

1 IN THE MATTER OF THE INVESTIGATION) MULTNOMAH COUNTY
2 OF THE DEATH OF) DISTRICT ATTORNEY'S
3 JACK DALE COLLINS,) OFFICE NO. 2190450
4 Deceased.) GRAND JURY CASE
5 NO. 123
6

7 VOLUME 1

8
9 GRAND JURY NO. 1 PROCEEDINGS

10 The Grand Jury No. 1 hearings conducted on
11 Thursday April 1, 2010, were transcribed by Official
12 Court Reporter.
13

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15
16 APPEARANCES:

17 Conducting the examination: Deputy District Attorney
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19

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P R O C E E D I N G S

MARK SLATER,

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

EXAMINATION

BY MS. MOAWAD::

Q All right. If you would start off by telling us your name and spelling your last name?

A Mark Slater. Mark is with a K, and Slater, S-L-A-T-E-R.

Q How are you employed?

A A detective with the Portland Police Bureau.

Q And how long have you been a police officer?

A I was hired by the Bureau in 1993 and worked patrol for about ten years and got promoted to Detective. And as a detective, I have worked in various assignments ranging from Auto Theft Task Force, the Child Abuse Team, Robbery Detail, Assault and have been with Homicide for the past three or four years.

Q And as a homicide detective, have you been trained in how to respond to officer-involved shootings?

A Yes.

Q What special protocols are followed when

1 there is an officer-involved shooting?

2 A It's arrival and then, as the lead
3 investigators, you know, ensuring just like any other
4 crime scene, the crime scene is secure. Anyone who is
5 involved, whether the officers or any other witnesses
6 that are important, that they are separated
7 immediately. And, as the lead investigator, you are in
8 charge of overall investigation of the scene.

9 Q Is there any protocol within the Portland
10 Police Bureau to ask other agencies to come in and
11 assist with the investigation?

12 A Yes. We -- on all officer-involved cases, we
13 have members from the East County Major Crimes team
14 assist us with the investigation.

15 Q And every time an officer-involved shooting
16 occurs, is there a round count of the officer's gun
17 done there at the scene?

18 A Yes.

19 Q Describe what a round count is.

20 A We meet with the involved officer and --
21 police officers carry their primary firearm, some will
22 carry a back-up firearm. And the bullets are in the
23 gun and then they will carry extra bullets on their
24 belt in magazines. And as the lead investigators, we
25 will count all bullets that are on the officer at the

1 time, so we can make a determination of how many rounds
2 we think were fired during that incident.

3 Q The officer who has used force is also given
4 an opportunity to meet with members of the Union and an
5 attorney?

6 A That is correct.

7 Q So you mentioned the scene gets frozen. Safe
8 to assume that happens in all homicide cases, the scene
9 is contained and frozen?

10 A Yes.

11 Q So, now moving from sort of the specialized
12 officer-involved shootings to all homicides in general,
13 what other things do you typically do at a homicide
14 scene?

15 A Once we ensure that the scene is secure and
16 we have located witnesses, we meet with other
17 investigators on the investigative team, and we'll get
18 a briefing, usually from a primary officer, who is the
19 first to arrive on the scene or their supervisors, to
20 get an idea of what occurred.

21 After we're briefed on what the call was,
22 there is different detective investigators with
23 different tasks. We'll have a couple that will work on
24 the crime scene processing, where one will make a
25 diagram of the scene. Another one produces a document

1 called a "word picture", which is just a document where
2 you would describe things that can't be captured by
3 pictures or video; maybe smells or temperatures, such
4 things like that; or if there is a light that is off on
5 a house, you can see that in the picture, but why is it
6 off? We would write that in the word picture, whether
7 it's broken or the switch was off somewhere.

8 You have different detectives who will go do
9 a neighborhood canvas, wherever we are, to see if any
10 witnesses heard or saw what happened. And we have
11 members of the Forensic Evidence Division will come in
12 at the same time, and they will start documenting the
13 scene with pictures. They take a video of the scene as
14 well.

15 And once all that's not done, but as we are
16 doing it, eventually we are going to move to within the
17 perimeter of the crime scene -- the lead investigators
18 as well as members from the Forensic Evidence
19 Division -- and start to look for evidence, searching
20 for any items which are of evidentiary value.

21 Q Is a representatives from the District
22 Attorney's office typically at the scene as well?

23 A Yes.

24 Q On March 22nd, 2010, how and when were you
25 notified there was an officer-involved shooting

1 resulting in the death of another person?

2 A I received a page from my Sergeant, Rich
3 Austria, with the Homicide Detail, at about 3:30 in the
4 afternoon. I was at home. And he requested I respond
5 to the Hoyt Arboretum regarding an officer-involved
6 shooting.

7 Q You were designated as the partner -- I'm
8 sorry, as the primary. How does that assignment get
9 made?

10 A Okay. The Homicide Detail has ten
11 detectives. There is five teams of two, and you
12 rotate. We have a team which is called the "up team".
13 In this case, it was myself and my partner, Detective
14 Erik Kammerer. And there is a team behind us, who are
15 on deck, that will get the next homicide that comes in
16 or death. And you just rotate down the line through
17 the teams. And it was our turn.

18 Q So when you arrived, was there anything out
19 of the ordinary, or did you follow the protocols that
20 we have already discussed?

21 A Followed the protocols. There was nothing
22 out of the ordinary.

23 Q Specifically, did Detective Steed do the
24 crime scene diagram?

25 A Yes, he did.

1 Q And to your left up on the wall here, does
2 that appear to you to be a blow-up version of Detective
3 Steed's crime scene?

4 A Very accurate. Yes, that is it.

5 Q Did you, along with Detective Kammerer,
6 perform the round count of Officer Jason Walters' gun?

7 A Yes, we did.

8 Q Based on the round count, were you able to
9 determine how many shots were fired?

10 A Yes. Based on the count and Officer Walters
11 telling us that the magazine is normally carried to
12 full capacity, we determined there were four rounds
13 fired.

14 Q All right. I am going to now hand you some
15 photographs that are marked 1 through 18 down in the
16 corner there. Each one is marked.

17 A Okay.

18 Q So if you could just sort of hold them up and
19 describe to the grand jurors. And with each one, if
20 you could identify by number for the record?

21 A Okay. Photograph No. 1, you can see that
22 from where I'm at. This patrol car parked here is the
23 car Officer Walters arrived in. And just out of view
24 on this picture is Fairview Boulevard over here. And
25 this is a crime scene tape.

1 The Hoyt Arboretum Visitor Center is back
2 over here to the left in this picture. And up here
3 above this railing is the parking lot for the Visitor
4 Center. And as you go back that direction through the
5 trees is where the water towers are.

6 Any questions on picture 1?

7 Picture 2 is an actual picture of the
8 Visitor's Center from Fairview Boulevard, the front
9 doors to the Visitor Center, and it's a walkway that
10 moves up off of Fairview. In the back left corner are
11 two doors to two separate restrooms. And centered in
12 the picture is the deceased, Mr. Jack Collins.

13 Q I can start passing them around, too.

14 A Thank you.

15 Q Number 3 is another picture of the Visitor
16 Center just looking a little bit more to the south.
17 You can see the south edge of the building and the
18 parking lot up above.

19 Picture No. 4 is a closer-up picture facing
20 in a northerly direction. It shows again the courtyard
21 of the Visitor's Center, the restroom doors behind, the
22 deceased, Mr. Jack Collins, on the ground. And each of
23 the yellow markers you see in this picture are items
24 marked as evidence by members of the Forensic Evidence
25 Division.

1 Picture No. 5 is basically the same picture
2 as 4. It's zoomed in a little closer.

3 Picture No. 6 is, again, it shows more of the
4 south end of the Visitor's Center with the stairs going
5 up towards the parking lot. And it shows a curved
6 path, which leads around towards the parking lot and
7 all the shrubbery and different rocks in this area.

8 Picture No. 7 is a shot taken from the south
9 facing north on the path, which runs along the west
10 edge of the Visitor's Center, again showing placards
11 where items of evidence are. In this picture No. 7,
12 items number 4, 5, 6 and 7 are shell casings.

13 Picture No. 8 is another shot from Fairview
14 Boulevard looking east toward the front doors of the
15 Visitors Center.

16 Picture No. 9 is the same picture. It's just
17 zoomed in closer.

18 Picture No. 10 is pictures of the closed
19 doors to the restrooms at the location, which are in
20 the courtyard in the northeast corner, and the doors
21 face south.

22 Q Let me just stop you here. As you understand
23 it from your review of the facts of this case, Officer
24 Walters made contact with Mr. Collins when Mr. Collins
25 was either immediately coming from that bathroom or

1 Officer Walters -- actually, did he knock on the door?

2 A Actually knocked on the door two times.

3 Q So Mr. Collins at that moment of contact was
4 in the restroom in this photo, photo 10, he was in the
5 restroom with the door on the right side of the photo?

6 A Right. That's the handicapped access
7 restroom.

8 Q Thank you.

9 A Picture No. 11 is a picture of that same
10 restroom with the door open.

11 No. 12 is a photograph from outside of the
12 same restroom, just zoomed in closer, showing the sink
13 and the blood all over the sink and mirror and floor of
14 that bathroom.

15 Q That blood, just so the record is clear, was
16 that the location where Mr. Collins was shot, or is
17 there evidence that he was doing some harm to himself
18 in that restroom?

19 A Yes, the latter. He was doing harm to
20 himself in that restroom prior to Officer Walters
21 contacting him.

22 Picture No. 13 is an image of the deceased,
23 Jack Collins, and a placard, No. 1 in the picture, it
24 shows the knife.

25 Q Now, I want to stop here for a moment. In

1 picture 13, Mr. Collins is in almost a fetal position
2 with his hands in flex cuffs. Is that standard
3 protocol for an officer-involved shooting response?

4 A Yes, it is.

5 Q So that is not how his body fell to the
6 ground?

7 A That's correct.

8 Q Okay. Go on.

9 A Picture No. 14 is a close-up photograph of an
10 X-Acto knife, placard No. 1, evidence from the scene,
11 covered in blood.

12 Picture No. 15 is a photograph from inside
13 the Visitor's Center. As you walk in the front doors
14 of the Visitor's Center, there is a desk where the
15 staff sits. And this picture is from that location
16 looking out towards the west, towards Fairview
17 Boulevard.

18 Picture No. 16 is again from inside the
19 Visitor's Center looking out, more in a southwesterly
20 direction.

21 Picture No. 17 is a picture taken from inside
22 an office, which would be on the north wall of the
23 courtyard area. And this photograph looks to the south
24 toward the stairs in the parking lot.

25 And picture No. 18 is from the same office

1 and the picture is looking more in a southerly
2 direction into the courtyard.

3 Q On Tuesday, March 23rd, did you attend the
4 autopsy of the deceased performed by Dr. Karen Gunson?

5 A Yes, I did.

6 Q How was the deceased identified?

7 A He was identified through fingerprints.

8 Q In addition to the witnesses who remained at
9 the scene, who were interviewed that day and maybe
10 subsequently contacted, what efforts were made by the
11 Police Bureau to locate witnesses?

12 A Overall, we -- we put information out in the
13 media that we were seeking any additional witnesses who
14 may have seen or heard anything. People were asked to
15 call the Police Bureau and even provided my name and
16 desk number to call if you had information. We tracked
17 down numerous witnesses, and we believe there are still
18 a couple out there that we haven't heard from, based on
19 what other witnesses say they saw and heard about. And
20 we met with each of these witnesses and interviewed
21 them, recorded their interviews.

22 Q Specifically, I wanted to talk about a few
23 witnesses. There was -- there were two women who
24 complained to employees of the Arboretum about a man
25 harassing them while they were on a hike?

1 A Correct.

2 Q And only one of those women has been
3 identified?

4 A That's correct.

5 Q Likewise, there were two women and a small
6 boy in the Visitor's Center as the interaction between
7 Officer Walters and Mr. Collins began?

8 A That's correct.

9 Q They were escorted sort of away from the
10 windows before the shooting occurred, according to the
11 other witnesses?

12 A Correct.

13 Q And they did not remain at the scene and they
14 remain unidentified?

15 A That's correct.

16 Q What other investigation, aside from
17 interviewing witnesses, has gone on since the first
18 night at the scene?

19 A Uhm, we've taken Officer Walters' firearm to
20 the State Police Crime Lab to have it analyzed by
21 Travis Gover, who confirmed that the shell casings
22 found at the scene were fired from Officer Walters'
23 handgun.

24 We have interviewed Officer Walters
25 concerning the events.

1 Q When did that interview occur?

2 A It was the Friday of that week, which would
3 be the 26th of March.

4 Q I would direct you to page 2 of your report?

5 A Excuse me, March 24th.

6 Q So that was a Wednesday, and the shooting was
7 a Monday?

8 A Yes. My mistake.

9 Q At this point, I have no other questions for
10 Detective Slater. His partner, Detective Kammerer and
11 other responding detectives would be available, but I
12 do not believe that they would have significantly
13 different or additional information for you. So should
14 we determine -- you as a Grand Jury -- that you want to
15 hear from any of those detectives? Just let me know in
16 the next day or so and we can make that happen.

17 Does anyone else have any questions for
18 Detective Slater?

19 JUROR: I just have a clarification
20 question. When you were talking about that it's
21 standard practice to put the flex cuffs on, when do
22 those go on? I didn't understand what that was about.

23 THE WITNESS: Taking a subject into
24 custody after a deadly force encounter, it's standard
25 practice to restrain them, whether it's handcuffs or

1 flex cuffs. They are both authorized restraints to use
2 on someone.

3 JUROR: So even if they have fallen and
4 it appears that they are deceased, they still put cuffs
5 on?

6 THE WITNESS: Yes. And that's -- by the
7 time the officers were able to approach him, take him
8 into custody, at that point, they did not know if he
9 was deceased or not.

10 JUROR: Okay. We'll get that testimony.
11 I was just asking more in general terms.

12 BY MS. MOAWAD::

13 Q As an additional follow up on that, it's an
14 officer safety concern because sometimes -- and correct
15 me if I'm wrong -- but sometimes persons may be acting
16 and nonresponsive and acting as if they are deceased in
17 order to ambush officers that approach?

18 A That's correct.

19 Q There has been prior cases of that?

20 A Absolutely.

21 Q Additionally, officers make sure that the
22 suspect is contained before medical even comes on the
23 scene --

24 A That's correct.

25 Q -- to check? And so the interest is in

1 securing the suspect and getting medical to them as
2 quickly as possible?

3 A As quickly and safely as you can, yes.

4 JUROR: You had indicated in your opening
5 comments that the person meets with the Union and also
6 their attorney. Is that an outside attorney? Is that
7 an attorney assigned to the Police Department?

8 THE WITNESS: It's an outside attorney.
9 And there are several outside attorneys who will
10 respond to officer-involved shootings. Our Union
11 office contacts these attorneys, and they respond to
12 represent the involved officer.

13 MS. MOAWAD: Okay. Thank you very much.

14

15 ERNEST TODD TUMBLESTON,

16 was thereupon called as a witness on
17 behalf of the State and, having been first duly
18 sworn, was examined and testified as follows:

19 **EXAMINATION**

20 BY MS. MOAWAD::

21 Q If you could start off by telling us your
22 name and spelling your name, please?

23 A Ernest Todd Tumbleston, E-R-N-E-S-T. T-O-D-D,
24 T-U-M-B-L-E-S-T-O-N.

25 BY MS. MOAWAD::

1 Q Mr. Tumbleston, you are a reserve officer for
2 a police agency in Washington State; is that correct?

3 A That's correct.

4 Q Were you present at the Hoyt Arboretum on
5 Monday, March 22nd, 2010 at about 3:00 p.m.?

6 A Okay. That sounds right.

7 Q You were there for sure on Monday,
8 March 22nd?

9 A Yes.

10 Q You are just not sure about the time?

11 A I'm not sure about the date or the time. I
12 would have to look at the calendar. But it was Monday,
13 yes.

14 Q When you started your visit there at the
15 Arboretum -- well, first of all, who were you with?

16 A I was with my wife, Sandra.

17 Q Once you guys arrived, did you go to the
18 Visitor's Center first?

19 A We parked in the parking lot across the
20 street from the Visitor's Center and went inside the
21 Visitor's Center.

22 Q And while you were in there, did it catch
23 your attention there was a person complaining about
24 something that had happened?

25 A Yes. Yes, it did.

1 Q Was that a male or female?

2 A It was a female.

3 Q Can you just briefly describe her?

4 A Asian woman, shorter, probably around five
5 foot.

6 Q At that point, did you and your wife get a
7 trail map and go on a hike?

8 A We paid the two dollars for the really good
9 big one so I could read it without my glasses -- the
10 trail map and we went for a hike.

11 Q Any idea how long of a hike you took?

12 A Uhm, she's been walking or exercising about
13 45 minutes a day. So we were trying to do about a
14 45-minute hike. So it was somewhere around that.

15 Q Behind you I have a trail map of the Hoyt
16 Arboretum. The purple is highlighting Fairview
17 Boulevard and the picnic station. You can see the
18 orange?

19 A Right.

20 Q Do you see that?

21 A Absolutely.

22 Q The orange is highlighting the parking lot
23 directly to the south of the Visitor Center and the
24 Visitor Center?

25 A Correct.

1 Q So, as I understand it, you and your wife
2 were heading back toward the Visitor's Center coming up
3 in a --

4 A Redwood.

5 Q Coming up the Redwood Trail?

6 A We started out -- we went this way. We went
7 to Magnolia. Somewhere around here we got on Wildwood.
8 We came down the creek trail, wherever that's at.
9 Right over here. Then we were coming across this paved
10 road and up. And we were somewhere right in this area
11 when we first heard the commotion.

12 Q I'm going to give you a Post-It note with
13 your name on it. And I would like you to put it where
14 you were when you first started to hear.

15 A Right there.

16 Q Okay. So, you said you started to hear
17 something. If you could, tell me what it was that you
18 heard initially.

19 A It was shouting off in the distance. And
20 knowing that the picnic shelter was just up the hill
21 and the parking lot and the Visitor's Center, we didn't
22 really pay that much attention to it until we heard the
23 two shots. That's when I guess I told my wife -- I
24 said, "Get back behind this tree," which there is a big
25 tree right off the side of the trail. We kind of stood

1 behind that for a minute.

2 Q When you said you first heard the shouting,
3 were you even paying enough attention to it to think
4 male, female, one voice, two voices?

5 A Not at all. It just -- it wasn't anything --
6 it was kind of out of the ordinary to be walking
7 through a peaceful area and hear shouting, but it was
8 still so far off in the distance that, you know, there
9 was no reason to pay attention to it to me.

10 Q So you heard the two shots fired. That
11 obviously got your guard up.

12 A Absolutely.

13 Q And then were you paying closer attention to
14 the sounds?

15 A A little bit closer attention, absolutely.

16 Q So could you hear any yelling after those
17 first two shots?

18 A I heard a lot of yelling after the first two
19 shots. At that point, it sounded to me like it was a
20 police officer giving commands. I thought I heard
21 something like: "Drop something". I couldn't tell
22 what else. That is really all I can remember as far as
23 what I could actually understand.

24 Q So you heard the word "Drop"?

25 A I believe so.

1 Q Sounded commanding?

2 A Absolutely.

3 Q What did you do at that point?

4 A That's the -- after the first two shots is
5 when I told my wife to kind of get behind this tree
6 with me because I didn't know where bullets were flying
7 or anything like that.

8 Q Sure. About how long was it until you heard
9 more shots?

10 A Uhm, the -- paying attention now to the
11 commands, the loud yelling, uhm, gosh, it was just
12 seconds, a few seconds later, maybe five seconds, maybe
13 not even that long.

14 Q Do you remember how many shots you heard the
15 first time?

16 A Two -- two shots and then followed by two
17 shots again with the yelling and commands in the
18 middle.

19 Q Okay.

20 A So yelling before. Didn't pay any attention
21 to it. Two shots; paid attention to it. More yelling;
22 paid attention to it. Two more shots; paid attention
23 to it. Then it got very quiet. At which time I
24 started making my way up the hill.

25 Q Okay. So you made your way up the hill sort

1 of through that picnic shelter?

2 A Kept up on Redwood, which comes up right by
3 the picnic shelter. And now I remember just after I
4 left my wife -- I don't know if I told her to stay
5 there or what, but I started walking up. Two ladies
6 were walking across the picnic shelter, and I think
7 they had a dog with them. I told them -- as I was
8 passing them, I said, "That didn't sound good," and
9 continued on my way up.

10 Q Did you cross Fairview Boulevard?

11 A Yes, I did. That's the main -- yes.

12 Q Where was it that you were standing when you
13 first kind of -- well, let me rephrase. Did you alert
14 Officer Walters to your presence?

15 A As I approached -- as I crossed the street I
16 believe is when I noticed -- let me get up, if I may.
17 You cross the street. I think there is a sidewalk.
18 And there are these brick columns with maybe a brick
19 fence. So I'm -- I see the officer. And I told him --
20 I believe I said, "I'm a reserve officer with
21 Oroville." I don't think I said anything else other
22 than that. And that's when I noticed he was standing
23 there. He had his weapon trained on the individual on
24 the ground, which was probably from right between me
25 and the entrance into the gateway, I guess is what you

1 call it, and then the entrance into the Visitor's
2 Center.

3 There -- there was a bush right by the
4 Visitor's Center. He was standing by that equal
5 distance to the individual on the ground, equal
6 distance to me, probably in an L-shape fashion. He had
7 his weapon trained on the individual. And I gathered
8 at that point he was waiting on back-up. And that's
9 when he asked me if I would flag down the officers that
10 were coming in, because they were coming in on
11 Fairview.

12 I stepped out into the road here and waved at
13 them so that they would turn down this way. Not that
14 they needed that, but just in case.

15 Q Over here to your left is a little bit of a
16 sort of closer up of the Visitor's Center. This is the
17 crime scene diagram.

18 A Okay.

19 Q Then I also have photographs 2 and 4 that
20 might be helpful as you describe where you were
21 standing and where Officer Walters was standing. As
22 you can see, Collins is actually in those photographs?

23 A Gee, that far away.

24 Q It's not to scale.

25 A It seemed equal distance between the officer

1 that was here somewhere -- because there is a bush
2 here -- and the individual on the ground and me.

3 Q Just so we are clear for the record, with
4 regard to where you were saying Officer Walters was
5 standing, it's in the vicinity of the numbers 4, 5, 6
6 and 7?

7 A That's correct. And the individual I noticed
8 was on the ground facing away from the officer. He
9 still had his hands like this, and that's why I stayed
10 back behind here in case I had to drop down. Because
11 as a reserve officer, we aren't allowed to carry
12 weapons, not in Oregon. In Washington we can. So I'm
13 running around unarmed. So it's like going to a gun
14 battle without a weapon. So I was a little nervous on
15 the approach.

16 Q So Officer Walters asked you to help flag
17 other officers that may be responding to the area?

18 A Right.

19 Q To his location?

20 A Right.

21 Q Did you, in fact, do that?

22 A Yes, I did.

23 Q Did you and your wife stay then on the scene,
24 or did you kind of go about your business?

25 A When I walked out into the street, my wife

1 was starting to come across. I told her to go back to
2 the car. I flagged the officers down as they made --
3 as they came to the head of the road, I flagged them
4 down. They came towards me.

5 I believe two officers parked right there in
6 front of the -- right there behind where we were, right
7 in this area. They pulled up in here. And one came
8 out -- I know he came out with a longarm, a rifle. And
9 the other one came out with a pistol and provided
10 backup, at which time I started walking away. And then
11 we got in the car and left.

12 Q And you later called the non-emergency just
13 to give your name?

14 A Right, correct.

15 Q And information?

16 A Right.

17 Q I have no further questions for
18 Mr. Tumbleston. Grand jurors, do any of you have any
19 questions? All right. Thank you very much.

20

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SANDRA J. TUMBLESTON,

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

EXAMINATION

BY MS. MOAWAD::

Q If you would start off by telling us your name and spelling it?

A My name is Sandra J. Tumbleston, S-A-N-D-R-A, J, period, T-U-M-B-L-E-S-T-O-N.

BY MS. MOAWAD::

Q And Ms. Tumbleston, you are married to Mr. Tumbleston?

A That is correct.

Q And you were in town with him on March 22nd, 2010?

A Yes, I was.

Q And the two of you were up at the Hoyt Arboretum that afternoon?

A Yes, we were.

Q Did you start your visit in the Visitor's Center there?

A Yes, we did. We parked across from it in the parking lot.

Q Do you recall while you were in the Visitor's

1 Center a woman coming into the Visitor's Center, and
2 you told police that she seemed upset to you?

3 A Yes, ma'am.

4 Q You weren't listening to everything she was
5 saying, but you just got that general --

6 A That's correct.

7 Q -- impression?

8 Could you briefly describe the woman?

9 A She was a rather petite Asian woman, I think
10 sort of salt and pepper, black and gray hair, not --
11 not very -- not overly slim, but not -- what medium?
12 Medium build, I guess.

13 Q And so shortly after that the two of you got
14 a trail map and began your hike?

15 A We did.

16 Q Any idea how long of a hike you took?

17 A I think it was around 45 minutes, uh-hum.

18 Q All right. I have a trail map behind you
19 there on the wall that you are welcome to refer to.

20 A Okay, good.

21 Q And as you can see, there is actually a
22 Post-It note on there that says "Tumbleston". That's
23 where your husband recalls being when he first sort of
24 heard some yelling?

25 A Yeah.

1 Q Does that jibe with your memory as well?

2 A Yes, it does, because the picnic shelter was
3 within our vision at that point.

4 Q So, did you also hear the yelling?

5 A Yes, I did.

6 Q Were you paying close attention to it in the
7 first moments that you heard it?

8 A No, because it was kind of like you hear some
9 shouting and we were sort of absorbed in the moment,
10 which was lovely, and didn't really pay attention to
11 it.

12 Q So is it fair to say you probably didn't even
13 hear if it was one or two voices, male or female
14 voices?

15 A I could tell it was male voice or voices, but
16 I couldn't distinguish any of it, the words.

17 Q What did you hear shortly after the shouting?

18 A Two loud -- what sounded like gunshots.

19 Q Did you hear anything immediately following
20 those gunshots?

21 A It was silent for a couple of moments, and
22 then there was more shouting.

23 Q Were you able to make out any word at that
24 point?

25 A Yes.

1 Q What words were you able to make out?

2 A I heard "Stay" and I heard "Drop".

3 Q Again --

4 A I'm sorry, "down," I heard "Stay" and "down".

5 Q Did you hear -- could you hear at that point
6 if it was one voice versus two voices?

7 A At that time it still was hard for me to
8 tell, because there were more words, I'm sure, that
9 went on, but those were only the two that I made --
10 made out.

11 Q What did you hear next?

12 A Another pause and then two more gun -- what
13 sounded like gunshots.

14 Q Any estimate as to how much time elapsed
15 between the first two gunshots and the second two
16 gunshots?

17 A Oh, gosh, I didn't look at my watch. Just
18 the best of my recollection is maybe a minute.

19 Q And at that point -- well, your husband told
20 us that after the first set, did the two of you stand
21 behind a tree?

22 A Yes, ma'am, yeah.

23 Q And then he went up to offer some
24 assistance --

25 A Yes.

1 Q Where did you go?

2 A I lagged behind him because I didn't know if
3 it was -- you know, what was going on, if there were
4 people shooting at each other or what. So I lagged
5 behind. And because he is a reserve police officer, he
6 went to see I think, if he could render some
7 assistance.

8 Q And so where -- did you kind of wait maybe
9 near the car, where your car was parked?

10 A No. I stayed on the trail, and there were
11 two other hikers coming down from the opposite
12 direction and -- two women. And I said something like,
13 "That didn't sound good." They said, "Yeah, we're
14 going to keep going." So they kept going the other
15 way, and then I proceeded to go up the hill.

16 At that point, it was kind of a sharp ascent
17 up the trail to the picnic shelter. And Todd was
18 maybe -- my husband, was maybe about 50 feet or so
19 ahead of me, but I did then proceed to go up to the
20 level where I was across the street from the Visitor's
21 Center near the parking lot that was across the street.

22 Q Could you see anything once you got up there?

23 A Uh-hum, yes. Yes, I could.

24 Q What did you see?

25 A I could see a City of Portland white squad

1 car. It was parked in front and kind of to the side of
2 Visitor's Center.

3 I saw my husband standing up there across the
4 street, and he was facing what I presume to be the
5 police officer, because he was wearing a navy blue
6 uniform.

7 And as I recall, there is kind of a stone
8 fence or maybe a brick wall in front of the Visitor's
9 Center and maybe a column that goes up on the -- as I
10 was facing the Center to my left. So I could see the
11 officer maybe from the hip up maybe. And he had his
12 arms extended at the ready. And I could see a
13 revolver -- what looked like a police revolver in his
14 hand, and he was aiming it down toward the ground. But
15 I could not see what was on the ground.

16 Q Okay. All right. Okay. Does anyone have
17 any questions for Ms. Tumbleston?

18 MS. MOAWAD: All right. That's it.
19 Thank you.

20 THE WITNESS: Thank you very much.

21 MS. MOAWAD: Thanks to you both.

22 THE WITNESS: Thank you. We're glad to
23 be of help.

24

25

TRAVIS ROGERS,

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

EXAMINATION

BY MS. MOAWAD:

Q Excuse me. If you would start off by telling us your name and spelling your last name, please?

A Travis Rogers, R-O-G-E-R-S.

Q Mr. Rogers, you are a volunteer at the Hoyt Arboretum?

A I am.

Q You were volunteering on March 22nd?

A Yes.

Q Okay. What were you doing that day as a volunteer?

A Uhm, I work the reception desk at the front, greeting the visitors that come in, giving directions on trails and such.

Q So, was it to you that the two hikers described the problem?

A Yes. They contacted me first.

Q All right. So -- and there was, I think, as I understand it, a space of time between the first woman who came in and the second woman who came in?

1 A Yes, I would say about ten, 15 minutes.

2 Q The first woman who came in, could you
3 briefly describe her?

4 A Uhm, she was probably 5'2". I would guess of
5 Asian decent, in her late 50's, early 60's, had a small
6 dog with her, little white and gray thing.

7 Q And she told you that she had been harassed
8 by someone up by the water tower?

9 A Yes, that he had followed her, made her feel
10 uncomfortable. She had said, "Hello" to him and he
11 didn't respond to her.

12 Q So, what did you do with that information?

13 A I wrote down a few notes and then went and
14 talked to Matt and Dan, who were --

15 Q That's Matt Sinclair and Don Moeller?

16 A Yes.

17 Q While they were kind of deciding what to do,
18 is that when the second woman comes in?

19 A Well, the Arboretum -- I was -- we refreshed
20 what the proper procedure was on that.

21 Q Okay.

22 A And they had already finished and left when
23 the second woman came in.

24 Q Okay. So did you let them know that a second
25 woman had come in to complain as well?

1 A Right. I actually -- when the second woman
2 came in, I called up the park ranger number that I
3 have. I was just told that's how we do it, so that she
4 could actually give him the description.

5 Q Okay.

6 A And then she said something about "He
7 threatened to kill me," at which point I flagged down
8 Matt, who then started discussing it with her.

9 Q Where were you when Officer Walters arrived
10 on the scene?

11 A I was inside the Visitor's Center at the
12 reception desk.

13 Q Now, I'm using his name, Officer Walters.
14 Was he someone that you knew before this day?

15 A Never seen him before.

16 Q And did you see the gentleman that was -- did
17 you see that gentleman come down and go into the
18 bathroom?

19 A Yes, I did.

20 Q Okay. What about that man, had you seen him
21 before?

22 A I don't remember ever seeing him before.

23 Q Was there anything out of the ordinary that
24 you noticed about him as he came down into the
25 Visitor's Center and into the bathroom?

1 A Not especially. He looked very typical
2 homeless, very introverted, kind of, as he walked in.

3 Q I'm going to show you two photographs. They
4 have been marked 15 and 16. And I would ask you if you
5 recognize those two pictures?

6 A Yes. That's the Visitor's Center.

7 Q Okay. And these are from inside the
8 Visitor's Center sort of facing out into that courtyard
9 area?

10 A Yes.

11 Q So it would be fairly representative of your
12 vantage point?

13 A Exactly.

14 Q Okay. Perfect. So, once Officer Walters
15 arrived, what -- just take us through what you saw.

16 A The -- from when he arrived, I saw him
17 talking with Matt and Dan. And he walked -- they came
18 inside the Visitor's Center. The officer walked to the
19 bathroom. We were chatting with each other about what
20 was going on. And I heard the officer knock, and then
21 step away from the door, pull out his weapon, "Drop
22 your weapon, drop your weapon" as he pointed his gun.

23 I saw the other man walk out of the bathroom.
24 The officer told him to drop his weapon, drop his
25 weapon. I don't know how many times he said it, but it

1 seemed pretty forceful and repeated. He fired two
2 shots. Then he told him again, "Drop your weapon, drop
3 your weapon," at which point I kind of started heading
4 away -- and then fired two more shots.

5 Q So, from where you were, could you see the
6 bathroom door?

7 A No.

8 Q So, you heard a knock on the door, and then
9 the next thing that you see physically is Officer
10 Walters comes back into your view?

11 A That would be correct.

12 Q Is he walking backwards, or has he turned
13 around?

14 A No, he's -- he's walking backwards.

15 Q And the gentleman who is coming out of the
16 bathroom, does he eventually come into your field of
17 view as well?

18 A Yes.

19 Q Anything at that point catch your eye or
20 stand out to you?

21 A He had his left hand raised. He had a small
22 knife, what it looked like.

23 Q In that left hand?

24 A Yes.

25 Q Okay. And did you ever see the man drop that

1 knife out of his left hand?

2 A I didn't.

3 Q Was Officer Walters -- when you were watching
4 Officer Walters, was he standing his ground, or was he
5 continuing to try to move backwards as that man --

6 A He seemed to be moving backwards
7 continuously.

8 Q And the man with the knife in his left hand,
9 was he advancing, or was he standing still?

10 A He was advancing.

11 Q How -- what kind of pace did he have?

12 A Zombie like.

13 Q So he wasn't running?

14 A Yes. He was --

15 Q Walking?

16 A Yes.

17 Q At the point Officer Walters fired the first
18 two shots, you said he continued to yell at the man to
19 drop the weapon after he fired the two shots. Did you
20 see the man after those first two shots were fired?

21 A Yes.

22 Q Okay. Was he standing?

23 A Yes.

24 Q Did he react at all to those first two shots
25 being fired that you recall?

1 A I didn't see a change in his behavior.

2 Q So he was continuing to advance?

3 A Yes.

4 Q Continuing to hold the knife in his left arm?

5 A Yes.

6 Q And then you -- I'm sorry, you walked away
7 before the second two shots were fired?

8 A I didn't see the second two shots fired.

9 Q All right. Were there other people -- you
10 mentioned Dan and Mathew in the Visitor's Center with
11 you?

12 A Yes.

13 Q Were there other people in the Visitor's
14 Center?

15 A Yes. There were two women who were visiting
16 and a small boy as well as Rob, who --

17 Q Okay. And the two women and the small boy in
18 particular, sort of -- I'll call them the guests of the
19 Arboretum, do you recall at what point they were
20 escorted out?

21 A As soon as the officer said, "Drop your
22 weapon," as soon as we heard that, Dan ushered them
23 into the back of the Arboretum.

24 Q Okay. Did you remain at the scene and talk
25 to officers that night?

1 A Yes.

2 Q Do you recall whether or not you were allowed
3 to sit in a room with all of your coworkers, or were
4 you separated?

5 A We were all separated.

6 MS. MOAWAD: Does anyone have any
7 questions for Mr. Rogers?

8 Okay. That's all we've got for you
9 today.

10

11

APRIL HILL,

12

13 was thereupon called as a witness on
14 behalf of the State and, having been first duly
15 sworn, was examined and testified as follows:

16

EXAMINATION

17 BY MS. MOAWAD::

18 Q If you would start off by telling us your
19 name and spelling your last name, please?

20 A April Hill, H-I-L-L.

21 Q And Ms. Hill, how are you employed?

22 A I am a full-time employee of Hoyt Arboretum
23 Friends.

24 Q And what do you do there, real basically?

25 A I'm an executive assistant. I do office
management.

1 Q Were you working March 22nd?

2 A I was.

3 Q And I'm going to -- I'm trying to find here,
4 I can't -- excuse me. Here we go. I have a Post-It
5 note with the last name "Hill" on it. And I would like
6 you, using the crime scene diagram there, to just kind
7 of put the Post-It note approximately where your office
8 would be, if this is the Visitor's Center here.

9 Thank you. Great. Thanks. And so is that
10 where you were -- would have been seated around three
11 o'clock that afternoon?

12 A It is, yes.

13 Q And you became aware of some complaints that
14 some hikers were making about a gentleman in the park?

15 A I did.

16 Q Did you know at some point 911 had been
17 called or the police had been notified in some way?

18 A Yes.

19 Q And so did you notice your boss,
20 Mr. Sinclair, waiting outside?

21 A I did.

22 Q And that's -- on this diagram, again, there
23 is a tree right here kind of by the No. 2.

24 A Uh-hum.

25 Q Then there is what appears to be a window

1 here on the, I guess, south wall?

2 A Uh-hum.

3 Q Were you able to see some of the courtyard
4 and some of the things through that window?

5 A I was.

6 Q And as I understand it -- and correct me if
7 I'm wrong -- your office is here and Mr. Sinclair's
8 then is the next office over?

9 A Uh-hum.

10 Q His is the one with the window, with the door
11 open, you can see through?

12 A Yes.

13 Q I'm going to show you quickly two pictures,
14 pictures 17 and 18, and ask you if those are
15 photographs taken through that window that would
16 approximate your vantage point?

17 A It is, yes. And the top one is actually the
18 vantage point that I had at the time.

19 Q Perfect. So that's number 17, for the
20 record.

21 Okay. So you could see Mr. Sinclair outside.
22 And where was he while he was waiting for the police?

23 A I saw him at one point waiting on the stairs.
24 I saw him walk up the stairs and stand on them.

25 Q Was he all the way at the top, which would

1 lead to that parking lot, or was he somewhere in the
2 middle? Because there is maybe three stairs and a
3 landing and then another handful of the stairs?

4 A I saw him stop at the top.

5 Q Okay. Great.

6 What was the next thing that you noticed?

7 A I looked up from my desk and out that window
8 and saw a police officer with his gun drawn.

9 Q Do you recall how he was holding the gun?

10 A From my recollection, he was holding it in
11 front of him and slightly at an angle downward.

12 Q Could you hear anything?

13 A I could hear him shouting.

14 Q Could you make out the words that he was
15 shouting?

16 A I think that I could at the time, but I have
17 no recollection of them since then.

18 Q While you were watching the officer, did he
19 appear to you to be standing still, or was he moving?

20 A I recall him moving backwards.

21 Q So he was facing you, but walking backwards?

22 A Correct.

23 Q Away from you?

24 A Uh-hum.

25 Q Did you see the person he was interacting

1 with?

2 A I did not.

3 Q What happened next?

4 A I got up from my desk and started walking
5 towards that window. When I got to my boss's office
6 door, I heard two gunshots, and I got behind a filing
7 cabinet.

8 Q Did you hear anything immediately following
9 that?

10 A I remember hearing the shouting again, the
11 same person shouting.

12 Q Same question again. Could you make out the
13 words that person was shouting at that point?

14 A I could, but I can't remember them now.

15 Q Did you hear two more shots?

16 A I did.

17 Q Any idea what kind of time lapsed between the
18 first two shots and the second two shots?

19 A It -- it felt like about 20 seconds, but it's
20 hard to remember.

21 Q Were you -- did you return to looking out the
22 window, or did you stay kind of safely behind the file
23 cabinet?

24 A I peeked around the filing cabinet once and
25 don't remember what I saw. I remember thinking, "Why

1 am I doing this?"

2 Q And at one point during this, do you recall
3 anyone or a group of people coming into sort of your
4 office area from what would be the Visitor's Center?

5 A I recall looking down the hallway from where
6 the filing cabinets were and seeing two women and a
7 small boy that I knew did not work there, and they were
8 in the -- in the staff-only area.

9 Q And is that staff-only area again on this
10 diagram sort of to the left of the bathrooms?

11 A It is, yes.

12 Q Okay. At some point, as I understand it, you
13 closed the blinds to that window in Mr. Sinclair's
14 office?

15 A Yes.

16 Q Do you recall when in the sequence of all of
17 this that occurred?

18 A Uhm, it was after more police had arrived. I
19 could see police tape outside. So I know that there
20 were more police officers on the scene, but I'm not
21 sure how much time had elapsed.

22 Q And was that -- why did you close the blinds?

23 A I closed the blinds because I had decided
24 that I just needed to go back to work and the activity
25 outside was distracting me.

1 Q Did you remain on the scene to talk to
2 officers?

3 A I did.

4 Q Were you separated from your coworkers, asked
5 not to talk about it with one another?

6 A I was.

7 Q And you followed those directions?

8 A I did.

9 MS. MOAWAD: Does anyone have any
10 questions? All right. Thank you very much.

11

12

DAN MOELLER,

13

14 was thereupon called as a witness on
15 behalf of the State and, having been first duly
16 sworn, was examined and testified as follows:

16

EXAMINATION

17

BY MS. MOAWAD::

18

19 Q All right. If you would start off by telling
20 us your name and spelling your last name for us,
21 please?

21

A Sure. My name is Dan Moeller, M-O-E-L-L-E-R.

22

Q How are you employed?

23

24 A I'm the Natural Area Supervisor for the City
25 of Portland Parks and Recreation.

25

Q And were you working up at the Hoyt Arboretum

1 on Monday, March 22nd, 2010?

2 A Yes, I was.

3 Q At some point in the late afternoon, did
4 Mr. Travis Rogers, a volunteer there, give you
5 information that a woman had complained about someone
6 near the water towers?

7 A Yes, he did.

8 Q You communicated about that with
9 Mr. Sinclair?

10 A Yes, I did.

11 Q Originally, what did you all decide to do
12 with that information?

13 A Uhm, after the first complaint, we talked a
14 little more to Travis, who is a volunteer. We tried to
15 get some more details about exactly what happened. And
16 at that point, we really had very few details, so we
17 decided to take no action at that point and to see if,
18 you know, anything else developed.

19 Q So within maybe what, ten, 15 minutes, did
20 the second complaint come in?

21 A Yeah, a short time -- between 10 and 20
22 minutes would be a ballpark estimate, another woman
23 came in. Right after we -- after the first person came
24 in, we talked to Travis about, you know, what kind of
25 information he really needed to gather, what kind of

1 things would be helpful to us in terms of making a
2 future decision.

3 The next person came in ten, 20 minutes
4 later, and he did get some good information from the
5 person, more specifics about, you know, there was a
6 woman who felt threatened by this person up by the
7 water tower again, same location, and that she was --
8 he said, "You need to stay around." At that point, she
9 went out to her car. She had to, I guess, put
10 something in there. But at that point, you know, we
11 had more information.

12 Q Did you make contact with that woman, or did
13 Mr. Sinclair talk to her?

14 A Matt -- right after that, Matt and I both
15 went up to the parking lot to see what was going on.
16 He saw the woman in the parking lot, went and spoke
17 with her. I did not. That's at the point that I saw
18 what I believed to be the person in question walking
19 down the hill toward the parking lot.

20 Q Anything stand out to you about that person
21 as he walked through the parking lot?

22 A Yeah. As he was coming down the hill, he
23 looked a little out of place, you know, just clearly
24 to -- we have a lot of different people who utilize our
25 parks and also the Arboretum. He appeared to be

1 somebody who, you know, might have been a transient or,
2 you know, just looked like -- they are acting a little
3 suspiciously walking down the hill, just looking side
4 to side, didn't really strike me as somebody who was a
5 regular user of the Arboretum, was carrying a bag with
6 them. And at that point, I could see Matt talking to
7 the person who made the report, you know, saying, "Hey,
8 is that -- is that the guy?" I saw her saying, "Yes".
9 At that point, I went in to call 911.

10 Q Okay. Did you see where he went?

11 A At that point, I didn't. I just knew he was
12 coming down to the parking lot. There were family,
13 kids, you know, regular users parking there. So my
14 concern was that there would be some kind of
15 interaction at that point. Since it had been
16 reportedly negative at the top, I was worried in a
17 larger setting there could be more problems. That's
18 when I called.

19 Q How was he walking, normally?

20 A Yeah.

21 Q Normal gate?

22 A Nothing -- it wasn't fast or slow.

23 Q Okay. Staggering or just a pretty good
24 normal walk?

25 A I didn't see -- I didn't see noticeable

1 staggering at that point, no.

2 Q All right. So, then was it Mr. Sinclair who
3 kind of had kept an eye on him, saw him go in the
4 bathroom. You didn't personally see that?

5 A No, I didn't see that. After -- after I
6 called 911, then I went out into the Visitor's Center,
7 into the open area. Travis was standing -- I think
8 it's at that point I found out he had gone in and
9 locked himself in the bathroom.

10 Q Where -- where did you go after that?

11 A At that point, I went back up to the parking
12 lot, where I remet with Matt, who was still up there.

13 Q Were you guys waiting for a police response
14 at that point?

15 A Exactly. At that point we were thinking
16 okay, so I called it in. We were going to get some
17 response at some point. We were waiting up there. We
18 were also keeping an eye what was going on, trying to
19 keep visitors away from the area if it looked like
20 something was going on. To be honest, it was like
21 somebody was locked in the bathroom. We were just
22 trying to wait to see if we could get some, you know,
23 police response.

24 Q Any idea between that call to 911 and Officer
25 Walters arrival?

1 A He called me. Officer Walters then called me
2 on my cell phone while I was standing there with Matt.
3 Shortly after I talked to Travis, went out to the
4 parking lot, was talking again with Matt, and then
5 Officer Walters called me on my cell phone, said, you
6 know, "Dan" -- Officer Walters works with us regularly
7 on issues in west side parks. I gave him some more
8 information at that point. I said, "Hi. This guy has
9 locked himself in the restroom. This looks like it's a
10 pretty serious situation to me". He said, "I'll be
11 right there". At that time he was somewhere downtown.
12 He came up and arrived within a short amount of time.

13 Q Do you recall as he arrived -- I mean, do you
14 recall lights or sirens? Did he have those on?

15 A No. Actually, he pulled up in front of the
16 Visitor's Center, and at that time Matt and I walked
17 over to him. He was putting on a pair of rubber gloves
18 and asked us for some more information. And, you know,
19 we had a quick conversation. It was really very easy
20 conversation, saying -- this kind of stuff happens a
21 lot in our park system. For better or worse, this is
22 not something that's terribly abnormal whether it's
23 downtown or, you know, other cases. So this -- it was
24 very calm. He asked a few questions about what did the
25 person look like. It's clear he works with, you know,

1 a lot of folks and seemed like it might be this guy,
2 might be that guy. No problem. I have a wagon coming
3 in case they are too intoxicated. But for the most
4 part, this shouldn't be much.

5 Then after that point, he began to approach
6 the restroom and I walked into the Visitor's Center.
7 Matt did, too. We all went in.

8 Q Did he -- I know -- now, did he -- does he
9 have a key to the bathrooms up there, or did you give
10 him a key to the bathrooms?

11 A Generally, it's my understanding -- I can't
12 speak for the Police Bureau. It's my understanding
13 they all have master keys to most of our general locks.
14 Like our restrooms have a general lock key. So I
15 believe he had a key.

16 Q Did you see him -- you said he started to
17 approach the restroom. Did you see him actually go up
18 to the door, or were you unable to see that from your
19 vantage point?

20 A I was inside at the time. So at that point,
21 you know, I started to look back outside. But part of
22 my view I couldn't see the restroom door, you know, at
23 that point. I was partially obstructed. We have book
24 cases in the Visitor's Center. So when I was looking
25 out, I could see Officer Walters. There, you go.

1 Q So pictures 15 and 16, is that approximately
2 your vantage point?

3 A The lower picture was more of my vantage
4 point.

5 Q That's number 16 for the record?

6 A Yeah.

7 Q Okay. All right. So, what did you see next?

8 A So, at that point, uhm, you know, it was
9 really I -- I just looked outside and, you know, I saw
10 Officer Walters approaching the door, you know, kind of
11 lost sight of him for a second. Then I could hear the
12 door open, kind of bump against the building in a
13 sense. I saw him quickly back up, and that's -- that's
14 what I saw next.

15 Q Now, you have your hands kind of up. Is that
16 what you saw Officer Walters' hands doing as well?

17 A I believe so. I think I just saw him -- I
18 think he was startled. He looked startled to me, and
19 he backed up really quickly from the door.

20 Q When you said he backed up, he was walking
21 backwards as opposed to turning around?

22 A He walked backwards.

23 Q What happened next?

24 A At that point he started to give commands to
25 this person who was coming out of the restroom to drop

1 his weapon, drop it. I just heard, "Drop that, drop
2 your weapon".

3 In the Visitor's Center at the time there
4 were two women with a small child, as I remember it.
5 At that point I had a feeling that something was going
6 terribly wrong. So I went over to them, as I remember
7 it, and I walked them into the back, like into our
8 lunch room area that was, you know, back behind there
9 because I just wasn't sure what was going to happen at
10 that point. It was clear to all of us this was very
11 serious. We're almost frozen at that point.

12 Q Did you return then to the Visitor's Center,
13 or did you stay with those women?

14 A So I walked in with those women, and that's
15 when April Hill was in the back room at the time, and
16 she talked to me for a minute. And I believe it's at
17 that point I heard a couple of shots fired.

18 And after that I began to walk back into the
19 Visitor's Center at that point to see what was going
20 on, make sure everybody else was okay.

21 Q What did you observe in the courtyard when
22 you came back into the Visitor's Center?

23 A So I as -- as I was walking back in -- I
24 thought about what I told the police. I couldn't
25 remember the number of shots. It was all sort of

1 rattling around in my head. I don't believe in my
2 initial sworn statement with the police I had the
3 number of shots right.

4 I would say I heard more shots as I was
5 walking back into the Visitor's Center. At that point,
6 I saw Matt and Travis and Rob standing there virtually
7 frozen, and they looked over at me and I looked back at
8 them. Then I looked out of the door to see what
9 happened.

10 Q What did you see?

11 A So at that point, I saw Officer Walters. He
12 was back kind of right against the stairway at that
13 point that's in front of the Visitor's Center
14 classroom. He had his gun drawn, and I saw the suspect
15 laying on the ground.

16 Q Okay. I have over here a crime scene
17 diagram.

18 A Yeah.

19 Q And this is an overhead of the Visitor's
20 Center here.

21 A Uh-hum.

22 Q So you mentioned the classroom, and I'm going
23 to say there is these numbers 4, 5, 6 and 7 and then a
24 portion of the building that kind of juts out. Would
25 that be about where you saw him?

1 A Yes. I would have been standing, you know,
2 sorry -- oh, this is the door. I was standing in here.
3 I was looking out. So he was about at 6. That would
4 be my estimate, maybe a little further back than that,
5 but I can't remember specifically because I was inside.

6 Q Sure. And were any more -- let me go back.
7 Between the first set of shots and the second set of
8 shots, you said you talked to Ms. Hill for maybe a
9 minute?

10 A Yeah, something like that.

11 Q Could you hear any more yelling in between
12 the first and second set of shots?

13 A I can't remember.

14 Q Okay. All right. In those first moments
15 that you saw Officer Walters going backwards, did you
16 see the gentleman come out of the bathroom?

17 A I couldn't, because of my vantage point. The
18 bookcases were blocking me, so I couldn't -- I couldn't
19 never physically see him.

20 Q Great. Does anyone have any questions for
21 Mr. Moeller?

22 JUROR: No.

23

24

25

MATHEW RYAN SINCLAIR,

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

EXAMINATION

BY MS. MOAWAD::

Q If you would start off by telling us your name and spelling your last name, please?

A Mathew, with one T, Ryan Sinclair,
S-I-N-C-L-A-I-R.

Q Mr. Sinclair, how are you employed?

A I am the Executive Director of Hoyt Arboretum Friends.

Q Were you working on March 22nd, 2010?

A I was.

Q And is your office located inside the Visitor's Center there at the Hoyt Arboretum?

A It is.

Q We have up to your left a crime scene diagram. There is a Post-It note that says, "Hill". Can you see that Post-It note there?

A Yes.

Q Is your office directly to the right of that Post-It note?

A Yes.

1 Q Okay. So, was it around three o'clock in the
2 afternoon that you became aware that there was someone
3 causing some concern to some hikers?

4 A Yes.

5 Q And as I understand it, the first woman comes
6 in. You all sort of have an action plan in place.
7 Then the second woman comes in and the decision is made
8 to call the police?

9 A Yes.

10 Q So when that second woman came in, what did
11 you do?

12 A The second woman came in, and she registered
13 a complaint with our front desk volunteer. And at that
14 point, Dan Moeller and -- made the phone call, I
15 believe. And I went with the woman out of the
16 Visitor's Center up to the parking lot -- she had left
17 the Visitor's Center and I followed her out. She was
18 getting into her vehicle. And I happened to notice the
19 person in question coming down off the Holly Trail at
20 the top end of our parking lot, seemed to fit the
21 description that we had received. So I just confirmed
22 with the visitor, was this the man that she had seen?
23 She confirmed that it was. And then I went back into
24 the Visitor's Center to relay a physical description to
25 Dan Moeller.

1 Q Was there anything out of the ordinary about
2 the man at that point in time?

3 A He appeared to match the description of
4 someone that I would call homeless. He was a little
5 unkept and seemed to be just sort of shuffling along,
6 moving his way down through the parking lot.

7 Q Okay. Did you see where he went?

8 A Uhm, I went into the Visitor's Center to
9 relay the description, and at that point Dan had
10 already contacted the Police Department. So I went
11 back out front to talk to our volunteer. And at that
12 point, I saw the gentleman in question move through our
13 front foyer there into one of the two public restrooms
14 immediately outside.

15 Q At that point, did you and Dan go and kind of
16 wait around for an officer to respond?

17 A We went out into the front courtyard to the
18 top of the staircase and waited there partly to shoo
19 away any visitors that might be coming down that way
20 and to wait for an officer, so we could relay a
21 physical description and point out which of the two
22 restrooms he was in.

23 Q Now, Officer Walters arrived. Had you known
24 Officer Walters prior to this day?

25 A No.

1 Q So where -- where did you kind of meet up
2 with Officer Walters?

3 A Immediately in front of the Visitor's Center
4 on Fairview Boulevard there is a crosswalk and there is
5 a -- a bus stop sign. He pulled in -- his patrol car
6 pulled in just behind the bus stop sign. And Dan and I
7 went out to the street at that point and met Officer
8 Walters at his patrol car.

9 Q And at that point, did the two of you just
10 give him basic information, the location? Did you see
11 him doing anything in particular, Officer Walters?

12 A Officers Walters put on protective medical
13 gloves, informed us that he had already called for
14 the -- I forget the name of the facility, but the drunk
15 tank, essentially, additional -- he communicated that
16 to us. And that's all.

17 Q Did he seem calm to you at that point?

18 A Yes.

19 Q As he approached the bathroom then to make
20 contact with this individual, where did you go?

21 A Dan and I proceeded into the Visitor's Center
22 and locked the front door of the Visitor's Center just
23 because of the proximity and assuming there was a
24 drunken person in the bathroom that the officer is
25 going to interact with; we didn't want that to move

1 into the Visitor's Center. So we locked the front
2 door. Then I stood by our front desk, which has a view
3 of the courtyard, next to Travis, our volunteer.

4 Q A few times here you have referred to him as
5 drunk or drunken. Was there something that you noticed
6 about him, or was that information that had been
7 relayed from the women hikers?

8 A Uhm, the descriptions -- both descriptions
9 came in that their -- the hiker's descriptions were
10 that there was a drunken homeless person. I made that
11 assumption on my own when I visually saw him based upon
12 his movements. He looked to be staggering a bit.

13 Q Okay. So I'm going to show you photographs
14 15 and 16. And these are taken from inside the
15 Visitor's Center out -- pointing out toward the
16 courtyard. Is this approximately your vantage point?

17 A Correct.

18 Q Which one would sort of better --

19 A The one on the top.

20 Q Okay. Picture 15.

21 Okay. So what did you see next?

22 A The next thing I clearly remember seeing
23 mostly because the auditory component kicked in, I
24 heard Officer Walters shouting at the man and saw him
25 retreating from the corner bathroom. From my vantage

1 point, I actually couldn't see the bathroom. So I saw
2 Officer Walters come into my view moving backwards with
3 his weapon and shouting at the man.

4 Q Could you hear the words he was shouting?

5 A My memory is that he was shouting very
6 distinctly to "Get down".

7 Q Okay. Did the man ever come into your view?

8 A Yes.

9 Q All right. So, as Officer Walters is, you
10 said, retreating, is he walking backwards or quickly
11 stepping backwards?

12 A He was moving fairly quickly. He was
13 stepping backwards.

14 Q But still facing the man?

15 A Still facing the man.

16 Q When the man came into your view, what was he
17 doing?

18 A Uhm, when he came into our view, my view, his
19 back was towards us, but he was moving in the direction
20 of Officer Walters. And he had what appeared to be a
21 knife in his left hand. And his left hand was clearly
22 covered in what I assumed to be blood.

23 Q Did he comply with Officer Walters' commands?

24 A No, he did not.

25 Q Did he continue to approach Officer Walters?

1 A Yes, he did.

2 Q Did Officer Walters continue to back up?

3 A Uhm, at some point, his -- I remember that he
4 essentially stood his ground. He stopped moving
5 backwards.

6 Q Did the man stop walking at that point or did
7 the man continue to advance?

8 A The man continued to advance.

9 Q All right. What happened next?

10 A The very next thing that I witnessed was
11 Officer Walters fired his weapon twice, and I can
12 vividly remember seeing the man be shot.

13 Q Okay. When you spoke to the police that
14 night, you mentioned that you even thought -- you
15 almost approximately knew where the man had been hit?

16 A Yeah.

17 Q Do you remember describing that?

18 A I remember describing it.

19 Q Do you remember --

20 A Uhm, I believe what I said was that it sort
21 of seemed diagonal, that there was a shot somewhere in
22 the upper torso and then a shot in the lower torso sort
23 of diagonally from each other.

24 Q And the first shot you kind of indicated was
25 on the right shoulder area on you?

1 A Yes.

2 Q That's kind of what you remember?

3 A That's what I remember.

4 Q Okay. And part of that, as I understand it,
5 is you saw something?

6 A Yeah. He had on multiple layers of clothing.
7 The outer-most layer is sort of a heavy camping type
8 jacket, almost down in nature. And what I remember is
9 sort of seeing a puff of smoke or like an explosion, I
10 assume, as the bullet exited in the back of the jacket,
11 like down or some of the coat material actually coming
12 out.

13 Q So once those two shots were fired and you
14 saw these puffs, what did that man do?

15 A Uhm, I remember being shocked because after
16 being shot twice, it -- it didn't bring him to the
17 ground. He stood standing. He seemed disoriented by
18 being shot. I don't remember if it was our front
19 interpretive panel or the tree outside my window, but
20 it seemed that he sort of reached out to something of
21 that sort to sort of brace himself, kind of get his
22 bearings and then sort of reoriented himself to Officer
23 Walters' location.

24 Q Did he then -- well, did Officer Walters say
25 anything at that point?

1 A Then Officer Walters again said, in my
2 memory, three times very clearly for him to get down.

3 Q Did he?

4 A He did not.

5 Q Did he still have the weapon in his hand?

6 A I don't remember at that point.

7 Q Did he continue to walk towards Officer
8 Walters?

9 A Yes, he did.

10 Q What happened next?

11 A At that point, Officer Walters shot him two
12 more times. And at that point, the man fell to the
13 ground.

14 Q What did you do?

15 A During pretty much that entire section of
16 time, I stood exactly in the same spot and just
17 witnessed the entire event unfold.

18 Q Do you have an estimate for how long of a
19 time period elapsed between those first two shots and
20 the second two shots?

21 A Uhm, it was a matter of seconds, ten -- ten
22 seconds perhaps.

23 Q And correct me if I am wrong, but did you --
24 you mentioned the man reached out and grabbed either
25 the sign or the tree. Was he turned around at one

1 point? I mean, did he spin around at all in between
2 those shots, or did he remain the entire time facing
3 Officer Walters?

4 A I don't remember the exact movement of -- of
5 his body during that time. What I do remember pretty
6 vividly is after him being shot, it turned his body
7 enough where we had -- we were essentially looking
8 face-to-face through the windows and all that. But I
9 remember getting a full front view of him.

10 Q And then he, like you said, turned his
11 attention back to Officer Walters?

12 A Yes.

13 Q Took more steps toward Officer Walters?

14 A Yes.

15 Q There were two more shots?

16 A Yes.

17 Q You remained -- what do you recall then in
18 those moments after the shooting?

19 A Uhm, I recall seeing the man on the ground
20 with just very slight movement and then no movement at
21 all. I recall Officer Walters calling into his radio
22 and staying in place with his weapon pointed towards
23 the man. And then what seemed like an eternity, I'm
24 sure just a very brief period of time, but two
25 additional patrol cars that came up Fairview Boulevard.

1 At one point there was another hiker or visitor that
2 ventured into the crosswalk and had some exchange with
3 Officer Walters, but I don't know what that exchange
4 was.

5 Q When the other officers arrived, were you and
6 the other witnesses sort of separated from one another?

7 A Uhm, when the first two patrol cars came out,
8 what I remember is one officer getting out, because he
9 parked his car basically dead in the crosswalk. He got
10 out of the patrol car with an assault rifle. And at
11 that point, Dan called us back into the garage space.
12 And that's the last we saw. We were in the back garage
13 space for just a few minutes before other uniformed
14 officers came around and started to quickly ascertain
15 who saw what. At that point, we were essentially
16 separated from each other.

17 Q All right. Does anyone have any questions?

18 JUROR: Yes, I do. At the beginning of
19 this description, you talked about accompanying one of
20 the women to her car. And you mentioned that they
21 described the man as being drunken. But I haven't
22 heard from you what the nature of the complaint was
23 other than the presence of a drunken,
24 homeless-appearing man. Was there any other basis to
25 the complaint?

1 THE WITNESS: I wasn't present during the
2 first complaint, the first complaint coming from the
3 visitor to Travis. How it was relayed to me was that
4 she had said there was a man up by the water tower,
5 which is the way the Arboretum is situated -- there is
6 a --

7 MS. MOAWAD: There is actually a trail
8 map right behind you there.

9 THE WITNESS: Oh, fantastic. So at the
10 top, the water tower is here. Here's the parking lot.
11 And our holly collection and trail and staircase kind
12 of in between here. The first woman complained that
13 there was a man hanging out around the water tower who
14 was following her around that made her feel
15 uncomfortable. That was really the nature of the first
16 complaint.

17 JUROR: And the second one?

18 THE WITNESS: The second complaint came
19 in and that visitor, who I did have a brief exchange
20 with, pretty much gave the same physical description
21 and described that she thought that the man was drunk,
22 or high and that he had threatened to kill her and her
23 son. And she reported to us that she -- her son had
24 thought that the man had blood on his hands and/or
25 shirt.

1 JUROR: Okay. That's what I was looking
2 for. Did that come from -- you said it was relayed to
3 you. Who relayed it to you? Was that from the woman?

4 THE WITNESS: Yes.

5 BY MS. MOAWAD::

6 Q Did you -- when you saw the gentleman walking
7 through the parking lot see any blood at that time?

8 A No.

9 Q Did you notice the blood on him though? When
10 he came out of the restroom, did you notice the blood?

11 A Absolutely.

12 JUROR: One more thing. Did you relay
13 that information to Officer Walters, or did Dan prior?

14 THE WITNESS: Dan did.

15 JUROR: Prior to?

16 THE WITNESS: We didn't have any
17 conversation with Officer Walters about -- about the
18 state of his appearance or anything.

19 MS. MOAWAD: Any other questions? All
20 right.

21 ROBERT BURR,

22 was thereupon called as a witness on
23 behalf of the State and, having been first duly
24 sworn, was examined and testified as follows:

25 **EXAMINATION**

1 BY MS. MOAWAD::

2 Q If you would start off by telling us your
3 name and spelling your last name, please?

4 A My name is Robert Burr. Last name is
5 B-U-R-R.

6 Q How are you employed?

7 A I'm a seasonal maintenance worker for the
8 City of Portland.

9 Q So on March 22nd were you working up at the
10 Hoyt Arboretum?

11 A I was.

12 Q At some point you heard about a man that was
13 maybe causing problems out there from Dan Moeller; is
14 that accurate?

15 A That's correct.

16 Q And did you ever see that man before the
17 police arrived?

18 A No, I didn't.

19 Q Okay. Where were you when the officer showed
20 up?

21 A When the officer showed up, I was talking to
22 Dan Moeller and to Matt Sinclair at the top of the
23 stairs, very close to where the incident eventually
24 took place.

25 Q So when you say, "the top of the stairs," I

1 have a crime scene diagram over here. Just to get your
2 bearings, the Visitor's Center is here and this is the
3 staircase here, and the parking lot would be kind of up
4 over here?

5 A I was standing up here.

6 Q Okay. I'm going to put a little Post-It
7 there with your name on it. That sounds about right?

8 A Yes.

9 Q Okay. So by the time you were aware of it,
10 the gentleman was already in the restroom?

11 A He was in the restroom before the officer
12 arrived, yeah.

13 Q And you hadn't seen him?

14 A I hadn't seen him.

15 Q Okay. Now, the officer that arrived, is he
16 someone that you knew?

17 A No.

18 Q Once Officer Walters arrived, what did you
19 do?

20 A When he arrived, I let Matt Sinclair and Dan
21 Moeller go and talk to him, and I went around the rear
22 of the building to go back into where our office space
23 is.

24 Q Is that on -- if this is the north and south,
25 so was that on the northern or south end?

1 A The entrance comes off the parking lot, so I
2 walked around here to the entrance to the building.

3 Q You would have ended up on the more northerly
4 side of the building?

5 A I was inside the building.

6 Q Okay. Did you ultimately go into the gift
7 shop area of the Visitor's Center?

8 A I did, yes.

9 Q Okay. And who was in that gift shop when you
10 first walked in?

11 A I believe Travis was in the gift shop and
12 Matt may have been in the gift shop or he shortly
13 arrived after I did.

14 Q Were there any visitors in the gift shop?

15 A There were three visitors who came in around
16 that time, yeah, three or four. I'm not sure.

17 Q Do you recall anything specific about them,
18 male, female?

19 A I remember a female and I think a child.

20 Q Okay. When then did you first sort of or
21 next see the officer?

22 A I was directly facing the officer as he came
23 down the walkway in front of the Visitor Center. His
24 car was parked on the street. I believe he must have
25 walked down towards the Visitor Center.

1 Q So he walked sort of where this crosswalk
2 would be down the middle?

3 A Actually, I think I first remember seeing him
4 walking down here. Is this the -- the doors, I do
5 remember him walking down towards the doors, and I was
6 standing behind the doors looking directly back towards
7 him.

8 Q So he came from the street through these sort
9 of entry gates here?

10 A He would have been around that area.

11 Q All right. Excellent.

12 From where you were watching, could you see
13 the officer make it all the way to that bathroom door,
14 or did you lose sight at some point?

15 A I lost sight of him right at the end. But I
16 saw him walking a considerable distance towards me,
17 towards the bathroom door, but the very last section I
18 couldn't see.

19 Q I'm going to show you two pictures. The top
20 one is picture 15 and the bottom one is picture 16?

21 A Okay.

22 Q These are photos taken from inside the
23 Visitor's Center facing out.

24 A Okay.

25 Q Does one of them approximate your vantage

1 point?

2 A The top one.

3 Q Okay. Number 15. Great.

4 All right. So when did you next then see the
5 officer?

6 A I saw the officer walking towards me with
7 keys in his hand. Then I saw him go towards the
8 bathroom door on the right-hand side. And then I
9 couldn't see him directly. He was slightly obscured
10 from view.

11 Q About how long was it before he came back
12 into your view?

13 A It was very quick, probably 20 to 30 seconds
14 maybe.

15 Q And did you hear him first or see him first?

16 A I saw him first.

17 Q All right. And what was he doing when you
18 first saw him?

19 A When I first saw him, he was retreating from
20 the area where the bathrooms were.

21 Q When you use the word "retreat," did he turn
22 around and walk away from or was he walking backwards
23 but still facing --

24 A I believe he was walking backwards, but
25 facing the area.

1 Q Did he have a weapon in his hand at that
2 point?

3 A No.

4 Q Did you -- what did you see next?

5 A What I saw next was the man come into vision
6 who just left the bathroom area. I saw him come into
7 my line of vision. And the first thing I really
8 remember, the image I have is of him covered in blood
9 on his face and neck and torso.

10 Q Did you see his hands?

11 A I couldn't see his hands at that point.

12 Q All right. So Officer Walters, was he
13 continuing to walk backwards at that point as the man
14 came into your view?

15 A I was focused on the view of the man,
16 himself, so I wasn't interpreting what was happening
17 with the officer, but my understanding he was
18 retreating backwards at that point.

19 Q When you say it's your understanding, your
20 understanding from talking to people or that's your
21 perception?

22 A That was my perception.

23 Q Okay. So kind of take it from there slow
24 motion. What happens next?

25 A Okay. The officer backs away, and as the man

1 continued to advance, I got sort of a better image of
2 the man who was covered in blood, as I said, and
3 walking forward slowly in an almost stumbling like
4 motion in the direction of the officer.

5 Q At that point, do you see anything in either
6 of his hands?

7 A No, I didn't see that until later.

8 Q Did you notice his hands at all?

9 A I didn't notice his hands at that point.

10 Q Were they talking to one another, or was only
11 one of them talking? Do you recall?

12 A Well, all I recall at that point is the
13 officer shouting at the man.

14 Q Do you recall what he was shouting?

15 A Not specifically. I heard "Drop" several
16 times. That's the only thing I can recall.

17 Q Did the man appear to comply with what
18 Officer Walters was saying?

19 A No.

20 Q So, did he continue to advance on Officer
21 Walters?

22 A Yes, he did.

23 Q At some point did Officer Walters stop
24 moving, or was he kind of continuing to go backwards as
25 the man was walking toward him?

1 A The image I had is the officer stopped
2 because he had run out of space to retreat.

3 Q Okay. What happened next?

4 A Well, he pulled his gun and directed it at
5 the man and at the same time he was shouting at the man
6 in order -- and "Drop" was the significant word I
7 heard. The man was clearly not responding and
8 advancing. And then I heard two shots in succession.

9 Q What happened next?

10 A After the two shots, I was aware of other
11 people in the Visitor Center, specifically members of
12 the public. So my attention was, we must get these
13 people out of this area. So I walked down a side
14 corridor, which goes back in the Visitor's Center. As
15 I was in that space, I heard two more shots. Then I
16 returned back to my vantage point, and I saw that the
17 man was down on the ground facing away from the
18 officer.

19 Q After the first two shots, before the second
20 two shots, were there -- did you hear any more yelling?

21 A I did not.

22 Q Do you have an estimate as to how much time
23 lapsed between the first two and the second two shots?

24 A Probably a minute, less than a minute.

25 Q When you came back out, the man was on the

1 ground. Did you notice Officer Walters?

2 A No. The next thing I recalled was
3 reinforcements showing up, the police.

4 Q You remained at the scene, talked to officers
5 that night?

6 A I did, yes.

7 Q Were you separated from other witnesses?

8 A Yes, instantly.

9 Q After those first two shots were fired, did
10 you sort of immediately turn your attention to the
11 other people in the Visitor's Center?

12 A To Travis and to Matt, who was standing --
13 they were right next to me.

14 Q Okay. And you walked pretty quickly away?

15 A I turned slowly to motion people away from
16 that area. There weren't any members of the general
17 public that were in that area that were visible, that
18 had the visibility we did.

19 MS. MOAWAD: Okay. Does anyone have any
20 additional questions for Mr. Burr? All right. Thank
21 you?

22

23

24

25

KENDRA PETERSON-MORGAN,

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

EXAMINATION

BY MS. MOAWAD::

Q If you would start off by telling us your name and spelling your last name?

A Kendra Petersen-Morgan, P-E-T-E-R-S-E-N hyphen M-O-R-G-A-N.

Q And how are you employed?

A I work for Portland Parks and Recreation. I'm an ecologist.

Q On March 22nd, 2010, were you working at the Hoyt Arboretum?

A I was.

Q Around 3:00 p.m. -- well, let me -- Do you have an office space there?

A I do.

Q Okay. I'm going to show you -- this is the crime scene diagram here. And I have a little Post-It note with "Hill" on it. That's where April Hill is?

A Yes.

Q Is your office space about the same?

A It's just -- yes, it's on the other side of

1 the cubicle, separate cubicles.

2 Q So you are in the basic same area as Hill?

3 A Yes.

4 Q Do you have the same vantage point? Can you
5 see through Mr. Sinclair's office and through the
6 window?

7 A I do not. I have a window in front of my
8 office, in front of my desk. But it points a different
9 direction. So my window is right here. And this is a
10 wall that has no windows. So I had no visible line of
11 sight.

12 Q Okay. So the window that you have faces to
13 the north?

14 A Correct.

15 Q Okay. So did you actually see any of the
16 interaction?

17 A I did not.

18 Q Did you hear anything?

19 A I did.

20 Q Okay. Tell us what you heard.

21 A I heard -- I was -- I was the one person on
22 the scene, I believe, who had no prior knowledge of
23 what was going on. So I had just come back in from
24 being out in the field and was getting ready for my
25 computer back at my desk and I heard two gunshots. At

1 that point, I got under my desk and attempted to call
2 911. And then because my phone wasn't working, I got
3 up and moved into the area away from my desk that also
4 had no windows and tried to make a phone call to 911
5 from my cell phone and then heard two additional shots.

6 Q Could you hear any yelling at all?

7 A I could not.

8 Q Any idea how much time elapsed between the
9 first two and the second two shots?

10 A It's hard for me to estimate because in that
11 type of event, I think that time takes on a whole
12 different realm. But I would estimate from moving
13 under my desk and then getting up and trying to place a
14 second phone call that it was probably approximately 40
15 seconds.

16 Q And when you say you moved into a different
17 area, would that be to the east or sort of more towards
18 what would be the back of the Visitor's Center?

19 A No. That would be actually to the -- I came
20 in -- I came in here.

21 Q Okay. All right. So still -- so actually
22 kind of what would be physically closer to the
23 courtyard area but no windows?

24 A No windows. There is a recessed kitchen area
25 that I moved into.

1 Q All right. And do you recall two visitors
2 being brought into your guys' general area or how many
3 visitors?

4 A There were two visitors -- three, actually.
5 So there was two adult women and a child.

6 Q Do you remember when in sort of the sequence
7 of events they were brought back in there with you?

8 A So I was in this recessed kitchen area, at
9 which point my coworker, April Hill, told me that it
10 was the police that were actually outside, which then I
11 stopped trying to make the 911 call. And then I heard
12 another one of my coworkers, Dan Moeller, bringing in
13 the visitors. At some point -- I really don't know
14 when this was -- and they were in our lunch room area,
15 which is separate from the area I was in, and then we
16 all came in there together.

17 Q All right. Does anyone have any questions
18 for Ms. Petersen? All right. Thank you very much.

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20 (Recess taken 12:10 p.m.)

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1 TRANSCRIPT OF PROCEEDINGS 4/1/10 12:13

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3 CHRISTOPHER BURLEY,

4 called as a witness in behalf of the

5 State, being first

6 duly sworn, was examined and testified as follows:

7 JUROR: Please have a seat, sir.

8 MS. MOAWAD: Would you start off by spelling
9 your name -- stating your name and spelling it for us?

10 THE WITNESS: Christopher Burley,
11 C-H-R-I-S-T-O-P-H-E-R, Burley, B-U-R-L-E-Y.

12 EXAMINATION

13 BY MS. MOAWAD:

14 Q How are you employed?

15 A I'm employed by the city of Portland as a police
16 officer.

17 Q How long have you been with the bureau?

18 A Since August 25th of 2005.

19 Q Were you working March 22nd, 2010?

20 A Yes.

21 Q How was it you first became aware of a situation
22 up at the Hoyt Arboretum?

23 A I heard over the -- I just got in my car, I heard
24 officer request Code 3 cover, which in -- we have multiple
25 code type covers in the police business. And Code 3 is

1 person is in danger, officer needs assistance immediately,
2 respond lights and sirens.

3 Q Where were you? You were just getting in the car,
4 where was the car?

5 A Over by, let's see, Davis and Naito. I was
6 leaving a meeting.

7 Q So you headed that direction?

8 A Yes, I did.

9 Q Any idea how long it took you to get up there?

10 A Traffic -- I remember as I was going up Burnside,
11 I was behind Sergeant Engen. Traffic -- there was a fair
12 amount of congestion. We ended up getting stopped behind a
13 traffic light and a lot of cars. And so eventually we had
14 to travel westbound in the eastbound lanes of Burnside, so
15 it took a little bit to get up there. And it's a little bit
16 of windy road.

17 A Was your avenue of approach to go up Burnside to
18 Skyline, or cut over on Fisher?

19 A I believe we cut over -- it was a -- where is
20 Burnside here? This is where the Arboretum is.

21 Q Here's Fisher.

22 A Let's see. Fisher runs into Burnside --

23 Q It does.

24 JUROR: Burnside is the top line there.

25 THE WITNESS: We -- I believe we came in on

1 Fisher. I followed Sergeant Engen up. I'm not -- I
2 never worked the west -- southwest Portland.

3 BY MS. MOAWAD:

4 Q All right. So when you arrived, were you one of
5 the first officers or had other officers beat you to the
6 scene?

7 A Other officers had arrived on the scene.

8 Q When you arrived, did Sergeant Engen sort of take
9 control and organize how officers were going to respond to
10 the gentleman in the courtyard?

11 A Yeah. I got out of my car and followed Sergeant
12 Engen up to a group of officers that were out by the
13 Arboretum. As I remember, he got up there and asked
14 officers to put latex gloves on. As he asked officers to do
15 that, he asked for a quick summary of what had happened, to
16 give him an idea of what we were dealing with.

17 Q I'm going to show you photograph 2, this is a
18 photograph taken from Fairview Boulevard, the road that runs
19 in front of the visitor center and faces into the visitor
20 center. Was this the area you all were congregating in, or
21 were you up above by the parking lot?

22 A We were -- let's see, just to -- so Fairview there
23 runs north and south, we were just to the south, yeah, over
24 there.

25 Q Okay. So if I show you photograph 1 which is

1 where -- this is sort of just to the south, this is in
2 photograph 1, you see a patrol car here that has been
3 identified as Officer Walters' patrol car. Were you in this
4 area?

5 A Yeah, over in that area, and over in the barkdust.

6 Q Was Officer Walters still in the area, or had he
7 been removed by the officers that arrived earlier?

8 A Oh, yeah. On the way up to the call, I heard him
9 get on the air and state he was going to be seated on the
10 other side of the road with another officer, and when I
11 arrived on scene he was not over -- I never saw him while I
12 was there.

13 Q Did Sergeant Engen ask you to be part of the
14 custody team who would go and take control of the suspect
15 that had been shot by Officer Walters?

16 A Yes, he did.

17 Q What did you do?

18 A Uhm, so we had a person that was to be lethal
19 cover, a less lethal -- a person less lethal cover. So that
20 means that there would be an officer that would have a --
21 had his firearm drawn, and there was another officer that
22 had a taser. And then the other officers including myself
23 would be the officers that would place our hands on the
24 person and place him in custody, place him in handcuffs.

25 Q Okay.

1 A And I was asked to be a person that would be going
2 hands-on with the person and putting that person into
3 custody, into handcuffs.

4 Q As you made your approach, was the man moving,
5 responding, making any noises at all?

6 A I never saw him move. I recall an officer saying
7 he moved, but I didn't see the movement.

8 Q You didn't personally?

9 A (Shakes head).

10 Q What are you focusing on as a member of a custody
11 team as you approach a person who is down like that?

12 A The main thing I wanted to watch is as I'm
13 proceeding is a person's hands, because I know that a
14 person's hands are what are going to be able to effect harm
15 on me or fellow officers or anybody else in the area, so
16 that's what I want to watch for. And in this case I
17 couldn't see his hands.

18 So good indicators if a person is moving is their
19 hands, or watch the upper part of their body. If you see
20 the upper part of their body moving, then that can be an
21 indicator that maybe they are getting ready to move their
22 arms, so --

23 Q As you approached, then, how did you approach?
24 Let's see, I'm going to give you photograph number 7 or --
25 no, I'm sorry. Number 8 is a better number, number 8. In

1 this the gentleman is sort of in the middle of the photo,
2 and you can see the two stone fencing areas as you kind of
3 walk into that pathway. Tell us what path you took.

4 A So we came in, as I recall, went towards his head
5 and walked in. And once officers gained control of Mr.
6 Collins' hands, I went towards his feet and crossed his feet
7 over, and applied pressure to his feet so he wouldn't be
8 able to kick the officers as they were taking him into
9 custody, placing him in handcuffs.

10 Q Placing someone in handcuffs is standard procedure
11 for situations like this?

12 A Yes. We don't know if they are still armed.

13 Q At some point, did people start looking for the
14 weapon that they had heard Officer Walters talking about
15 over the radio?

16 A Yeah, asking for where the weapon was, and at this
17 time I had stepped away. We had requested medical to come
18 in already at this point. I stepped away from Mr. Collins
19 and the question was asked, where is the knife? And
20 somebody pointed out to me I was standing on the knife. So
21 I picked up my foot and moved it off the knife.

22 Q And do you believe -- I mean, did you feel the
23 knife rolling around under your foot at all?

24 A No, I didn't notice that was under there until I
25 was told that I was standing on it.

1 Q So do you believe you significantly changed its
2 position, or do you think you were able to step your foot
3 off it and it was in effectively or essentially the same
4 position it would have been in?

5 A I believe it was in same position prior to me
6 stepping on it, because I stepped away from the body -- from
7 Mr. Collins and planted my foot down, and that's where I put
8 my foot on top of the knife.

9 Q Okay. Anyone have any questions for Officer
10 Burley? All right.

11 JUROR: Thank you, very much.

12 THE WITNESS: Thank you.

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1 MATTHEW ENGEN,
2 called as a witness in behalf of the
3 State, being first
4 duly sworn, was examined and testified as follows:

5 JUROR: Please have a seat, sir.

6 MS. MOAWAD: State and spell your name,
7 please.

8 THE WITNESS: Matt, M-A-T-T E-N-G-E-N.

9 EXAMINATION

10 BY MS. MOAWAD:

11 Q How are you employed?

12 A Sergeant with the Portland Police Bureau.

13 Q Were you so employed March 22nd, 2010?

14 A I was.

15 Q How was it that you first became aware of an
16 incident at the Hoyt Arboretum?

17 A I heard Officer Walters radio that he needed Code
18 3 cover at that location. And I -- shortly thereafter, he
19 updated his response and broadcast to indicate shots had
20 been fired.

21 Q Where were you physically when you heard these two
22 radio updates?

23 A I was in my office at Northwest 1st and Northwest
24 Davis.

25 Q So, when he first requested Code 3 cover, did you

1 attempt to get there, or did you think you were too far away
2 to try to get there?

3 A Initially, I wasn't sure if I heard that right,
4 because it was relatively calmly dispatched. I looked to
5 Officer Powell and confirmed with him that he, too, had
6 heard Code 3 cover request at Hoyt Arboretum. I asked
7 Officer Powell what call was Jason on, what was going on, he
8 was not sure. By the time that conversation was over, it
9 was updated to shots fired, and we immediately ran to my car
10 at that point.

11 Q We have heard from Officer Burley that you
12 traveled west on Burnside. Do you recall what street you
13 turned off of to get up over to the Arboretum?

14 A I have later learned I believe it's Fisher Lane.
15 It is a small essentially Parks Bureau road that travels
16 from Fairview Boulevard down to West Burnside, it winds
17 through Hoyt Arboretum.

18 Q And there behind you, you have actually the trails
19 of the Arboretum. So, as you can see, perhaps, there are
20 two areas highlighted in lavender, Fairview and a picnic
21 shelter. And the orange highlighted area is the visitor
22 center and parking lot. So when you all arrived, you came
23 from Fisher, then that would be south on Fairview? Or --
24 no, north on Fairview.

25 A We traveled westbound on Burnside, turned off on

1 Fisher, wound our way through the park, came onto Fairview
2 here, and that portion of the road, it runs south, but went
3 up hill to the scene of the shooting.

4 Q Okay. As the sergeant on scene, did you sort of
5 take control of it, figure out an approach of how to deal
6 with the gentleman who'd been shot by Officer Walters?

7 A Yes.

8 Q By the time you arrived, was Officer Walters still
9 on scene, or had other officers kind of removed him from the
10 area?

11 A He was removed from the immediate shooting scene
12 at that point.

13 Q Okay. You put together a custody team and kind of
14 the plan for approach?

15 A Correct.

16 Q What protocols do you follow in a situation like
17 this?

18 A Upon my arrival, I was first supervisor to arrive,
19 I assumed controlled of the scene. I was drawn obviously to
20 the group of officers that was positioned between the
21 courtyard and the street. I could see they had -- some of
22 them had weapons drawn and were pointed back towards the
23 building itself. I approached them, and my first question
24 was where was the involved officer. They told me he was
25 removed from the scene.

1 I then inquired about if any known weapons were
2 visible from their observations, having been there a few
3 minutes obviously prior to my arrival. I heard on radio en
4 route from Officer Walters that the subject had been armed
5 with a razor knife or words to that effect. They directed
6 my attention to near the feet of the suspect on the ground,
7 I saw a small hobby knife near his feet, and they indicated
8 to me there was no other known or observable weapons at that
9 point. I don't recall if I asked or they volunteered the
10 building that was acting as backdrop for our tactical
11 approach had been cleared at that point.

12 Q All right. So what did you do then?

13 A At that point I knew obviously the suspect had
14 very vividly suffered numerous gun shot wounds, medical was
15 already en route. And I believed it imperative we approach,
16 place him in custody as soon as possible to allow medical to
17 come in.

18 Q Did you designate certain people with certain
19 roles to effect that?

20 A Yes.

21 Q Did EMS arrive shortly after you had the
22 individual in custody?

23 A Yes. Between the time I arrived and we approached
24 and secured the suspect was approximately two minutes. Soon
25 as we had him secured and there was a cursory pat-down for

1 any additional weapons, I then stepped back out of the
2 courtyard to the road. I looked to my right up the hill and
3 observed an ambulance coming to the scene.

4 At that point, I don't recall if I radioed for
5 them to approach or flagged them in. They immediately drove
6 to our position and retrieved some equipment from their
7 vehicle, and walked over and checked the suspect.

8 Q Okay. Did they determine he was deceased?

9 A Yes, ma'am.

10 Q Now, there are photos, and I'll just show you one.
11 It's marked as photo 13, and it shows the deceased on his
12 side with his knees bent and legs crossed and arms -- his
13 hands cuffed. Is that the position he was found in and he
14 was cuffed there naturally, or does he get moved by the
15 custody team at all?

16 A He was placed in that position as per our training
17 and policy.

18 Q Why are you trained to put a person in that
19 position?

20 A We refer to that as post-shooting position.
21 Number one, it secures the person in order for EMS to
22 approach and not be concerned about weapons or other issues.
23 It also by placing the person's knee off to the side, allows
24 them not to be rolled flat on the chest, which inhibits any
25 breathing or the chest going in and out. So that's a

1 standard position and normal protocol for us.

2 MS. MOAWAD: Anyone have any other questions
3 for Sergeant Engen?

4 JURORS: No. Thank you.

5 MS. MOAWAD: Now we have a break until 1:00
6 when the next witnesses arrive.

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8 (Whereupon, grand jury adjourned at 12:30
9 p.m.)

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1 AFTERNOON SESSION 1:05 P.M.

2 DANIEL SIMON,

3 was thereupon called as a witness on
4 behalf of the State and, having been first duly
5 sworn, was examined and testified as follows:

6 **EXAMINATION**

7 BY MS. MOAWAD::

8 Q If you would start off, please, telling us
9 your name and spelling your last name?

10 A My name is Daniel Simon, S-I-M-O-N.

11 Q And, Mr. Simon, you are a law student, as I
12 understand it?

13 A Yes, I am.

14 Q At Lewis & Clark Law School?

15 A I am.

16 Q All right. So on Monday, March 22nd, in the
17 late afternoon, were you at the Hoyt Arboretum?

18 A Yes, I was.

19 Q So tell us kind of where you were when you
20 realized maybe something was going on?

21 A Uhm, so as we were driving up to the Hoyt
22 Arboretum, behind us there was a police car. And when
23 we parked, the two officers parked on the other side of
24 the road, got out of their car. And then as we were
25 getting out of the car, then we started hearing

1 commotion, which was a lot of noises and a lot of
2 voices.

3 Q I'm going to have you look behind you there.
4 There are the Trails of the Hoyt Arboretum. And so the
5 orange -- do you see the area circled in orange
6 there --

7 A Yes.

8 Q -- is the parking lot and the Visitor Center?
9 Then the purple kind of highlights Fairview Boulevard
10 and also the picnic shelter. Do you see that
11 highlighted on there?

12 A Yes.

13 Q So do you remember what direction you were
14 coming from?

15 A So I think, according to this map -- I assume
16 this is coming from the highway, this direction up
17 here?

18 Q Yeah.

19 A Yeah. So we're coming from the highway up
20 this direction.

21 Q Okay. And when you say the police car was
22 behind you, you used the word "they". Do you know if
23 there was more than one officer in that car?

24 A There were two officers.

25 Q Okay. Did they have their lights and sirens

1 on?

2 A No, they didn't.

3 Q Okay. And how do you -- I mean you saw two
4 officers get out of that car?

5 A Yes.

6 Q Okay. All right. So take it from there.

7 A So we parked across the street here.

8 Q All right. I'm going to give you a Post-It
9 note with your name on it, your last name on it. Do
10 you want to put the Post-It note kind of where you
11 ended up?

12 A Is it okay if I'm covering up the other
13 person's name that's close by?

14 Q Uh-hum. All right. So you parked your car,
15 and then what happened?

16 A So then we heard a bunch of voices.

17 Q Okay.

18 A We heard some people saying, "Drop it, drop
19 it," and then we heard another distinct voice saying,
20 "No, no, I'm not going to drop it. I'm not going to
21 drop it". Then there was some screaming, and then we
22 heard initially two gunshots.

23 Q Okay. Now, could you see across the street
24 over into the Visitor's Center area at all?

25 A No, we couldn't.

1 Q So this is all just things you are hearing?

2 A Yes.

3 Q Okay. What did you hear next?

4 A So we heard two gunshots, and then there was
5 a pause of what I think was about 30 seconds or so.
6 And then we heard another two gunshots.

7 Q In between the first two and the second two
8 gunshots, was there anymore yelling that you heard?

9 A There was some -- some incoherent yelling,
10 kind of what sounded -- it was yelling.

11 Q So you couldn't make out the words, but
12 someone was yelling words?

13 A Right.

14 Q Okay. And you said about pausing and then
15 two more gunshots?

16 A Yes.

17 Q What did you do then?

18 A At that point, we got back into my car.

19 Q And what happened next?

20 A Uhm, so after that, a lot more police
21 officers showed up with bigger guns. One had a
22 shotgun. One had some kind of bigger gun I couldn't
23 identify. So there was a whole bunch of activity, so
24 we stayed in the car for a bit. Uhm, and then I don't
25 know how long after that, but once things seemed to

1 calm down a little bit more, then we got out of the car
2 and walked around for a bit.

3 Q Okay. Went on a hike, you mean?

4 A Yes, yeah.

5 Q Then at some point did you let Law
6 Enforcement know that you had at least heard some of
7 what had gone on?

8 A (Witness nods head in the affirmative.)

9 Q And were you interviewed that evening then?

10 A Yes.

11 Q Okay.

12 A We went back, when -- eventually, when we got
13 back, they had put caution tape around the area, and
14 they were talking to witnesses. So at that point we
15 said, "Yeah, we heard everything that happened". So
16 then, they kept us around for awhile, and eventually
17 they interviewed both of us.

18 Q When the officer's car was behind you as you
19 guys approached, were you driving or was Ms. Beeson
20 driving?

21 A I was driving.

22 Q Were lights on? Siren on? Or was it just
23 behind you traveling normally?

24 A It was just behind us traveling normally.

25 MS. MOAWAD: And, yeah, I think that's

1 all my questions. Anyone have any questions for
2 Mr. Simon?

3 JUROR: I have a question. You said you
4 heard the shouting going on, "Drop it, drop it". You
5 heard "I'm not going to drop it"? You heard that
6 response back to the officer?

7 THE WITNESS: Yes.

8 JUROR: In a different voice?

9 THE WITNESS: Yes.

10 JUROR: Then one other thing. You said
11 that you went on a walk hiking and then came back and
12 informed Law Enforcement and was questioned. How much
13 longer after the incident were you questioned?

14 THE WITNESS: Uhm, well, when we went for
15 the hike and then came back, estimating here, but I
16 think it was about 45 minutes or so.

17 JUROR: Okay.

18 THE WITNESS: And then we were questioned
19 by the police, I think, three hours after that.

20 JUROR: So close to -- three-and-a-half
21 to four hours before you were questioned?

22 THE WITNESS: Yes.

23 JUROR: Okay. Thank you.

24 JUROR: I have just something to clear
25 up. You mentioned that 30 seconds, then there was more

1 yelling, then you heard two more shots, got back in
2 your car, then more police came with bigger guns?

3 THE WITNESS: Yes.

4 JUROR: Did you have some sense that the
5 gun you heard being shot was smaller than the ones you
6 saw get out with the policemen?

7 THE WITNESS: I have -- yeah, limited
8 knowledge of what certain guns sound like. But it
9 sounded just like a handgun that fired the shots.

10 MS. MOAWAD: Any other questions? Okay.
11 Great.

12 MS. MOAWAD: Thank you very much.

13

14 ANNE JULENE BEESON,

15 was thereupon called as a witness on
16 behalf of the State and, having been first duly
17 sworn, was examined and testified as follows:

18 **EXAMINATION**

19 BY MS. MOAWAD::

20 Q If you would state and spell your last name
21 for us please, Beeson, B-E-E-S-O-N.

22 Your first and middle name, too.

23 A Anne Julene?

24 Q I have those reversed. Okay.

25 So, on March 22nd of this year, you and

1 Mr. Simon headed up together to the Hoyt Arboretum? Go
2 ahead and answer out loud because we have a court
3 reporter.

4 A Yes.

5 Q So tell us how -- do you remember what route
6 you took to get there, who was driving, that kind of
7 stuff?

8 A We took the 26 route to the Hoyt Arboretum,
9 winding up the road. And we arrived, and we parked in
10 the little parking lot on the left-hand side.

11 Q All right. When you say, "on the left-hand
12 side", the Visitor's Center was off to your right is
13 what you mean?

14 A Yes.

15 Q And I'm going to have you turn around there
16 and look at this trail of Hoyt Arboretum. There is a
17 Post-It note there that says, "Simon"?

18 A Uh-hum.

19 Q That's where he recalls being. Does your
20 memory jibe with that?

21 A Yes.

22 Q All right. So tell us then once you had
23 parked the car what you next sort of noticed.

24 A I noticed that a cop car was there.

25 Q Okay.

1 A And I looked around, and I saw a police
2 officer's back. And that's what I remember seeing.

3 Q So when you say you saw his back, was he
4 moving at all or was he standing?

5 A He was standing.

6 Q Okay. Over here, if you would kind of walk
7 over here with me, this is the Visitor's Center. So
8 this is Fairview?

9 A Uh-hum.

10 Q You guys were probably parked somewhere
11 around here?

12 A Yeah.

13 Q And then this is obviously the area with the
14 Visitor's Center. So where about did you see the
15 officer with his back to you?

16 A Looked right around here.

17 Q So past those sort of entry gates, the rock
18 wall gates there, in the -- on the sidewalk there?

19 A Yeah.

20 Q So not quite all the way into that inner
21 courtyard area?

22 A Yeah, not at the moment.

23 JUROR: Could you show us what you
24 just --

25 MS. MOAWAD: Yes, right around in here

1 she said (indicating.)

2 Q Sorry.

3 So did he seem -- so you said he was just
4 standing there, and then what -- did you guys just kind
5 of go about your business or --

6 A Went about my business for a moment, and then
7 I heard strong voices. I didn't hear any distinct
8 words at that point. And then I heard, "Drop your
9 weapon, drop your weapon". Then I heard two gunshots.
10 I got on the ground, and -- and then after that I -- I
11 got into the car and plugged my ears and waited a few
12 moments.

13 Q When you say you heard voices, could you make
14 out two separate and distinct voices?

15 A Uh-uh.

16 Q No?

17 A No.

18 Q But the words that you heard you said were
19 "Drop the weapon"?

20 A Uh-hum.

21 Q Now, were you able to look back across the
22 street and see anything?

23 A No.

24 Q Okay. After you heard the first two shots
25 and got down on the ground, did you hear any more

1 yelling?

2 A No.

3 Q Did you hear the second set of shots, or do
4 you think --

5 A It was really muffled.

6 Q -- that was when you had your ears plugged?

7 A And I was inside the car.

8 Q All right. So then, as I understand it, you
9 and Mr. Simon went ahead and took the hike that you had
10 planned on and came back and talked to police after
11 that?

12 A Uh-hum.

13 Q Do you recall the other officers arriving
14 before you went on that hike?

15 A Uh-hum.

16 Q Okay. And -- and so did you see -- what did
17 you see when those other officers arrived?

18 A I saw a bunch of police cars come up, and it
19 looked like they had the situation under control.
20 That's why we went on our hike.

21 MS. MOAWAD: Okay. Any questions for
22 Ms. Beeson?

23 JUROR: Did you hear sirens and see
24 lights?

25 THE WITNESS: I heard sirens. I did not

1 see lights.

2 BY MS. MOAWAD::

3 Q And just to clarify that. Was that after the
4 shooting or before the shooting?

5 A After.

6 MS. MOAWAD: Any other questions? All
7 right. That's it. Thank you very much.

8

9

KAREN GUNSON,

10 was thereupon called as a witness on
11 behalf of the State and, having been first duly
12 sworn, was examined and testified as follows:

13

EXAMINATION

14 BY MS. MOAWAD::

15 Q If you would start off by telling us your
16 full name and spelling your last.

17 A I'm Dr. Karen Gunson, K-A-R-E-N, G-U-N-S-O-N.

18 Q How are you employed?

19 A I am the State Medical Examiner for Oregon.

20 Q On March 23rd, 2010, did you perform the
21 postmortem examination of an individual who was
22 ultimately identified as Jack Dale Collins?

23 A I did.

24 Q In general, what do you do? What are the
25 protocols you follow for a postmortem examination?

1 A Well, we start on the outside and work in.
2 And so we start with the clothing that the person has
3 on and examine that clothing for evidence of any kind
4 of damage, defects, anything like that or blood
5 presence.

6 And then we also look in the pockets of all
7 the clothes to see what might be in there. We document
8 all that, as we are at the table doing the autopsy, by
9 dictation.

10 Then we move to the body, and we look for any
11 evidence of natural disease or injury that might be
12 present on the surface of the body.

13 And then, of course, we open the various body
14 cavities, including the chest and abdomen and the neck
15 structures and of course, finally, the head and the
16 brain, looking for evidence of injury or natural
17 disease.

18 We can usually arrive at a cause of death at
19 the time we do the autopsy. And sometimes we have to
20 take tissue or blood once again to look at in the
21 laboratory to help diagnose disease. We generally will
22 take blood and urine on everyone to look for -- in the
23 tox lab to look for drugs and alcohol, things like
24 that.

25 Q So I guess I'll just have you kind of take us

1 through what you learned during the autopsy of
2 Mr. Collins.

3 A Uhm, I guess I'll start with the clothes. He
4 was clothed in several layers of clothing. He had on a
5 green down jacket. He had a really thick knit sweater.
6 It wasn't hand-knit. I looked, because I'm interested
7 in that. And he also had on a hooded sweatshirt, and
8 he had on -- I'm going to have to refer because he
9 really had a lot of different clothes on.

10 And he had on a pair of pants. He had on a
11 pair of nylon sort of jogging pants over his blue
12 jeans, socks, shoes, a headband on his head.

13 There were various items in the pockets,
14 including cigarettes, a cigarette lighter, some change
15 and some cash. Several partially-smoked cigarettes
16 were present in his hip pocket.

17 Mr. Collins died of a gunshot wound to the
18 hip with exsanguination. And "exsanguination" means he
19 bled to death internally, so I'm going to go through
20 those injuries that caused his death.

21 He had a gunshot wound that was present in
22 the right side of his body, what we call in the
23 subcostal area, so just in the area just below his rib
24 cage. That bullet actually did not damage any internal
25 structures. It passed into the abdominal cavity then

1 out into the abdominal cavity into what we call the
2 subcutaneous tissue here on the side of his cheek and
3 finally out the side of his cheek. I have a picture of
4 that. I'm sorry. I should have organized this a
5 little bit better.

6 Q While you are talking to them, why don't I
7 pull the photos out.

8 A Why don't I get what I have here for this
9 part.

10 JUROR: Are the photos numbered so you
11 can refer to the number when you are describing the --

12 THE WITNESS: Yes, they are.

13 I was going to talk about a little
14 different order. I thought -- no, I'll do it this way.

15 Q That's fine.

16 Here they are. And this is picture 28. So
17 if you look at this, it's sort of interesting in that
18 you can see it's quite irregular in configuration, and
19 there is some contusion or bruising here on the
20 right-hand edge and then these little spots of
21 abrasions here. The reason this looks this way is
22 because this is what we call an "atypical" gunshot
23 wound, so it's not round and punched out, as one I will
24 show you later. It has an irregular configuration with
25 irregular abrasions around it, what we call "rim of

1 abrasions".

2 The reason for that is because the bullet
3 passed through the zipper of his coat and it struck --
4 and that made it wobble in its flight. So as it
5 strikes the skin, it's not coming straight on. It's
6 sort of canted in its flight. So actually -- probably
7 the side of the bullet is hitting the body.

8 And these little marks here are from the
9 zipper teeth that strike the skin and also cause injury
10 to the skin.

11 The reason that this is pointed down in this
12 direction is because the bullet is traveling down that
13 direction. So the bullet is going from front to back,
14 from above to below and from left to right. We're on
15 the right side of the body, but it's going from more
16 right. It's going from left to right. So this is just
17 the trajectory of the bullet through the body. It
18 doesn't tell us anything about where the shooter is or
19 where this person is in space.

20 I'm going to just hand it to you, get it out
21 of my way.

22 Q Okay.

23 A And, unfortunately, we don't have a really
24 good picture of the exit wound, but the exit wound is
25 over to the right side of the body. And this is seen

1 in 27. And you are looking at the back of the body.
2 Of course, this is the right, this is the left. And
3 you can see a trickle of blood coming from the exit
4 wound. So the bullet didn't pass very far through the
5 body. It was -- it was maybe a hand span through the
6 body. And it did not strike any vital structures, once
7 again.

8 JUROR: That's picture number what?

9 THE WITNESS: 27.

10 JUROR: Can I ask a question?

11 MS. MOAWAD: Is it about this particular
12 wound?

13 JUROR: The distance you say it went in,
14 that distance; does that indicate how far away the
15 shooter was from him when he shot?

16 THE WITNESS: It's not so much the
17 distance we're looking at. We can only tell -- we can
18 tell close range, contact range and intermediate range
19 and distant.

20 JUROR: What did that tell you?

21 THE WITNESS: When we are talking about
22 distance, we're talking greater than 30 inches. What
23 we're looking for when we talk about anything closer
24 like intermediate range and close range, we look for
25 gunpowder residue, which is a gray haze on the skin of

1 the body, and we look for stippling, which are little
2 red dots of burnt and unburnt grains of powder that
3 strike the skin. So that allows us to say that the
4 shooter distance is somewhere inside 30 inches.

5 Now, remember, he has clothing on. And
6 of course the clothing will screen out any kind of
7 gunpowder residue, any kind of flying gun powder
8 particles. So in looking at his skin, I see nothing.
9 And I can't help you with the distance, because you
10 would have to look at the clothes and see if there is
11 any gun powder.

12 JUROR: You did not do that?

13 THE WITNESS: I did look at it, but they
14 were too dark for me to see that. That has to be done
15 in the Forensic lab. I see no indication of close
16 range, but you have got to take that with a grain of
17 salt.

18 JUROR: I got it.

19 THE WITNESS: The second wound I want to
20 talk about is the lethal wound. Here's a picture of
21 it. It's a fairly close-up picture, and it's our
22 picture No. 29. This is a very typical gunshot wound
23 of entrance, and you can see how different it looks
24 from the other. It's round. It's punched out, and it
25 has a rim of abrasions around it. The rim of abrasions

1 comes when the bullet is passing through the air, it's
2 turning on its axis. The barrel of the weapon puts a
3 spin on the bullet. As it's turning on its axis for a
4 brief instant before it perforates the skin, it deforms
5 the skin and it scrapes this skin off the edge of the
6 wound as it's turning on its axis. This tells us this
7 is undoubtedly an entrance wound, undoubtedly an
8 entrance wound.

9 Once again, it's a distant -- by looking
10 at it here, I would say it's distant, but he had on
11 clothing, so it would screen out any gunpowder residue
12 or gunpowder stippling. This bullet was present in his
13 left hip, about in this area. It passed through what
14 we call the "iliac wing", which is a part of your
15 pelvis, this big bone that's right here. And as it
16 passed -- and then it passed into the abdominal cavity.

17 And I'm going to show you a shot of the
18 inside of his body here. As it passed through the --
19 into the abdominal cavity, it severed the large artery
20 called the "left iliac artery". The left iliac artery
21 comes right off the aorta, which runs down your
22 backbone and then it splits into the two iliac arteries
23 that go down your legs.

24 So, what you are seeing here is the iliac
25 artery, which is running here. These are my fingers

1 right here to show you, and here's the bullet hole
2 right here. And you can see how it actually clips that
3 artery as it goes into the abdominal cavity.

4 Now, there was 1,100 cc's of blood
5 present in his abdominal cavity and down the back of
6 his pelvic fossa, which is the lowest part of the
7 cavity. And that would translate into about a quart of
8 blood. We think of 250 cc's as being about a cup, so
9 somewhere around a quart or so.

10 Now, generally speaking, adult males have
11 about 5,000 cc's of blood in their body. And when you
12 lose about a quarter of that or around a quarter of
13 that acutely, you will die from bleeding to death. Of
14 course, he did bleed to death. He bled to death
15 internally into his abdominal cavity.

16 JUROR: How long would that have taken?

17 THE WITNESS: In that particular case --
18 usually, we talk about things not being instant death.
19 They take a little while to bleed down in order to be
20 unconscious, finally die. Generally, we think about it
21 as being somewhere 30 seconds or a minute or so.

22 JUROR: That's pretty fast.

23 THE WITNESS: It's pretty fast. This is
24 a very large vessel. Ever time his heart pumps, he's
25 pumping blood out of that vessel.

1 BY MS. MOAWAD::

2 Q And that, for the record, is photo 31.

3 A And photo number -- well, that's 29.

4 Photo No. 30 is the exit wound, which is
5 present basically right here in the middle of his lower
6 abdomen, just above the pubic bone, right there. And
7 this is a typical exit wound. You can see how
8 different it looked from the -- from the entrance
9 wound. It's very irregular. It's not -- there is no
10 rim of abrasions, and that's because the bullet is
11 bursting from the inside out. So this is how we tell
12 the difference between that entrance wound and this
13 exit wound.

14 So these two, of course, are connected. As
15 the bullet went through, not only did it strike that
16 artery, but it also hit a loop of small bowel and it
17 sort of grazed the bladder, urinary bladder, but it
18 didn't perforate it. It sort of separated it from the
19 abdominal wall. So, of course, the problem was hitting
20 the iliac artery.

21 JUROR: What was photo 29 showing?

22 THE WITNESS: That's the entrance wound
23 in the left hip.

24 THE WITNESS: Now, he also had gunshot
25 wounds to his arms. Just let me say -- I'm sorry. I

1 forgot to tell you what the trajectory was for that.
2 The trajectory is from back to front, from left to
3 right and slightly above to below.

4 Now, you can see when I say back to
5 front, I'm not saying he's shot in the back. I'm
6 saying that the bullet entrance is slightly behind the
7 exit. So it's more of a side-to-side shot.

8 Now, picture 24 is a picture of the inner
9 right arm, upper arm -- sorry. I should keep my left
10 and right right. Inner upper arm here. Once again you
11 know what entrance wounds look like. And this is an
12 entrance wound in the middle part of his upper arm.

13 If you look closely here behind the
14 ruler, you can see that this passage of this bullet
15 through his upper arm fractured the humerus, the big
16 bone in the upper arm, and it's actually very displaced
17 and poking up through the skin or into the skin.

18 And if you look at -- you can see once
19 again that's an entrance wound because it has that sort
20 of oval look to it and it's fairly regular. But if you
21 look at the exit wound in picture No. 23, you can see
22 how irregular the exit wound is on the outside of his
23 upper arm. Once again you can see that fractured bone
24 as it passes through.

25 Of course, it's a little bit false, if

1 you will, to say the directionality of the wound
2 through the arm, because if you are holding your arm in
3 an anatomic position, it's going from front to back and
4 from left to right and so forth. But this arm can be
5 anywhere in space. So I hesitate to give you that.

6 And this is photo 26, and it's the
7 outside of the left arm. And this is another entrance
8 wound. Once again, you can see it has an oval,
9 punched-out appearance. It has a rim of abrasions
10 around it. And once again, this bullet goes through
11 the humerus fracturing the big bone in the upper arm.
12 It's sort of towards the back of the arm, and it's
13 nearly halfway between the shoulder and the elbow.

14 And as it passes through the arm, it
15 fractures the bone, once again, and you can see the
16 exit wound here on the inner surface of the upper arm
17 on the left. And then we recovered this bullet that is
18 fairly badly deformed from that hooded sweatshirt that
19 he had on. It sort of got caught up in the -- in the
20 fabric of that sweatshirt. And this is, if I didn't
21 say this, is 25.

22 Now, those are the four gunshot wounds
23 that Mr. Collins suffered, but he had other injuries as
24 well. And photograph No. 21 is a picture of the left
25 side of his neck. And you can see he has two groups of

1 incised wounds or cuts that are present on the left
2 side of his neck. And these are self-inflicted wounds.

3 The reason I say these are self-inflicted
4 is because this is the kind of thing we see when people
5 are trying to commit suicide. This is a chosen spot,
6 the neck, where we most often will see cuts to somebody
7 when they are -- usually they actually do not commit or
8 finalize the act. This is more what we call
9 "hesitation cuts". And you can see there are two
10 groups of them, one higher in the neck and one a little
11 bit lower in the neck. These are very shallow. Most
12 of them don't even go all the way through the skin,
13 though some go as far or as deep as the adipose tissue,
14 the underlying fat layer. And this, if I didn't say,
15 is photograph 21.

16 And photograph 22 is the right side of
17 Mr. Collins' neck. And you can obviously see that
18 these cutting injuries are -- or incised wounds are
19 much deeper than on the left side of the neck. And
20 this -- these -- or this wound consists of at least two
21 overlapping cuts. You can see there is one that sort
22 of straggles down here at the bottom and another one up
23 here at the top. And in between there is a small piece
24 of skin that is sort of a triangular piece of skin that
25 separates the two. This is obviously much deeper than

1 the other ones on the left side of the neck.

2 When I dissected, as I told you we do the
3 neck structures, I was particularly paying attention to
4 what happened to the carotid artery on the right and
5 jugular vein on the right. And I was able to follow
6 the carotid artery and jugular vein all the way up, way
7 higher than the cut is, and could see they are
8 completely intact and there is a layer of tissue
9 between these cuts and the jugular vein and carotid
10 artery. So he did not die from these injuries. He did
11 not cut those major blood vessels.

12 Now, these -- these are the injuries that
13 he had. There were a few scattered nondescript
14 contusions and abrasions on his arms and legs, which
15 some of them were clearly older because they had scab
16 formation on them.

17 But he did have some changes, some
18 natural disease processes that I think I should mention
19 to you. He had 70 to 80% stenosis of one of the major
20 coronary arteries in his heart. And 70 to 80% stenosis
21 means he only had 20% of the lumen left in that blood
22 vessel so that blood could flow through it to the
23 heart. This is in what we call the "left anterior
24 descending coronary artery", and he also had some
25 changes of a little more minor in the other coronary

1 arteries.

2 But when I looked at the muscle of the
3 heart, what we call the "myocardium" and big pumping
4 chamber, there was evidence of a scar there. So he
5 clearly had had a mild cardiac infarct, a heart attack,
6 in the past, where he had healed from it, because we
7 could actually see the scar there.

8 And in addition to that, his lungs, which
9 should be smoothly flowing or smoothly moving inside
10 his chest cavity were very tightly adherent to the
11 chest wall. And when I looked at them under the
12 microscope, which I have done in the last week, I could
13 see that he had changes that were consistent with
14 emphysema in his lungs.

15 Q You mentioned blood and urine for toxicology?

16 A Yes.

17 Q Are those results available at this point?

18 A I am sorry. They are not done yet. It
19 usually takes us anywhere from three to six weeks to
20 get those back.

21 Q When you are doing an autopsy like this
22 though and you are in the interior cavity of the body,
23 is it possible that you would smell odor of alcohol if
24 there was still alcohol in the system?

25 A Oh, yes. When we have somebody who has been

1 drinking heavily, we can smell it on the tissues and
2 the blood that's in the body. And I had no odor of
3 alcohol in Mr. Collins.

4 MS. MOAWAD: Does anyone have any
5 questions for Dr. Gunson?

6 JUROR: I do. I just wanted to clarify.
7 In the wounds, there were wounds for both arms?

8 THE WITNESS: Yes, sir.

9 JUROR: And then his hip?

10 THE WITNESS: The hip.

11 JUROR: And then the one glancing the
12 side?

13 THE WITNESS: Correct.

14 JUROR: I assume -- I am assuming that
15 you can't tell by examination which ones came first?

16 MS. MOAWAD: Good questions.

17 THE WITNESS: That is a very good
18 question, and no, I cannot tell which ones came first.

19 MS. MOAWAD: Any other questions for
20 Dr. Gunson?

21 JUROR: I do have a follow-up question.
22 With regard to the lacerations around the neck, some
23 are fresh, had it looked like this had been going on
24 for a period of time? I know it's hard to tell. I
25 know you said there was scabbing in some other areas.

1 THE WITNESS: These are all
2 contemporaneous and they are fresh. So from what I
3 know of the scene, which I have -- information which I
4 have gleaned from police investigators, it appears that
5 all of these occurred at the same time, shortly before
6 his death.

7 BY MS. MOAWAD::

8 Q That actually reminds me to ask another
9 question. Did you examine his wrists?

10 A I did examine his wrists. Actually, I didn't
11 see any evidence of scarring there. Many times when we
12 have people who have committed suicide, we will find
13 old scars on their wrists, which we once again call
14 hesitation cuts or hesitation scars. But he did not
15 have any that I could see.

16 Q No fresh cuts there either, right?

17 A No fresh cuts, no.

18 JUROR: One more clarification. You
19 mentioned about the coronary heart disease. I think
20 that's what that's called --

21 THE WITNESS: Uh-hum.

22 JUROR: -- and the emphysema. Would he
23 have been impaired in his ability to move around or
24 anything given the state of his -- so somebody saying
25 that he was shuffling or something like that, that

1 could have been attributed to his physical ailments
2 rather than, say, alcohol?

3 THE WITNESS: Oh, I think so, yes. Many
4 times people who have emphysema, such as he does, of
5 course, and heart problems will have some swelling of
6 the legs. He had a little bit of that, not
7 overwhelming.

8 And they tend to be very short of breath,
9 because it's hard -- their air sort of gets trapped in
10 their lungs, just like an asthma person would have.
11 And of course, the heart is not fully pumping as well
12 as it could, so he's not perfusing his tissues as well
13 as he could.

14 Q What was the condition of his liver? Can I
15 ask that?

16 A You may. His liver was fine. Actually, I
17 saw no evidence of cirrhosis, scarring of the liver.
18 And I didn't see any evidence of fatty metamorphosis,
19 which is a fatty change of the liver that goes along
20 with alcohol.

21 JUROR: I'll ask you the question. Can
22 we ask if there were any other substances that were
23 found in his body.

24 MS. MOAWAD: You certainly can, yes.

25 THE WITNESS: I don't know yet because I

1 haven't got the toxicology back.

2 JUROR: That's still coming?

3 THE WITNESS: That's still to come.

4 MS. MOAWAD: Thank you.

5 Our next witness will be here in about
6 ten minutes, I hope.

7 (Recess taken 1:50 p.m. - 2:10 p.m.)

8 **LILLIAN BOYNTON,**

9 was thereupon called as a witness on
10 behalf of the State and, having been first duly
11 sworn, was examined and testified as follows:

12 **EXAMINATION**

13 BY MS. MOAWAD::

14 Q All right. If you would tell us your name
15 and then spell your last name?

16 A Lillian Boynton, B-O-Y-N-T-O-N.

17 Q On March 22nd, 2010, were you out hiking at
18 the Hoyt Arboretum?

19 A Yes.

20 Q Who was with you?

21 A My son.

22 Q And at some point -- how long had you guys
23 been out before you encountered a man that kind of
24 alarmed you?

25 A Not very long, maybe ten minutes.

1 Q As I understand it, did you encounter him
2 near a water tank?

3 A Yes.

4 Q Behind you is a map of the Trails of the Hoyt
5 Arboretum, and there are three water tanks circled in
6 blue. Do you see those on that map?

7 A Yeah.

8 Q Do you recall which of the water tanks you
9 would have been near?

10 A We were near the parking lot and the
11 Visitor's Center.

12 Q So, if those are there in the orange --

13 A I see the orange. Then it would be that one
14 there.

15 Q This one here?

16 A Yeah.

17 Q That's your last name indicating where you
18 were. So just tell us, please, about your interaction
19 with him?

20 A Uhm, my son wanted to walk faster than me, so
21 he went on ahead. I told him to go on ahead. As I was
22 about, I felt, like a quarter of the way around the
23 water tower, the water tank, uhm, going
24 counterclockwise, uhm, I saw a man near the water tower
25 walking toward me. And to me it was obviously a

1 vagrant. And he said -- he was walking toward me very
2 stiff. And his arms were very stiff, made me think of
3 a zombie. And he said, "I'm going to kill you". And I
4 thought he's messing with me, you know. But I didn't
5 want, you know, to take it lightly.

6 So I turned around and started walking back
7 the way I had come, because I knew there were people
8 the other way. Ahead of me I didn't see any people. I
9 started walking a little faster. And he continued to
10 walk after me. And he said it again, "I'm going to
11 kill you".

12 And then as I got back to where I was near
13 where the trail goes back down the hill, my son had --
14 because he had encountered him first, he had ran around
15 the water tank counterclockwise, in the same direction
16 he was going, and so he met up with me at that point.
17 And he said that the vagrant was hiding behind a bush,
18 that he said he just stepped sideways behind a bush,
19 and then he didn't follow us anymore.

20 And then we went down to the car, told my
21 husband what happened, and he told us we should tell
22 the people in the Visitor's Center.

23 Q So your husband was waiting for you in the
24 car?

25 A Yeah.

1 Q Okay. So I just want to make sure I
2 understand. So once this gentleman encounters you, do
3 you have a line of sight on your son or is he --

4 A No.

5 Q Okay. Were you calling out for him?

6 A Yes.

7 Q Were you concerned at all?

8 A Yeah, I was yelling his name.

9 Q Okay. And then he met back up with you, and
10 the two of you hustled back toward the car?

11 A Uh-hum.

12 Q You went into the Visitor's Center and let
13 someone know?

14 A Yes, uh-hum.

15 Q When you came back up, you headed back up to
16 your car. Did anyone else working for the Hoyt
17 Arboretum contact you in the parking lot?

18 A I went to the car to tell my husband what was
19 going on because they told me they were going to -- at
20 that point, they hadn't asked me what he said. And it
21 was happening so fast, that as I was walking out, I
22 said that he had said he was going to kill me. They
23 said, "Oh". I said, "I'm going to tell my husband
24 what's going on". Because they had called the park
25 ranger and were waiting to hear. They said, "If we

1 don't hear in a couple of minutes, we'll call the
2 non-emergency police line". And so I said, "I'm going
3 to go tell my husband". And they came out and I said
4 that the vagrant had said, "I'm going to kill you".
5 And they both looked really shocked.

6 And then I went to the van. And as I was
7 walking back to the Visitor's Center, one of them
8 called me over, and he was standing in the parking lot
9 at this time.

10 Q When you say "he," you mean the person that
11 worked for the Arboretum?

12 A Yeah, the park employee.

13 Q Okay.

14 A And he pointed to a person, which happened to
15 be this vagrant, who was walking, who was now down in
16 the parking lot walking toward the Visitor's Center.
17 And he said, "Is that the man?" And I looked at the
18 man, the vagrant, and I said, "That's definitely him".
19 And the park employee said, "Okay. That's all we need.
20 I've already called the police".

21 And so I went back to my van and that's the
22 last time --

23 Q You guys left the park at that point?

24 A Yes, uh-hum.

25 Q So you were gone long before the police had

1 arrived. You don't know?

2 A I didn't hear sirens or anything as we were
3 driving out, so --

4 Q So how did you learn about what happened?

5 A We went back to our motel. That evening I
6 saw something on the news.

7 Q You heard that the police were looking for
8 people who may have encountered him in the park?

9 A Yes, uh-hum.

10 Q And did you then call the police to let them
11 know that you were one of those people?

12 A Yes, uh-hum.

13 Q All right. Are those the only two phrases
14 that he said to you, the threat that he was going to
15 kill you twice?

16 A Yes.

17 Q Nothing else?

18 A Right.

19 Q Did you say anything to him?

20 A I -- I don't remember what I said. I
21 couldn't tell you, but I know that I tried to have an
22 attitude of not being afraid. So I just kind of -- I
23 don't know what I said, but I just wanted to give him
24 the impression that he wasn't scaring me. But he was.

25 MS. MOAWAD: Does anyone have any

1 questions?

2 JUROR: Did you indicate to any of the
3 police that he appeared to be drunk?

4 THE WITNESS: No.

5 MS. MOAWAD: Any other questions? All
6 right.

7

8 CHARLIE BOYNTON,

9 was thereupon called as a witness on
10 behalf of the State and, having been first duly
11 sworn, was examined and testified as follows:

12 **EXAMINATION**

13 BY MS. MOAWAD::

14 Q And if you would, would you tell us your name
15 and spell your last name, please?

16 A My name is Charlie Boynton, B-O-Y-N-T-O-N.

17 Q Charlie, on March 22nd, were you hiking with
18 your mom at Hoyt Arboretum?

19 A Yes.

20 Q As I understand it, you were a little bit
21 ahead of her. You had walked a little bit ahead of her
22 on the trail?

23 A Yes.

24 Q And so tell us about when you first
25 encountered this gentleman?

1 A Uhm, I walked ahead on the trail. I was
2 heading towards this water tower that was on the top of
3 the hill. And there was supposed to be a view past it.
4 And there is a little gravel trail that goes around
5 behind the water tower where you can't see anybody.
6 And there are some trees. I was walking along there.
7 And I saw someone sitting there next to the water
8 tower, and his back was facing me. He was on his
9 knees. I couldn't see what he was doing. And I kept
10 walking quietly along the gravel trail just to not
11 bother him.

12 Just as I was getting around to the other
13 side of the water tower and was passing by, he said,
14 "Hey you," or something like that. So I turned around
15 and said, "Hmm? What?"

16 And he got up, and he looked all disheveled
17 and, I don't know, just tired and was all shaking.

18 And he walked up to me. And as he was
19 walking down to me, he was walking slowly, like this.
20 And I could see that he had red on his hand. I didn't
21 know what it was. Then I saw on his shirt that there
22 was like red all smeared around his shirt, looked like
23 this.

24 And he walked up, and he was maybe around ten
25 feet away from me and he said, "I'm going to kill you".

1 And he looked right in my eyes. And I said, "Why would
2 you kill me? I haven't done anything to you". And he
3 looked kind of angry and confused. I didn't know what
4 to think, so I was kind of inching away. I said,
5 "Sorry. I haven't done anything to you".

6 So I just kept walking. Then I realized that
7 my -- then he just stepped back, and I didn't see him.
8 Then I realized my mom was following me from the other
9 side of the water tower.

10 So I sprinted around the opposite side of the
11 water tower back to where I had been to see where she
12 was, and she was walking back from where he was. I
13 could see him standing back, creeping behind the
14 bushes.

15 She walks back. I said, "Are you okay?" She
16 says, "Yeah, I'm fine". I said, "Let's get out of
17 here". And we just walked back down the hill, down to
18 our van in the parking lot.

19 Q A lot of what you have testified to you have
20 sort of been indicating with your hands physically.
21 And since we're doing a recorded or a record of this, I
22 just want to say when you said he was walking like
23 this, you kind of had your arms held stiff and you
24 almost looked like he was taking deliberate, short,
25 maybe staggering steps?

1 A Yes, kind of staggering, lurching, like a
2 zombie in a movie.

3 Q And then you said there was blood here, and
4 you grasped at sort of the collar area of your shirt?

5 A Yeah. It looked like finger -- I didn't know
6 for sure it was blood. It was just red on his shirt.
7 It looked like hand marks. It was all torn like this.
8 I don't know how to describe it.

9 Q And do you remember was that on a coat or a
10 sweater or a sweatshirt? Do you remember?

11 A It looked like a tee shirt.

12 Q Okay.

13 A He had some sort of jacket on top, but it
14 looked like a tee shirt underneath.

15 Q Did you go with your mom then down to the
16 Visitor's Center when she was alerting people to this
17 gentleman up by the water tank?

18 A No, I did not. We -- sorry.

19 Q No. Go ahead.

20 A We both walked down to the van. I got in the
21 back passenger's seat. And she told my dad that she
22 was going to go tell the person in the Visitor's Center
23 that there was some crazy guy telling people he was
24 going to kill them. So she went to the Visitor's
25 Center while I explained to my dad what happened in the

1 van.

2 Q Did you get out and talk to any of the park
3 employees when they were talking to your mom in the
4 parking lot?

5 A No.

6 Q Did you see the man when he walked through
7 the parking lots?

8 A Yes, I did.

9 Q And it was the same man?

10 A It was definitely the same guy.

11 MS. MOAWAD: Any questions? All right.

12 THE WITNESS: Is that it?

13 MS. MOAWAD: That's it.

14

15 (Recess 2:20 p.m. - 2:30 p.m.)

16 ANDREA LECKEY,

17 was thereupon called as a witness on
18 behalf of the State and, having been first duly
19 sworn, was examined and testified as follows:

20 **EXAMINATION**

21 BY MS. MOAWAD::

22 Q If you would start off by telling us your
23 name and spelling your last name, please?

24 A Andrea Leckey, and my last name is
25 L-E-C-K-E-Y.

1 Q Okay. And, Ms. Leckey, you were at the Hoyt
2 Arboretum on Monday, March 22nd?

3 A Yes.

4 Q All right. Behind you is a trail map. And
5 I'm going to ask you -- I'm going to give you a little
6 Post-It note with your last name on it here, and ask
7 you to put on that trail map approximately where you
8 were when you first heard whatever it is you first
9 heard?

10 A Right here.

11 Q Okay. Here's the Post-It note.

12 A I'm sorry.

13 Q So do you have your bearings?

14 A I know exactly where it is. I go there all
15 the time.

16 Q All right. So what did you first hear?

17 A Uhm, I heard talking, like loud talking, but
18 I just thought it was people until I heard gunshots.

19 Q Okay. When you heard the loud talking, could
20 you make out any words?

21 A No.

22 Q Could you make out whether it was a male
23 voice, female voice or a combination?

24 A To me, it sounded like just voices. But it
25 sounded like a man, not a woman.

1 Q So maybe more than one voice, but male
2 voices? .

3 A Yeah.

4 Q Then you said you heard what?

5 A Gunshots.

6 Q Okay. How many gunshots did you hear?

7 A Two and two, so four all together.

8 Q The first two -- well, let me ask you: You
9 say two and two, so were they separated in time?

10 A Well, not by much, but it was like two,
11 boom-boom, boom-boom.

12 Q In between the first boom-boom and the second
13 boom-boom, did you hear any more loud talking?

14 A Uhm, I heard not yelling or anything, but
15 just heard talking, like in general.

16 Q So you heard more voices coming from the same
17 general direction?

18 A Yes.

19 Q Okay. Could you see down into that Visitor's
20 Center area from where you were?

21 A No. Like not in front of the building, no.
22 I could only see the parking lot. I couldn't see the
23 Visitor's Center entrance.

24 Q So what did you do after you heard the second
25 set of shots?

1 A Well, I stood still for a minute, because I
2 had my kids with me. And, uhm, I was waiting to see --
3 because right there where I was standing, there are
4 many trails that meet in that area. So I was just
5 waiting to kind of see if -- I didn't know if someone
6 was on the trails doing something they shouldn't have
7 been doing or what. So I kind of waited to see if I
8 saw anyone running. And then I saw people -- because I
9 was going this way, I saw people coming this way. And
10 they were walking slowly. So I thought, oh, maybe it's
11 nothing, because they were walking towards me rather
12 slowly. I just asked them, "Did that sound like
13 gunshots to you?" And they said, "Yes, there is
14 something going on. There is a police officer yelling
15 for someone to put the knife down and we just decided
16 to walk away from it". That's how that went.

17 Q The people that you ran into, was that one
18 man and two women?

19 A Yes, yes.

20 Q Okay. Now, just because we're transcribing
21 this, when you say you were walking one way, you were
22 walking from --

23 A Towards the Center.

24 Q Towards the Center from the Magnolia trailish
25 area?

1 A Yeah, from I guess that's -- I don't know if
2 that -- yeah, that's --

3 Q Well, the green one is Wildwood.

4 A Yeah, it's just right where they meet,
5 because it starts to get concrete over here going
6 towards the parking lot.

7 Q And they were walking up, away?

8 A They were coming like from the parking lot,
9 looked like they were coming from there.

10 Q Once they told you there was a police officer
11 down there, did you feel it was safe to at least get
12 down to your car?

13 A No. I actually waited. Like I kind of
14 walked slowly, and I was like waiting. Then I heard
15 many police sirens. So then I thought it was safe to
16 go to my car.

17 Q Now, you mentioned you had your kids with
18 you. How old are your children?

19 A Twelve and thirteen.

20 Q And you guys, I assume, just got in the car
21 and --

22 A Well, we came around -- we saw people --
23 there were a lot of people in the parking lot at that
24 point. I don't know if they were trying to get to
25 their cars to get out, and then many police cars pulled

1 up in front. So we were walking around towards --
2 there is two ways up the parking lot, so we came around
3 this way and around to our car.

4 Q So sort of on the Fairview side?

5 A Where we actually could see the front of the
6 Visitor's Center, we could see where the man was
7 laying, to get to our car.

8 Q Your car was in that lot?

9 A Yes.

10 Q Okay. So you mentioned you saw him. You saw
11 him; was he already on the ground?

12 A Yeah. He was lying -- like we couldn't
13 see -- I could just see that he was laying there, like
14 this, like head, body and legs, but I couldn't see the
15 front of him because he was facing, you know -- he was
16 facing the other direction.

17 Q Did you see police officers --

18 A Yeah.

19 Q -- or one police officer?

20 A Well, at that point, there were people very
21 quickly coming to like -- it looked like they pushed
22 people away from the area. I don't know who they were.
23 Uhm, and then just many police officers, and I saw like
24 across the way there is -- I don't know what you call
25 those, but like where people picnic, but there is like

1 a top.

2 Q Well, it's up there in purple. It's called a
3 picnic shelter?

4 A There were police officers over there I think
5 with the officer, whoever it was, like hugging him
6 and -- so there were other officers already there.

7 Q So by the time you actually got there, there
8 was actually a group of officers at the picnic shelter?

9 A Yeah. There were many police there, yeah.

10 MS. MOAWAD: Does anyone have any other
11 questions?

12 JUROR: I do. How long a period of time
13 from the time you heard the shots until you actually
14 saw the body on the ground and the police officers
15 there? How long a period of time elapsed during that
16 time?

17 THE WITNESS: Maybe a minute or two,
18 because --

19 JUROR: Just a couple minutes?

20 THE WITNESS: Yeah, because that trail --
21 I mean, this isn't very long right here, this walk to
22 the parking lot. So I just kind of waited -- as soon
23 as I heard the shots, I waited a second, saw the people
24 coming, but I was walking towards them already. And
25 then they said something was going on. So I stood for

1 another couple seconds. I told the kids, "Well, let's
2 get in the car". As soon as I heard the sirens, I
3 said, "Well, let's at least get in the car". It was
4 probably a minute, minute-and-a-half.

5 JUROR: Then how much more time was it
6 before you saw who you believed to be the officer
7 involved in the shooting with the other police officers
8 over by the shelter?

9 THE WITNESS: By the time I pulled my car
10 out of the parking lot.

11 JUROR: It was that fast?

12 THE WITNESS: Uh-hum. I did stop in the
13 parking lot to speak to -- to speak to one of the
14 workers there from the Arboretum, because she was like,
15 "They need to clear out the parking lot". I said,
16 "Okay. I just want to get my kid". I had my dog with
17 me. I just said -- I just stopped briefly to tell her
18 I was sorry that happened where she worked and so --

19 BY MS. MOAWAD::

20 Q You mentioned that you then left. At that
21 point in time you did not let Law Enforcement know what
22 you had heard, right?

23 A No.

24 Q In fact, you were contacted by Law
25 Enforcement because they saw you on the news, right?

1 A Uh-hum.

2 JUROR: Did I hear you correctly that you
3 saw the body laying down?

4 THE WITNESS: Yes.

5 JUROR: Where were you? As you came down
6 that trail, then did you go out towards the street onto
7 the sidewalk toward the front entrance?

8 THE WITNESS: There is an entrance to the
9 parking lot right here.

10 JUROR: Right.

11 THE WITNESS: There is two rows in the
12 parking lot, and my car was parked there toward the
13 front. The body was right -- I mean, it was laying
14 right in front, like -- what is this?

15 JUROR: Can you identify where the --

16 THE WITNESS: I'm trying to figure out
17 what this is all.

18 BY MS. MOAWAD::

19 Q Let me help you get your bearings. So the
20 parking lot is up the stairs over here?

21 A Yeah, right here, actually, the body -- I
22 don't know what that is, because here's the steps. I
23 actually parked there so I could take my kids to the
24 restroom. And we came down those steps, and literally
25 right down the steps, he was laying straight, just like

1 that.

2 Q So if I show you -- will it be too upsetting
3 to show you another picture of it, or can you see it?
4 So if I show you picture 4, so the steps, the sidewalk
5 is there, so it was pretty much a straight shot right
6 there?

7 A Uh-hum.

8 Q Okay. So photograph 4 she says is
9 approximately where --

10 Okay. Any other questions? All right.
11 That's it. Thank you very much?

12

13 **NICHOLAS CICCOTELLI,**

14 was thereupon called as a witness on
15 behalf of the State and, having been first duly
16 sworn, was examined and testified as follows:

17 **EXAMINATION**

18 BY MS. MOAWAD::

19 Q If you would start off by telling us your
20 name and then spelling your last name?

21 A My name is Nicholas Ciccotelli,
22 C-I-C-C-O-T-E-L-L-I.

23 Q So you were at the Hoyt Arboretum on
24 March 22nd, 2010?

25 A Yes.

1 Q And tell us where you were and who you were
2 with when this all sort of got started?

3 A Okay. Well, when it all got started, we had
4 just shown up at the Arboretum. And me and two of my
5 friends I had with me walked down to the Visitor's
6 Center, down that little ramp from the parking lot, and
7 we saw a police officer and like two park rangers or
8 something like that. We heard them talk about
9 something like "the description matches" or something
10 like that.

11 We kind of just ignored it, walked inside. I
12 grabbed one of the four-mile walk pamphlets, walked
13 back out, walked around the ramp to the parking lot,
14 and I was right by -- it's right at the corner of the
15 parking lot where the Japanese Prickly Ash is. I don't
16 know if that helps.

17 But I started to hear some yelling, "Put the
18 gun down, put the gun down; down, get down." And then
19 the voice got a little more frantic. And then he said,
20 "Put the knife down" again, and then I heard two shots.

21 Q When you first said what you heard, you said
22 "Put the gun down". Did you mean --

23 A I'm sorry, knife.

24 Q So you heard someone yelling, "Put the knife
25 down" repeatedly?

1 A "Put the knife down," yeah.

2 Q Did you turn back around and take a look?

3 A We kind of stopped moving, and we looked
4 back. And we heard the yelling, and then we heard the
5 shooting. We didn't really go back towards that,
6 because generally trying not to go towards the bullet
7 shots.

8 Q Sure.

9 A So we kind of decided to leave the area. And
10 me and my two friends started out. And I think it was
11 the Outlook trail that we were walking up.

12 Q Are -- there is actually a trails map right
13 behind you.

14 A I know it was either -- parking lot -- it
15 doesn't --

16 Q Not every single one of them is --

17 A I thought it was right back there. I looked
18 at my map. I'm pretty sure it was either the Outlook
19 trail or another trail like right here.

20 Q I'm actually going to give you this Post-It
21 note with your last name on it. Will you kind of put
22 that where you were when you first started hearing the
23 yelling?

24 A When I first started to hear the yelling?
25 Here.

1 Q Perfect. So you heard the two shots?

2 A Yeah. So we decided to go down the Outlook
3 trail, and we saw, who I found out was Leckey later
4 from the news and stuff, walking towards us, and we
5 hear two more shots. You could kind of hear something
6 off in the distance, but I really don't know what it
7 was before the shots.

8 And then we started talking to her, and she's
9 like, "Did you hear gunshots?" And we're like, "Yeah.
10 They couldn't have been real though, right, but it was
11 twice".

12 So we were just kind of standing there and
13 Leckey passed us heading back to the parking lot. And
14 me and my two friends decided to follow her.

15 And the six of us and the dog walked through
16 the parking lot, around the outer edge. And I didn't
17 see the victim. All I could really see was lots of
18 police cars. There was a man with a shotgun -- a
19 police officer with a shotgun of some sort aiming
20 towards the inside of the Visitor's Center.

21 And then we worked our way over here where
22 the back exit to the Visitor's Center was. And the
23 staff started to come out, and we talked to them. And
24 they were like, "Yeah, the cops kind of want to close
25 down the Arboretum," which made sense. So me and my

1 two friends decided to leave at that point. We hadn't
2 talked to any officers.

3 And we took off down Fairview to the left.
4 We saw a lot of police cars. We actually counted 13,
5 two ambulances, two fire trucks and three helicopters.

6 Q You mentioned -- I want to go back. You
7 heard the first two shots, and then you said you heard
8 something, but you couldn't quite make it out and then
9 two more shots?

10 A Voices.

11 Q Voices. So you heard -- did they sound like
12 the same voices?

13 A I was too far away at that point.

14 Q Okay. And sorry if you already said this. I
15 don't recall. About how long between the two sets?

16 A Two, three minutes.

17 Q How long.

18 A Two to three minutes, enough time for me to
19 go from here in the parking lot, talk for probably like
20 20 seconds, grab my jacket and then walk like halfway
21 down the trail where I found Leckey.

22 Q Okay. When you were back around, you know,
23 sort of toward the front of the parking lot with
24 Ms. Leckey and her kids and your friends and the dog?

25 A Okay.

1 Q Did you see the police officer? I know you
2 said you couldn't see the deceased where he was
3 laying --

4 A There were a lot of police officers at that
5 point in time. About the time when we started to talk
6 to Leckey, we started hearing a lot of police sirens.
7 Like I said, there were 13 police cars there. So, I
8 mean, I probably saw him, but that wasn't what I was
9 trying to focus on.

10 Q So you didn't, for example, see him standing
11 with his gun drawn? You may have seen the officer, but
12 you didn't see him engaged with the suspect at all?

13 A No, I didn't see the suspect at all, so --

14 Q And did you ever then see any officers over
15 toward the picnic shelter?

16 A Where's the picnic shelter?

17 Q Across the street from -- see the Post-It
18 note that says "Simon"?

19 A When we got back, there were cop cars lining
20 this street. So there were officers like from here to
21 here.

22 Q Okay. So nothing in particular stood out for
23 you at that point?

24 A Yeah. There were just so many people there
25 at that point in time.

1 MS. MOAWAD: Does anyone have any
2 follow-up questions? All right.

3
4 LESLIE HAMMOND,

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

8 **EXAMINATION**

9 BY MS. MOAWAD::

10 Q If you would start off, please, by telling us
11 your name and spelling your last name?

12 A It's Leslie Hammond, H-A-M-M-O-N-D.

13 Q Ms. Hammond, you were at the Hoyt Arboretum
14 on March 22nd?

15 A I was.

16 Q I have a little Post-It note with your last
17 name on it. And behind you is a Trails of the Hoyt
18 Arboretum map. Can you put the Post-It note about
19 where you think you were when you first heard something
20 going on? And do you have your bearings there?

21 A Yeah. This -- this is Arboretum -- the
22 Arboretum was right here.

23 Q Exactly.

24 A All right. Yeah. I was, yeah, right here.

25 Q Okay. Perfect. So, from where you were when

1 you first could hear things, could you also see over
2 towards the Visitor's Center?

3 A I could see nothing.

4 Q So what did you first hear that caught your
5 attention?

6 A I heard two shots.

7 Q So you did not hear any voices leading up to
8 that?

9 A No voices.

10 Q Obviously caught your attention when you
11 heard two shots?

12 A Definitely.

13 Q What happened after that?

14 A I was walking my dog up towards the main road
15 that runs between Fairview and Burnside. There is a
16 road that winds through the Arboretum. So I just kept
17 walking, and thought, "Gosh, that sounded like
18 gunshots". And then I heard some angry yelling. It
19 sounded like one person. And then I heard two more
20 shots, and that's all I heard.

21 Q When you heard the angry yelling, could you
22 make out any words that were being said?

23 A Not a word.

24 Q From the first two shots to the second two
25 shots, about how long of a period of time do you think

1 elapsed?

2 A This is a guess, but probably no more than a
3 minute.

4 Q Did you go back up and take a look, or did
5 you just sort of continue on home and then --

6 A Actually, I walked up to the -- to where the
7 road was, put my dog in the car and drove back up. And
8 the reason I did that is because I was worried about
9 loud gun fire in the Arboretum and I was curious about
10 who would be shooting in the Arboretum.

11 Q So you drove then southish on Fairview?
12 Where were -- were you parked down on Fisher?

13 A I was right here, okay. And so I drove up to
14 here, and then I turned here and I drove by here. And
15 then I drove up, because I live over here. So it's a
16 natural circle for me.

17 Q So, did you see the person we now know as
18 Mr. Collins? Did you see Mr. Collins' body?

19 A I did not.

20 Q Did you see Officer Walters?

21 A I did not.

22 Q By the time you were making that loop, were
23 other police officers coming into the area?

24 A No. I was right there, right after it
25 happened.

1 Q Okay.

2 A And when I turned, the Arboretum house is on
3 the left, I saw a police car tucked under the -- sort
4 of under the bank right near the front door.

5 Q So if I showed you picture 1, is that the
6 police -- where you saw it?

7 A Actually, it was close to the sidewalk as you
8 go into the Arboretum. So that isn't quite right, at
9 least from what I remember.

10 Q Okay.

11 A And I saw a man standing on the sidewalk in
12 front of the officer's car and a woman across the
13 street on a sidewalk. And those are the only two
14 people that I saw.

15 Q And you then proceeded up Fairview and just
16 went straight?

17 A I did. And I saw about -- I think three to
18 five other young hikers at the first road on the left.
19 They were coming across the road, and they were
20 obviously making cell phone calls. They heard the
21 shots as well.

22 Q Went home then and presumably you saw on the
23 news what happened, and that's when you decided to call
24 in?

25 A I didn't, actually.

1 Q Oh, okay.

2 A I saw it in the paper the next morning.

3 MS. MOAWAD: " &@, À &-E &v-L

4 &Ú-5 &>.ü %V*

5 MS. MOAWAD: Our next witness scheduled
6 is Ms. Worzalla, she and I had scheduled for 3:30. So
7 I think we're probably going to be able to break maybe
8 for a half hour. So why don't we all check back in at
9 3:20.

10 (Recess taken 2:55 p.m. - 3:27 p.m.)

11

12 MEGAN WORZALLA,

13 was thereupon called as a witness on
14 behalf of the State and, having been first duly
15 sworn, was examined and testified as follows:

16 **EXAMINATION**

17 BY MS. MOAWAD::

18 Q And if you would, tell us your name and spell
19 your last name, please?

20 A Megan Marie Worzalla, W-O-R-Z-A-L-L-A.

21 Q I got it stuck in my head that there was an H
22 in Megan, but I hear I'm wrong about that.

23 A That's wrong. There is no H. M-E-G-A-N.

24 Q Were you up in the Hoyt Arboretum on
25 March 22nd?

1 A Correct.

2 Q I have a little Post-It note here with your
3 name on it.

4 A Okay.

5 Q Behind you is a map of the Trails of the Hoyt
6 Arboretum.

7 A Okay.

8 Q So just so you have your bearings --

9 A Okay.

10 Q -- right here we have the Visitor's Center in
11 that parking lot. There is some water tanks here.
12 Fairview is here, and the picnic shelter is there.

13 A Okay.

14 Q Do you know approximately where you were when
15 you first started to realize something was going on?

16 A Right. I was at the Visitor's Center, so
17 just right there.

18 Q All right.

19 A Okay.

20 Q So were you inside the Visitor's Center?

21 A No. I walked up on -- is this like north?

22 Q Yes.

23 A So I walked up. I came from the parking lot
24 north of the Visitor's Center, I guess, northeast. But
25 I walked up on the west side. I went on like a little

1 trail. It was just a -- it was off like the
2 side-walking area, just a little trail, nothing, you
3 know, long. Came back up and then walked around the
4 south -- then the south side to come up to where I
5 could see the opening of the Visitor's Center.

6 Q Okay. So, what did you first then see or
7 hear?

8 A Oh, the first thing, which I guess I didn't
9 really hear anything until I walked up and saw them --
10 at least nothing that I can remember. I would assume
11 if I would have heard some commotion I wouldn't have
12 kept walking.

13 When I first -- when I saw them, I stopped
14 because I saw the police officer and a gentleman, who
15 appeared to be bloody, from my perspective, that looked
16 like he had blood on him.

17 Q And where was the police officer?

18 A The police officer was -- let's see --

19 Q I was just going to have you -- so the
20 parking lot's --

21 A Right.

22 Q -- up here?

23 A So I walked around the building. And
24 wherever the entrance is -- or wherever you go around
25 and then the Visitor Center, so I would have been, I

1 guess, right here?

2 Q So you were sort of behind the bloody man
3 then?

4 A Oh, if that's where the bloody man was, when
5 I walked up --

6 Q Well, I don't know. He moved around. I'm
7 sorry.

8 A This is weird. I guess if I was actually
9 there, I could show you specifically. But if you -- if
10 there is a trail and you can walk this way and then
11 this is the opening of the Visitor Center, then I was
12 right here.

13 Q I'm going to show you --

14 A Yeah, if there is a real-life picture. Okay.

15 Q So these are -- this is the pathway up to the
16 parking lot here. I'm looking at photograph 7, and I
17 will turn it around to show you guys here in a second.

18 A No, you can't get -- there is not a path
19 right there. I don't think so, from that perspective
20 at least.

21 Q Okay.

22 A I mean, unless there is -- I wasn't like --
23 I -- I didn't go like right here. It went around
24 like -- there was a walkway around, and that's what I
25 took. So I must have been --

1 Q So if I'm understanding, you weren't right up
2 against the building here?

3 A Well, I don't --

4 JUROR: Sounds like she was on the other
5 side.

6 A I'm not for sure. I walked from the parking
7 lot behind the -- the building this way and then I
8 turned there. Wherever the path was, I went around
9 this way, and I could see the policeman and the
10 gentleman.

11 JUROR: How close to the street were you?

12 THE WITNESS: I don't know that either.

13 BY MS. MOAWAD::

14 Q So you don't know?

15 A No. Yeah. So if there was like another -- I
16 wasn't -- like when I walked around, like I could see
17 they are like 30 feet from me. Like I was at the -- so
18 I probably was down maybe -- I don't -- I can't tell.

19 Q That's fine. That's fine. Okay.

20 A I just know I could see them both.

21 Q Okay. So when you could see them, where was
22 the officer?

23 A The officer from -- if I was looking at them,
24 the officer was a little bit to my right but straight
25 in front of me, and the gentleman was to my left, but

1 also in front of me.

2 Q Okay. So when you are looking at this then,
3 do you remember if the officer was, for example --
4 here, we'll just look at some pictures.

5 A Sorry. It would be easier if I was actually
6 there.

7 Q No. That's all right. I'm sure. In
8 photograph 6, this is the pathway that then goes up to
9 the stairs to the parking lot.

10 A Okay.

11 Q And obviously this is the courtyard here that
12 is kind of pictured, not necessarily in this picture.

13 A Okay.

14 Q So was the officer anywhere in this pic --
15 this part of it?

16 A He was in the court --

17 Q More in the courtyard?

18 A Right, uh-hum.

19 Q So looking at picture 4 then?

20 A Right, they were somewhere -- like they would
21 have been like somewhere -- he would have been
22 somewhere around here, and the man would have been
23 somewhere around there. They were both in the same
24 area.

25 Q Okay. So very close, maybe just a few feet

1 apart from one another?

2 A I would say they were like the police officer
3 was here and the gentleman was this way. So I would
4 say, I mean, they were probably within five, ten feet
5 of each other.

6 JUROR: About from me to you?

7 THE WITNESS: Correct. I would say so,
8 yes.

9 BY MS. MOAWAD::

10 Q So what do you first -- you see the man has
11 blood on him?

12 A Correct.

13 Q What happens -- what are you seeing?

14 A Well, I'm seeing him from like his, I guess,
15 right side, sort of, and back. And what happened was
16 the police officer was telling -- the police officer
17 with the gun -- he had his gun pointed at him and he
18 was telling him to put down the knife, put down the
19 knife, which I never saw a knife. But, like I said,
20 most of the time I saw the gentleman from his back.

21 So I don't know what was going on in the
22 front. But also he kept telling him repeatedly. The
23 man never responded to him at all at any time. The man
24 never said a word, not even a noise. But the man was
25 also like -- when he kept telling him to put down the

1 gun, he was almost like stumbling and cowering away,
2 what I mean, cowering, going like this, but yet he was
3 also spinning up like this. So it was like he didn't
4 know what to do, it appeared to me, or he couldn't walk
5 straight, either/or. I don't know which one, but
6 that's how it appeared to me.

7 Q Okay. While you were noticing them, were
8 either one of them -- you kind of mentioned how he was
9 moving, how the man was moving around. Was the officer
10 moving at all that you noticed?

11 A Right, yeah, he was. He was more or less
12 backing up. Uhm, but not -- you know, not like running
13 back, but just kind of backing up, as I guess you would
14 when you don't know what you are going to do,
15 because -- you know what I mean? So you are like
16 slowly kind of backing up, like just so, I guess, so
17 you could decide which way you are going to go, you
18 know.

19 Q Okay. So he continued to face the man, but
20 was trying to create a distance between them?

21 A Correct, uh-hum.

22 Q So he is telling him to drop the knife?

23 A Uh-hum.

24 Q You didn't see a knife, but certainly the man
25 never appeared to drop anything?

1 A Right, he never -- yeah, yeah.

2 Q Okay. What happened next?

3 A He kept saying -- you know, when he said
4 repeatedly, I don't know, maybe five or six times that
5 he said -- the police officer said to drop the knife to
6 the man and the man wasn't responding. Like I said, he
7 never responded at all. So the police officer shot
8 him.

9 And I -- I mean, I saw him with his gun. I
10 heard the bullets, and I shook like this -- or I heard
11 the fire, I should say. At that point, the gentleman
12 did not -- he didn't respond at all. He didn't grab
13 himself. He didn't scream. He didn't fall to the
14 ground, anything. If anything, he just kind of more or
15 less stood there. It was very strange to me. I have
16 never seen anyone get shot, but I would think you would
17 react.

18 And at that point, I just thought in my head,
19 you know, they are just -- honestly, I know I heard and
20 saw the gun. But in my mind I told myself he couldn't
21 have really just gotten shot, because I never seen
22 anybody shot. That's why at that point, then I started
23 walking away.

24 Q Okay.

25 A Then I walked around the same way I came and

1 went up. When I got around the corner of the building,
2 so I would have been on the west side of the building,
3 which -- so I would have been somewhere like here.

4 Q Okay.

5 A I'm thinking that's where I was. If I was
6 like -- see, I wasn't as close.

7 Q That's not really to scale.

8 A Okay. Anyway, when I was like around here, I
9 don't know, it was probably 30 seconds, maybe a minute
10 had passed by the time I got that far, I would say,
11 uhm, where I heard two more shots fired. And I shook
12 like that. And I just kept on walking, told myself
13 "Just", you know, "go to your car, everything will be
14 fine".

15 But then when I was turning the corner, I
16 also saw people that were up on a trail, and they
17 literally were on the ground. So then I kind of got
18 scared thinking, "Why are these people on the ground?"
19 Okay. They just heard these shots. Everything's fine.
20 That's when I got in my car and still told myself "They
21 are just containing him. They are going to have like
22 police come with an ambulance or something. They are
23 just going to take care of this, and I should just stay
24 out of the situation".

25 And then I saw three white squad cars. When

1 I say squad cars, they had sirens going, they were
2 unmarked, coming up. Let's see, so if I was facing the
3 parking lot, if I was in the parking lot like this and
4 this is -- this is the parking lot I'm in and the
5 Arboretum is right here, they were coming up from this
6 side. I decided I'm going to go this way and get out
7 of Hoyt that way so I don't interfere with anything
8 that's going on.

9 Q Okay. So, again, were you in the parking lot
10 that's right sort of attached and above, or were you
11 across the street?

12 A Right. That's attached, correct.

13 Q You were in that parking lot?

14 A Uh-hum.

15 Q So when you say -- using that map again --

16 A Right.

17 Q Did you go again -- did you take a left on
18 Fairview effectively and go that way or a right on
19 Fairview?

20 A No, no. Well, whatever way when you get out
21 of that parking lot, I took a left.

22 Q Okay.

23 A So if that's Fairview, then that's the road I
24 took, correct. Then I went back through Washington
25 Park.

1 Q Okay. When you saw and heard the first two
2 shots --

3 A Uh-hum.

4 Q -- if I'm remembering right, did you almost
5 think maybe it was rubber bullets?

6 A Yes.

7 Q That is what you had said to the policeman?

8 A Correct, uh-hum, because I couldn't believe
9 that -- I'm sure rubber bullets hurt, but I couldn't
10 believe you won't react to being shot at all, like
11 nothing. It just blows my mind. Like I would assume
12 it hurts, you know. That's -- so it was really
13 strange.

14 Q After those first two shots, so you said he
15 didn't really react at all?

16 A Correct.

17 Q Did you see anything else, or is that when
18 you just sort of -- your mind kind of shuts down and
19 you turn around?

20 A Right -- yeah, after -- after I saw him stand
21 there and the police officer is still holding the gun
22 towards him, but like I said, he didn't react like --
23 When I saw that, I'm okay, like, and then I just
24 assumed that, you know, that they were just going to
25 take care of the situation. That's when I turned and

1 left. So I didn't see what happened after that.

2 Q Did you hear anything after those shots were
3 fired?

4 A After the first initial two, I heard the next
5 two.

6 Q Okay. Did you hear the officer saying
7 anything in between those two shots?

8 A No.

9 Q Okay. All right. Did you see the man moving
10 at all after the first two shots?

11 A No. He just like kind of stood there.

12 Q Okay. What about the officer, was he
13 continuing to back up, or were they both at that point
14 holding their ground?

15 A Right, pretty -- exactly.

16 MS. MOAWAD: All right. Any questions?
17 All right. That's it.

18 **JEFF CHADSEY,**

19 was thereupon called as a witness on
20 behalf of the State and, having been first duly
21 sworn, was examined and testified as follows:

22 **EXAMINATION**

23 BY MS. MOAWAD::

24 Q And if you would start off by telling us your
25 name and spelling your last name, please?

1 A Jeff Chadsey, C-H-A-D-S-E-Y.

2 BY MS. MOAWAD::

3 Q And, Mr. Chadsey, were you at the Hoyt
4 Arboretum on March 22nd?

5 A Yes.

6 Q Okay. I have a Post-It note here with your
7 name spelled incorrectly. I added an L in there. I'm
8 sorry. With your last name. Behind you is a map of
9 the Hoyt Arboretum Trails. Could you, using this
10 Post-It note, kind of put up on that map where
11 approximately you were when you first started to hear?

12 A Uhm, see, where's the Visitor's Center?

13 Q Sorry. Thanks. I should have -- so the
14 Visitor's Center is here and the parking lot is right
15 here. The picnic area's over here.

16 A Uhm, right here.

17 Q Great. All right. So did you see certain --
18 did you see some of this incident?

19 A Okay. I was walking to the parking lot, and
20 I was heading toward the bathroom. And I got to this
21 railing where the stairs go down, and there is a
22 handicap ramp to the right. I get to the railing, I
23 see this officer crouched down in the bushes with a
24 handgun. And I looked over here, and I see another
25 officer with like an assault rifle. I'm like "What's

1 going on?" And the guy -- the officer with the rifle
2 is pointing his rifle at a man that's kind of like in a
3 fetal position on the ground. And he's saying, "Could
4 we see your hands?" "We need to see your hands".

5 And I saw the gun on the ground, and I
6 thought maybe he's drunk or something. And then
7 workers from the park came up, and they said,
8 "Everybody must leave the park". And I got in my car
9 and left.

10 Q Okay. Prior to that, had you -- while you
11 were out hiking around, had you heard anything?

12 A No.

13 Q Okay. And you said you saw a gun on the
14 ground. Did you see a shiny object, or are you certain
15 it's a gun?

16 A I thought I -- I thought I saw something
17 black in the man's hand.

18 Q Okay, in the man's hand that was laying on
19 the ground?

20 A Yes.

21 Q While those officers were yelling at that man
22 at that point, did you see him moving at all?

23 A No.

24 Q So he was not responding to them at all?

25 A No. They were doing a communication check.

1 MS. MOAWAD: Okay. Does anyone have any
2 questions for Mr. Chadsey? All right. That's it.

3 JUROR: That's all. Thank you.

4

5 SARA CLARKE,

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

9 **EXAMINATION**

10 BY MS. MOAWAD::

11 Q And if you would, please, state your name and
12 spell your last name.

13 A Sara Clarke, C-L-A-R-K-E.

14 Q And, Ms. Clarke, were you at the Hoyt
15 Arboretum on March 22nd, 2010?

16 A I was.

17 Q Okay. I'm going to give you a little Post-It
18 note with your name on it. And behind you is a map of
19 the Hoyt Arboretum trails. So the orange in the middle
20 is the Visitor's Center. And the parking lot's
21 starting to get covered up by other Post-It notes. But
22 where were you hiking?

23 A Uhm, are you asking when the shots were
24 fired?

25 Q Yeah -- I'm sorry. Did you see the man

1 before that?

2 A I did, yes.

3 Q So tell me where -- let's put your Post-It
4 note where you first encountered the man.

5 A So it would have been -- he was coming off
6 the trail here. We were heading out of the parking
7 lot. So if that's where the parking lot is.

8 Q All right. What about the man kind of drew
9 your attention to him, or did he stand out to you in
10 some way?

11 A Yeah. He appeared to be covered in blood,
12 although honestly, it seemed strange to us that he
13 would be walking around seemingly fine. So we thought
14 maybe it was paint or something. Yeah, I mean, he just
15 had blood -- well, substance all over his shirt and
16 then on his jacket as well.

17 Q And when you saw him, was he walking toward
18 the Visitor's Center or away?

19 A Toward.

20 Q Toward the Visitor's Center.

21 And so then what happened?

22 A Uhm, he passed us, and we continued up into
23 the Arboretum. I think we spent maybe 20 minutes
24 there-ish, and began to come down. And then, in fact,
25 we were above the parking lot when we heard the first

1 set of shots. There was some screaming or noise,
2 commotion, and then two more shots.

3 Q Okay. Could you see from the parking lot
4 down into the Visitor's Center area at all?

5 A No. We were actually above the parking lot,
6 itself. So the Visitor's Center would have been below
7 that. So we were on a little trail that was kind of
8 going up, farther up into the woods.

9 Q Did you hear any voices before the first two
10 shots, any loud voices?

11 A No.

12 Q So you hear the two shots, and then you said
13 you heard screaming or loud --

14 A It seemed -- what I recall was hearing a
15 woman's voice scream and then what I thought was a
16 man's voice yell and then more noise. I couldn't
17 actually discern after that.

18 Q Then you heard the second two shots?

19 A And then the second two shots.

20 Q About how long in between that first set of
21 shots and the second set of shots?

22 A I'd have to say between maybe four and seven
23 seconds, maybe ten at the most. I don't know. But it
24 was -- I think ten would actually be too much. It
25 seemed as if it was like shot, shot, noise, shot, shot.

1 So maybe closer to four or five seconds.

2 Q What did you do after that second set of
3 shots?

4 A Uhm, we stood there a little bit in shock of
5 what we thought was happening. I advised my friend to
6 call the police. We encountered another gentleman at
7 that point coming up the hill and away from where the
8 shooting was, and we all stood there. And then the
9 police advised us what to do from there, from that
10 point.

11 Q So did you take off at that point and then
12 call in, or were you interviewed that day?

13 A We took off. We had called the police to let
14 them know that there had been shots. They advised us
15 to leave. We said that our car seemed to be closer to
16 the shots than we were already. They said maybe not go
17 to the car then. We ended up going down the hill
18 though anyways. At that point, we encountered a woman
19 probably like in her 40's -- late 30's early 40's --
20 who had advised us then to leave and said that she was
21 with the Police Department and that they were going to
22 lock the area off.

23 Q So you were in your parking lot and got in
24 your car there, took off?

25 A Yeah.

1 MS. MOAWAD: Okay. Any questions for
2 Ms. Clarke?

3 JUROR: I do have one question.

4 MS. MOAWAD: Okay.

5 JUROR: You say he had a shirt on with
6 blood on it. What kind of a shirt; do you remember?

7 THE WITNESS: It was -- it seemed like he
8 was wearing a white undershirt with a tan sweater,
9 maybe a ribbed sweater, underneath that -- I mean on
10 top of that. I'm sorry. And what was obviously the
11 blood was concentrated up around this area and then
12 appeared to be dripping down his shirt.

13 BY MS. MOAWAD::

14 Q And just since we're transcribing it, when
15 you say "up in this area," your collar, neck area?

16 A Yeah, neck area.

17 MS. MOAWAD: Thank you. No further
18 questions?

19

20

21

22

23

24

25

1 (Recess taken 3:50 p.m. - 4:07 p.m.)

2 CARSON SHERLOCK,

3 was thereupon called as a witness on
4 behalf of the State and, having been first duly
5 sworn, was examined and testified as follows:

6 **EXAMINATION**

7 BY MS. MOAWAD::

8 Q And if you would start off by telling us your
9 first and spelling your last name, please?

10 A My name is Carson Sherlock, S-H-E-R-L-O-C-K.

11 Q Mr. Sherlock, you were at the Hoyt Arboretum
12 on March 22nd; is that right?

13 A Yes.

14 Q All right. Behind you is a map of the Trails
15 of the Hoyt Arboretum?

16 A Yeah.

17 Q And I have a little Post-It note with your
18 name on it here.

19 A All right.

20 Q So just to get your bearings, this is
21 Fairview here. This is the Visitor's Center, and there
22 is a parking lot kind of under all these Post-It notes
23 here.

24 A Right on the corner there.

25 Q On the corner of Kingston? Actually that

1 turns into Knight there?

2 A So I rode the elevator -- oh, rode the MAX,
3 went up the elevator, then walked up the road until I
4 got to the corner there.

5 Q So I'm going to put a Post-It note where
6 Knight runs into Fairview.

7 So that's the spot you were when you first
8 heard some sound?

9 A Yeah.

10 Q So tell us what you heard.

11 A I heard some arguing, not totally sure what
12 the arguing was, because we weren't really paying
13 attention. We were about ready to skateboard down the
14 hill, so we were just gearing up. So then we heard
15 arguing, we kind of stopped, looked at each other.
16 That's really not friendly yelling.

17 So then we heard two gunshots ring out. And
18 like birds were flying and everything. It was just
19 like "Whoa, what just happened?" Then we heard more
20 arguing and heard something to the effect of, "Drop it"
21 or "Put it down". And then another two gunshots rang
22 out and everything went silent.

23 Q Now, you were saying, "we". So you were up
24 there with someone?

25 A Yeah.

1 Q Who were you up there with?

2 A Alex Schuurmans and my friend, Jacob Borja.

3 Q Did you guys -- what did you guys do after
4 that second set of gunshots?

5 A We stood there, and we weren't about ready to
6 go down the hill because we weren't sure what really
7 played out. So we just waited there until all the
8 police started coming up from different roads. We just
9 stood there about two minutes maybe just watching
10 everything that happened until we eventually left.

11 Q How long do you think -- how much time passed
12 between the first two gunshots that you heard and the
13 second two gunshots that you heard?

14 A Maybe five, ten seconds or something, not
15 very long at all.

16 Q All right. And when you say you guys left,
17 you went back to the MAX? You just decided to go to
18 the entry and skateboard?

19 A What we did is we followed some trails around
20 the whole area until we got to towards the end of the
21 chain of hills. Then we just went down to the small
22 area in Washington Park that has like the hairpins and
23 stuff, we just skate around on that all day, and then
24 we boarded the MAX and went home.

25 Q So did you have the -- did you go by the

1 Visitor's Center, or did you stay away from there?

2 A We stayed away from the whole scene. We just
3 completely walked around until we got way further down.
4 I think it might still have been Fairview, but way
5 further down.

6 Q So you personally didn't ever really see
7 anything over there?

8 A No, we didn't have a visual because we didn't
9 want to go near the gunshots.

10 MS. MOAWAD: Does anyone have any
11 questions?

12 JUROR: No.

13 MS. MOAWAD: All right. That's it.

14

15 **ALEX SCHUURMANS,**

16 was thereupon called as a witness on
17 behalf of the State and, having been first duly
18 sworn, was examined and testified as follows:

19 **EXAMINATION**

20 BY MS. MOAWAD::

21 Q All right. If you could please tell us your
22 name and spell your last name?

23 A Okay. Alex Schuurmans, S-C-H-U-U-R-M-A-N-S.

24 Q And were you with Carson and another friend
25 on March 22nd at the Hoyt Arboretum?

1 A Yes.

2 Q So behind you is a map of the Trails of the
3 Hoyt Arboretum. And there is a Post-It note with the
4 name "Sherlock" there. Do you see it?

5 A Uhm, yes.

6 Q Is that your memory -- kind of in your memory
7 where you first heard some shouting as well? Were you
8 guys at that intersection there down by the road?

9 A Yeah.

10 Q So what did you first hear?

11 A Uhm, I heard arguing. I wasn't -- I wasn't
12 paying much attention, so I didn't know what was being
13 said, but I did hear arguing and then shortly followed
14 two gunshots, and then I heard an officer with a
15 commanding sounding voice saying, "Put it down, put it
16 down," and two more shots followed.

17 Q When you say "arguing", to me that means you
18 heard at least two voices?

19 A Uh-hum.

20 Q That your -- is that your recollection?
21 Could it have been just one voice?

22 A It could have been one, but the possibility
23 there is two. I wasn't paying much attention, so --

24 Q And between the first set of shots, the first
25 two shots and the second two shots --

1 A Yes.

2 Q -- about how long a period of time do you
3 think there was?

4 A Uhm, maybe six to ten seconds, a decent
5 interval.

6 Q And what did you guys decide to do at that
7 point?

8 A Uhm, I pretty much just looked at them both
9 and was like, "That's gunshots for sure". And so we
10 were just kind of a little shocked, didn't know exactly
11 what to do.

12 I called up the skate shop owner. He's a
13 good friend of mine, and I just kind of told him what
14 happened. I was like, "Do you want to call 911 or
15 something and make sure something's happening?" But by
16 the time I was done with the conversation, there was
17 squad cars already coming in.

18 Q All right. And then did you guys go on some
19 paths and do a little skate boarding?

20 A We went through some paths all the way around
21 it to get to like halfway of where we would have ended
22 up if we had gone on a normal day.

23 Q Did you ever look over toward the Visitor
24 Center or see anything over in that direction?

25 A We sort of did, but from a distance only

1 could see light -- like the lights from the squad car.
2 That's it.

3 MS. MOAWAD: Does anyone have any
4 questions? All right. All done.

5 And our last witness for the day arrived
6 15 minutes early.

7

8 **TRACY CHAMBERLIN,**

9 was thereupon called as a witness on
10 behalf of the State and, having been first duly
11 sworn, was examined and testified as follows:

12 **EXAMINATION**

13 BY MS. MOAWAD::

14 Q And I will have you start out by stating your
15 name and spelling it, please?

16 A My name is Tracy, T-R-A-C-Y, Chamberlin,
17 C-H-A-M-B-E-R-L-I-N.

18 Q How are you employed?

19 A I am a police officer with the City of
20 Portland currently assigned to the Training Division.

21 Q How long have you been with the Training
22 Division?

23 A Just over five years.

24 Q What sort of training did you personally go
25 through back when you started as a police officer?

1 A Well, quite a bit. When I was still in law
2 school, I was a Reserve at Washington County so I had
3 26, 28 hours of training, went through the DPSST Basic
4 Academy, which I think was eight weeks back then. I
5 have problems remembering that. It has been awhile.

6 Then I went through the Portland Police
7 Bureau Advanced Academy, and I have gone through
8 numerous other schools since I have been employed with
9 the Portland Police Bureau.

10 Q How long have you been with the Portland
11 Police Bureau?

12 A In July, it will be 13 years.

13 Q So, prior to your assignment with Training,
14 which started five years ago, were you a patrol
15 officer?

16 A Yeah. I worked patrol at East Precinct, deep
17 93 to by Marine. I worked as a senior neighborhood
18 response officer, response officer under Chief Kroeker,
19 and I worked special details at East Precinct. My
20 whole career was at East Precinct.

21 Q You mentioned going to lots of other
22 trainings since you have been with the Police Bureau.
23 Is some of that training being a trainer?

24 A I went through Special Firearms school,
25 firearms instructor -- I was lead firearm instructor

1 for four years, currently patrol tactics, taser
2 instructor, shield instructor, ATV instructor. That's
3 all I can think of off the top of my head.

4 Q So when you are instructing officers through
5 the Bureau, you mentioned the Portland Police Bureau's
6 Advanced Academy. Is that -- do you do that training
7 of officers?

8 A Yeah. Now I'm primarily responsible for
9 educating our new cops at the Advanced Academy. Prior
10 to that, I worked In-Service, which is educating the
11 tenured cops, people that have been on the Police
12 Bureau more than a year-and-a-half or so. Now I'm
13 teaching new cops as they come through our 12-week
14 Advanced Academy.

15 Q You mentioned firearms training. Well, tell
16 us what that means.

17 A I went through a Firearms Instructor course
18 with the Police Bureau, which was about two weeks long,
19 and I have hundreds and hundreds of hours of
20 instruction time with our people in the Police Bureau
21 and I have taught other things, taught down at DPSST.

22 Q When you say, "firearms detail", does that
23 entail shooting at a target or things like moving
24 around with a firearm? What does firearms training
25 just in general mean?

1 A Primarily, what we teach is marksmanship,
2 skills to shoot what you are hitting -- hit what you
3 are shooting at.

4 Q So firearms training in general? You said
5 primarily we start with marksmanship?

6 A I teach primarily skills necessary to be a
7 good shooter, which is marksmanship. I teach a little
8 bit of moving and shooting. We teach the skills
9 necessary to move from one place to another, including
10 retreats. We teach all different skills involving
11 firearms.

12 Q You said that you also train patrol tactics.
13 What does that mean?

14 A That's an area for police skills. Patrol
15 tactics encompasses all the skills necessary to be a
16 good police officer. Some of the primary skills that
17 we teach are high-risk vehicle stops, building clears,
18 how to encounter persons -- "person encounters" we call
19 it on the street -- how to go up and talk to somebody,
20 engage people, whether they be good or bad; traffic
21 stops, how to conduct a traffic stop and numerous other
22 little skills associated with those major skills.

23 Q You also mentioned taser training?

24 A Right.

25 Q So can we talk about different degrees of

1 force, including lethal and less lethal?

2 A Yeah, the only non-lethal force that I teach
3 is taser. Firearms, of course, is not taught as
4 less-lethal force. In firearms we focus -- and patrol
5 tactics as well -- we focus quite a bit on
6 transitioning between lethal force and non-lethal force
7 and we spend a lot of time talking about Graham v.
8 Connor and the legalities of using force and
9 transitioning from lethal to non-lethal and the
10 decision-making process that cops have to go through
11 when they are engaging a person, deciding to use
12 whatever level of force.

13 We talk about threat assessment. When you
14 are engaged with a person and you feel that you have to
15 use force, about looking at the totality of the
16 circumstances surrounding the incident and deciding
17 which level of force is appropriate and then
18 implementing that force, how to do that correctly.

19 Q What sort of training is done with regard to
20 a person encounter where the person being encountered
21 by the officer has a sharp object of some kind; a
22 knife, screwdriver, some kind of sharp object?

23 A We teach officers that are encountering
24 somebody that has a sharp object to treat that person
25 as a threat, a definite threat.

1 There is a misconception in police work that
2 may be taught other places that we're very clear to
3 articulate to our new students. It's called the
4 21-foot rule. The misconception out there is with this
5 21-foot rule, anybody within 20 feet -- 21 feet with an
6 edged weapon is considered a deadly threat. We teach
7 totality of the circumstances. The 21-foot rule, I
8 think it's important to understand that began -- I
9 think that the first article that came out about that
10 was back in 1983. And basically, it just illustrates
11 the point that somebody within 21 feet is going to be
12 able to get to you with an edged weapon before you can
13 fire at that person.

14 The average time a person can cover in
15 seven yards or 21 feet is in about 1.5 seconds. They
16 can cover seven yards in 1.5 seconds. Whereas for you
17 to respond to a threat coming at you with an edged
18 weapon within that same distance, it's going to take
19 you 1.7 seconds to get your gun out of the holster and
20 fire an accurate shot center mass at your threat.
21 Hence is 21 feet real? We don't teach that as
22 all-encompassing. That's what it is. We teach
23 whatever it is, totality of the circumstances.

24 We teach officers when they are responding to
25 a person with an edged weapon to evaluate their whole

1 surroundings. We can step behind cover if there is a
2 tree, if there is a car. We can put a chair in front
3 of us to give us some extra time to react to the
4 threat. We evaluate the threats physical appearance.
5 Is the person 90 years old; which will probably take
6 them a lot longer to get there. Is the person 18?
7 Appearing fit, they can get to us a lot quicker.

8 Trying to evaluate -- it's hard but trying to
9 evaluate the person's mental state. Does the person
10 seem to be a threat? Is the person acting aggressive?
11 Does the person look like they are going to come at us
12 any second? So there is a lot that goes on.

13 I can talk about this forever. I'm sure the
14 court reporter will probably kill me by then.

15 We look at a lot of factors, not just the
16 distance, but everything that's encompassed in the
17 incident when we're addressing the threat.

18 Q So when an officer is addressing a threat, do
19 you teach them -- you were mentioning trying to put
20 obstacles in between the officer and the threat. Is
21 the officer also trained to attempt to increase that
22 area, increase that gap between themselves and the
23 threat?

24 A As long as it doesn't put that officer in a
25 disadvantaged -- a position of disadvantage. Hence,

1 you wouldn't walk down him a rocky slope, because that
2 would be a bad thing to do backwards. If it's
3 appropriate and you have room to do it, we teach
4 officers to absolutely back up. Ideally, we wouldn't
5 want officers to back up in straight lines. We would
6 want them to L out or do a J offsetting themselves from
7 the threat, making it harder for the threat to get to
8 us.

9 Q If an officer is alone dealing with a threat,
10 talk to me a little bit why less-lethal force like a
11 taser would be effective or ineffective for that
12 officer?

13 A We teach if less-lethal force is to be used
14 against a person, we always need to have lethal cover
15 with us. You put yourself in a huge disadvantage to go
16 less lethal with a person, have it not be effective and
17 then have to transition to your handgun or lethal. By
18 that time, it might be too late.

19 Q I would like to spend a few minutes talking
20 about the potential limitations of a taser. What
21 would -- what are the advantages and disadvantages of
22 using a taser in a situation?

23 A Depending on the circumstances, tasers offer
24 a lot of advantages. They would immobilize a person if
25 you get good hits. But tasers, if you don't know how

1 they function, they are basically a straightened-out
2 fish hook on the end. And for it to be effective
3 against a person, you have to get what's called a "good
4 spread", meaning a distance between each of the probes
5 when they strike the person. If you are at really
6 close quarters and you are shooting somebody with a
7 taser, it's going to be a minimal spread, because you
8 don't have time for those probes to spread out. You
9 need the electrical charge that surges through the body
10 to have such distance they are operative upon the
11 person. If they are close together, it might hurt,
12 even would disable the muscle that's penetrated, but
13 not disable the person at all. We also have a huge
14 disadvantage with the tasers.

15 People with heavy clothing, if I shoot
16 somebody that has a heavy coat on or heavy leather
17 jacket or even multiple layers of clothing, that person
18 may not be affected by the taser, because the probes
19 will not be able to penetrate the clothing and will
20 have no effect.

21 One of the other disadvantages, if I shoot a
22 taser at a moving person, I have a very good chance of
23 missing. They are not super-accurate guns. They have
24 a minimal sight and they have a laser sight. If I'm
25 hitting with only one probe, it's not going to have any

1 effect at all. So there is a very good chance you miss
2 with a taser at any distance, especially if the person
3 is moving.

4 Q Are officers trained to engage in
5 hand-to-hand combat with an individual who has a sharp
6 object?

7 A No. We are taught to keep our distance.
8 What we will stress with somebody with a sharp object
9 is to keep your distance. We do teach disarming
10 techniques. If you have last resort, the person is on
11 top of you before you can do something about that, then
12 we do teach disarming techniques. Generally, when we
13 are talking about somebody with an edged weapon, we
14 urge keep your distance, keep your distance, keep your
15 distance. Distance gives us the ability to think,
16 gives us the ability to react.

17 Q When you are talking about a totality of the
18 circumstances, with a sharp object, are officers
19 trained that a sharp object is a dangerous or a deadly
20 weapon or what are they --

21 A If you look at the ORS, the Oregon Revised
22 Statutes, dangerous weapons, deadly weapons, dangerous
23 weapons are weapons that are designed specifically to
24 hurt or kill somebody.

25 Q Let me interrupt you just for a moment

1 because you used a term "when you look at the ORS".

2 A Right.

3 Q You mean the Oregon Revised Statutes?

4 A Correct. So what we would teach as far as a
5 knife, an edged weapon, we would teach it to be a
6 dangerous weapon.

7 Q What is the definition of a dangerous weapon?

8 A Any kind of a weapon or instrument how it's
9 used that could inflict death or serious bodily injury.

10 Q Could an X-Acto knife inflict death or
11 serious bodily injury?

12 A Absolutely.

13 Q We may have already touched on this, but I
14 have in my notes here to talk to you about
15 action-reaction. Do you think we have covered that
16 pretty well?

17 A I think it would be worth talking about a
18 little more.

19 Q Okay. Let's talk about that then.

20 A Action-reaction is one of the fundamental
21 concepts that we teach officers, and we repeatedly
22 teach it to them because it's very important. It's
23 always important to know when we teach cops that your
24 ability to react is always going to be slower than a
25 person's action.

1 The test that we use to demonstrate that is
2 with a handgun. In a classroom setting, we're in a
3 controlled setting, we have a student, whoever we are
4 teaching at the time, stand with the gun pointed at
5 somebody, pointed at an officer, one of the training
6 officers, and we give that student specific
7 instructions. "Okay, you are going to keep your gun up
8 on the target. You are going to keep your finger on
9 the trigger. What I want you to do is to shoot the bad
10 guy" -- which the instructor plays the bad guy -- "as
11 soon as you see the instructor start pulling the gun to
12 shoot you". We have the instructor either tuck the gun
13 in the waistband or put the gun down at their side and
14 just hold on to it. And you would think -- and people
15 do because they have a misconception about
16 action-reaction -- that I can shoot the person before
17 they can shoot me because they are at a disadvantage; I
18 have my finger on the trigger and locked on the target.

19 I have done this demonstration many times,
20 and I have never ever seen the officer lose -- the bad
21 guy always wins in this scenario. That's because
22 action always beats reaction.

23 If you think about why that takes place, for
24 somebody to react to a threat, they have a lot going
25 on. It's not simply mechanical movement of pulling the

1 gun, pulling the trigger. We're processing what we
2 see. We're thinking, "What's happening in front of
3 me?" We're making a decision what to do based on that
4 action, and then we have to transfer that into our
5 finger to actually pull the trigger. That takes a lot
6 of time, a lot more time than people realize.

7 We always teach officers because it's vitally
8 important they always know that action always beats
9 reaction.

10 We just did that drill for media, KGW, all
11 the other networks, put them all through it, and they
12 were quite impressed. They thought for sure they would
13 be able to shoot us before we shot them. It was quite
14 an eye opener.

15 Q I know that some people move away from this
16 term, but I want to talk about it because I think
17 it's -- you know, there are things that are sort of out
18 in the general community or general understanding of
19 police work and that's what I would sort of shorthandly
20 refer to as "continuum of force", meaning that you, as
21 I understand it, start with verbal commands and kind of
22 work your way through a series of uses of force. So
23 can you talk about the continuum of force just
24 generally?

25 A Sure. It's another kind of misconception

1 amongst people that aren't educated in police work that
2 if a subject does X, we do Y. If subject changes their
3 behavior to X squared, then we do Y squared. It's not
4 truly the way that we function.

5 In the past maybe before I was a police
6 Officer, maybe before I was born, that's the way it
7 worked, but now we base our decisions based on what we
8 call the "constitutional model". We look at the
9 totality of the circumstances of an event to determine
10 what our reaction is going to be. We use what you
11 referred to as the "continuum", use-of-force continuum,
12 as kind of a base, because you have to have a starting
13 point. Knowing if somebody has an edged weapon we have
14 the right to pull our gun and point it at them because
15 we're behind, because of action-reaction we already
16 talked about. That doesn't mean we have the right to
17 pull the trigger in that gun, but we are ready just in
18 case we need to.

19 Q Just so that we're clear, there are a variety
20 of kind of forces that can be used, but an officer need
21 not use every kind of force sort of up the force ladder
22 before ultimately using deadly force?

23 A Correct.

24 Q If the situation warranted it -- and I don't
25 want to put words in your mouth, so correct me if I'm

1 wrong. So, if a situation warranted it, an officer
2 could go immediately to deadly force?

3 A Yes, absolutely.

4 Q And you have mentioned -- you just said
5 something about just because a person had a sharp
6 object doesn't give the officer the right -- a right to
7 pull the trigger?

8 A Correct.

9 Q So -- and you have talked about totality of
10 the circumstances. So what are the kind of
11 circumstances that an officer is trained to look for in
12 making that ultimate decision to use deadly force?

13 A I think primarily the first thing the officer
14 is going to look at is the subject's behavior. Is the
15 subject acting aggressive? Is the subject complying
16 with what the officer's telling them to do? Probably
17 "Drop the weapon" would be one of the first things the
18 officer would say.

19 Looking at the subject's demeanor, is he in a
20 fighter's pose, ready to go, or is he wandering around
21 aimlessly, not posing a specific threat to the officer?

22 Then you would start determining things like
23 your environment. Where are you at? Do I have a lot
24 of other potential victims that are close by that may
25 be affected by this person if he bolts and runs the

1 opposite way from me and starts heading towards the
2 family or some other individuals that are there?

3 Then you start looking at the basic
4 environment that you are standing in. Is it terrain
5 that's conducive to getting away from this person if I
6 need to? Is there cover available to me? Is it wet?
7 Is it slippery outside? Am I uphill from the person?
8 Down from the person? So there are numerous factors we
9 would look at when we are making the decision whether
10 or not to use deadly force.

11 Q And presumably information that the officer
12 has from outside sources about the threat before he
13 even encounters the threat, would that --

14 A Absolutely. You get the call from Dispatch,
15 which would give you plenty of information prior to
16 arriving to start doing your threat assessment even
17 before you saw the bad person, and then your own
18 information that you would gather on the way to talk to
19 the bad person. You know, if you have witnesses or
20 complainants coming up to you and say, "Hey, this
21 person is doing such and such an activity," then that
22 would add in our threat assessment of the individual.

23 Q When you are doing the firearms training, you
24 mentioned that some of the firearms training focuses on
25 sort of the movement in shooting. Are officers trained

1 to continue to face the threat, even if they are
2 attempting to move backwards away from the threat, or
3 are they trained to turn their back on the threat and
4 try to get away?

5 A We are never trained to turn our back on a
6 threat. We always want to face the threat to be able
7 to see what the threat is, what the threat is doing.
8 We can move laterally or backwards, but we always want
9 to face the threat.

10 Q Any sort of specialized motion or movement
11 that you try to encourage officers to do in that
12 backward movement?

13 A We try to teach them to move only as quickly
14 as they can so they don't endanger themselves to fall
15 down or have what we call a negligent discharge. If
16 you have your hand on the gun and you are moving, if
17 you fall or something trips you, there is a good
18 tendency you might actually pull the trigger. So it's
19 never a very rapid movement. It's a slow, deliberate
20 movement, as fast they can move quickly. We are never
21 running as fast as we can backwards with a gun out.

22 Q And when we're talking about verbal commands,
23 are officers trained to use specific tones, or is it
24 again going to be responding to your circumstances?

25 A It's primarily determined by the

1 circumstance. You are going to do your threat
2 assessment with the person you are encountering. You
3 want to be firm. You want to show authority in your
4 voice, but it's pretty much going to be dependent on
5 the person that's in front of you.

6 MS. MOAWAD: Does anyone have any
7 additional questions for Officer Chamberlin?

8 JUROR: I have one. Do you train your
9 officers how to specially handle mentally ill people.

10 THE WITNESS: We have gone through a
11 training that encompassed the entire Police Bureau.
12 It's called our CIT training. That's Crisis
13 Intervention Training, which specifically deals with
14 how to handle people with mental illnesses or mental
15 deficiency.

16 JUROR: People that are mentally ill?

17 THE WITNESS: Right. Every officer
18 that's working patrol, working the street in the
19 Portland Police Bureau has gone through that course.
20 It was mandatory.

21 JUROR: Thank you.

22 JUROR: I just want -- I just had one
23 kind of -- well, you actually touched on it, but I just
24 wanted to ask it again, because I wanted to make sure I
25 fully understand.

1 In the instance of a sharp object, like
2 an X-Acto knife, which you class -- you referred to as
3 a dangerous weapon, I believe, it's -- it's -- I think
4 the average lay person would not see that as a
5 deadly -- a potential for causing death. To then fight
6 it with something that is definitely -- what would make
7 that in your mind a situation that would make it
8 justified to hit somebody with a gun, if it's an X-Acto
9 knife, that's probably not going to cause death, or is
10 that assumption wrong?

11 A Yeah. I would disagree with your assumption.
12 A well-placed cut with an X-Acto knife would absolutely
13 be lethal. Or even if it wasn't a lethal cut, it could
14 be -- an injury to the extent the officer wouldn't be
15 able to be functioning, if he got cut in the eye or he
16 got cut to the extent in the head he was bleeding and
17 he couldn't see.

18 I'm not a knife guy, by any means, but I have
19 read a lot about knives and knife attacks. And
20 somebody who has an edged weapon and knows what he's
21 doing with it is a very, very dangerous person. It
22 doesn't take a very deep cut in the carotid artery to
23 kill you. It doesn't take a very deep cut in the
24 femoral artery, brachial artery. Simple slash with any
25 type of edged weapon in the correct place could be

1 lethal easily.

2 JUROR: This is what you would be
3 training the officer, just what you said to us, is what
4 they would be learning in training, correct?

5 THE WITNESS: With an edged weapon.

6 JUROR: Just what you said to me?

7 THE WITNESS: Yes.

8 BY MS. MOAWAD::

9 Q That actually reminded me to ask a question
10 about body armor. Most officers wear body armor that
11 would protect their torso only; is that fair to say?

12 A Correct. Your body armor will basically
13 extend just above your navel to your throat. Most of
14 your throat is exposed. And body armor is a compressed
15 Kevlar fiber, kind of a hybrid fiber that's designed to
16 stop specifically high-velocity rounds -- not super
17 high-velocity rounds. The effective level we have is
18 3A. It will stop up to .44 caliber or a .357. It
19 won't stop rifle round.

20 And interestingly enough, if somebody has a
21 knife in their hand or an edged weapon, it will
22 penetrate our bullet-proof vest just like a thick
23 shirt. It's not going to have any kind of effect on
24 stopping an edged weapon.

25 Going back to your statement earlier,

1 something reminded me to say -- or your question. I
2 read a statistic not that long ago when I was teaching
3 a class with the Advanced Academy about edged weapons
4 in particular. And it was interesting to me, because I
5 didn't realize this, that six out of ten people that
6 are attacked, are shot with a gun, die from their
7 wounds sustained by the gun. Eight out of ten people
8 that are attacked by a knife die from the wounds
9 sustained by the knife, which is a 20% increase. You
10 have a 20% more likely chance to die from an
11 edged-weapon attack than you would from a handgun,
12 which was surprising even to me knowing how dangerous a
13 bladed -- guns to be and edged weapons to be.

14 MS. MOAWAD: Any other questions?

15 THE WITNESS: It's been a long day for
16 you guys.

17 JUROR: You are the 25th.

18 JUROR: I would like to ask something.
19 Do all officers use the same kind of gun? Do you all
20 have the same type of gun?

21 THE WITNESS: We all shoot the same
22 caliber, which is a nine-millimeter. And we just have
23 two variants of that. One is Glock 17. One is Glock
24 19. The only difference is Glock 19 is a little
25 shorter for people with smaller hands. But we all

1 shoot the same type of caliber.

2 JUROR: Do any of those guns -- could
3 they cause when someone gets a shot just that person to
4 fall forward, you know, knock the person down
5 basically --

6 THE WITNESS: No.

7 JUROR: -- just by getting the shot?

8 THE WITNESS: That's totally a Hollywood
9 misconception. Guns will never knock you backwards.

10 JUROR: I don't mean this, but -- I mean,
11 if you get one of the shots, could you just keep
12 walking?

13 THE WITNESS: Oh, absolutely, yeah. And
14 many people do. Many people who are engaged with
15 multiple rounds will just keep aggressing. There are
16 very few places somebody can be shot that will
17 immediately drop them.

18 BY MS. MOAWAD::

19 Q I will ask another question. One of the --
20 one of the -- I guess I'll say, criticisms that I have
21 heard when it comes to these kinds of -- well, when it
22 comes to firearm use is why didn't the officer just
23 shoot to maim versus shooting to kill? So why aren't
24 officers trained, for example, to shoot the hand that a
25 person's holding an edged weapon in and just knock it

1 out of the hand?

2 A Because that's an extremely difficult task to
3 accomplish. To hit a moving target is hard enough.
4 When officers are involved in shootings, one of the
5 biggest hinderances to be an effective shot is they are
6 under stress. They are thinking to myself, "Oh, my
7 God, somebody is attacking me". And that stress, that
8 psychological impact on the officer, is probably more
9 dangerous at that time before the person is upon them
10 than anything else. The ability to be an effective
11 shot with that kind of stress on you is something
12 that's hard to train, because we don't have that kind
13 of stress on the range. And to hit a moving target is
14 very, very, very difficult.

15 I was a SERT sniper. I was an Army sniper
16 for about two-and-a-half years. We trained in that.
17 Even with all the training we went through, that was
18 one of the hardest things to do is hit a moving target.

19 One of the other reasons we wouldn't advocate
20 doing that is your rounds on the person, like you
21 asked, wouldn't have any effect. Maybe you are
22 shooting to wound the person, but may not slow them
23 down. A determined person that wants to hit you, cause
24 harm to you simply by getting hit in the shoulder or
25 leg, might not slow them down at all, hardly even

1 recall it. It may take multiple rounds before it has
2 any impact on the person at all, even if you are
3 shooting them in the arm.

4 JUROR: In your training of officers, if
5 in this kind of situation -- I have heard a lot about
6 "suicide by cop". In situations I assume that you
7 train your officers for how to cope with someone that
8 when you look at the totality, it appears that you have
9 got a suicide by cop?

10 THE WITNESS: It's definitely something
11 that we talk about and we know is out there.

12 JUROR: Does it change your tactics at
13 all if you suspect that's what your situation is?

14 THE WITNESS: Yeah, absolutely it would
15 change our tactics. If we knew that was the type of
16 call we were dealing with right off the bat, we would
17 try to keep our distance. And we have special units
18 within our Portland Police Bureau, the HNT, the Hostage
19 Negotiation Team. We have mental health workers that
20 could be dispatched to help, could be advised.

21 JUROR: That all requires knowing ahead?

22 THE WITNESS: We would need to know in
23 advance that's what we were dealing with. That would
24 definitely change our tactics, I think.

25 JUROR: One last question, and I hope

1 it's not from Hollywood again. Do you teach your
2 officers how to possibly de-escalate the situation, try
3 to reason or, you know, just see how they can calm
4 things down?

5 THE WITNESS: That's always -- I think
6 that's a good question. I think that's always our
7 number one goal in any situation. They got fancy words
8 for it. Some people call it "verbal voodoo". Ideally,
9 that's the way we would like every single call we go on
10 to be.

11 We emphasize communication because one of
12 the most important skills, especially for our new cops,
13 we want them to be able to establish communication with
14 people so we can talk them down if at all possible. If
15 we could talk every single person down that we
16 encounter, whatever the situation, it would be
17 fantastic.

18 JUROR: Any further questions?

19 MS. MOAWAD: All right. Thank you very
20 much.

21 THE COURT: Okay, guys. Fifteen minutes.
22 Get a good night's rest.

23

24 (Evening recess was taken at 4:45 p.m.)

25

1 STATE OF OREGON)
2 County of Multnomah) ss.
3
4

5 I, Estelle T. Keating, Official Court
6 Reporter of the Circuit Court of the State of
7 Oregon, Eleventh Judicial District, certify that I
8 reported in stenotype the foregoing proceedings in
9 the above-entitled case.

10 I further certify that my stenotype
11 notes were reduced to transcript form by
12 Computer-Aided Transcription under my direction.

13 And I further certify that transcript
14 dated 4/1/10, pages 1-83 and 96-206, constitutes a
15 true and accurate record of my stenotype notes.

16 Dated this 5th day of April, 2010, at
17 Portland, Oregon.

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20 *Estelle T. Keating*
21 Estelle T. Keating
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MULTNOMAH COUNTY GRAND JURY

DEATH INVESTIGATION

Deceased: JACK DALE COLLINS)
DA Case No. 2190450
Date of Incident: 3/22/10) Grand Jury 1
Location: Hoyt Arboretum) Grand Jury Case No. 123
4000 SW Fairview, Portland, OR)

VOLUME 2

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled Grand
Jury proceedings were heard, commencing at the hour of 10:50
a.m. on Friday, April 2, 2010 at the Multnomah County
Courthouse, Portland, Oregon.

APPEARANCES

Ms. Heidi Moawad, Deputy District Attorney,
Appearing on behalf of the State;

JULIE L. BOURGEOIS
Court Reporter
Multnomah County Courthouse
1021 SW 4th Avenue Rm. 554
Portland, Oregon 97204

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1 TRANSCRIPT OF PROCEEDINGS 4/2/10 10:50

2

3 SAMSON AJIR,

4 called as a witness in behalf of the State,

5 being first duly

6 sworn, was examined and testified as follows:

7 JUROR: Have a seat.

8 MS. MOAWAD: If you would start off by

9 telling us your name and spelling your first and last
10 name.

11 THE WITNESS: Sure. First name Samson,

12 S-A-M-S-O-N, last name Ajir, A-J-I-R.

13 EXAMINATION

14 BY MS. MOAWAD:

15 Q How are you employed?

16 A Employed as an officer with the Portland police.

17 Q Were you so employed March 22nd, 2010?

18 A Yes.

19 Q Were you working a two-man car with Officer
20 Christopher that day?

21 A Yes.

22 Q At about 3:28 that afternoon, did you hear a call
23 from Officer Walters asking for Code 3 cover?

24 A I did.

25 Q Were you a driver or passenger that day?

1 A Driver.

2 Q Did yourself and Officer Christopher decide to
3 head that direction at that point?

4 A Yeah.

5 Q Do you remember about how soon after the Code 3
6 request Officer Walters updated that call to being a shots
7 fired call?

8 A I want to say about ten seconds maybe.

9 Q Okay. And while en route, did you also hear
10 Officer Walters giving sort of tactical directions how to
11 more easily arrive at the scene, things of that nature?

12 A Yes.

13 Q Were you and Officer Christopher among the first
14 officers to arrive at the scene?

15 A I was the first.

16 Q Now, tell me this, how long have you been with the
17 bureau?

18 A About a year. In two weeks I will be out a year.

19 Q Are you still considered a trainee or probationary
20 officer?

21 A Yes, both.

22 Q As part of your training, though, have you learned
23 general protocols for officer involved shootings?

24 A Yes.

25 Q So when you arrived, how long was it before

1 Officer Bledsoe asked you -- or I guess let me back up.
2 Tell us what you saw as you both arrived.

3 A Sure, I will walk you guys through it. Officer
4 Bledsoe, and I believe Officer Hubbard --

5 JUROR: There's a map, not to scale, above
6 you. Use that.

7 THE WITNESS: Perfect. The two cars came up
8 behind me as we go through all of the curves back
9 here. We came up here, I knew these two were behind
10 me. And I'm trying to get a feel for what I'm looking
11 at here. This -- there's supposed to be a berm here,
12 is that what I'm looking at?

13 BY MS. MOAWAD:

14 Q Yeah.

15 A I came up, parked right about here, and the other
16 two guys came here. We came out of our cars, there was a
17 big tree here. I assume that's what that is. I took cover
18 behind this. I observed Officer Hubbard coming out over
19 here with his rifle. Officer Bledsoe and my coach, Officer
20 Christopher, came to this other big tree there.

21 When I came up on scene, there was a man jumping
22 up and down waving his arms, that Officer Walters told us on
23 the radio to expect a guy in a black hat -- wearing a black
24 hat, jumping up and down directing us in. He was jumping up
25 and down, took off that way. We stopped there, those guys

1 peeled out here. I'm behind that tree. I drew my weapon,
2 took a cursory glance around the area and saw a downed
3 subject facing away from me, I could not see his hands.

4 Another officer was yelling out commands over
5 here, so it was Christopher or Bledsoe was yelling out
6 commands to him. He was unresponsive, and virtually this is
7 all instantaneous. I'm pulling my gun, keeping it depressed
8 ready.

9 Officer Bledsoe comes over to me and says, we need
10 to take Jason over here. I cross this over here, put my gun
11 away, Officer Walters put his gun away. As we were leaving,
12 Officer Bledsoe said, "Don't talk to him about anything." I
13 said, "I know." We went up over here, there's a sidewalk
14 that comes back alongside of the road here. We came down
15 here, went underneath an A-frame.

16 While I walked Walters over here, he asked to
17 borrow my company issued Nextel from right here. So he
18 borrowed my cell phone and he called his wife. I'm standing
19 next to him. I heard he said, "I'm okay, involved in an
20 officer-involved shooting. Everything is fine. I'll talk
21 to you tonight." He gave me back my phone. I said, "How
22 you doing?" He said, "I'm okay. It happened really fast."
23 I could tell he was in the moment right there. But we
24 walked down here, as we were walking, I said, "Take a couple
25 deep breaths, try to relax."

1 We sat down on a bench here. While we sat there,
2 I took my phone and called the union up, got the appropriate
3 union representatives paged out. And I stayed with him and
4 basically nothing was said until Sergeant Holbrook came and
5 relieved me. I went back to take care of some more tasks.

6 Q Just for the record's sake, I wanted to -- because
7 you were doing a lot of pointing at this map, saying I went
8 over here, I went over there. So you were on what would be
9 the south side of the berm?

10 A Correct.

11 Q Officer Hubbard on the north side of that walkway
12 behind the berm?

13 A Yes.

14 Q And Officers Bledsoe and Christopher were up near
15 the staircase that leads to the parking lot, somehow they
16 were closer to that?

17 A Correct. And I believe when we arrived, Officer
18 Walters was out here with the subject at gun point. Just
19 doesn't feel like it's to scale.

20 JUROR: It is not.

21 THE WITNESS: He was down -- Walters was
22 about here, it looked to be about twenty feet, had him
23 at gun point. He was backing up, still talking on the
24 radio, and that was a very quick blur.

25 BY MS. MOAWAD:

1 Q Officer Walters was sort of where the staircase
2 ramp and handicapped access ramps intersect?

3 A Yes.

4 Q In that general location?

5 A Yes.

6 Q Anyone have questions?

7 JUROR: I think you clarified it a little
8 bit. I wanted to make sure I have it crystal clear.
9 When you arrived, the subject -- the subject had not
10 yet been shot the second two times?

11 THE WITNESS: No, he had. I did not hear any
12 shots on arrival up here. I had my lights and sirens
13 going until here.

14 JUROR: The shots had happened and he was
15 down?

16 THE WITNESS: He was down facing away from us
17 unresponsive. As I drove in, I glanced up and saw
18 Walters and the subject, and stopped. I was out of
19 the car in a couple of seconds behind the tree.

20 JUROR: What confused me, you said he was
21 issuing commands?

22 THE WITNESS: Once we all had come out of the
23 car, somebody was issuing commands to put hands out to
24 your sides, not knowing if the man was still alive.

25 JUROR: That's what I needed. Thank you.

1 BY MS. MOAWAD:

2 Q Actually, that does remind me, one of the
3 questions the grand jurors had yesterday. You mentioned he
4 was facing away from you. Was he on his side?

5 A He was laying on his side with his head this end,
6 feet down here like extended, fetal position, facing away
7 from us. Looked like his hands were like this, facing away
8 from us.

9 Q On his --

10 A Left side.

11 Q Left side?

12 A Correct.

13 Q With his head facing sort of to the north?

14 A Correct.

15 Q Diagonally to the north, feet to the south?

16 A Yes.

17 JUROR: The custody team had not come in?

18 THE WITNESS: No. I did not witness the
19 custody. I pulled Walters out of there. That's when
20 they started forming the custody team to move.

21 JUROR: He was in a fetal position?

22 THE WITNESS: Yes.

23 JUROR: Okay.

24 MS. MOAWAD: Okay. Any other questions?

25 JUROR: Can we show him the picture, have him

1 compare where the victim is in the picture to what you
2 saw when you arrived?

3 MS. MOAWAD: Sure.

4 BY MS. MOAWAD:

5 Q I will show you one wide shot, photo number 4, and
6 then one close up shot which is photo number 13. So, the
7 general placement of the body in 4, is that approximately
8 the same location you saw the man before the custody team?

9 A Yes.

10 Q And then in the closer up shot 13, probably a few
11 differences in appearance. What would those be?

12 A That he has the flexcuffs on, his leg is pulled
13 up. It's a variation of the post-shooting position.

14 JUROR: Other than the fact that the feet are
15 moved, are there any differences other than those two,
16 the flexcuffs are there and the legs are there?

17 THE WITNESS: Does not appear to be.

18 JUROR: Perfect.

19 JUROR: What did you say about his feet?

20 THE WITNESS: They pull the knee up. It's
21 supposed to stop them from rolling back onto their
22 front side. Post-shooting position has a knee pulled
23 up.

24 MS. MOAWAD: His knee is more bent --

25 JUROR: Thank you for clarifying that. I

1 appreciate it.

2 JUROR: May I ask something? As you escorted
3 Officer Walters to where he was going to sit, did he
4 seem -- how was his demeanor? Upset?

5 THE WITNESS: He was maybe -- what's the
6 word, kind of in shock almost, that it just happened.
7 He said at one point while walking that it happened so
8 fast. So, I mean, I could tell he was thinking about
9 it. He was not right there with me walking down
10 there, he was reliving I think what had just happened.
11 He seemed kind of distant, that's a good word for it.

12 JUROR: Was that typical police protocol, as
13 soon as you arrive at the scene --

14 THE WITNESS: Immediately.

15 JUROR: -- you remove the officer?

16 THE WITNESS: Immediately. You want them
17 close, but not in the visual.

18 JUROR: Does he have to do anything like put
19 his gun in a plastic bag or --

20 THE WITNESS: He's not supposed to keep
21 handling it. He put it in his holster. We maybe
22 should have put it in plastic bag, I don't think
23 that's necessary protocol. He just had it in the
24 holster. A sergeant came in and took over and -- took
25 over from there.

1 JUROR: It all happened according to the
2 rules?

3 THE WITNESS: Very much so.

4 JUROR: Thank you, so much.

5 BY MS. MOAWAD:

6 Q I will remind the grand jurors as a whole, when
7 Officer Slater testified, recall at some point the
8 detectives do take possession of the firearm, they do the
9 round count, and that's where the firearm remains today is
10 with detectives.

11 Okay. All right. Thank you.

12 (911 transmission was played for the jurors
13 as follows:)

14 "MR. MOELLER: Hi. My Name is Dan Moeller
15 calling from Portland Parks Bureau. I'm at Hoyt
16 Arboretum. We have an intoxicated fellow, looks to
17 possibly be a transient up here, who is threatening
18 people on the trails. And I just saw him walking
19 through our parking lot.

20 911: What's the address there?

21 MR. MOELLER: 4000 Southwest Fairview.

22 911: Where exactly can we find him?

23 MR. MOELLER: Last time -- I just walked
24 down, he was in our parking lot. I'd have to go back
25 out to see if he's traveling somewhere else. I

1 probably think maybe coming towards the visitor's
2 center.

3 911: White, Black, Asian, Hispanic --

4 MR. MOELLER: He's white, 5-8, 180 pounds.
5 He's carrying a plastic bag with probably liquor in
6 it, wearing a hooded sweatshirt.

7 911: What color?

8 MR. MOELLER: The hooded sweatshirt is like
9 tan, his jacket appeared to be down, maybe greenish,
10 forest green, wearing blue jeans.

11 911: About how old?

12 MR. MOELLER: Probably 50 years.

13 911: Okay. 50. I'm sorry, what was your
14 name again?

15 MR. MOELLER: My name is Dan Moeller, last
16 name Moeller, M-O-E-L-L-E-R.

17 911: And a phone number we can reach you at?

18 MR. MOELLER: PHONE # REDACTED

19 911: Okay. Anything -- is he actually like
20 physically trying to harm anyone? Or maybe kind of
21 yelling at people?

22 MR. MOELLER: There are a couple of women who
23 said he threatened them, it was their description.

24 911: Okay. Did they say like what
25 specifically he said?

1 MR. MOELLER: I didn't get that yet. I have
2 one of them outside here. I wanted to get a call in
3 to see if there was an officer in the area.

4 911: Okay. All right, sir. I'm going to go
5 ahead and get this set up -- get an officer out there.
6 If you do find out if he's trying to like physically
7 harm people, definitely give us a call back.

8 MR. MOELLER: Sounds good.

9 911: Okay. I'll get it set up.

10 MR. MOELLER: Can I give my cell phone to
11 you?

12 911: Yes.

13 MR. MOELLER: } PHONE # REDACTED
14 911:

15 MR. MOELLER: Yep.

16 911: Thank you.

17 MR. MOELLER: Good-bye."

18

19 (In addition, the track regarding radio
20 transmissions was played, however unable to
21 be transcribed.)

22

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1 MICHAEL BLEDSON,
2 called as a witness in behalf of the
3 State, being first
4 duly sworn, was examined and testified as follows:

5 JUROR: Please have a seat, sir.

6 EXAMINATION

7 BY MS. MOAWAD:

8 Q Start of by telling us your name, spelling your
9 last name?

10 A My name is Michael T. Bledson, B-L-E-D-S-O-N.

11 Q How are you employed?

12 A With the Portland Police Bureau.

13 Q Were you so employed March 22nd of this year?

14 A I was.

15 Q Are you trained in the protocols of responding to
16 officer involved shootings?

17 A Yes.

18 Q And so on that day, around maybe 3:00-ish,
19 3:30-ish, there was call from Officer Walters about shots
20 being fired up at Hoyt Arboretum?

21 A Correct.

22 Q Did you dispatch yourself to head in that
23 direction to go provide assistance?

24 A I did.

25 Q Were you one of the first officers on the scene?

1 A I was.

2 Q Tell us if you were, generally speaking -- and
3 there is a not-to-scale diagram scene behind you here. Tell
4 us where you parked and how you approached, please.

5 A If I may?

6 Q Yeah.

7 A We came in from this direction, and there were
8 three of us, parked our police vehicles right here. I was
9 here, Officer Walters' vehicle parked this direction.
10 Several big trees over here. Officer Hubbard, myself and
11 Officer Christopher and Ajir, we simultaneously got out of
12 our vehicles. I approached along the retaining wall to the
13 tree, as did Officer Hubbard, Christopher and Ajir.

14 I could see Officer Walters over in this direction
15 over in near -- the map is right. There was a person, a
16 body that was lying in this direction that was kind of
17 canted at that angle, head being over here. Officer Walters
18 had his gun out, latex gloves were still on. Officer
19 Hubbard took up position covering concealment here with a
20 long rifle to cover me. I made my way to Officer Walters to
21 find out if he was okay.

22 At that point, somebody said we should probably
23 get hard cover between us and the suspect, we didn't know
24 what was going on at that point. I grabbed Officer Walters,
25 said, we need to scoot over. He was standing there in shock

1 with his gun out. I started to scoot him in this direction.

2 Q Did he say anything to you?

3 A He did. I put it in quotes. He said, "Mike, he
4 had a knife and he came at me." When I was scooting Officer
5 Walters over, I looked down and there was, for lack of a
6 better word, an X-Acto knife or scalpel that was at the
7 suspect's feet on the ground.

8 Q At that point, it was you who had Officer Walters
9 holster his firearm?

10 A It was.

11 Q And then did you flag Officer Ajir over?

12 A I did.

13 Q You had Officer Ajir escort Officer Walters away
14 from the scene?

15 A I did.

16 Q And then you remained as cover as the custody team
17 moved in?

18 A Yeah. We wanted to quickly, as soon as possible
19 to get to the downed man to see if we can get medical
20 attention to him right away. So there was an off duty
21 police officer who also appeared, he used to be on our SERT --
22 SWAT team. He and I were bouncing ideas of was it
23 tactically safe, we didn't know the situation, but wanted
24 medical in as soon as possible. We agreed we had to get
25 medical in if we could get up to him, get the knife away --

1 get it away.

2 Q That was Officer Goldschmidt?

3 A Yes.

4 MS. MOAWAD: Does anyone have questions for
5 Officer Bledson?

6 JUROR: Could you describe you describe the
7 position of the body, the downed man when you first
8 saw him before he was changed or put in hand --

9 THE WITNESS: Handcuffs?

10 JUROR: Yeah.

11 THE WITNESS: Officer Walters was here and
12 the suspect was -- you don't want me to draw on that,
13 do you?

14 MS. MOAWAD: No.

15 THE WITNESS: He was in a fetal position,
16 left side, with his back pointed this direction. His
17 eyes would have been looking that direction, knees
18 pointed that direction. Is that descriptive enough?

19 JUROR: Yes.

20 MS. MOAWAD: I will show you photographs.

21 JUROR: I have a question. What is your
22 estimation of the distance that was between the body
23 and Officer Walters when you arrived?

24 THE WITNESS: When I arrived?

25 JUROR: When you arrived?

1 THE WITNESS: 25, 30 feet maybe.

2 JUROR: Thank you.

3 THE WITNESS: If my estimation of the
4 courtyard was right, I judged the courtyard to be 20
5 feet probably.

6 JUROR: Oh, so it was 25 --

7 THE WITNESS: 20, 25, yeah.

8 MS. MOAWAD: If I show you photograph 4, this
9 is after the custody team moved in, is that the
10 approximate location the body was in?

11 THE WITNESS: Very similar to that location.
12 We didn't move him.

13 MS. MOAWAD: Okay. Any other questions?

14 JUROR: One quick one. In that same picture
15 can he indicate where the officer was standing when
16 you came into the scene?

17 MS. MOAWAD: Would the officer have been in
18 this photograph? Here's photo 6 which is that area
19 overlap -- there's some overlap. If you went like
20 this, for example, like that --

21 THE WITNESS: Perfect. I like that. This is
22 the road we pulled up on. If you walked straight up
23 this way, stand right here, you would be looking at
24 this. These trees are, of course, over here, and
25 Officer Walters was up in this area.

1 MS. MOAWAD: Was he --

2 THE WITNESS: Looking down.

3 MS. MOAWAD: Was he up on the stairs landing?

4 THE WITNESS: Yeah. When I got there he was
5 on the landing, we were looking that direction.

6 MS. MOAWAD: Does that make sense?

7 JUROR: Yes.

8 MS. MOAWAD: If I didn't say it, photos 4 and
9 6 kind of overlap.

10 Any other questions? All right.

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1 JASON WALTERS,
2 called as a witness,
3 being first duly sworn,
4 was examined and testified as follows:

5 JUROR: Please have a seat.

6 EXAMINATION

7 BY MS. MOAWAD:

8 Q Good morning, Officer Walters. How are you
9 employed, sir?

10 A I'm a Portland police officer.

11 Q And how long have you been with the Portland
12 Police Bureau?

13 A A little over 13 years.

14 Q And so I would like to start off by talking about
15 what training you went through, and sort of how you got
16 started out in the bureau.

17 A Okay. I have a four year degree from Western
18 Washington University --

19 MS. MOAWAD: Off the record for a second.

20 (Brief recess.)

21 BY MS. MOAWAD:

22 Q Back on the record where we left off before we
23 took the quick break. Officer Walters, how did you sort of
24 get signed up to become a police officer? What kind of
25 training did you go through?

1 A Okay. I have a college degree in sociology from
2 Western Washington University with a minor in psychology.
3 Upon completing my degree, I joined the Oregon Police Corps
4 Academy, was there 17 weeks. That academy is -- after you
5 essentially successfully complete academy, after that you
6 became a permanent hired employee -- permanent officer.

7 Immediately afterwards, first nine months after
8 you're hired, you work with a training officer. You work
9 different areas of the city, go through all of the
10 precincts, learning geography, teach you how to do the job,
11 what is expected of you. And after about nine months I go
12 back for a second advanced academy to go over more areas,
13 health crisis, first aid, shooting, driving, things like
14 that. Eventually after 19 months you're fully on your own
15 all of the time.

16 Q Have you also participated in any crisis
17 intervention team training?

18 A Yes, I did. A little over twelve years ago I
19 volunteered to go into the program before it was mandatory
20 with the bureau. I have been with the crisis intervention
21 team over twelve years.

22 Q What's that training focus on?

23 A At the time the training they were working on, it
24 was a full week. It was held at the hospital. People in
25 the mental health profession come in and talk to us, how to

1 work with people who are mentally ill or going through times
2 of crisis, and offer them services and resources. You can
3 judge people if they needed to go to jail or the hospital,
4 to help you make informed decisions that way.

5 Q You mentioned you did that before it was
6 mandatory. Is it now mandatory? Have you had refresher
7 courses over the last twelve years?

8 A Yes. Every year we go through in-service
9 training, anywhere from 20 to 40 hours. You go through
10 topics such as the law again, dealing with mentally ill and
11 driving and all different areas of the job.

12 Q So, were you on duty March 22nd, 2010?

13 A Yeah. Yes, I was.

14 Q What hours were you working, what shift?

15 A My shift is 7:00, 7:00 a.m. to 5:00 p.m., with
16 Thursdays, Friday, Saturday off.

17 Q Were you in uniform?

18 A Yes, I was.

19 Q Displaying a badge?

20 A Yes, I was.

21 Q With a full gear belt?

22 A Absolutely, yes.

23 Q What district were you working?

24 A Working the 860 district.

25 Q Is that a district you regularly work?

1 A Yes. I have been 860 district officer for five
2 years.

3 Q How did your work day go in the hours leading up
4 to the call at the Hoyt Arboretum?

5 A That day I started off the shift working half day
6 with Officer Robin Dunbar as a partner car, working in areas
7 in the precinct people complained about, problem areas, two
8 person car. At lunch time we split up, our districts were
9 open, I go back to work my district for the second half of
10 day. Day shift, the second half of the day is the busiest
11 half, people started to wake up, become busier.

12 Q Did you have a partner in the second half of the
13 day?

14 A No, I did not.

15 Q What is more common for you in the 860 district
16 during the day, work a partner car or solo car?

17 A It's always more common to work by myself.

18 Q So, I want to talk sort of generally, we have
19 passed out now and you have a copy of the CAD print-out of
20 the incident. So, as I understand it information is relayed
21 to you two different ways. You have a computer terminal in
22 your car as well as the radio traffic. So just generally
23 explain how that works.

24 A Okay. We prioritize calls by importance level.
25 Dispatch gets the call when you call 911, and they decide

1 what priority level they need to relate to us. An E call is
2 like emergency, like maybe a bank robbery in progress, maybe
3 a bomb threat, something like that. A-1 and A-2 would be
4 maybe assisting medical on a call where something is going
5 on that somebody is having a hard time, maybe a traffic
6 accident or incomplete calls.

7 Priority 3 and 4, a 3 would be where the situation
8 is not escalating, it's staying the same, they call in with
9 a problem, maybe my car was broken into and I have an idea
10 who the suspect is, I will wait in my office until you come
11 in. And priority 4 is, I don't know who the suspect is.
12 When you get a chance to take the call, come on over. 1's
13 and 2's are the dispatcher gets right on the air, calls you
14 a number to send you. And a 3 and a 4, you would use your
15 dispositional during your shift, you dispatch yourself to
16 that call, it would not be aired out for everybody to hear.

17 Q So, on this CAD print-out then, sort of the first
18 entry here, 150516CT8 entry 49174. So, this is text that
19 I'm going to have you read out loud to us in a moment. Is
20 that text something that went out over radio air, or is that
21 text you read on the computer screen?

22 A This is text I read on my computer screen.

23 Q Go ahead and read it.

24 A Drunk transient harassing, yelling at passer-bys.
25 One female said he threatened them, but complainant did not

1 have specifics. Not physically violent, last seen in
2 parking lot, is a male white, 50's, 5 foot 8, 180, green
3 jacket, tan hooded sweater, jeans, and has plastic bag.

4 Q Okay. At the next entry which occurs about twelve
5 seconds later by the same person making the entry, says
6 what?

7 A Advised to call back if becomes violent. And no
8 PI, just means any calls similar to that in the last 24
9 hours. That comes up in all of our calls, we know if
10 there's been a call back.

11 Q Okay. Also I'm -- is it safe to assume that up at
12 the top here, the unwanted person, it says unwanted person --
13 3/unwanted, was that also information that would have been
14 on your computer screen?

15 A My screen would have unwanted next to it, have a
16 little spot saying 860. Not everybody works the same
17 district every day. So when you look at calls, you can see
18 whose district they are, without attaching yourself to them.
19 I have the option to do a function key on my computer and
20 the call pulls up as it reads below.

21 Q So would it -- at one screen -- would it have the
22 location and then the contact information?

23 A After I dispatch myself to the call, it shows up
24 with the exact address on there with the Don Moeller
25 information would show up there.

1 Q Are you familiar with the Hoyt Arboretum? You
2 mentioned it's in your district?

3 A Yes.

4 Q Have you gone to a number of calls up there?

5 A I do, and I run up there on my days off.

6 Q So as you're reading there about the nature of the
7 call on your computer screen, initially what are your
8 impressions? What's going through your mind?

9 A When I got the call originally, I get a lot of
10 calls up in Washington Park regarding transients coming
11 through. A lot of times my transient population during
12 winter when it's colder are people here year round.
13 Sometimes people as they migrate go to California or warm
14 states, and when it gets warm in Oregon, they come back.

15 I normally have a pretty good feel and rapport
16 with the guys in the district, I work with them all of the
17 time. Looking at the call I figured it was one of my guys I
18 was used to working with, and I would know who it was and I
19 could maybe help him out somewhat.

20 Q While you were en route, did you ask to have a
21 CHIERS van head to that location?

22 A Yes, I did.

23 Q What is a CHIERS van?

24 A CHIERS van -- the name is what the detox wagon is
25 called, and the detox facility is considered a medical

1 facility, located down on lower Burnside, a place where
2 people who are intoxicated in public can go to eat, warm up,
3 sober up.

4 Q Did you also call Dan Moeller?

5 A I did.

6 Q Did he have additional information for you about
7 what was going on at that point?

8 A The only change in information had been he moved
9 from the parking lot from the call, to being in one of the
10 restrooms by the visitor center.

11 Q What route -- do you recall what route you took up
12 there?

13 A I do. I remember exactly, I was coming on 13th
14 Avenue, SW 13th to westbound Highway 26 to the off ramp, go
15 by the Children's Museum, left turn up Knight Boulevard,
16 then a right on Fairview.

17 Q Did you activate your lights or sirens on the way
18 up there?

19 A No, I did not.

20 Q When you arrived, do you recall where you parked?

21 A I remember exactly. I remember there was a lot of
22 cars parked on the street, I was familiar with where the
23 bathrooms were. Only spot available was under a Tri-Met
24 sign. And I had to park under the Tri-Met sign to keep out
25 of the crosswalk that was --

1 Q As we move on, so you know, behind you is a --
2 what I'll call a clean scene diagram.

3 A Okay.

4 Q Feel free to refer to that as necessary.

5 JUROR: Not to scale.

6 BY MS. MOAWAD:

7 Q It is not to scale. Here's a pen, I will let you
8 write on it. I have not let anyone else. You can put an X
9 by where you parked your car, for example.

10 A (Indicating.)

11 Q Okay.

12 A Right there (indicating).

13 Q So, once you parked the car, who did you check in
14 with?

15 A As I parked my car, when I pulled up, I could see
16 two gentleman here by the sidewalk in front of the walkway.
17 And I remember they are wearing khaki pants and polo shirts.

18 Q Ultimately that was Dan Moeller and another
19 individual who worked at the Hoyt Arboretum?

20 A Yes. I am familiar with Dan's name on calls, not
21 by being on the street, he makes calls about issues. When I
22 got there, I was not one hundred percent sure it was him or
23 not. When I got out I asked if it was, and he said it was
24 who called.

25 Q Did you guys have a brief conversation at the car

1 there?

2 A Yes. I remember when I -- first thing I did after
3 being in the car, I went to my car first and got rubber
4 gloves and put them on, and talked to them in front of the
5 facility.

6 Q Did you have an opportunity to personally speak
7 with the hikers or passer-by that felt she had been
8 threatened or harassed by the man?

9 A No. When I was there it was Dan and the other
10 person who was with him. I'm not familiar with his name.

11 Q Did they tell you the man was still in the
12 restroom at this point?

13 A Yes. He told me the man had been in the restroom
14 for fifteen minutes. And because they said he was drunk in
15 the bathroom, I put on latex gloves.

16 Q Take us through at this point your impressions,
17 what you're thinking is going to happen, how you will
18 approach the situation.

19 A What I'm thinking, I'll go contact the person in
20 the bathroom, he's probably somebody I know hopefully by
21 first name. Most folks up there know me by last name. We
22 have a good rapport. If he's intoxicated, I can use the
23 CHIERS wagon to take him downtown to sober up, or get him
24 downtown to a shelter to get him something to eat or see if
25 he needs some other help.

1 Q Do you have a Z key which allows you access to a
2 lot of the park facilities?

3 A Correct.

4 Q If the bathroom door had been locked, would you be
5 able to unlock the door with the Z key?

6 A Yes, I would.

7 Q Talk to us about what happened when you got to
8 bathroom door?

9 A I went to the bathroom door. I didn't hear
10 anything inside, sounded like quiet. I didn't hear anybody
11 moving around. And I thought the best course would be just
12 to knock. Most people get the best reaction from us when
13 they just open the door, and sometimes too we have people
14 who occasionally use the bathrooms in the park for narcotics
15 use, maybe he's intoxicated or something else. Fifteen
16 minutes is a long time in the bathroom. I hoped if I
17 knocked, he would open it up. I thought if I knocked and
18 announced police, he would not, and then I would be forced
19 to undo the door. I knocked like a simple knock, knock,
20 knock, waited a couple of seconds to go by and knock, knock,
21 knock again.

22 Q What happened?

23 A The door slowly opened up. I remember thinking it
24 was opening slowly, too. When the door opened, there was a
25 man there in the doorway. And when he opened the door, his

1 left shoulder propped the door opened. As he was coming
2 out, I'm pretty close, as I was knocking on the door. It
3 opened up, and the first thing I thought when I saw him, I
4 could not compute quick enough in my mind, something was
5 wrong with him. I remember thinking how white his beard
6 looked, gray-white, it was the wrong color. It was not what
7 I expected. It really surprised me when I looked, it took
8 me a couple of seconds to realize there was blood all over
9 his beard and neck.

10 And as I'm starting to get my eyes to adjust a
11 little more, I can see there's some on his coat and on his
12 hands, on his right hand, and a little bit on the floor
13 behind him. And it's a handicap bathroom stall he was in,
14 it was larger, I couldn't see everything behind him. I was
15 really focused on him. I was really surprised, I didn't
16 think a bloody guy would open up the door.

17 And I was getting concerned, too, because of the
18 original call, because of maybe threatening people, if it
19 was his or somebody else's blood, if somebody else was in
20 there with him. I was having a -- it was coming a little
21 too fast for me to get through. And after I get my eyes to
22 focus for a minute, I looked down, because something looked
23 shiny. He was standing there, it looked out of place. And
24 in his left hand was an X-Acto knife, and that was from the
25 left shoulder that was holding the door opened.

1 Q Did that bathroom door open out into you, or was
2 it something that he pulled open --

3 A It opens out into me. So if he was standing in
4 the bathroom, you pushed it with your left arm to open it
5 like that, and walk out.

6 Q Okay. Could you figure out as you were looking at
7 the man, where the blood was coming from?

8 A No. It was in so many places I was having a hard
9 time really focusing in on it. I stared at the beard a lot,
10 it just surprised me being so white like that with the blood
11 in it. And being on his hands and neck, I could not place
12 it directly where it was.

13 Q Was there anyone else around you at that time?
14 Had the park ranger come up with you or had other officers
15 arrived?

16 A No other officers were there, and the park ranger
17 person and the gentleman he was with had walked into the
18 front of the visitor center by the gift shop, as I went to
19 knock on the door. As far as I know, I was the only person
20 there.

21 Q So, let's talk for a moment, you said the shiny
22 object was in his left hand. You're obviously going to take
23 a look at that, were you able to determine what it was?

24 A I was, and I had a really hard time coming up with
25 a word for it at the time, X-Acto knife seemed really

1 complicated. I could not come up with the word for
2 anything. As you hold your hand in a fist style upright
3 like that, I looked down, I didn't expect a guy -- and it
4 was bloody -- to be standing there holding that in the
5 doorway. I couldn't come up with the word X-Acto knife for
6 the life of me.

7 Q All right. So, what did you do at this point?

8 A And I should backtrack a moment before this,
9 before I really focused in on X-Acto knife, I asked him,
10 "What is wrong with you? What's going on?" And that's when
11 I was staring at his beard a lot trying to figure out it was
12 bloody. Then I looked down and saw the X-Acto knife, I
13 remember I said, "Put that down." I couldn't come up with
14 the right word, "Put that down." And as I said that, I
15 immediately started taking a couple of steps back away from
16 him to get a little distance.

17 Q Okay. Did he respond to you in any way at this
18 point?

19 A No, he didn't, except physically which was to
20 slowly start moving out of the bathroom towards me.

21 Q So as he's moving towards you, and you said you
22 took a few steps backward, you continued I'm assuming to
23 face him, and you're walking backwards away from him. What
24 is he doing?

25 A He's very methodically stepping -- I remember

1 thinking it was a very deliberate step, and I can show you.
2 It's easier to show you, because it was bladed towards me,
3 kind of crouched, and the X-Acto knife was like this, where
4 it was tipped up towards me a little bit and close to me --
5 the arm was closest to me. I remember I couldn't see what
6 was in his right hand, it was close to him, very
7 methodically like a side-step, so to speak (indicating).

8 Q Okay. Was he looking at you? Was he making eye
9 contact with you?

10 A He was. I remember he was looking right directly
11 at me. And as I'm walking backwards, I was thinking, why is
12 he walking towards me? There's another avenue to go to walk
13 differently, which is from this bathroom to this direction,
14 because I'm coming towards this direction.

15 Q So you were kind of going diagonally in a south
16 direction?

17 A That's correct.

18 Q And he was following your path?

19 A That's correct.

20 Q Were you -- you thought he could also just go
21 straight east?

22 A Yes. This -- I'll go like this, the other option.

23 Q All right.

24 A That would be west, sorry.

25 Q Yes, it would. Thank you. Yeah. So, just keep

1 going and we'll interrupt with questions.

2 A Sure. And at first I started stepping back, I'm
3 telling him, "Drop that, drop it." I immediately got on the
4 radio and asked for Code 3 cover. Code 3 cover to us means
5 an officer in peril. In my mind I'm thinking, I'm really
6 calling for Code 3 cover today. It's been like five years
7 since I called for that last. I'm at the park, it seemed
8 foreign I would be calling for it. I called it out, and in
9 all of the movement, I immediately came out -- got him at
10 gun point. And we're probably eight to ten feet away. I'm
11 starting to back up and I'm coming around where I'm feeling
12 sort of crowded here, backing a little bit into the building --
13 into the courtyard.

14 And my other concern also is that the doorway is
15 accessible to him where everybody had just gone inside. And
16 some of my concern is a backdrop situation, which is if I
17 swing too far out, now my gun becomes pointed at the people
18 who went inside. And I have to start worrying about trying
19 to keep the angle on the bathroom, assuming and hoping
20 nobody else is inside, and there's a door and a wall there
21 also.

22 As I'm doing that, I'm yelling at him, "Drop it,
23 drop it, drop it." And what really surprised me the most is
24 there had been no verbal interaction. Some of my concern
25 originally is, is he having a medical episode or a mental

1 episode? I'm trying to piece it together what he's doing.
2 But he looked at me deliberately, and it seemed so clear,
3 and that's what surprised me when he goes, "No, I'm not
4 going to do that. I won't," and it was just so enunciated.
5 It just surprised me, because most people when I tell them
6 to drop something, they drop it.

7 I have had pretty good success with that over the
8 years that happening, especially when you have a firearm
9 with somebody and yell at them to drop it, it works pretty
10 well. And the enunciation of the statement surprised me
11 because of how focused he was on me. So I knew physically
12 and verbally he was able to understand what I was asking him
13 to do, I didn't feel like he was confused on what I was
14 requesting of him.

15 So, I'm backing up, he's about eight feet away,
16 and I'm trying to go through my force options in my head of
17 what I can do. Uhm, to me, the X-Acto knife is lethal force
18 on his part. We try to match force, we're trained to do so,
19 and the distances are short. Things go through your head
20 rather quickly. One was pepper spray, the negative for me
21 is I have to go closer and hope it works. If it doesn't,
22 I'm being funneled out this direction. If somebody has
23 their eyes shut and they run toward me, that's a concern,
24 they can possibly run into me.

25 And a baton, I have to transition out, I'm a

1 right-handed guy, it's on the left side, I have to
2 transition out, and once again I have to get closer. If
3 you're eight to nine feet away, I lose a couple of feet, he
4 gains a couple in distance and I become closer. The other
5 was taser. And as in our policy book, that's not
6 appropriate for lethal force. Also distance. I have been
7 unlucky over the years, Portland is a cold city, people wear
8 thick coats. I have had tasers stick in coats, not go
9 through the material. It works better at fifteen feet
10 instead of closer. As the probes detach from tasers, they
11 gain distance and cover a larger muscle mass area, it makes
12 it more effective. If we were both too close together, it
13 wouldn't have a large enough area to incapacitate the muscle
14 area.

15 My other option would be to retreat back out, I
16 didn't think it was appropriate, for one reason, I have
17 people here --

18 Q People where, just because we're on the record.

19 A People inside of the gift shop I know have just
20 gone inside. I don't want to move in a direction that's
21 going to put him closer to them, and he's closer to me.
22 That's my job up there to make sure they are safe. And it
23 also changes my point of aim, like I said earlier, to make
24 the gift shop behind me. Things are going fluid, we're
25 moving backwards, seems like they are going really fast to

1 me. I know he's not obeying my verbal commands. He's
2 physically walking towards me, same direction, knife still
3 up, still bloody, it's the arm closest to me.

4 Since he verbally stated to me a statement, I felt
5 like he knew exactly what I wanted him to do. At that point
6 I decided to fire two rounds from my handgun into the torso
7 area. We are trained to hit the largest area, so as to not
8 having an errant shot go by. Since I'm so close also, it's
9 unsighted. That's for two reasons. We're trained to shoot
10 unsighted at close distance, and the other is I can see his
11 hands and body in case of at the last moment he changes his
12 mind or stops his advance --

13 Q You're saying unsighted, what you're doing is
14 holding your hands down. Just again for the record, what
15 you're communicating to the jurors sort of with your hands
16 is that you didn't bring the gun up and look through the gun
17 sights to aim at the target, but instead had it down a
18 little lower and were prepared to fire without using your
19 sights?

20 A That's exactly what I mean.

21 Q Okay. So you shot the first two shots?

22 A Exactly.

23 Q Do you have any idea where the shots landed?

24 A I don't. I am assuming center mass area. I'm
25 choosing the torso area, I didn't hear ricocheting. I was

1 focused on him. In 13 years here I've never had a day where
2 I have been more scared at work, where I thought somebody
3 would try to kill me. I've had days people run away, that's
4 what they normally do. In all my years here, I never
5 thought this was the day somebody might try to kill me.
6 That's what it felt like at that moment. I was focused on
7 him. If it was an errant shot, I would have heard it on the
8 siding, but I couldn't say for sure.

9 Q Since you mentioned you have never been so scared,
10 have you ever had to fire your weapon in the line of duty
11 before this day?

12 A No, I have not.

13 Q So the two shots you think hit him, what does he
14 do? How does he react?

15 A I watch T.V. shows, never been around a deadly
16 force situation to see somebody shot. I thought he would
17 fall like everybody does on television. He did not. I was
18 really surprised on that. I was already starting to back up
19 a little bit thinking now my point of aim won't be such a
20 problem with the folks in the visitor center, I can start to
21 back up and gain some distance.

22 I started moving probably closer to about this
23 area, I guess. And as I move back, I'm waiting for him to
24 fall, then I can call for medical and maybe be able to
25 approach him when somebody shows up. And he didn't, and I

1 started to become also concerned of if he's under the
2 influence of narcotics, maybe his body is not able to
3 process this, it's overriding his thinking system and his
4 body is lying to him telling him that he's still able to go
5 on and he's not.

6 He did a slow walk like he's disoriented, if I say
7 it right, and doing like a slow loop, trying to get his
8 bearings, trying to recover a little bit, like he's trying
9 to. And he did a slow -- reminded me, and I have to say I
10 was in a bit of a blur visually on it, like a slow, almost a
11 loop, where he kind of did a little loop as he's walking.
12 When he finished the loop, we were once again about ten,
13 twelve feet apart probably, in that area. And he had
14 stopped at me, brought himself around and when he stopped it
15 was exactly as it was before. It was the same body posture
16 and everything. And I was still thinking, okay, he should
17 fall any second.

18 He walked a few steps that should probably be the
19 fall, that should be about it. And when he gathered
20 himself, it was exactly the same, arm up, X-Acto knife up,
21 clenched fist upright, tip pointed and deliberate slow
22 pacing towards me of a deliberate walk. And I was trying to
23 think to myself a little bit here about backdrops again,
24 because we have the office on this side also. And what I
25 got behind me, the open field up here, the park, which was

1 the best I had to work with at the time, the open side here,
2 the park.

3 I felt like I relieved myself, I felt like -- I
4 got the word -- the knife -- I could not come up with X-Acto
5 knife, I started yelling, "Drop the knife. Drop the knife."
6 I started yelling it really loud. It was almost a release
7 on my part, because I could remember the name under stress.
8 I could not remember X-Acto.

9 And I -- a couple of different things I wanted to
10 do, but one is, I wanted him to drop the knife; and, two, I
11 wanted people in the visitor center not to come out, it was
12 not safe to come here. People might be in the parking lot
13 behind me or people might come down here. It was not
14 raining that day, the park was decently busy, and I wanted
15 to alert people not to come over here now, it's not safe to
16 do so. And as I'm trying to get a little bit of distance
17 backwards, I wasn't wanting to go too far back, I wanted to
18 see the front doors of the visitor center, I wanted to see
19 if people are coming. And I know the stairway back here
20 comes behind you, so once again I'm being constricted on my
21 movement.

22 He's still not obeying verbal commands. Two
23 rounds didn't seem to stop him, which I was hoping would.
24 And at this point it seemed he's so fixated to come over and
25 stab me and kill me, it absolutely -- I was just really

1 shocked, that most people would fall after two shots. And
2 we're probably about eight feet away, and this distance is
3 getting short again. So fearing he's going to come over and
4 stab me, I shot him two more times in the torso area. I'm
5 pretty confident those hit, I'm assuming so, because I was
6 close.

7 Uhm, there was nothing behind there that would
8 have caught a ricochet sound, I'm assuming, because as soon
9 as I fired the two shots he immediately dropped to the
10 ground. And when he dropped to the ground, he dropped
11 somewhat away from me. And I remember the X-Acto knife had
12 fallen by his feet on the ground. And as soon as that
13 happened, I wanted to alert people things changed from Code
14 3 cover to shots fired, because it goes from a Code 3 almost
15 to a Code -- more like to a Code 0 kind of call, which is
16 officer in greater peril. And I backed up a little bit, and
17 immediately called for medical to come so they could start
18 staging. I know it is a long distance up there, people need
19 to come. I'm on the far western border of the city.

20 Then I waited there, and I remember on the air
21 people were a little confused on directions. I was happy to
22 help with directions to come up here, and waited to be
23 assisted by the officers -- other officers showing up.

24 Q Have a seat.

25 A Okay.

1 Q So, you called for Code 3 cover before you fired
2 any shots?

3 A Right.

4 Q When you went on the air with the shots fired, was
5 that after the second two shots or would you have called out
6 shots fired after the first two?

7 A I'm pretty sure it was after the second two shots.
8 I think looking back best I can in the fluidity of it, it
9 was the Code 3, backing up, the shots, moving back, assuming
10 him to fall, the shots and then calling for the Code 3
11 cover.

12 Q I'm sure time stood still for you. But do you
13 have any idea about how long between those first two and
14 second two shots?

15 A I'm thinking probably around eight seconds.

16 Q Okay.

17 A I think that's about right where that was.

18 Q Now, you mentioned during the second series of
19 commands where you are remembering to say drop the knife or
20 you remember what the word is that you're looking for, were
21 you yelling those maybe even more loudly because you said
22 one of your purposes was to alert?

23 A Much more loudly. Some of it was adrenalin
24 yelling too, I really wanted everybody to hear.

25 Q And you also said before you shoot the second two

1 shots, the distance was getting short again. So, what do
2 you mean by that?

3 A What I mean by that is he's still advancing on me
4 in deliberate steps towards me with his knife up.

5 Q How far do you think you backed up? Were you --
6 did you back up all the way to the first landing there?

7 A When I was by myself, I don't think I went much
8 further past here (indicating). I wanted to stay close to
9 him, and just the same, I wanted us to monitor him medically
10 and make sure he did not get up again. I was concerned
11 since he was slow to fall the first time, that he might pop
12 back up. And I was somewhat stunned myself because of just
13 the events, I remember I was just there in that general
14 area.

15 Q Okay. And so for the record, that's where the
16 handicapped ramp path and the stairway path intersect
17 approximately?

18 A Approximately.

19 Q Okay. All right. Did you remain -- did your
20 firearm remain out and pointed at the subject during this
21 time?

22 A Yes, it did.

23 Q Do you remember a gentleman then alerting you to
24 his presence, a reserve officer?

25 A I remember exactly. I didn't remember where he

1 said he was from. I remember he had a black beret on. He
2 said, "Do you need anything? Are you good?" Something
3 along those lines. I told him, "When cop cars come up, can
4 you show them where I am at? Would you direct them to me?"
5 Not everybody is familiar with the park area, I was afraid
6 they would drive past me.

7 Q Do you recall getting on the air informing them
8 there would be a man to wave them in?

9 A Yes, I do.

10 Q You mentioned -- go ahead, have a seat again. You
11 mentioned -- I wanted to kind of go back to early in the
12 interaction when he opened the bathroom door and you can't
13 really see around him. At any point in this, did you
14 satisfy yourself there was not someone else still in the
15 bathroom that could be hurt by him, or was that in the back
16 of your mind?

17 A It was in the back of my mind. But at this point
18 I have not had a point to look in there completely to see.

19 Q Did the door shut back automatically or do you
20 recall?

21 A I think it did. I can't say one hundred percent.
22 I'm thinking that because I don't remember it being real
23 bright behind him. But I might just not be focusing.

24 Q You mentioned you knew at least Mr. Moeller and
25 the other gentleman had gone to the visitor center. Did you

1 see other people through the window at any point?

2 A No. But I'm familiar with the visitor center
3 there. In my off time I go all the time there. I have got
4 my kids books in the store. And there's a receptionist that
5 works behind the counter in the gift shop, and there's a
6 conference room too for events.

7 JUROR: Can I ask a question?

8 MS. MOAWAD: Sure.

9 JUROR: When the man -- you said he said,
10 "No, I'm not going to do that. I won't." And he
11 clearly enunciated that. Relative to how loud you
12 gave your commands, how loud was his statement?

13 THE WITNESS: In my first interaction we were
14 about the same. I remember, "Drop it, drop it, drop
15 it." And as I'm starting to rise up a bit, getting
16 more scared, he was like, "I'm not going to do that.
17 I won't."

18 JUROR: About like that?

19 THE WITNESS: About like that.

20 JUROR: And the second thing was, and I'm not
21 one hundred percent sure it is an appropriate
22 question.

23 MS. MOAWAD: I'll tell you if he can't answer
24 it.

25 JUROR: Subsequent to all of this, after you

1 have left the scene and everything, have you been
2 given information from the medical examiner or
3 anything else about what happened?

4 MS. MOAWAD: That's an okay question.

5 THE WITNESS: Okay. I have been trying very
6 hard not to look at any media and just to stay in a
7 bubble. It's been the best for myself and my family.
8 Nobody contacted me inside of the bureau or medical
9 examiner with any information.

10 JUROR: Have you learned since then that the
11 man was not intoxicated?

12 THE WITNESS: No, I have not.

13 JUROR: Did you -- have you learned since
14 then that at least one witness, if not two, had seen
15 him with blood before he went into the restroom?

16 THE WITNESS: Did not know that.

17 BY MS. MOAWAD:

18 Q I want to go back. When you were demonstrating,
19 of course, your volume of voice and the man's volume of
20 voice, the transcription does not necessarily cover that. I
21 want to describe it and I want the jurors to agree or
22 disagree with my characterization of it. For purposes of
23 the record, I would say that was a loud voice, but not
24 yelling or shouting. Does everyone agree? I see several
25 nods of the heads.

1 JUROR: Yes.

2 JUROR: Yes.

3 BY MS. MOAWAD:

4 Q Do you remember which officers arrived first on
5 the scene?

6 A I do. Some of it is the direction I faced, I was
7 facing to the north. I saw them when they arrived. I
8 remember thinking they came from the direction up from
9 Burnside, up through that direction, and it was Officer Mike
10 Bledsoe has shown up, Samson Ajir and his coach, Andy
11 Christopher, showed up first.

12 Q And so do you recall which of them approached you
13 and got you away from the scene?

14 A I do. When I was about right here, I remember
15 Mike Bledsoe came up first and Andy and his partner came up
16 on my right, and Mike had come up first on my left. And I
17 think I told them something about how he had tried to stab
18 me, he had a knife by his feet, so they would know what was
19 going on and they could start processing what they needed to
20 do. We all moved back up to this side of the building, we
21 came up a ways to get distance. They had to figure out what
22 they wanted to do, I think.

23 Q Now, I wanted to follow up on the grand juror's
24 question. When you were interviewed by Detective Slater,
25 did you have a copy of the CAD print-out that you have here

1 today?

2 A I think I had a copy of the first two pages.

3 Q Okay. Then I gave you a copy of that today as
4 well, just so you could refer to it?

5 A Yes.

6 Q Have you seen any officers' reports?

7 A No, I have not.

8 Q To your knowledge, has your attorney, Mr. Boise,
9 had the ability to review any of those reports?

10 A As far as I know, no.

11 Q And you mentioned staying in a bubble. Have you
12 talked to, with the exception of being in the waiting room
13 and a brief greeting, have you talked to any of the officers
14 who were out there at the scene with you?

15 A Absolutely not.

16 Q What about -- and, again, this is just for the
17 record, what about going back to the Hoyt Arboretum, have
18 you gone back to the Arboretum?

19 A I went back Wednesday with my attorney to rewalk
20 the scene.

21 Q While you were at the Arboretum, did you interact
22 with any of the the employees of the Arboretum who witnessed
23 this event?

24 A No, I did not.

25 JUROR: That would have been Wednesday, the

1 31st?

2 THE WITNESS: Wednesday, the 24th, prior to
3 my interview with detectives.

4 BY MS. MOAWAD:

5 Q You were talking about knowing a lot of the
6 transients that frequent the Hoyt Arboretum. When this
7 gentleman opened the door, was he someone that you had
8 recognized?

9 A No, he's not. That surprised me to a point. I
10 just know all of my guys.

11 Q Is there anything else that you want to share with
12 us about that incident?

13 A I have to say in my 13 years, it's the most scared
14 I have been at work, and the most surprised just from
15 location and circumstance, and the hardest day I have had at
16 work over the years, it was difficult.

17 Q Okay.

18 MS. MOAWAD: Are there additional questions
19 for him?

20 JUROR: I have one. We had testimony from an
21 individual who had come from around on the back side
22 of the building, and was kind of half way there where
23 the offices are that face onto Fairview.

24 THE WITNESS: Okay.

25 JUROR: And indicated that she saw --

1 THE WITNESS: Like maybe on this side?

2 JUROR: Yeah, about half way across the
3 building.

4 THE WITNESS: Okay.

5 JUROR: That had come around that corner
6 there and had observed part of this. Were you aware
7 there was another individual?

8 THE WITNESS: I have no idea, I thought it
9 was just me and him.

10 JUROR: Okay. That was one of my questions.
11 You were very aware there were other visitors and
12 staff people, you were aware and positioning yourself
13 to protect them. I was -- the question was if you
14 were aware there were other visitors coming from other
15 directions around you in the park?

16 THE WITNESS: No. That's why I was trying to
17 yell about the knife issue so they would maybe hear it
18 and stay away, because I was pretty fixated on him.

19 JUROR: I have one more question. Did you
20 have any expectation as you were getting ready to
21 knock on the door, from the information you had gotten
22 from the people who called -- the people who were
23 there talking to you, what you were going to find when
24 you got in there?

25 THE WITNESS: My expectation was to talk to

1 somebody I knew pretty well over the years working up
2 in the park, and probably send them to detox or take
3 them downtown to someplace else. I thought it would
4 be one of my guys I know.

5 BY MS. MOAWAD:

6 Q Even if it had not been one of the guys you know,
7 do you feel that you -- because of the district that you
8 work, are you able to generally establish a good rapport
9 with a transient individual?

10 A Absolutely. The park is my district. I take it
11 very seriously. I like to know everybody up there, and try
12 to keep a good working relationship. Because I'm not going
13 to fix anybody's life in one day. I know I will probably
14 see a lot of people more than once. It's better to get off
15 on a good foot the first time, it works out well in the long
16 term for me.

17 MS. MOAWAD: Did that series of questions
18 prompt any other questions?

19 JUROR: Just one, and I don't mean to belabor
20 this one point. Talking about expectations, it's kind
21 of fuzzy, I want to talk about his level of
22 expectations. What we have been told is that you were
23 informed by what you read that there was an unwanted
24 drunk transient.

25 THE WITNESS: Uh-huh.

1 JUROR: When you talked about your guys, you
2 referred to CHIERS. So your expectation was that you
3 were going to see somebody who was drunk?

4 THE WITNESS: I was assuming.

5 JUROR: Or under the influence?

6 THE WITNESS: Exactly. CHIERS comes from a
7 long distance, from downtown. I wanted to give them a
8 heads up, it is a long drive for them. And if I got
9 there first, I could let them know, by the way, I
10 don't need you, you guys can go back downtown again.

11 JUROR: At any time, did you -- do you
12 remember thinking that your tactics would be different
13 if this man was not drunk?

14 THE WITNESS: No. And on contact, I don't
15 think I smelled a thing, because my -- I was all
16 vision, I don't think my olfactory was kicking in at
17 all on the first contact, I went straight to the
18 blood.

19 JUROR: In your training if you had known
20 ahead of time -- if you were -- if you had been called
21 to an incident similar to this with different
22 information that said bloody man with a knife, what
23 would you have done differently?

24 THE WITNESS: First of all, that would be at
25 least a priority 1 or 2 call, not a priority 3. A 1

1 or 2 is a minimum two car response, probably three.
2 And some of that is because geographically speaking,
3 I'm most likely to be there first, if it was bloody
4 guy with a knife call, I would probably have parked on
5 the street, staged further down the street. When the
6 other officers showed up, assuming it takes them a
7 little longer because geographically to find, we would
8 have went in together, two or three of us, to deal
9 with it. That way our officers would change use of
10 force-wise, knowing he's armed. It becomes a pretty
11 big deal, we would have somebody probably call the
12 visitor center to let them know to lock the doors. I
13 carry a bean bag shotgun, I can utilize that. And to
14 use that, you have to have lethal cover. That's what
15 we could have done.

16 JUROR: Okay.

17 JUROR: I would like to ask a question.
18 Number one, were you wearing a Kevlar vest?

19 THE WITNESS: I was.

20 JUROR: Number 2, you said as Officer Mike
21 Bledsoe came to walk you out of the scene --

22 THE WITNESS: That's correct.

23 JUROR: -- you said you told him, "Mike, he
24 came on to me with a knife."

25 THE WITNESS: Yes, I did.

1 JUROR: And another officer, Officer Ajir
2 testified that you said, it happened so fast. Does
3 that mean that maybe after the fact, it was going
4 through your mind that you were sort of apologetic or
5 maybe you thought you could have done a little better?

6 THE WITNESS: I was thinking it happened too
7 fast, it happened so fast, that's what I was thinking.
8 The whole incident happened so fast.

9 JUROR: Better or different maybe?

10 THE WITNESS: I'm not sure what you mean.

11 BY MS. MOAWAD:

12 Q I think she's asking you as you replayed it in
13 your mind, were you playing out other scenarios where maybe
14 you would not have had to use lethal force?

15 A Yeah. I was really hoping he would put the knife
16 down. I was upset it didn't work out smoothly, which would --
17 I'm not sure exactly --

18 JUROR: What I mean, as you were walking
19 away, were you kind of disappointed at yourself that
20 maybe you could have done or handled the situation a
21 little bit different or better?

22 THE WITNESS: No. I felt like -- I believe
23 his name is Mr. Collins, forced that scenario on me.
24 I don't think there's anything I could have done else.
25 I ran out of room trying to do everything I possibly

1 could.

2 JUROR: That was your only choice?

3 THE WITNESS: That was my only choice.

4 JUROR: You felt confident?

5 THE WITNESS: I felt confident about that.

6 JUROR: Thank you.

7 JUROR: You said you were eight to ten feet.

8 At any time were you any further, was there any
9 further distance?

10 THE WITNESS: I don't think so. As soon as I
11 backed out, he was moving with me.

12 JUROR: About the same pace?

13 THE WITNESS: About the same pace. I was a
14 little slow about moving. I was trying to do the
15 radio, trying to talk, see what he was doing and
16 transition into the different instruments to use.

17 BY MS. MOAWAD:

18 Q Not to put words in your mouth, also that is an
19 area you mentioned the planters, for example, we have seen
20 the photographs. While you're familiar with it, were you
21 concerned about, you know, running into some of the
22 landscaping? There are rocks in that area, things of that
23 nature?

24 A Yes. When I said constricted, that's what I
25 meant. I felt I would bump into the building. The picture

1 of the shrubs here on the southwest corner of the building,
2 these actually go out a ways, a couple of feet. I remember
3 when I went back up last week to re-walk it, I thought it
4 was a limb on the ground. I checked to see if it was rooted
5 in the ground, because of how far out it came, it cut my
6 progress as I moved around.

7 JUROR: I have a follow up question. Do you
8 feel that the training you have received, you used all
9 that?

10 THE WITNESS: I feel like everything that I
11 trained for, for the last 13 years, all of the
12 scenarios at in-service and academy stuff, everything
13 we go through, for the scenario Mr. Collins put me in
14 I felt like everything came to work that day, and it
15 all came together at the time I needed it to.

16 JUROR: Okay.

17 MS. MOAWAD: Any other questions?

18 JURORS: No.

19 MS. MOAWAD: Okay.

20

21 (Whereupon, grand jury adjourned at 12:20
22 p.m.)

23

24

25

3 I, JULIE L. BOURGEOIS, an Official Court Reporter
4 for the Multnomah County Circuit Court, hereby certify that
5 I reported in stenotype the foregoing testimony and
6 proceedings had in the aforementioned case; that thereafter
7 my notes were reduced to typewriting under my direction, and
8 that the foregoing transcript, consisting of 59 pages, is a
9 true and correct transcript of said oral proceedings.

10 Witness my hand in Portland, Oregon, this 5th day
11 of April, 2010.

Julie L. Bourgeois

JULIE L. BOURGEOIS
Official Court Reporter

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