have a gun, and we --
17 you know, again, we don't want to use lethal force if we
18 don't have to, and he doesn't pose that high of a threat.
19 But he still wants to resist or evade or anything like that.
20 What other less lethal options could we use to make sure
21 that we can capture him?

22 And so we start making sure that all of those
23 resources are back here. And those are all contingency
24 plans.

25 Q Okay. You mentioned kind of officers on a

1 perimeter especially at the bottom of the picture?

2 A Yes, on the east side over here.

3 Q Yeah. So who was actually located in that part of
4 the photo?

5 A Officer Hoerauf was inside this building here.
6 And Officer Thurman was also in this building over on this
7 side, further up to the -- or further to the south. But
8 both of them were inside this building, I believe.

9 Q And where were you located?

10 A I was located right here. That's me.

11 Q Okay. Let's talk about how the vans were -- the
12 armored trucks were deployed and kind of the positioning of
13 those trucks. Can you explain why they're positioned like
14 they are?

15 A Yes. The initial -- the initial piece of armor
16 that was -- that we first wanted to get into position is the
17 Bearcat. It's the smaller piece of armor right here,
18 directly behind the suspect van, right? That's where we do
19 most of our work from, or a lot of our work. So we get
20 behind there. We're able to pin the van in from behind so
21 it can't back up. It gives us a pretty good amount of
22 protection directly behind it. So we can get our resources
23 there. We can get a custody team there, less lethal, lethal
24 cover, K-9, some of those other resources back there.

25 The next piece that we want to get into position,

1 well, both of these pieces of armor. So the G-3, when we
2 bring the G-3 -- Bearcat is what we call the G-3, this piece
3 of armor right here is the one that we're going to go nose
4 straight up into the -- into the van. So if we can get both
5 of those pieces of armor into place, touching that van, we
6 know that that van is not going to be able to easily just
7 drive away.

8 With normal patrol cars, there's a possibility he
9 could spin tires. He could ram his way forward, back,
10 forward back, and actually create that space. But these
11 armored cars are so heavy that the chances of him being able
12 to do that with those -- with the armor there is very, very
13 small. We just don't think that's going to happen.

14 We bring the Bear truck here, angled out, and what
15 that does, it creates an area for us to work over here for
16 custody and be able to see into that van, right? It gives
17 us an angle where I'm standing to be able to see into that
18 window and see also what's happening and respond. If this
19 becomes a lethal threat, I'm able to respond with lethal
20 force, or deadly force, if you will.

21 Also, we have less lethals and other resources
22 back here that if this person gets out and he's not armed
23 and he doesn't pose an immediate threat of death or serious
24 physical injury, but is still not compliant, is still
25 willing to resist or evade, we might be able to -- we're

1 able to use some less lethal force and still take him
2 into custody right there.

3 So that's what's happening with the -- with the
4 armor there. The Gresham piece of armor back here, we were
5 going to try to get it on the other side, I believe, but we
6 just weren't able to get over there. So it came over and
7 helped out, creating that pocket of protection for the
8 officers that are working back behind this whole thing,
9 because, again, when we pin in a car like that, right, we
10 have to be close.

11 You know, the farthest we can get away from the
12 armor is, like, the distance of the armor, right? We can't
13 be down the street at a standoff and still be able to stop
14 that car from being mobile. So that's why having extra
15 armor back here just creates that extra pocket of
16 protection. It just gives us more room to work.

17 Q Okay. You mentioned kind of your vantage point
18 that allowed you to kind of see in the window?

19 A Uh-huh.

20 Q For you to be able to see in the window, could he
21 also potentially see where you are?

22 A Yes.

23 Q Okay. Is there any training about that? Like, if
24 you can see them, they can see you type of training?

25 A That's just the reality of it. If we're this

1 close -- and I -- I'm trying to use our piece of armor as
2 protection, as cover. However, if I'm completely covered by
3 the armor, if I'm fully protected by it, there's no way I'll
4 be able to see that guy unless I'm inside looking through
5 the glass.

6 But if I'm looking through glass, thick
7 bulletproof glass, if something were to happen, and he
8 starts to either get out, I'm not in a position that I can
9 respond to help take him into custody. I can't use any less
10 lethal options. If he gets out and becomes an immediate
11 threat of death or serious physical injury, it makes it very
12 hard for me to use deadly force to stop that behavior.

13 And again, it's not just me that would be in
14 danger. It's not just me that would be in danger. It's not
15 just the other officers who are behind armor that are in
16 danger. It's these officers over here. It's these officers
17 over here. It's all these houses over here where people
18 are. It's the people that are on the other side of this
19 business, right? If he has a firearm and he starts
20 shooting, how far can those bullets go? And every shot
21 could potentially be another death or serious physical
22 injury, right?

23 So we're thinking about all those. We do have --
24 we do want to be able to respond. And for me to be able to
25 do that, I can't be all the way behind the armor. Somebody

1 has to be out and be able to see him.

2 Q Officer Howery, I don't think I've actually asked
3 this, but were there efforts taken either while you were at
4 the scene or before you were at the scene to kind of
5 minimize the risk to the civilian population that was
6 around, say, like, in that bank that's right there? I mean,
7 were steps taken?

8 A Yes. Everything that's really close, we tried to
9 get up on the doors real fast and evacuate people and make
10 sure that in just, like, at least the neighboring buildings
11 people are not there. Some of the other houses probably are
12 told to shelter in place, not be walking around on the
13 sidewalks, and that sort of thing. We obviously -- there's
14 no other traffic on the street. We've started to block the
15 major intersections, and that sort of thing. But even down
16 here -- this is Everett. The next street to the south would
17 be Bernstein, which is a major intersection. It's the major
18 street crossing 181st, right?

19 So we have some problems getting everything locked
20 down. We can't make everybody disappear from, like, a mile
21 radius. It just doesn't work that way, right? So we do our
22 best to try to minimize traffic and try to get people out of
23 the way. But yeah, the immediate buildings right around,
24 we're trying to evacuate those as fast as we can.

25 Q Okay. What type of weapon did you have on you?

1 A I had an AR-15 rifle, scoped, which is what I
2 typically carry for a majority of my inner perimeter duties.
3 It's a short-barreled AR-15. And that allows us to do some
4 close quarter stuff. Initially, I had that because when we
5 first got called, we didn't know if we were going to need to
6 go inside Good Samaritan Hospital and help clear that.

7 It initially came out as an active shooter, so
8 grabbing a shorter rifle that allows more maneuverability
9 was an asset through that. We ended up clearing some
10 parking garages, and everything. And again, that shorter
11 rifle is an asset for that.

12 Q So when you guys went from scene to scene to
13 ultimately the scene, did all of you kind of go in the same
14 vehicles? Or how did -- what I'm trying to get at is what
15 type of weapon did Officer Thurman have on him?

16 A Officer Thurman had a LaRue RBR rifle. It's a
17 .308 caliber rifle. It's a larger rifle than what I carry.
18 My AR-15 shoots .223 caliber. The rifle he was carrying
19 shoots a .308 caliber. It's a much larger round.

20 When we started off at the hospital, everybody
21 kind of grouped into small groups into single vehicles.
22 Typically, when we respond to a big scene, each operator has
23 their own vehicle, right, with all of their gear in it.
24 When we combined officers into, like, one -- like, four
25 officers to a vehicle, the officers who weren't driving the

1 vehicle, it wasn't their vehicle, had what they had with
2 them, which was typically their body armor, what's on their
3 vest, their belt, and their -- and whatever rifle they had
4 with them, which most people had their short AR-15 rifles.

5 As we got here -- do you want me to keep going
6 onto that?

7 Q Sure.

8 A Okay. As we were arriving, I knew I was probably
9 going to be one of the senior IP, inner perimeter, officers
10 there. I knew that we had a vehicle in play. And in some
11 cases, shooting through glass, if we were to have to
12 shoot -- if we were to have to use deadly force, shooting
13 through glass creates different problems with bullets, and
14 that sort of thing, as far as how effective they can be.
15 And in some cases, the bullet could break up, turn into
16 multiple chunks, and cause more of a threat just as far as
17 the bullets going through.

18 So as we were getting there, I knew that our .308
19 ammo, our .308 rifles penetrate through glass better and
20 more effectively. We've done testing with that. The bullet
21 itself is about three times heavier than the bullet that
22 shoots out of our AR-15s.

23 I knew that in the group I was in -- I was not
24 driving my own truck -- that I did not have access to my
25 .308. I knew that some of the other inner perimeter members

1 arriving did not have access to their equipment. They
2 did not have their .308s because they were in their own
3 cars, which were parked back at Good Samaritan Hospital.

4 So when we got here, we had limited resources.
5 And I knew that Officer Thurman was actually driving his own
6 truck with a group of officers. So I called him on the
7 phone. And I said, "As we get here, I want you to be
8 thinking about deploying a .308 rifle. And I have a place
9 for you because I got here first." And I said, "I think I
10 want you on the east side of the street, looking into the
11 driver's side window with that .308 rifle."

12 I wanted to use that as a resource. Like, I at
13 least want to put this tool over here so just in case we
14 have to use deadly force here and we have to shoot through a
15 window, we have a tool that can effectively do that.

16 Q Okay. At the scene, why did SERT not communicate
17 force warnings to PoniaX Calles, or Reginald Jackson?

18 A When we started getting here, we were told that
19 force warnings had been given to him already. We also were
20 told that he was on the phone getting communication from
21 either 9-1-1 or CNT already, the negotiators.

22 One of the things that we try to do when we
23 communicate with a suspect is we try to let one person
24 communicate with them. If all of SERT gets there and
25 immediately starts yelling at him, right, force warnings,

1 and everything else that goes on, communication is not
2 happening. It's too much for that person to take especially
3 if they're on the phone listening to somebody else talk
4 about something completely else.

5 That's not an effective way for us to communicate.
6 And we found that over the years. And we've really tried to
7 clean it up and just say, look, if somebody is talking to
8 this person, we want to make sure that they continue to talk
9 to that person and we still have an open line of clear
10 communication with that person.

11 Q So moving to kind of, like, where you were
12 positioned and what you could see and hear on that
13 particular day, tell us -- tell us about what you could see
14 prior to him moving towards the driver's side?

15 A I could see into the window. Initially, when we
16 were setting up the stop and for the majority of it, he was
17 sitting on the passenger's seat on the other side of the
18 van. Once in a while, he would come across the front. And
19 then when he could come to the window, I could see him. I
20 could see him come to the window, look out, look around, do
21 certain things, but then go back inside and go to the other
22 side of the vehicle.

23 When he was on the other side of the vehicle, most
24 of the time, I could not see him then. But every time he
25 moved and kind of came to that driver's side window, I could

1 see him. I could give information about what he was
2 looking at, that kind of thing. But for the most part, he
3 was just a lot of the time up to him coming out, he was --
4 it seemed like he was just kind of squirreling around, like,
5 doing different stuff in there, but I couldn't tell exactly
6 what.

7 Q Okay. So in the moments before him actually
8 exiting the vehicle, can you just kind of explain what you
9 saw and heard at that point in time?

10 A When he was coming out --

11 Q When he actually came out of the vehicle.

12 A I had stepped back a little bit because I knew
13 that we were making some other plans as far as shrinking
14 this problem down a little further. Right before he came
15 out, we had driven a robot around to the passenger's side
16 door. Again, we had a containment team over here.

17 But if we put a robot, the pretty -- it's a
18 substantially heavy robot -- right up against that door, he
19 won't be able to get out of that door. And again, that
20 helps shrink the problem because then he can only come out
21 one direction, and we can -- we can kind of control either
22 how he gives up or how we have to take him into custody, if
23 that makes sense.

24 The robot came around. I believe it was prepped
25 with a warm gas canister in case we were going to need to

1 use chemical munitions to get him to come out of the van.
2 I don't believe that we were at the point where that was the
3 plan to do that, but we had that as a contingency. So the
4 robot has the capability to do that. The robot can drive
5 around there. It can hold. But then if we decide that
6 that's a necessary tactic to use, we don't have to bring the
7 robot back around from pinning the door. It's already
8 prepped, and we can just do it from there.

9 But anyway, the robot goes around. It starts to
10 get up by the door. And right about the time it started to
11 land, he got really nervous, and he started to scramble
12 around. The drone was up in the air, obviously, because you
13 can -- this is where the -- the picture from the drone, I
14 believe. As he started to come out, we were getting
15 information from the drone operators, and I believe somebody
16 from inside the Bear truck that was looking through the
17 window, that he had a gun as he was coming out the driver's
18 side.

19 And I was standing here. I could not see the gun
20 in his hand. I knew the information of him coming out with
21 a gun was probably good, but I also couldn't visually see
22 it, and for me to visually see that to make a force
23 decision, I would have had to step out and expose myself
24 more. And I decided not to do that because we had other
25 officers here that were able to see clearly as he came out.

1 And I didn't want to get in the way in case there was
2 something else that occurred there. And again, I didn't
3 want to put myself in danger and then make us have to shoot
4 this guy if that makes sense.

5 Okay. Could you see any portion of him as he was
6 exiting the vehicle or --

7 A I could see his head, but I couldn't see his hands
8 at all because I was -- you know, initially, that's what I
9 was looking for really hard because I'm hearing the updates.
10 He's got a gun. He's coming out. And then -- but then
11 again, I was like, you know what, I'm going to step back
12 behind the armor because I can't see without really exposing
13 myself here.

14 Q Did you ultimately hear gunshots?

15 A Yes.

16 Q Did you hear that -- from the radio update that he
17 had a weapon or he had a gun on him before you heard a
18 gunshot?

19 A Yes.

20 Q Okay. How many rounds did you hear initially?

21 A Initially, I heard one shot.

22 Q Okay. Then what did you hear?

23 A Then I heard another shot, and then I heard two
24 more shots right close together.

25 Q Okay. Were you able to tell caliber of any of the

1 shots that you heard fired?

2 A I knew that Officer Wingfield in the Bear -- I'm
3 sorry -- in the G-3 turret was shooting an AR-15 because
4 when I had him go up there, I took note of what weapon he
5 had. I knew Officer Thurman had a .308 because I asked him
6 to go there, and I knew that Officer Hoerauf had his AR-15,
7 the smaller .223 round caliber weapon because the three of
8 them were riding together in Officer Thurman's car. So I
9 knew what rifles were out there right then.

10 The first shot I heard was from the G-3, and it
11 was a crack, and I knew it was from an AR-15 from Officer
12 Wingfield. The second shot I heard from back behind me, and
13 I couldn't tell which officer had shot from back there
14 initially. And then the two rounds from behind I heard,
15 they were really close together, but Officer Thurman's .308
16 is suppressed, and so the sound of it is a little bit
17 different than the .223 round that Officer Hoerauf was
18 shooting.

19 And so Officer Hoerauf and Officer Wingfield were
20 shooting the same caliber weapon. Officer Thurman is
21 shooting a much larger caliber weapon, but suppressed, and
22 it just has a different tone to it. So that's what --
23 that's what I heard on that second volley from here. It
24 was -- I'm sorry -- not a volley. It was a shot, a shot,
25 and then two shots.

1 Q And the second shot sounded like the AR-15
2 again?

3 A Yes, AR-15. It sounded like an AR-15. And then
4 the two shots together from across the street, one was
5 another -- was the AR-15 again and one was different than
6 that.

7 MS. KYLE-CASTELLI: All right. Does anybody have
8 any questions for Officer Howery?

9 THE FOREPERSON: To the best of your knowledge
10 during the entirety of the incident, did the officers'
11 actions follow their training?

12 MR. HOWERY: Yes, 100 percent.

13 THE FOREPERSON: And then you said you arrive --
14 you arrive to the -- first to the scene of that hospital in
15 your own cars and then grouped up in the cars and moved to
16 the second one?

17 MR. HOWERY: That's correct.

18 THE FOREPERSON: How do you determine who groups
19 up with whom?

20 MR. HOWERY: Quite honestly, a lot of it has to do
21 with when you get there because as we are getting there, we
22 are trying to put our resources out to help solve whatever
23 problems are arriving. I believe this is a Saturday
24 morning?

25 MS. KYLE-CASTELLI: It was a Saturday.

1 MR. HOWERY: It was a Saturday. Everybody is
2 coming from all different places. And so as you get
3 there -- not everybody gets there at the same time. We
4 don't all go to the precinct and grab armor and then show up
5 all together. Everybody just goes to the scene. That's why
6 we all have take-home cars.

7 But yeah, as people get there, and we have, like,
8 all right, we have four -- four people. You four get in
9 this vehicle, and you're going to go deal with this problem.
10 And then the next four, you're going to go deal with that
11 problem. And a lot of times -- you know, time is of the
12 essence, if you will. And it's like, okay, the faster we
13 can get another group out there to help resolve this, the
14 better.

15 THE FOREPERSON: Thank you.

16 MR. HOWERY: Yes, sir.

17 GRAND JUROR: Did you say you heard -- it was a
18 total of four gunshots?

19 MR. HOWERY: Yes, that's right.

20 GRAND JUROR: And to your knowledge, those were
21 all fired by police officers?

22 MR. HOWERY: Yes.

23 GRAND JUROR: And who were the two that were on
24 this building? It was Thurman and who else?

25 MR. HOWERY: Officer Hoerauf --

1 GRAND JUROR: Hoerauf and Thurman?

2 MR. HOWERY: Officer Thurman.

3 GRAND JUROR: And where was Wingfield the whole
4 time?

5 MR. HOWERY: Officer Wingfield was in the turret
6 of the G-3.

7 GRAND JUROR: Oh, he was on the turret?

8 MR. HOWERY: (Indiscernible).

9 GRAND JUROR: Okay.

10 BY MS. KYLE-CASTELLI:

11 Q Let's say a bullet had gotten into the turret,
12 like, it had gone through the hole where the turret is where
13 Officer Wingfield was looking out. Is it possible that that
14 bullet could have ricocheted?

15 A Yes.

16 Q While he was in the turret?

17 A Yes.

18 MS. KYLE-CASTELLI: Okay. Any other questions?

19 (No response.)

20 MS. KYLE-CASTELLI: Okay. No further questions.

21 And we can pause the record when you're ready.

22 (Off the record at 2:59 p.m.)

23 (On the record at 3:16 p.m.)

24 MR. MICKLEY: All right. We are back on the
25 record in the death investigation, Grand Jury Case Number

1 74, Chuck Mickley taking over now, and we've come back
2 from our afternoon break OSHA required. And we have our
3 next witness.

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

7 DIRECT EXAMINATION

8 BY MR. MICKLEY:

9 Q And can you tell the grand jury who you are and
10 how to spell your name?

11 A Okay. I am Samantha Wuthrich, S-a-m-a-n-t-h-a,
12 Wuthrich, W-u-t-h-r-i-c-h. And I'm a Portland police
13 officer.

14 Q And how long have you been a Portland police
15 officer?

16 A Fifteen years.

17 Q And what is your current assignment?

18 A I am East Precinct dayshift patrol right now.

19 Q And are you also a part of the SERT?

20 A Yes, I am.

21 Q For the Portland Police Bureau?

22 A Yes.

23 Q And how long have you been a member of SERT?

24 A It has been a little over a year now.

25 Q I want to draw your attention to July 22nd of this

1 year. Were you on duty on that particular day?

2 A Yes.

3 Q And were you called out for a SERT incident
4 originally at Good Sam Hospital?

5 A Yes.

6 Q And can you just describe what you did after
7 receiving the call?

8 A Okay. So we got a page that there was a shooting
9 at Good Sam, and we were being called out, and where we
10 needed to go. So I drove from Sandy to Good Sam Hospital,
11 and myself and two other intel members just kind of hung out
12 until the sergeant told us what we needed to do.

13 Q And behind you, there is a photograph --

14 A Yup.

15 Q -- taken from a drone. Do you recognize that
16 particular location?

17 A Yes, I do.

18 Q And can you describe what it shows?

19 A This is the suspect vehicle, and this is the armor
20 called the G-3, and that is what I drove to the scene. And
21 this is our Bear truck and then the Bearcat.

22 Q And as the driver of the G-3, were you the person
23 positioned in front of the van in which the suspect was at?

24 A Yes.

25 Q By the time you got there, who all was in the van?

1 A There was only one person in the van when we
2 got there.

3 Q Okay. And when you arrived, were you aware of or
4 informed about whether or not there had been any commands or
5 instructions given to try to inform the person who was in
6 the van about the potential use of force or to ask them get
7 out of the van?

8 A Yes. Before we got there, we were made aware that
9 the patrol officers had already done a high-risk stop on it,
10 which usually includes force commands, what, you know, what
11 they're thinking, we think you may have been involved in a
12 shooting at Good Sam, we believe you may be armed, things of
13 that sort. And they had taken one person out of the van
14 already who had taken the keys with him.

15 Q From your position driving the G-3, were you able
16 to see into the van?

17 A Yes, I was.

18 Q And did you actually take some photographs from
19 your position in the G-3?

20 A Yes, I did.

21 Q And let me just see if I can pull those up really
22 quickly and see if I have the right ones.

23 A Yes.

24 Q Okay. So there's that photo, this photo, and that
25 photo?

1 A Um-hum.

2 Q Why is it you took those photographs?

3 A So as an intel member, I am not an operator like
4 the rest of these folks are, and with driving the armor, I'm
5 trying to give them the best information that I can from my
6 vantage point. So they're all staged kind of behind the
7 van. And they are just -- they just know what they're told.
8 So I tried to get a picture of where he was seated. And you
9 can kind of see that he's in, like, a white shirt and kind
10 of just -- just to give them a better idea of where he was
11 positioning himself in the van.

12 Q And during the period of time when you were there
13 at the scene in front of the van, were you providing updates
14 to other officers on kind of a regular basis about what he
15 was doing inside of the van?

16 A Yes, I was. So I kind of had a front-row view of
17 what he was doing the whole time. And I know from my
18 training and experience and being a cop for 15 years that
19 people will try and -- they'll try and place where officers
20 are. So they'll, like, do quick looks back. They'll look
21 in mirrors, try and see where -- what they're going to go
22 for.

23 So I knew that this -- this guy had previously
24 stated that he was going to shoot it out with the police.
25 So every time I watched him look into the rearview mirror to

1 see where police were, I would update the officers, like,
2 hey, just so you know, he's placing you guys. He's placing
3 where he's -- he wants to go, and then also, like, doing the
4 quick movements, seeing where he wants to go.

5 He was kind of like -- you could see he was
6 talking himself up in there. He was moving around. He was
7 kind of agitated. He was moving his body a lot and just --
8 you know when you're about to play a sports game and you're
9 in your head, and people can look at you and tell that
10 you're just amping yourself up. And I could tell that from
11 where I was seated by his movements and his actions. And so
12 I tried to relay that to the guys to make sure that they
13 knew, like, you need to be ready because this guy is getting
14 himself ready at any moment.

15 Q Other than kind of looking for other -- where the
16 officers were located and kind of amping himself up, did you
17 see anything else that -- what if anything else did you see
18 the occupant of the van doing?

19 A So he kept his right hand down most of the time,
20 so I couldn't see what was in his hand. Sometimes he had a
21 cell phone and was talking with our dispatch or our senior
22 team members. At one point, he had this yellow piece of
23 paper that I learned was, like, he had written a will on the
24 back of it, so he was, like, reading it.

25 He was just really trying to keep his right hand

1 where no one could see it. At one point, he, like,
2 covered it with a sunshade and just kind of being evasive in
3 the car.

4 Q When you were parked there, were you able to hear
5 anything that he was saying?

6 A I could just hear updates from the negotiators,
7 yeah.

8 Q Okay. You're behind some bulletproof glass?

9 A Yes.

10 Q In a fairly thick-armored vehicle?

11 A Yes. Yup. So I couldn't hear anything. Like, if
12 he was yelling, I wouldn't have been able to hear it. But I
13 know that. So, also, as being an intel member, our job is
14 to listen in on the negotiations and give updates to the
15 SERT channel. And so I was able to still hear the updates
16 from the folks that were talking to him on the phone when he
17 would call and call.

18 Q At some point in time, did a robot come up and
19 block the passenger's side door?

20 A Yeah. So they will use robots to pin the doors so
21 that officers don't have to do that, so he can't just push
22 it open. And I saw that when the robot approached the door,
23 it freaked him out. He did not like that. He moved away
24 from it. He kind of, like, glanced at it, like, what is
25 this? He did not like anything to do with the robot.

1 Q Can you just walk us through what you observed
2 the occupant of the van do after the robot got there in as
3 much detail as possible?

4 A Okay. So the robot comes up, and it pins the
5 passenger's side door. And he moves to the middle. And
6 he's like -- he's starting to panic. You can tell. And
7 he's moving around. And he's got this shade over his hand.
8 he's trying to keep it covered, but he's panicking because
9 this robot just came. And he's looking out the -- the
10 driver's side window here there's armor.

11 If you can see the other picture where the Bear
12 truck is, so he's looking out this window directly at these
13 cops that are right here. You can just barely see their
14 heads over the front of this thing. And he's -- you can
15 tell that the robot has kind of set off, like, a reaction.
16 And he's trying to decide -- you can see he's trying to
17 decide what to do, keeping this covered, trying to move
18 over. He grabs a gas can. It's empty. At one point, he
19 tosses it out the window, still panicking.

20 And then eventually, he decides to go. And the
21 screen falls off, and you see -- as he's coming over, you
22 can see the hand -- the gun. And so everyone in my armor
23 yells, "Gun, gun, gun, gun," because we have a sniper in our
24 turret. And I wholeheartedly believe -- Josh Howery was
25 standing right here. And I saw the suspect, like, pick out

1 who he was going to try and shoot at. And I
2 wholeheartedly believe if he made it out, he would have shot
3 at Josh.

4 Q And why is it -- what is it about the things that
5 you observed the occupant in the van do that led you to
6 believe he was specifically looking at or potentially trying
7 to shoot at Officer Howery?

8 A So, you know, having watched him earlier, having
9 him placing the officers, when stuff started to roll, he
10 just immediately looked out his driver's -- the driver's
11 side window, and he was looking for what he was going to do.
12 And he had previously said he was going to shoot it out with
13 the police. And so I could see what he was looking at, and
14 I could see where his gun was aiming. And he was pushing
15 forward with the gun and his body as he was going in that
16 direction, and it would have been directly towards Officer
17 Howery.

18 Q And so in the photograph that you see, that little
19 red thing outside of the driver's side door --

20 A Yup.

21 Q Is that the gas can?

22 A Yeah.

23 Q So this is post gas can being thrown?

24 A Yup.

25 Q So maybe just a few moments before the actual exit

1 of the person from the van?

2 A Yup. And I think this might even be the robot
3 right there moving up.

4 Q While he's sticking his head out?

5 A Yeah.

6 Q After you saw the gun, you said that everybody in
7 your armored vehicle shouted, "Gun"?

8 A Yes.

9 Q Is that something that is also being communicated
10 via radio, as well, so that people outside of your armored
11 vehicle could hear it --

12 A Yes, yup, yeah.

13 Q And --

14 A And about when we saw the gun and saw him falling
15 towards the door and the window is when we heard the first
16 shot.

17 Q Okay. And so was he already moving out of the van
18 at the point in time when you heard the first shot?

19 A I believe so. It's a little hard -- it was hard
20 for me to see because the G-3 sits so high, and I'm so short
21 that, like, once he got below the windshield, it was hard
22 for me to see what was happening out of the door.

23 Q Okay. In terms of the shot being fired, how many
24 shots did you hear or register being fired from the G-3
25 itself?

1 A I heard just one.

2 Q Okay. Do you know if there were any other -- did
3 you hear any other shots being fired from other locations?

4 A I did, yes.

5 Q Okay. Were you able to place those shots?

6 A No.

7 Q Okay. And part of that is, again, because you're
8 inside the armored vehicle?

9 A Yeah.

10 Q When the officer who's inside the turret of the
11 G-3, is that an open area into the interior of where you're
12 at?

13 A Yeah, yeah. So his body, like, probably 75
14 percent of his body is in the G-3 still. So he stands on a
15 stool kind of thing, up and out of the turret. So when he
16 shot, it, like, echoed through the whole --

17 Q Okay. After the shot was fired, I assume that you
18 weren't really able to see the person who was in the -- had
19 been in the van anymore because of his position and where
20 you were located?

21 A yeah. I didn't -- once he was down, I didn't see
22 anymore.

23 Q Okay. Did you have any additional -- did you --
24 were you involved at all in placing him into custody or
25 securing the firearm that was in his hand?

1 A No.

2 MR. MICKLEY: I don't think that I have any
3 additional questions. Let's see if the grand jurors have
4 any questions.

5 GRAND JUROR: No.

6 MS. KYLE-CASTELLI: As a witness member, did
7 somebody come and sit over all of the witness members
8 together to make sure that you guys weren't communicating
9 about the incident?

10 MS. WUTHRICH: Yes.

11 MS. KYLE-CASTELLI: Okay. And then you were later
12 interviewed by detectives?

13 MS. WUTHRICH: Yes.

14 MS. KYLE-CASTELLI: Okay. That's it.

15 MR. MICKLEY: All right. Perfect. Thanks.

16 GRAND JUROR: Thank you.

17 (Pause.)

18 MR. MICKLEY: The Foreperson will swear you in.
19 Sorry. Technical difficulties --

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

23 DIRECT EXAMINATION

24 BY MR. MICKLEY:

25 Q Go ahead and have a seat. Can you tell the grand

1 jury who you are and how to spell your name?

2 A I'm Officer Whitney Anderson, W-h-i-t-n-e-y, A-n-
3 d-e-r-s-o-n.

4 Q And how long have you been an officer?

5 A I've been an officer for just shy of five years.

6 Q And what is your current assignment?

7 A I currently work east dayshift. I'm also assigned
8 to the Special Emergency Reaction Team as an operator on the
9 entry side.

10 Q All right. And how long have you been assigned to
11 SERT?

12 A That would have been a year in July.

13 Q All right. Just this July, were you called out
14 for a SERT response on July 22nd?

15 A Yes, sir.

16 Q And what was the nature of that call?

17 A There had been a shooting at Good Samaritan
18 Hospital. Two people were shot, and one was believed to be
19 dead.

20 Q Okay. Can you just describe what you did after
21 you received the activation and the call to head out to the
22 scene?

23 A Yeah. So we operate on call. So I wasn't working
24 that day. I was at home. One of my jobs as a newer person
25 the team is coordinate equipment. So I made sure that all

1 of our pieces of equipment were going to arrive safely at
2 the scene. I responded to East Precinct, where one of our
3 pieces of equipment is kept. It's called the Bear truck.

4 While I do that, I monitor two radio nets. I
5 monitor the radio net where the incident is occurring. This
6 was Central Precinct. And then I also monitor a backchannel
7 that we refer to as "She 2." SERT operators monitor She 2
8 so that we can keep the main operational clear because
9 that's usually -- there's a lot happening on that radio net,
10 and people on scene need to get information to each other.

11 While monitoring those nets, I drove the Bear
12 truck code 3. I believed I was headed to Good Samaritan
13 Hospital, and then I heard that a couple of our teams had
14 transitioned to the Fred Meyer grocery store. I knew that
15 they were there without a piece of armor, which is what I
16 was driving, so I made the decision to drive there instead
17 so that they would have a safe place to be if something bad
18 had happened.

19 Q And when you say you drove the Bear truck at code
20 3, what does that mean?

21 A Lights and sirens.

22 Q Okay. I assume it is not as fast as a patrol car?

23 A No, sir. It's very slow.

24 Q Okay. When you arrived at the Fred Meyers, did
25 you eventually make it to the actual location that's

1 pictured on the monitor behind me?

2 A Yes, sir, I did.

3 Q And where were you at during the interactions with
4 the occupant of that van?

5 A I was sitting in this vehicle here directly behind
6 the passenger's seat there.

7 Q Okay. And you were pointing to the -- what's been
8 referred to as the G-3?

9 A Yes, sir.

10 Q And how is it that you got into the G-3?

11 A So when we had heard that East Precinct officers
12 had located the suspect in Gresham, I drove the Bear truck,
13 which is this. And then, generally, we have -- we have
14 other jobs on our team. So having an operator drive a piece
15 of armor is generally not ideal. So once everybody got to
16 the scene, we actually had drivers for the vehicles. So I
17 was transitioned to be an operator, not a driver, in the G-
18 3. Officer Jason Wans (ph.) was driving the Bear truck.
19 Officer Sam Wuthrich was driving the G-3.

20 Q And when you say operator, what does an operator
21 do within the confines of an individual armor piece?

22 A We can have multiple jobs. My job in that piece
23 of armor was to be a hands person. So in the event that we
24 were going to take this person into custody, my designated
25 job was to be able to go hands on with somebody. Other jobs

1 would be, like, a less lethal operator, which shoots 40-
2 millimeter less lethal, like, rubberized rounds, lethal
3 cover. We can even have the K-9 handlers in there, but it's
4 basically a separation of jobs to make sure that there's
5 role clarity.

6 Q And in terms of the people or officers who are in
7 the G-3 during the interaction with the person in the van,
8 how many people were there, and what were their jobs, if you
9 can recall?

10 A I don't believe that I can recall everybody. I
11 know that Officer Tom Snittley (ph.) was operating there as
12 a team leader. He's a very senior person on the SERT team
13 and a senior officer, as well. Sam Wuthrich, who's on our
14 intel team, I do not remember who our crisis negotiator was,
15 who was sitting the -- the front passenger's seat in front
16 of me. Seth Wingfield, who was in the turret, was lethal
17 cover. I believe Spencer Perry was there, as well. And I
18 think he was a less lethal operator. That's all I recall of
19 the people that were there, but I'm pretty sure I'm missing
20 one or two.

21 Q Okay. And who was in the driver's seat at the
22 time?

23 A Officer Sam Wuthrich.

24 Q Okay. When you were there, can you just describe
25 all the things you observed after the G-3 got there in the

1 front end of the van?

2 A Yes. I observed a person that was identified as
3 the suspect on and off of the phone with our Crisis
4 Negotiation Team. He was very between being super, super
5 agitated and super calm. And it seemed like his mannerisms
6 would fluctuate pretty aggressively.

7 He kept a sunshade over his right hand, which is
8 where we were told by a drone operator that they had seen a
9 gun. As I was arriving on scene, I heard dispatch saying
10 that he was reading his will to them. And later, while we
11 were on the scene, our crisis negotiators, who were on the
12 phone with him, said that he was again reading his will to
13 them, and it wasn't their intention to allow him to finish
14 reading his will.

15 When he wasn't actually on the phone, that was
16 when his demeanor would change quite a bit. And I noticed
17 that he was doing something that we call target glancing in
18 the police bureau, which means that he was looking
19 specifically at officers. He was very focused on Officer
20 Wingfield in the turret, which was very disconcerting,
21 because we were very close to him. Like, I could see -- I
22 could see his eyes.

23 He was very focused on our inner perimeter
24 personnel. Officer Josh Howery was -- was here off of the
25 nose of the Bear truck. He looked at Officer Howery a lot.

1 And then we also had other perimeter positions that were
2 back here off of the bank, and he was -- he was very focused
3 on them, as well.

4 Q And why is that something that provides -- or
5 gives you concern as an officer, when a person is doing that
6 kind of target glancing or --

7 A Something that we learn as newer officers when
8 you're going through an academy of how to -- how to
9 understand somebody's mindset, I'm not very concerned when
10 I'm dealing with a person who is looking not at me. That
11 means they're looking for avenues of escape. They're
12 looking to get away.

13 When I see somebody like I saw that day, there
14 were a lot of places that weren't officers, and he was very
15 much focused on where all of our officers were. It seemed
16 very clear to me that he was trying to make a plan. And he
17 was deciding on who would be the easiest for him to hurt, so
18 much so that there were some people in the parking lot of
19 the bank area here -- I think they were behind an ATM. They
20 weren't -- they weren't our officers. I think they were
21 from a neighboring agency that came to help out. But they
22 didn't have very good cover at all. And he was very focused
23 on them at some point.

24 And I told our team leader, Officer Snittley, that
25 I was super concerned. And he actually put in a phone call

1 to our officers that were in that area and said, "Hey,
2 you guys need to tuck in and get better cover," because we
3 were super concerned that they were going to get shot.

4 Q At some point in time, was a robot deployed to
5 close in the passenger's side of the van?

6 A Yes, sir.

7 Q And can you just describe in as much detail as you
8 can what you recall from what the occupant of the van did
9 after that happened?

10 A Yeah. He -- he moved very fast -- I could -- his
11 eyes got super wide when he saw that -- that robot
12 approaching. And he moved very quickly into the driver's
13 side of the vehicle while still trying to, like, cover his
14 hands. Yeah, it was a superfast, like, scary movement.

15 Q And at some point in time, did you see whether or
16 not he had actually a gun in his hand?

17 A That wasn't until he was exiting the driver's side
18 of the vehicle.

19 Q Okay. Can you talk about what you observed him do
20 prior to exiting the -- the van?

21 A Prior to exiting the van, moving over into that
22 seat.

23 Q Okay. And what kind of firearm did you see?

24 A It was a pistol.

25 Q When he was at the driver's side of the van, what

1 if anything did you notice about where he was looking or
2 what he was looking at?

3 A It looked to me that he was looking directly at
4 Josh Howery.

5 Q Okay. And at that time, right, we've got the
6 photograph behind you, and it shows Officer Howery standing
7 outside of the Bear truck. Do you know whether or not his
8 position was relatively similar at the very point in time
9 when he was getting out of the truck as it is in that
10 photograph?

11 A I don't know for sure, no.

12 Q Okay. But he was outside of the Bearcat?

13 A Yes, sir.

14 Q And therefore, much more exposed than you or the
15 officers who were in the G-3 were?

16 A Yes. He was outside.

17 Q And what about the -- kind of the exposure of the
18 officer in the turret and the G-3?

19 A Yeah. Officer Wingfield, there's -- there is,
20 like, a plate that you can put in front of you. But I think
21 from my understanding, it was not ideal for him to have
22 that, like, right in front of him, when he can't see
23 everything he needs to see. And there's equipment on top of
24 it that was -- that was an issue for him. So, yeah, Seth
25 was definitely exposed.

1 Q When was it that you -- when if at all did you
2 hear shots being fired?

3 A I didn't hear a shot being fired until after the
4 suspect had fully exited the vehicle and it had registered
5 to all of us that he had had a gun in his hand, and he was
6 turning to face Officer Howery.

7 Q And how is it that it wasn't just you that
8 recognized that he had a gun?

9 A I don't understand the question, I guess.

10 Q Was that something that people were saying about,
11 something that was coming over the radio, something that --

12 A Yeah. I remember saying it several times, and I
13 believe it came out over the radio, as well.

14 Q Okay. And how quickly was it between when he was
15 at the door of the van and the gun was seen, and he was
16 actually outside?

17 A Three to four seconds.

18 Q Okay. How many shots did you hear, if any, being
19 fired from G-3?

20 A One shot from the G-3.

21 Q And then did you hear any other shots?

22 A I heard two additional shots.

23 Q And were you able to locate or identify where
24 those shots were coming from?

25 A No. I knew they didn't come from Seth.

1 Q Okay. And how is it that you knew that they
2 didn't come from the G-3 itself?

3 A I was sitting right below Seth.

4 Q Okay. How loud is it when he's firing off his
5 shot?

6 A That's very loud.

7 Q Okay. After the second shots were -- after the
8 person who was in the van exited the van, were you able to
9 see them anymore?

10 A Yes.

11 Q And what could you -- what did you see happen to
12 them after you heard the gunshots -- or the first gunshot?

13 A After the first shot, he fell, and I knew that he
14 wasn't dead. I assumed that a single shot was enough to --
15 to change his behavior and that we were going to be able to
16 work through taking him into custody. But it become almost
17 immediately clear that he was very much still fighting. And
18 he fought to his feet. His back was to me at that point, so
19 I couldn't not see his hand, and that's when I heard two
20 additional shots. And he fell again.

21 Q And after those two shots, what happened to the
22 person who had been in the van?

23 A I could hear over the radio that someone could
24 still see a gun in his hand. I remember hearing that people
25 wanted to go forward and work through the medical component

1 and start rendering aid to this person. And I didn't
2 know how many people could see as much of him as I could
3 see. I could see basically his whole back.

4 And I remember shouting at our team leader, Tom
5 Snittley, that he was still breathing, and that was scary
6 for me because he had just fought through being shot a first
7 time. And he had still had a gun in his hand, and he was
8 still breathing. And we were talking about moving people
9 forward, and him having a gun still in his hand was pretty
10 worrisome for me.

11 Q And why was that worrisome for you at this time?

12 A This seemed like a person who was super motivated
13 to hurt people that day. He had already shot two people and
14 appeared to me was pretty motivated to shoot at police that
15 day. So I was very concerned that he was going to take
16 whatever opportunity he could to shoot at us again.

17 Q Did you -- were you all involved in ultimately
18 securing the firearm that he had in his hand or placing him
19 in handcuffs?

20 A No.

21 Q Or rendering aid to him?

22 A No.

23 MR. MICKLEY: Okay. 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 THE FOREPERSON: So it sounded like initially when
3 the gunshots started happening, you hear an initial gunshot
4 kind of very momentary, very brief pause, and then two
5 gunshots immediately after that? So, like, three total,
6 basically?

7 MS. ANDERSON: I heard three total shots. There
8 was an initial shot, and then those two following shots
9 didn't happen until he had fought to his feet again.

10 MR. MICKLEY: Any other questions?

11 MS. KYLE-CASTELLI: When you say that he fought to
12 his feet, did he get all the way back up to a standing
13 position or --

14 MS. ANDERSON: I don't remember. I just remember
15 being very surprised that he -- he was not -- continuing to
16 not be compliant.

17 MS. KYLE-CASTELLI: Okay. And just for
18 clarification, when you're referring to Seth, what is Seth's
19 last name?

20 MS. ANDERSON: Wingfield. Sorry.

21 MR. MICKLEY: All right. Thanks so much.

22 And that's all of the witnesses that we have for
23 this afternoon, so we can go ahead and go off the record.

24 (Whereupon, the proceedings ended at 3:47 p.m. on
25 November 28, 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 153 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.