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

GRAND JURY No. 1 PROCEEDINGS

Case No. 69

Conducted by:

David M. Hannon, Deputy District Attorney
Melissa A. Marrero, Deputy District Attorney

- - -

November 28, 2018

- - -

PPB Case No. 18-347005

- - -

DA Case No. 2390489-2

- - -

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

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

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1 Death Investigation

2 PPB Case No. 18-347005

3 DA Case No. 2390489-2

4 Deceased: Samuel Rice

5 Incident Date: October 10, 2018

6 Location: Del Rancho Motel,

7 7622 SE 82nd Avenue, Portland, Oregon

8 * * *

9

10 (Wednesday, November 28, 2018, 9:53 a.m.)

11 P R O C E E D I N G S

12 (Whereupon, the following proceedings were
13 held before Grand Jury No. 1:)

14 MR. HANNON: And good morning. We are here
15 under DA Case No. 2390489. It is a death
16 investigation involving an officer-involved shooting.
17 Portland Police Bureau Case No. 18-347005.

18 On behalf of the State, Dave Hannon,
19 H-a-n-n-o-n, joined by my colleague, Melissa Marrero.
20 I'll let her announce herself for the record.

21 MS. MARRERO: Melissa Marrero,
22 M-a-r-r-e-r-o. My Bar number is 123846.

23 MR. HANNON: And this is the time and place
24 start -- for grand jury. And we will start with our
25 first witness, Detective Scott Broughton.

Examination of Scott Broughton

1 Detective Broughton, stay right here. Raise
2 your right hand and we'll swear you in.

3 SCOTT BROUGHTON

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

6 EXAMINATION

7 BY MR. HANNON:

8 Q Thank you. First, can you please state and
9 spell your name for the record.

10 A Scott Broughton. First is S-c-o-t-t; last
11 is B-r-o-u-g-h-t-o-n.

12 Q And, Detective Broughton, how are you
13 currently employed?

14 A I'm a detective with the Portland Police
15 Bureau.

16 Q And how long have you been with the Portland
17 Police Bureau?

18 A A little over 17 years.

19 Q And what is your current assignment with the
20 Portland Police Bureau?

21 A I'm a detective assigned to the homicide
22 detail.

23 Q And how long have you been with the homicide
24 detail?

25 A A little over a year.

Examination of Scott Broughton

1 Q And can you briefly explain to the ladies
2 and gentlemen of the grand jury what that entails
3 working for the homicide detail with the Portland
4 Police Bureau?

5 A We investigate homicide cases, suspicious
6 deaths and officer-involved shootings and kidnappings.

7 Q And turning -- talking about
8 officer-involved shootings, tell us about that. What
9 is the homicide detail's role in those types of
10 shootings?

11 A Conducting an overall criminal investigation
12 of officer-involved shootings.

13 Q And can you briefly just run through -- and
14 is it similar to other homicide investigations or is
15 there something unique about it?

16 A It's similar to it, but there's aspects of
17 it that are different than standard homicides.

18 Q And since they're similar to homicide
19 investigations, if you could just briefly summarize,
20 what are some of the things that occur when you're
21 conducting a -- a homicide investigation or called to
22 a homicide investigation?

23 A For a homicide investigation, our -- usually
24 someone on patrol notifies a homicide detail
25 supervisor via paging system that they have a

Examination of Scott Broughton

1 homicide.

2 The -- the -- the supervisor then does some
3 triage on the case to ensure evidence and crime scene
4 are maintained and established and witnesses are
5 identified. And then they -- the -- the supervisor
6 will page the detective of the investigative team out.

7 And so we respond and are briefed by a
8 uniformed personnel about the details of the case as
9 they learn up to that point. And then from there, we
10 make investigative assignments; and, you know, process
11 the scene and continue to investigate.

12 Q So I want to turn your attention then to
13 Portland Police Bureau Case No. 18-347005. Were you
14 the lead -- or are you the lead detective in that
15 investigation?

16 A Yes, I am.

17 Q And what is that investigation?

18 A It was a officer-involved shooting on
19 October 10th of 2018.

20 Q And were you called to a particular location
21 for that investigation?

22 A Yes, I was.

23 Q And -- and where was that location?

24 A The Del Rancho Motel located at 7622
25 Southeast 82nd Avenue.

Examination of Scott Broughton

1 Q And in that -- and we're not going to go
2 through all the details of the investigation through
3 you right now, but just briefly could you give us a
4 window of time, per your understanding, when you
5 responded to that investigation, when the Portland
6 Police Bureau became involved in this homicide from
7 the beginning first call to the ultimate conclusion of
8 this incident?

9 A So the beginning occurred on October 10th,
10 2018 at approximately 9:11 in the morning when
11 Portland Police officers were called to a 7-Eleven
12 located at 7501 Southeast 82nd.

13 Q And just, again, without going into the
14 details, what were they responding to at that
15 7-Eleven?

16 A There was a fight at the 7-Eleven between
17 two individuals.

18 Q And what -- at what time approximately on
19 that date did the incident resolve or kind of
20 conclude?

21 A It was approximately 10:16 in the morning,
22 so approximately an hour and five minutes later.

23 Q And with regards to your call-out, were you
24 called out after that time frame, after that
25 10:00 a.m. conclusion?

Examination of Scott Broughton

1 A Yes, I was.

2 Q And were there other investigators and
3 officials called to assist in that investigation at
4 that time?

5 A Yes, there were.

6 Q And the crime scene, was the -- tell us
7 about what happened with the crime scene when you were
8 paged out to the location.

9 A I was paged out at approximately 10:38 in
10 the morning. When I arrived, there were a -- a large
11 number of vehicles in the -- pulled out in the street,
12 blocking the street, 82nd Avenue. And then a motel
13 parking lot.

14 And myself and Detective Kammerer directed
15 Forensic Evidence Division personnel to begin
16 photographing the overall scene.

17 Q And was the scene frozen, so to speak, upon
18 your arrival, so that nothing was moving or being
19 tampered with at -- at that stage?

20 A Yes, it was.

21 Q And you had other detectives, in addition to
22 Detective Kammerer, assisting you throughout this
23 investigation?

24 A Yes, I did.

25 Q And we'll go through those other witnesses

Examination of Scott Broughton

1 throughout this proceedings, but one question before
2 we conclude: To your understanding, was there an
3 officer identified as the person involved in the
4 officer-involved shooting?

5 A Yes, there was.

6 Q And -- and who was that officer?

7 A Officer Kelly VanBlokland.

8 Q And was there an identification made of the
9 decedent in that officer-involved shooting?

10 A Yes, there was.

11 Q And who was that?

12 A Samuel Rice.

13 Q When you arrived at the scene and were
14 processing the scene, was there a firearm and casing
15 recovered in the crime scene related to this incident?

16 A Yes, there was.

17 Q And -- and where was the firearm located and
18 retrieved?

19 A The firearm was located in the bed of a
20 pickup in a parking lot just south of the Del Rancho
21 Motel. And the -- the shell casing was in the grass
22 in a -- in the immediate area of the -- the bed of the
23 pickup truck.

24 Q And were those items seized and submitted to
25 the Oregon State Police Crime Lab under Case No.

Examination of Scott Broughton

1 18-347005?

2 A Yes, they were.

3 Q And were they submitted to the Crime Lab for
4 processing to determine if the -- the firearm seized
5 fired the casing around -- that was found -- found in
6 the scene?

7 A Yes, they were.

8 Q Okay. Is there anything else regarding
9 just, again, in summary of the investigation that you
10 recall about this case before we go into more details
11 throughout this process?

12 A Not at the moment, no.

13 MR. HANNON: So are there -- for the grand
14 jurors, are there any preliminary questions for the
15 detective?

16 Oh. Actually, there is one more question.
17 Excuse me.

18 BY MR. HANNON:

19 Q Just ever so briefly, can you explain the
20 scenario by which, as you understand it, this incident
21 unfolded?

22 A As I understand it, there was a -- a fight
23 at the 7-Eleven across the street from the Del Rancho
24 Motel between Sam -- Samuel Rice and a -- and another
25 individual in the 7-Eleven. And Portland Police

Examination of Travis Glover

1 officers were called to the 7-Eleven and later
2 contacted Mr. Rice and Talon Ochoa across the street
3 at the Del Rancho Motel.

4 And from there, Mr. Rice took Ms. Ochoa into
5 a hotel room. He forced her into a hotel room. And
6 subsequent to that, many attempts were made to
7 communicate with Mr. Rice via uniformed personnel and
8 Crisis Negotiation Team personnel. And Mr. Rice was
9 subsequently fatally shot.

10 MR. HANNON: Okay. Does anybody just have
11 any questions regarding the preliminary stages of the
12 investigation?

13 Okay. Thank you.

14 THE WITNESS: Okay.

15 MR. HANNON: We will call our next witness,
16 Travis Gover from the Oregon State Police Crime Lab.

17 All right. Could you just stand right --
18 and raise your right hand. I'll swear you in.

19 **TRAVIS GOVER**

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

22 **EXAMINATION**

23 BY MR. HANNON:

24 Q And go ahead and have a seat.

25 And, first, can you start by stating and

Examination of Travis Glover

1 spelling your name for the record.

2 A Travis Gover, T-r-a-v-i-s; last name,
3 G-o-v-e-r.

4 Q And, Mr. Gover, how are you currently
5 employed?

6 A I'm employed with the Oregon State Police
7 Forensic Services Division here in the Portland Metro
8 Forensic Laboratory.

9 Q And how long have you been employed there?

10 A Almost 20 years.

11 Q And what is your assignment with the Oregon
12 State Police Crime Lab?

13 A I'm a forensic scientist, firearm and tool
14 mark examiner. And I work primarily in the firearms
15 discipline.

16 Q And could you briefly tell the grand jury
17 your education and training and experience as it
18 relates to that position.

19 A Sure. I have a bachelor's degree in
20 biology, it's a hard science, and training primarily
21 from the --

22 Q Thank you.

23 A Trainings from the Bureau of Alcohol,
24 Tobacco and Firearms, a national firearm examiner's
25 academy. It's a year-long intensive training course.

Examination of Travis Glover

1 And a four-month stint in the home lab researching
2 manufacturing processes of firearms, macroscopy.

3 And then the next four months spent in the
4 ATF lab back east in D.C., doing the practical stuff
5 and visiting manufacturers to see how firearms are
6 rendered unique through the manufacturing process.

7 Q And do you -- and in that practical
8 experience in visiting the manufacturers as well as
9 the training, all of this is ongoing throughout your
10 career? Not just --

11 A Yeah. So --

12 Q -- the early stages?

13 A Yeah. I'm a member of the association
14 called The Association of Firearm and Tool Mark
15 Examiners. It basically conducts annual training
16 events once a year in different areas of the country.

17 It's an organization provided or put
18 together to basically provide training and continuing
19 education and research opportunities to firearm
20 examiners around the world.

21 Q Okay. So with that training and experience
22 and your work in analyzing firearms and casings, could
23 you summarize for the grand jury, what it is you're
24 analyzing when evidence is submitted to you?

25 A So what we're analyzing is basically fired

Examination of Travis Glover

1 components of firearms related to scenes, which would
2 be fired bullets, fired cartridge cases, other
3 elements.

4 It could also be shot shells, shot pellets
5 or elements of shot guns. And the primary
6 constituents of what we look at is bullets and
7 cartridge cases that are fired in firearms.

8 We also do a lot of examination of firearms
9 in general to examine the safety and if they're
10 operable. And, you know, what -- if they're not
11 operable, what's happened to them and why. It could
12 be on purpose, an alteration, that sort of
13 examinations.

14 Q And do you also analyze the firearms
15 themselves and do test fires to compare whether
16 certain firearms that fired certain cartridge casings?

17 A Yes. So when we do a comparison, if we're
18 asked to do a comparison of a bullet or cartridge case
19 to a firearm, we'll actually test -- you know, test
20 the firearm first to make sure that it's safe for us
21 to -- to fire.

22 And then we'll take similar or the same type
23 of ammunition if we have it in our reference
24 collection and actually take the firearm to our range
25 where we have a water tank. And we'll shoot the

Examination of Travis Glover

1 firearm into the water tank to collect more known
2 samples of bullets as well as cartridge cases for the
3 purpose of comparison.

4 Q And what are you looking for when comparing
5 a test-fired casing with collected discharged
6 cartridges or evidence left on a crime scene?

7 A So within the firearm, it has, you know,
8 parts that make contact with the cartridge, the
9 unfired component, when the firing process takes
10 place. And the machining of those pieces renders the
11 marks that are found on them unique to that particular
12 firearm.

13 So when a firearm is fired, all the
14 pressures that are generated will push a cartridge
15 case back into a breach or a breach bolt. The bolt
16 will be pushed down the barrel and be marked by the
17 barrel.

18 These marks, through research and -- you
19 know, ongoing research, are determined to be unique to
20 that particular firearm. So those are the marks that
21 we're looking at when we have an unknown that we'll
22 look at against our known samples that we obtained in
23 the laboratory.

24 Q Turning your attention to this particular
25 case listed under Agency Case No. 18-347005 and a

Examination of Travis Glover

1 report dated October 22nd, 2018, Lab No. 18L-7418,
2 were you asked to analyze a firearm and a discharged
3 cartridge casing found within a crime scene under
4 those case numbers?

5 A Yes, I was.

6 Q And could you explain to the grand jury what
7 you analyzed or were requested to analyze.

8 A So, first, is I have a Colt semiautomatic
9 rifle I was asked to examine. So I went through my --
10 my examination process. I'm checking safeties, making
11 sure the firearm is, you know, safe for me to -- to
12 fire. Make sure there's nothing there that seems out
13 of place.

14 Next, I was asked to examine also a fired
15 cartridge case. The -- the firearm, which is a --
16 what we refer to as a 5.56 caliber. It's also known
17 as a .223 caliber. There's an -- basically, a NATO
18 and a -- a domestic interchange there. They're the
19 same.

20 So the same caliber just basically has
21 different names sometimes depending on things like
22 pressures. So the firearm that's referred to is a
23 5.56 by .45-millimeter caliber rifle.

24 The ammunition that was -- that I had to
25 examine was -- was a .223 Remington caliber. So I had

Examination of Travis Glover

1 a fired cartridge case. I also had, I believe, two
2 fired bullet fragments. One was a .22-caliber bullet
3 fragment. And then there's also three lead fragments
4 that had no usable detail for -- for firearms
5 examination.

6 Q And what, if any, determinations were you
7 able to make with regards to the cartridge case and
8 the firearm that you examined?

9 A So the fired cartridge case, I did a
10 microscopic comparison of the -- of the --
11 (indiscernible) very microscopic striated detail found
12 on the cartridge case to known samples that I obtained
13 in the laboratory on the comparison microscope.

14 Allowed me to see both images side by side.
15 And I could identify the .223 Remington cart -- fired
16 cartridge case as being fired in the Colt
17 semi-automatic rifle.

18 Q And were you able to make any determinations
19 regarding the fragments?

20 A Yes. I examined the two fragments, the two
21 bullet fragments, and from the microscopic striations
22 found on the fragments, I could identify the fragments
23 as being fired in the Colt semiautomatic rifle.

24 Q Okay. And just for -- in case anybody is
25 unfamiliar with firearms, a .233 Remington caliber,

Examination of Travis Glover

1 what -- what -- what kind of caliber is that?

2 A So the .223 Remington caliber is a rifle
3 cartridge designed by -- basically, by Remington. Not
4 much more to explain about that. It's a .22 caliber,
5 so they -- or the bullet diameter's approximately .224
6 inches. So --

7 Q And is that a smaller, bigger? I know --

8 A That's --

9 Q -- that it's hard to define in that -- terms
10 of firearms, but --

11 A Within the rifle, it's -- you know,
12 families, rifles, it's a smaller diameter bullet, but
13 it's also -- because of the design of the cartridge
14 case, it actually is a very accurate and very fast
15 moving when it fires the bullet. The bullet moves
16 very fast compared to a lot of the handgun calibers.

17 MR. HANNON: Okay. Does anybody else have
18 any questions for Mr. -- Mr. Gover?

19 Thank you.

20 THE WITNESS: Mm-hmm.

21 BY MR. HANNON:

22 Q And I -- actually, I do actually have one
23 last question. You prepared a report for that and
24 then --

25 A Yes.

Examination of Rebecca Millius

1 Q -- then that's what we were referring to
2 when we're having our conversation about this casing
3 and cartridge?

4 A Yes, it is.

5 MR. HANNON: Thank you.

6 Why don't we go off the record for two
7 minutes.

8 (Recess taken, 10:11 a.m. - 10:17 a.m.)

9 MS. MARRERO: And the State's next witness
10 is Dr. Rebecca Millius.

11 Thank you, Doctor. Can you please raise
12 your right hand?

13 **REBECCA MILLIUS**

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

16 **EXAMINATION**

17 BY MS. MARRERO:

18 Q Can you please state and spell your first
19 and last name for the record.

20 A Rebecca Millius, R-e-b-e-c-c-a,
21 M-i-l-l-i-u-s.

22 Q Thank you, Dr. Millius. Can you please tell
23 the grand jury how you are employed?

24 A I am a deputy state medical examiner for the
25 State of Oregon.

Examination of Rebecca Millius

1 Q And how long have you been so employed?

2 A I joined the group at the end of September
3 in 2017.

4 Q Thank you. Can you please tell the grand
5 jury a bit about your educational background and your
6 experience.

7 A Yes. I completed my undergraduate training
8 at Portland State University. I completed my medical
9 training at OHSU in the spring of 2001. I entered and
10 completed a family medicine internship at Group Health
11 Cooperative in Seattle in 2001. I completed that
12 in 2002.

13 I entered and completed a family medicine
14 residency in 2002 in the University of New Mexico in
15 Albuquerque. And completed that in 2004. I returned
16 to Portland and have -- I was employed as a family
17 practice doctor board certified in family medicine
18 until spring of 2012 wherein I returned to retrain in
19 pathology.

20 I entered and completed a residency in
21 anatomical clinical pathology at the University of
22 Arizona. And I then entered and completed a
23 fellowship in forensic pathology at King County
24 Medical Examiner's Office in Seattle, Washington.

25 I completed that in June of 2017. And have

Examination of Rebecca Millius

1 been employed at the Medical Examiner's Office since
2 the end of September of 2017.

3 Q Thank you. As a deputy medical examiner,
4 can you tell us a bit about what your duties and
5 responsibilities are.

6 A So I am mandated to determine a cause and
7 manner of death in the case of suspicious deaths,
8 including homicide, suicides, deaths where it appears
9 to be other than natural, in the setting of natural
10 death where the individual was not under the care of a
11 physician and in the case of accidental death.

12 Q And can you tell the grand jury what your
13 process is for making those determinations.

14 A The majority of cases, we examine the
15 decedent, either externally or -- externally and
16 internally, to establish cause and manner of death.

17 Q Thank --

18 A We also gather information from the scene
19 and past medical history as pertinent for that
20 process.

21 Q And did you conduct an examination on a
22 Samuel Rice?

23 A Yes, I did.

24 Q When did you conduct that examination?

25 A That examination was conducted on Thursday,

Examination of Rebecca Millius

1 October 11th, commencing at 9:10 a.m.

2 Q Thank you. And can you tell the grand jury
3 what injuries you observed on Mr. Rice?

4 A So Mr. Rice, in addition to some minor
5 cutaneous blunt force injury, had a penetrating rifle
6 wound of the head.

7 Q And would that have been what caused
8 his death?

9 A Yes.

10 Q And can you describe that wound to the
11 grand jury.

12 A Yes, I can. The entrance wound was observed
13 to be at the lower edge of the right eyelid. It
14 entered through the eye socket, traveled medially or
15 towards the left through the bones of the sinuses and
16 the -- several of the bony structures internally in
17 the base of the skull.

18 And exited the base of the skull at the left
19 edge of the foramen magnum, which if you're not
20 familiar is a big hole at the bottom of the skull base
21 through which the brain stem, where it becomes the
22 spinal cord, exits. And the bullet was recovered in
23 the soft tissue just outside of the skull base or the
24 proximal posterior left neck.

25 Q Okay. And so the -- there was bullet

Examination of Rebecca Millius

1 fragments actually recovered from his body?

2 A The -- the deformed bullet was recovered
3 from those deep soft tissues. And then, additionally,
4 some fragments of lead bullet fragments were also
5 recovered in that area.

6 Q Okay. Did you observe any other injuries on
7 his body that would have caused death?

8 A No.

9 Q What did you determine was his cause of
10 death?

11 A The penetrating, indeterminate range, rifle
12 wound of the head.

13 Q And what did you determine the manner of
14 death was?

15 A Homicide.

16 Q And when you indicate homicide as a manner
17 of death, what does that mean?

18 A It indicates that the -- the action that --
19 or incident that caused the decedent's death was
20 performed by another.

21 Q Meaning another human being?

22 A Another person. Mm-hmm.

23 Q Okay. And in this particular case, did you
24 submit any samples for lab work or toxicology?

25 A We -- we did.

Examination of Rebecca Millius

1 Q And can you tell us what was --

2 A I don't have a --

3 Q -- examined?

4 A I'm sorry. I didn't pull a copy of his
5 toxicology report. Do you have one?

6 Thank you. I apologize for that.

7 Q And so just for the record, are you -- does
8 that look familiar to you?

9 A Oh, yes.

10 Q Okay.

11 A The -- I haven't -- it's initialed that I
12 reviewed it and sent it for filing.

13 Q Okay. And what were the results of those
14 reports?

15 A The peripheral blood detected the presence
16 of cannabinoids.

17 Q Okay.

18 A Ethanol and acetone were not detected.

19 Q Okay. And is there any other lab work
20 outstanding, to your knowledge?

21 A No.

22 MS. MARRERO: Okay. Folks, are there any
23 questions? Okay.

24 Thank you, Dr. Millius.

25 THE WITNESS: You're welcome.

Examination of Benson Weinberger

1 (Recess taken, 10:24 a.m. - 10:42 a.m.)

2 MR. HANNON: We are back on the record. We
3 are going to call our next witness,
4 Officer Weinberger.

5 A GRAND JUROR: Mr. Weinberger? Oh, okay.

6 THE WITNESS: Good morning.

7 MR. HANNON: All right. Could you raise
8 your right hand and then we'll swear you in.

9 **BENSON WEINBERGER**

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

12 **EXAMINATION**

13 BY MR. HANNON:

14 Q And can you first start by please stating
15 and spelling your name for the record.

16 A The name is Benson Weinberger. First is
17 Benson; last is Weinberger, W-e-i-n-b-e-r-g-e-r.

18 Q And how are you currently employed?

19 A I am a police officer with the City of
20 Portland.

21 Q And how long have you been with the City of
22 Portland?

23 A In January, it'll be 12 years.

24 Q Any other prior law enforcement experience?

25 A No, sir.

Examination of Benson Weinberger

1 Q And what is your current assignment with the
2 Portland Police Bureau?

3 A Currently, I'm an acting sergeant, which
4 means I'm an officer, but doing the duties of a
5 sergeant at our Behavior Health Unit, which is --
6 deals with our chronically mentally ill population.

7 Q And how long have you been working with the
8 Behavioral Health Unit?

9 A That's actually been short. About a month.

10 Q Okay.

11 A Before that, I was a patrol on Central
12 nights, either in an acting sergeant role or just a
13 normal patrol officer.

14 Q And are you also -- or do you work with the
15 CNT Unit -- CNT Unit with the Portland Police Bureau?

16 A Correct. It's the Crisis Negotiation Team.

17 Q And how long have you worked with the Crisis
18 Negotiation Team?

19 A That's been about two-and-a-half years that
20 I've been with them.

21 Q And could you briefly summarize what it --
22 it is that the Crisis Negotiation Team does?

23 A So the Crisis Negotiation Team is kind of
24 the verbalization side of our -- of our SERT side of
25 things. And so we will -- whenever SERT gets

Examination of Benson Weinberger

1 deployed, if -- if it's a warrant, we'll go on that to
2 try to gain intel or if it's maybe somebody that
3 doesn't want to talk, come -- or come out, talk with
4 them.

5 Or if there's anybody -- like, a suicidal
6 person on a bridge or somebody like that that that
7 patrol can't handle, we'll get called out to do that.
8 So we're basically a team of -- of communicators.

9 Q And -- and let me interrupt you real quick.

10 A Yep.

11 Q I apologize. You said SERT several times.
12 Real quickly, what is SERT?

13 A SERT is what everyone else knows as SWAT.
14 We just call it SERT here in -- in the City of
15 Portland. So it's our -- it's our special -- our
16 tactical team.

17 Q Okay. And so the CNT or Crisis Negotiation
18 Team is the intel unit or arm of those responses?

19 A Intel and communication.

20 Q And you mentioned sometimes you respond to
21 suicide calls on bridges?

22 A Correct. Like, a couple years ago, there
23 was a -- a person that was threatening suicide off of
24 the Fremont Bridge. And so they stopped all traffic
25 and -- see, I wasn't on the team yet, but the team was

Examination of Benson Weinberger

1 out there for, like, eight hours negotiating with that
2 person.

3 Or we've been up on the Vista Bridge. So
4 it's -- it's -- we receive a lot of training in -- in
5 kind of those active listening skills and those ways
6 to deescalate people and get them to calm down and --
7 and maybe come down from their elevated emotional
8 platform and center down a little bit more.

9 Q And what kind of training do you have,
10 personally, in -- in regards to participating on the
11 Crisis Negotiation Team first?

12 A So there's -- the -- there's actually a lot
13 of training that goes into it. There is -- FBI does a
14 40-hour course. There's also a private industry
15 called CSM. They do 40 hours of introductory courses
16 and then an additional 40 hours for two more -- or
17 three more levels. So we'll have essentially 120
18 dedicated hours.

19 Q And I don't mean to interrupt you again. Do
20 you --

21 A Yeah, no. You're fine.

22 Q -- know what CSM stands for?

23 A Crisis Systems Management.

24 Q Thank you.

25 A And so -- and in those, there are scenarios,

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1 so it's not only just basically talking. It's -- it's
2 running a scenario.

3 So there will be full-on days where it's,
4 like, a six-hour scenario. And they've got
5 intelligence built up. And so it -- this is not --
6 you don't ever do this in just kind of a bubble.
7 You're always working as a team.

8 And so if you're the person that's talking,
9 there's a whole team of people behind you trying to
10 get information, trying to kind of learn about this
11 person, what may work, may -- what may not work and --
12 and ways that you can communicate with that person at
13 kind of -- at a more personal level. So that's that
14 training.

15 We train monthly for a full shift. And that
16 has -- we were actually in that today. And so that is
17 every month, we have ten hours of training. And we'll
18 pick little topics to do and hands on and -- and then
19 also, there is WSHNA, which is Western States Hostage
20 Negotiation Association.

21 It's, basically, all the negotiators on the
22 west coast. We'll do conferences and go to a 40-hour
23 conference each year. And part of that is they have,
24 like, a grand scenario. Again, a six to eight hour
25 scenario from start to finish where somebody has done

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1 something and your job is to talk this person out and
2 get the intel to kind of -- to work around that. And
3 I know that's kind of a --

4 Q Well, I appreciate that.

5 A -- wordy answer.

6 Q So -- and in these situations when it's not
7 being training, in a typical response when there's a
8 SERT and CNT call-out, are you paged to those
9 locations?

10 A Correct. So our team is -- we -- half are
11 up at any given time. So half the team is on the
12 pager, half the team is not. So on -- if -- if
13 something happened right now and SERT got acted or CNT
14 got activated, half of our negotiators would go. And
15 so it is on a pager -- page-out basis.

16 Q And -- and you mentioned it was not just one
17 person, but a team. Is there someone on the team that
18 takes the role as the lead negotiator and then the
19 others provide the auxillary support?

20 A Yes. And it's not always the same person.
21 So it's kind of -- everybody has their skill sets that
22 they're better at, right? And so I think if it's the
23 team lead person's decision as to what -- who was
24 there.

25 And it -- some of that could play into

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1 strengths and weaknesses. Others could -- who's
2 first? We need to call somebody right now and we're
3 going to take you. So that -- those assignments are
4 made at the time. So we don't have a -- a dedicated
5 negotiator and intel. It's -- everybody's a
6 negotiator and then you play different roles.

7 Q And -- well, turning your attention to this
8 particular case, the officer-involved shooting at the
9 Del Rancho, Portland Police Bureau Case No. 18-347005.
10 Are you familiar with this incident?

11 A Yes.

12 Q Were you paged out to this incident?

13 A Yes. We were -- there was a -- a
14 pre-planned warrant that was being executed before
15 this. And so we were already -- or me and
16 Sergeant Steinbronn already had our truck set up for
17 that -- that warrant. The warrant was executed fine.
18 Nothing happened. It was just a standard call-out.

19 So that was done. And as that was wrapping
20 up, we were actually putting the truck away, we got
21 this -- we heard over the radio that this was
22 happening. And so we started listening and then the
23 page came out shortly after that.

24 Q So let's talk about that first. So you are
25 familiar with events unfolding on this particular

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1 incident before even receiving the page?

2 A Limited. I mean, it -- it's a matter of --
3 radio's kind of, like, a one-way type thing where it's
4 like you're -- you listen to. It's almost like
5 watching TV. You listen to it. You can't really
6 interact.

7 So there were people -- I know our -- our
8 SERT lieutenant -- or our -- our CNT lieutenant was
9 involved more in kind of the decision making. But we
10 had heard it happening and heard that it was going to
11 go this way. So we started --

12 Q And when you talk about over the air or
13 radio, this is basically the frequency by which
14 uniformed officers are plugged in and can hear
15 things --

16 A Correct.

17 Q -- developing --

18 A Exactly.

19 Q -- in the neighborhoods?

20 A Exactly.

21 Q So going back to the question then, it was
22 clear over the air something was developing at
23 Del Rancho or there was an incident evolving?

24 A Right. And so what happens is usually,
25 when -- when patrol finds themselves in a situation,

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1 they will ask for a consult with either the CNT, like,
2 say, if it's a suicidal person or SERT if it's
3 somebody -- like a barricaded, armed person like that.
4 And so we had heard with -- the sergeant ask for a
5 SERT consult.

6 Q Mm-hmm.

7 A And so that kind of gets the hairs on the
8 back of your neck kind of sticking up, like, okay.
9 Something's going on. Again, it's not -- as things
10 are developing, it's not, like, a play by play on the
11 radio where people are saying necessarily, so we
12 didn't get a whole bunch of intelligence, but we knew
13 something was going on.

14 Q After the official consult or call-out, how
15 long would you say between that period and your
16 arrival at the location, how much time would you say
17 transpired?

18 A I -- I --

19 Q If you had to estimate.

20 A Yeah. I was driving the truck down 205 in
21 rush hour. And it's -- it's a huge truck, so I wasn't
22 worried about it. I was worried about other things.
23 Maybe 10, 15 minutes. Maybe --

24 Q Okay.

25 A -- that. But that -- my times could be

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1 distorted.

2 Q Sure. And when you arrived, was -- were you
3 assigned a -- a position when you got to the scene?

4 A Yeah. Once we -- once we got the -- the --
5 the truck set up, Sergeant Steinbronn assigned me to
6 be primary negotiator. And in that negotiation setup,
7 we've got a primary negotiator and then a secondary
8 negotiator. And our jobs are basically just to do the
9 talking side of things.

10 And so -- so it was me and Officer Klundt
11 was -- Karl Klundt was my -- my second. And then
12 listening, there was Sergeant Steinbronn and in our --
13 we have a -- somebody that -- that -- from SERT, a
14 SERT intelligence officer that also listens.

15 And their job is just to listen and kind of
16 communicate as things develop. And then also our --
17 our CNT Lieutenant Bates was also listening.

18 Q What were some of the first steps that you
19 tried to do or did do when you arrived at the scene,
20 then given that task?

21 A So it is -- it is, like, a kind of -- almost
22 like a NASCAR pit stop right at first, right?
23 Everything's going 100 miles an hour. And so Officer
24 -- or Karl Klundt and I were talking about, okay, what
25 are we going to -- kind of where are we going to go.

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1 What are some of the things that we're going to say
2 when we get on the phone.

3 And with that -- and we really hadn't quite
4 set up -- one of the patrol officers came in and said,
5 "He's -- he's calling 9-1-1. He's talking to 9-1-1."

6 Q Okay. And so what did you do with that
7 information?

8 A So, at that point, it's, like -- okay. One
9 of the things we try to do very first is do what we
10 call verbal containment. And that's basically if
11 somebody's talking to us, that's good because they
12 can't be doing other things.

13 And so we wanted to -- we wanted to get this
14 verbal containment on this -- on this individual so
15 that he would at least be communicating with us. And
16 so we work to the -- with -- on our truck where it's
17 located, our little communication area is in the very
18 back.

19 So we work back there and we were trying to
20 work with dispatch to get that call looped in 'cause
21 dispatch can loop -- basically forward the call onto
22 us and it'll be, like, a three-way conversation until
23 dispatch takes themselves out. So we were working with
24 that and -- and Mr. Rice disconnected.

25 Q And was there any -- any introductions in

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1 that first connection between --

2 A No.

3 Q -- 9-1-1? Okay.

4 A No. It was -- yeah. I -- we never even
5 attempt -- well, it's not that we didn't attempt. But
6 that -- that handoff was never really attempted
7 because it -- he terminated before that.

8 Q And the grand jury has heard one call that
9 occurred, but was that the first call that occurred or
10 was there a call that preceded it where you were able
11 to talk with a person later identified as Mr. Rice?

12 A Yeah. There was -- there was the -- so
13 there's two calls actually. And so the first call
14 where -- once we realized that he disconnected, we
15 realized we had the phone number from 9-1-1. So we're
16 like, all right. Let's -- let's call that. So we
17 call that.

18 And he had -- had identified himself as
19 Aaron. And so we just kind of went with that. And it
20 was pretty disjointed or a lot of yelling. You guys
21 heard the second phone call. It was -- it was a lot
22 like the -- the -- the first was like that.

23 He had threatened a couple times to cut off
24 his own ears and send them to me. We really didn't
25 have a communication going back and forth where, like,

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1 we were talking and he was responding to me and I was
2 responding to him. It was more him yelling at me.

3 At one point, I called him Aaron -- or I
4 asked him what his name was and he said, "Aaron." And
5 I said, "All right. Aaron." And then he comes back
6 and yells at me, "My name's not Aaron."

7 And so it was really kind of a -- like, a
8 what's-going-on-type moment and really nothing was
9 gathered from that conversation. And he disconnected
10 shortly after starting that.

11 Q And the call that -- that has been
12 transcribed --

13 A Mm-hmm.

14 Q -- you had a -- you have a -- the
15 transcription in front of you?

16 A Correct, yes.

17 Q Do you recall that conversation?

18 A Yes.

19 Q And how would you characterize that
20 conversation, both from your independent recollection
21 and reviewing the transcript?

22 A Manic. I mean, that would be the -- the
23 most that I could kind of -- and disorganized. Was
24 just trying to figure out exactly where things were
25 going. Through a lot of it, from what I recall -- and

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1 I don't know how the audio played out -- but it almost
2 sounded like he had the phone set down.

3 And he was yelling at me through the phone
4 like it wasn't up to his ear. And so a lot of what we
5 were trying to do was get him to come and pick up the
6 phone and actually have a conversation with us.

7 Q Well, let me stop you there. A couple
8 things: One, you mentioned earlier that it's your
9 goal to keep them talking so they can't do other
10 things.

11 A Right.

12 Q So what would your concern be based on your
13 training and experience both in -- with the Crisis
14 Negotiation Team, your experiences with SERT and your
15 overall experiences as a police officer with him
16 trying to talk with you, but with the phone not in his
17 hand? What -- what raises the concern for you?

18 A He can be doing anything. I -- we know
19 we've got somebody else in there and we know that he
20 most likely knows that there's a whole group of people
21 there. So our concern is he could be doing something
22 to what could be a potential victim, hurting her
23 somehow that we -- I mean, I don't have eyes on him,
24 so I can't see.

25 Or, also, he could -- knowing that -- that

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1 there are SERT officers and officers all around, he
2 could be barricading his -- his door, maybe making it
3 harder to get in or doing some kind of fortifications,
4 booby trapping.

5 Anything where he's not -- so it's kind of
6 like you're on the phone with him, but he's -- he's
7 not engaged with the conversation. So he could be
8 doing a lot of things that are potentially dangerous
9 to him, officers or the female that's with him.

10 Q So you described or characterized the
11 conversation as manic. With your experience and with
12 the Behavioral Health Unit as well as the Crisis
13 Negotiation Team and all that training, what -- how --
14 why would you characterize the conversation as manic?

15 A Because it -- it was very one sided in that
16 he kept on coming -- he would come in and say -- blurt
17 some words and not let me get any kind of toehold in.
18 And so my goal or what I really wanted to do is -- is
19 -- and I use the word "toehold" 'cause I think it kind
20 of characterizes what I want to do.

21 I want to get my foot in the door just a
22 little bit so that we can start a conversation. And
23 if I can even call him whatever his name is, whatever
24 it is, I just want to be able to talk with him.

25 And when he's in this elevated kind of jelly

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1 and I can't really hear what he's saying and then
2 comes back with a bunch of blurt words, it makes it
3 really hard. And so there's really no -- there's no
4 conversation there.

5 There's no give-and-take exchange back and
6 forth. He's not reacting to me and I can't react to
7 him. And so it made it very difficult. So that's
8 kind of why I -- again, it's not, like, a diagnosis or
9 anything. It just was very elevated and very kind of
10 pressured.

11 Q And when you do get that toehold or you're
12 able to start those conversations, how long of a
13 process are you typically engaged in -- pardon me --
14 when you're able to establish that dialogue?

15 A It really depends on -- on the situation and
16 the person. It can be a lot of -- like, it can be --
17 if someone wants -- if someone's on the phone and
18 they're just yelling at me, I'm okay with that. I can
19 take someone yelling at me and screaming at me and
20 calling me all kinds of bad names.

21 I'm fine with that because they're engaged.
22 And that's some form of a -- of a conversation. They
23 -- so it -- it really depends on the person. There's
24 been very quick conversations when you get -- gain
25 what's called rapport, basically kind of that trust.

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1 You can gain rapport very quickly and then
2 it goes quickly or it's a long process of them
3 venting. But venting is good, too, because then it --
4 it gets kind of some of that emotional hot air out of
5 -- out of the conversation.

6 Q Okay. How would you characterize -- given
7 the elevated speech and the one-sided conversation and
8 given how quickly it was unfolding, did this raise any
9 concerns for you based on your training and experience
10 in this field?

11 A Absolutely. And I think I even mentioned it
12 towards the end. I think I said, "Ah, this is bad.
13 It feels bad." And it's one of those things that I
14 think you -- when you walk into a room when two people
15 are arguing and you haven't heard anything, but you
16 feel that tension. That was kind of there.

17 That tension was there. And so it wasn't
18 that it was just my gut that, okay, this is feeling
19 like I don't have any kind of rapport with him. I
20 haven't been able to really bond with him at all. And
21 I don't have anything with him.

22 Q And at this stage during this conversation,
23 you understood that there was a female in the room
24 with him?

25 A Correct, yeah.

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1 Q And you understood -- was there any
2 knowledge on your part that -- whether or not he had a
3 weapon of sort -- of sorts?

4 A I -- again, it's so -- we get these, like,
5 snapshots of how things develop, right? And -- and
6 we're kind of in that back. And so I heard from -- I
7 think it was from the beginning that he had a knife,
8 but I -- I wasn't totally 100-percent aware of that.
9 But my thought was that he had some form of weapon.

10 Q Turning your attention to Page 3 of the
11 transcript. And this is available to the grand jury.

12 A Okay.

13 Q At one point, you ask at the top of the
14 page, "Did a -- did you put the phone down? Will you
15 pick up the phone for me? Pick up the phone so we can
16 talk. You need to -- you need to pick up the phone.
17 Hey, Aaron. Aaron. Aaron, pick up the phone."

18 What -- what did he say after that or what
19 -- and not necessarily in response to you, but what
20 did he say after that?

21 A So it's kind of interesting 'cause of how --
22 how your mind distorts things, right? And so Karl and
23 I had talked about this -- these next two lines that
24 he says are kind of -- well, they're important 'cause
25 he -- he, basically, says that he's -- he comes back

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1 and then, again, remember that I had said it sounded
2 like he was off the phone, like he was wandering
3 around. The phone wasn't there.

4 He came back and I heard, like, garbledness,
5 like, it was just kind of some words. And then I
6 heard, "You have two seconds to have," and then did
7 one and then hung up. So I heard this kind of blurt
8 and, like, Karl and I looked at each other, like, what
9 did he say before the two seconds?

10 And that's when the other people listening,
11 they kind of keyed in. And I -- they said, "I think
12 he said, jeez, he's going to cut her throat."

13 Q And is that -- and that was captured on the
14 transcript?

15 A That was captured on this transcript --
16 transcript. Exactly.

17 Q And given the, again, speed and lack of
18 communication and how this was unfolding, did that --
19 was all of that behavior and everything that you knew
20 based on your training and experience is what was
21 concerning with you with this phone call?

22 A Oh, absolutely. 100 percent.

23 Q Now, you mention that there's a team. You,
24 your second, a SERT intel and you guys are all
25 reporting. Is someone -- or this information being

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1 relayed over the radio for people who are involved in
2 the -- in the scene?

3 A Correct, yeah. And it's -- it's one of
4 those things where you divide the job because me, as
5 primary, if I'm trying to talk and then also relay
6 what's going on, I can't really focus on that
7 communication very well.

8 So that's why that team is set up. So we
9 have -- it's -- he's a -- it's called a SERT intel
10 officer. He was -- he heard that and he actually
11 heard the -- the threat.

12 Q And it's obviously not transcribed, so when
13 they're rephrasing or sharing this info over the air
14 to other officers who are involved in the mission or
15 the scene, it's not going to be exact is it?

16 A Correct. That is correct, yeah. It's --
17 it's going to be your -- it's -- it's -- they're going
18 to try to make it as close as accurate because they
19 want to be able to frame this as what they see and
20 then what they hear, but it may not be verbatim.

21 Q Got it. Is there anything about this
22 incident or your interaction with Mr. Rice --

23 A No. I --

24 Q -- that you recall?

25 A It was very -- again, very -- he was

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1 emotionally high and there was a very limited ability
2 that we had to kind of dig in and actually get him to
3 -- to come down a little bit.

4 Q And it sounded like from the transcript, did
5 you actually hear the shot fired?

6 A No.

7 Q Oh, okay.

8 A No. I think that was relayed that --
9 through kind of word of mouth.

10 Q Similar to what we're talking about over
11 the --

12 A Yeah.

13 Q -- air or --

14 A Exactly.

15 Q -- relayed?

16 A Yeah. Or I think even I made eye contact
17 with Dalberg and Dalberg says, "You can stop." 'Cause
18 we were trying to call. And the way our -- the way
19 our system works, as long as the -- the phone is
20 picked up, it records.

21 So if I'm dialing somebody, it's not
22 necessarily picking up everything. And so I think
23 some of that was missed. But as long as the phone is
24 active, it's recording.

25 MR. HANNON: Do the grand jurors have any

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1 questions for Officer Weinberger?

2 A GRAND JUROR: So that threat that you
3 heard was (indiscernible) we heard on the audio
4 (indiscernible)?

5 THE WITNESS: Correct.

6 MR. HANNON: Anybody else have any questions
7 for Officer Weinberger? Is he free to go?

8 GRAND JURORS: Yes.

9 MR. HANNON: Thank you.

10 THE WITNESS: All right. Thank you very
11 much.

12 A GRAND JUROR: Thank you.

13 MR. HANNON: And we'll take a two-minute
14 break.

15 (Recess taken, 11:02 a.m. - 11:14 a.m.)

16 MS. MARRERO: Okay. We are back on the
17 record and the State's next witness is Roberta
18 Stewart.

19 Ms. Stewart, if you can just remain standing
20 for a moment. Go ahead and raise your right hand.

21 **ROBERTA STEWART**

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

24 MS. MARRERO: And go ahead and --

25 THE WITNESS: Oh.

Examination of Roberta Stewart

1 MS. MARRERO: -- grab a seat.

2 THE WITNESS: Okay.

3 EXAMINATION

4 BY MS. MARRERO:

5 Q Can you please state and spell your first
6 and last name.

7 A Roberta Stewart, R-o-b-e-r-t-a,
8 S-t-e-w-a-r-t.

9 Q Thank you, Ms. Stewart. Can you please tell
10 the grand jury how old you are?

11 A I am 32.

12 Q And do you live here in the Portland area?

13 A Yes.

14 Q And I want to speak with you about an
15 incident that occurred on October 10th, 2018. Are you
16 aware of the reason why you're here to testify?

17 A Yeah.

18 Q Can you tell the grand jury where you were
19 this day when you first noticed something out of the
20 ordinary.

21 A I was at a 7-Eleven, I think of Flavel,
22 Southeast Flavel.

23 Q Okay. Do you know roughly what the cross
24 street was?

25 A It was Flavel, I guess.

Examination of Roberta Stewart

1 Q Is it --

2 A 82nd -- or 82nd. Or 7 something.

3 Q Okay. So somewhere --

4 A For --

5 Q Somewhere --

6 A Yeah.

7 Q -- along Flavel?

8 A Mm-hmm.

9 Q And who were you with that day?

10 A Myself.

11 Q And were you in or outside of the 7-Eleven?

12 A I was inside.

13 Q What did you observe that first drew your
14 attention?

15 A Well, I was -- I just walked in. I went
16 into the back to get me some wine. I walked towards,
17 like, the little salad area. And I was just in line.
18 There's about, like, four other people in front of me.

19 Then I just, like, heard argument between
20 two gentlemen. And one guy was like, "Well, you're
21 messing -- you're trying to mess with my man," or
22 something like that.

23 I wasn't kind of really entertaining it
24 'cause that always happens over there, so -- but then
25 they begin to get physical. I don't know who, like,

Examination of Roberta Stewart

1 hit who first or whatever. But, like, they just
2 started, like, fighting.

3 Q Okay. So I'm going to back you up just a
4 little bit.

5 You said that there were two guys who are in
6 this argument?

7 A Mm-hmm. It was a --

8 Q Can you describe what they looked like.

9 A So the other -- the first guy that I noticed
10 was -- he was, like, bald headed, kind of stocky. And
11 the other guy had, like, longer hair. He was older,
12 you know what I'm saying, 'cause the other guy was
13 younger. And he had, like, a ponytail and a dog --
14 like, had -- had a dog. I remember that.

15 Q Okay. And you indicated that you didn't see
16 how the fight started.

17 A No. I don't -- 'cause of where they were,
18 it was -- like, they were in between an aisle, like,
19 by the chip area. So, like, where I was is kind of
20 like -- I couldn't really see, wasn't trying to see,
21 yeah.

22 Q Okay. And did the fight ultimately turn
23 physical?

24 A Yes.

25 Q Can you describe for the grand jury what you

Examination of Roberta Stewart

1 saw in terms of the -- what happened with the fight?

2 A So they got into a wrestling -- like, a --
3 a -- a -- a struggling match where they're pulling on
4 each other and all up on each other kind of sort of
5 thing. And I'm like, oh, my God. I be getting --
6 kind of getting a little scared 'cause I'm like, oh,
7 no, you know what I'm saying?

8 So they're just doing this whole physical
9 thing, but it's pushing and shoving and, like, tugging
10 on each other first. And then the guy with the
11 ponytail was like, "He has a knife."

12 I'm like, "A knife? Huh-uh." And so he
13 kept on saying, "He has a knife. He -- he has -- he
14 has a knife," but he's still trying to -- like, being
15 aggressive still, though.

16 I'm like, okay. Then they kind of come --
17 like, begin to come my way. The guy with the
18 ponytail. And then the knife was, like, all waving
19 all in the air, you know. I'm not sure if he grabbed
20 it from him --

21 Q Okay.

22 A -- or not.

23 Q So that's what I -- that's what I want to
24 ask. Did you actually see a knife?

25 A Yes, I did.

Examination of Roberta Stewart

1 Q And who did you see with the knife?

2 A The bald-headed guy.

3 Q Okay. And can you describe what the knife
4 looked like?

5 A I think kitchen knife.

6 Q Big, small?

7 A Not a steak knife. Bigger than a steak
8 knife.

9 Q Okay. Bigger than a steak knife.

10 A Yeah.

11 Q Did it appear to have a fixed blade or did
12 it seem to be one of those knives that folds up and --

13 A No, it was --

14 Q -- opens and closes?

15 A -- a fixed blade, you know -- you know, one
16 of those.

17 Q Okay. And what was the bald guy doing with
18 the knife?

19 A Nothing. He had it in his -- first, he had
20 it in his pocket 'cause I did remember seeing that
21 when they were --

22 Q And --

23 A I'm sorry.

24 Q Oh, no. You're fine.

25 A Okay.

Examination of Roberta Stewart

1 Q When you say, "in his pocket," what do you
2 mean?

3 A He had it -- like, a hoodie on.

4 Q Okay.

5 A 'Cause I won't ever -- never forget that
6 day. He had, like, a hoodie on. And it was, like,
7 hanging out his pocket. Yeah, you get -- it was right
8 there.

9 Q And so you're referring to sort of the
10 pocket on your sweatshirt is --

11 A Mm-hmm.

12 Q Do you mean, like, the front pouch on --

13 A Yeah --

14 Q -- a hoodie?

15 A -- the front pouch, yeah.

16 Q Okay. And you said it started in his
17 pocket. What -- where did you see it other than
18 his pocket?

19 A It had, like -- so -- so the -- 'cause they
20 fought two different times. Like, so the -- the first
21 incident, whatever. So in the midst of everything, I
22 seen it fly under the little thing.

23 You know, like, there was a stand with
24 everything and it was under there. And just let it --
25 I didn't say nothing, you know, 'cause I --

Examination of Roberta Stewart

1 Q Okay.

2 A -- don't know, but --

3 Q And did you know how the knife got knocked
4 to the ground?

5 A They were fighting. They were tussling back
6 and forth and all this, so -- but, I mean, it was --
7 he said he had a knife and then it was in the hands.
8 I don't know. In some -- some way, it -- it just was
9 -- it fell.

10 Q Okay.

11 A However it fell, though.

12 Q And did you see when the fight broke up?

13 A Yes.

14 Q How did the fight break up?

15 A They just stopped, like -- or whatever.
16 They stopped. And -- 'cause the cashier was like,
17 "I'm going to call the police," or whatever. And then
18 the guy -- the bald-headed guy was trying to, like, go
19 or whatever the case may be.

20 And then the other guy, like, with the
21 ponytail was kind of, like, egging him on a little. I
22 was kind of odd -- that was a bit odd for me. And
23 then they -- the bald-headed guy walked up and punched
24 him and then they started fighting again.

25 Q Okay.

Examination of Roberta Stewart

1 A The knife was still over there.

2 Q So --

3 A And --

4 Q -- when you say over there, was it --

5 A Like, under the little area, the little part
6 where I was standing by.

7 Q Okay.

8 A I don't know how to describe it.

9 Q On the ground?

10 A Mm-hmm. Up under the -- like, it was up
11 under something like this. You know, there's chips
12 and stuff like this and then it fell under it, so --
13 yeah.

14 Q Okay.

15 A Or whatever.

16 Q And did you see when the second fight then
17 broke up?

18 A It just -- like, they just stopped fighting.
19 And then the -- I remember the guy's dog with the
20 ponytail was right there. And I'm thinking -- I'm
21 just thinking to myself, well, if he's crazy, he'll
22 hit the dog, but he didn't. He just, like, walked
23 over the dog and left. And the guy with the ponytail
24 was, like, still being aggressive.

25 Q Who walked over to the dog and then left?

Examination of Roberta Stewart

1 A The guy with the bald head.

2 Q The bald-headed guy?

3 A Yeah. The one that was kind of, like,
4 tripping before.

5 Q At some point, did he leave?

6 A Yeah.

7 Q And --

8 A But he came back.

9 Q Okay. So walk us through what happened
10 with that.

11 A So after he walked over the dog and the guy
12 was just standing there or whatever, he left. And
13 then he came back into the store. But the guy was
14 like, "Yeah, he has a knife. He still has a -- he has
15 a knife. You know, call the police."

16 So he was coming for his knife. And I
17 wasn't going to pick it up or touch it. And I was
18 hoping he didn't see it, but he seen it. He found it
19 and he picked it up, so --

20 Q And I just want to make sure we're being
21 very clear about who we're talking about when we say
22 "he." So who came and picked up the knife?

23 A The guy with the bald head with the hoodie.

24 Q Okay. And when you say that he had left and
25 came back, did he actually physically exit the store

Examination of Roberta Stewart

1 and then return?

2 A Yeah.

3 Q Okay. Did you hear him saying anything else
4 during either the struggle or when he came back to --

5 A He said, "I just want my room -- my motel
6 card and -- and my knife. I just want my motel room
7 card and my knife. That's all I want."

8 Q Okay. Did you have any perception or did
9 you notice anything about the way that either
10 individual was acting?

11 A I thought that the -- the younger guy with
12 the bald head and the hoodie was, like, on drugs or
13 something. It seemed that way to me. Seemed like he
14 was just gone out of his mind on drugs, probably
15 hadn't slept. And he needed to just kind of go to
16 sleep or do something like that, yeah.

17 Q What about what you observed made you
18 think that?

19 A Just his character, the way that he was
20 acting. He was -- he wasn't, like, what you would
21 say, like, a psychopath, like, you know, just -- you
22 know, on a rampage. He just seemed like he probably
23 addressed the wrong individual about something and it
24 got out of hand.

25 But he didn't seem like he would hurt me or

Examination of Roberta Stewart

1 anything else. If that was the case, he would have
2 really went there, but he didn't. So I -- I was like,
3 "He -- he needs to go to sleep. Go -- you know, go to
4 detox, something." That's what I said. So --

5 Q Okay. And did either of the two
6 individuals, did either of them appear to be with
7 anyone else in the store?

8 A The younger guy had -- he was standing with
9 his girlfriend with -- with him. Yeah, she was
10 with him.

11 Q Okay. And can you describe what you noticed
12 about her?

13 A She was telling him to stop at the beginning
14 of the altercation before it had, like, got out of
15 hand. She was like, "Baby, baby. Stop. Stop." You
16 know, something I tell my boyfriend, "Like, stop. You
17 know, you calm down." And he just kept -- kept on
18 going. I'm like, he high. He tripping. That's what
19 I'm thinking.

20 Q Okay.

21 A And that's how it happened, you know, like
22 that. But she was -- I mean, she didn't seem -- seem
23 afraid or anything. You know, she just seemed like,
24 this is what he does, you know, I'm used to this type
25 of thing. That's what I was thinking about.

Examination of Roberta Stewart

1 Q Okay.

2 A I don't know. I don't know. I really
3 don't know.

4 Q Did you actually observe when the knife
5 came out?

6 A I -- I don't know. They were in the --
7 like, a little struggling, wrestling, whatever they
8 were doing. And then, like, he was like, "He has a
9 knife. He has a knife." I'm like, huh-uh. And then,
10 like, I don't know who had the knife.

11 It's not funny, but it's just -- like, it
12 was crazy 'cause I was standing right there when he
13 was like, "He has a knife." I'm like, "But you keep
14 trying to fight him," you know, type of thing. Like,
15 "Why don't you move?" You know what I'm saying?
16 "What are you doing?"

17 Q Okay.

18 A And it's like he was trying to take it from
19 him and I was confused.

20 Q It seemed like who was trying to --

21 A The dude with the ponytail.

22 Q The dude with the --

23 A 'Cause he was --

24 Q -- ponytail?

25 A -- like, older. And I'm like, "Why are you

Examination of Roberta Stewart

1 trying to fight this younger dude?" 'Cause the dude
2 seemed like he didn't want to fight like that after a
3 while. Like, that's why I thought he was kind of just
4 high, tripping. That's why I thought that.

5 Q Okay. And where were you staying?

6 A I was at the --

7 Q So -- and, Ms. Stewart, I just want to make
8 sure that we're not talking over each other because we
9 are recording.

10 A Oh.

11 Q So if you could just let me finish the
12 question --

13 A I'm sorry.

14 Q -- and then answer --

15 A Okay.

16 Q -- that would be great. Thank you. Where
17 were you staying during the time frame that this --

18 A The Del Rancho.

19 Q Okay. And we've got a map up on the
20 screen here.

21 A Right there.

22 Q Is it the Del Rancho that's sort of caddy
23 corner to that 7-Eleven?

24 A Yeah.

25 Q Which room were you staying in?

Examination of Roberta Stewart

1 A I don't remember the exact number.

2 Q Okay. At any point, did you observe either
3 of the men who had been involved in the altercation in
4 the 7-Eleven back at the Del Rancho?

5 A Mm-hmm.

6 Q Which individual did you see back there?

7 A The younger guy with the bald head.

8 Q And was his girlfriend still with him at
9 that time?

10 A Yeah.

11 Q At what point did you see them back at the
12 Del Rancho? How soon after the incident at 7-Eleven
13 do you think you saw them?

14 A It had to have been about 30, 40 seconds
15 'cause the -- I seen the police first coming across
16 the street 'cause I was going across the street to
17 tell my boyfriend who was still in there about the --
18 the problem.

19 And so I just seen him go into -- I seen
20 them go into the office. I was assuming he was
21 getting his key 'cause that's what he wanted. That's
22 what he was saying at the store, so it was -- it was
23 really quick. That's when I kind of -- then he
24 started kind of tripping after that.

25 Q Okay. And what do you mean when you say

Examination of Roberta Stewart

1 that he --

2 A Like --

3 Q -- "started tripping"?

4 A In the store I was like, okay. He's high.
5 He's on something or whatever. You know -- you know,
6 he was just tripping. And then he was cool.

7 And then he was, like, "They're going to try
8 to get us and kidnap -- kid -- like, take us away."
9 That's what he was telling the girl. I'm like, what?
10 Wait a minute. What's going on with this guy?

11 Q Okay. So at the point where he's at he
12 Del Rancho Motel, you can actually hear what he --

13 A Yeah.

14 Q -- was saying?

15 A Mm-hmm.

16 Q And --

17 A Took his knife out.

18 Q And so you saw him take his knife out --

19 A Yeah.

20 Q -- at the hotel? At what point did you see
21 him take the knife out at the hotel?

22 A He took it out when he was across -- he took
23 it out when he was -- like, so he was by the -- so
24 after he had left -- they had left the office, he had
25 took it out, like, in front of the little room, like,

Examination of Roberta Stewart

1 'cause I was about -- so the first room, so I'm about
2 the third door down from the first room.

3 I'm like, whoa, you know, what he doing? I
4 was like, he was tripping, high. He was high. He was
5 tripping.

6 Q And what did he do with the knife?

7 A Nothing. You know, he was just -- like, he
8 just had it. Like, he said, "They're coming after
9 us," so that's, like, signs of tripping off of
10 some drugs.

11 Q Okay. And could you see police at that
12 point?

13 A Yeah. They were -- they were, like, you
14 know, just -- they were proceeding with caution, so
15 they weren't really saying much.

16 Q Okay. How far from him do you think they
17 were?

18 A They were -- so here's the 7-Eleven. Here's
19 the little -- so --

20 Q And you can reference the map if you
21 need to.

22 A So -- okay. So, like, where you are. Where
23 you are and then where -- this is how far they were
24 apart, them two, you know, across the street 'cause he
25 was across the street. They were coming across the

Examination of Roberta Stewart

1 street, walking -- they were walking in the middle --
2 middle of the street.

3 BY MR. HANNON:

4 Q Okay. So -- sorry to interrupt. But -- so
5 you're approximately around here and they're near the
6 front office right around here?

7 A I wasn't by -- so I -- I was by -- I was
8 about to cross the street, so I'm at that arrow, so if
9 you -- if you move there a little bit more, I was
10 right --

11 Q Yeah.

12 A -- on the side street part. Right there.
13 Like, right there.

14 MR. HANNON: Okay.

15 BY MS. MARRERO:

16 Q Okay. Thank you.

17 A Yeah.

18 Q And did you hear the police saying anything
19 to this individual?

20 A Not yet, no.

21 Q Okay. What else did you hear him say?

22 A He was just saying that. And then I was
23 like, what? So I went into the room after that.

24 Q Okay. At any point did you hear him make
25 any threats?

Examination of Roberta Stewart

1 A No. He didn't make any threats. He was
2 just saying, "I knew this was going to happen. I told
3 you this was going to happen." And that's when I
4 heard the police officer say, I think, his name and
5 like, "Calm down." I just -- I thought they knew him.
6 Like, this is what he do or something.

7 Q What name were they saying?

8 A I don't remember the name, but I know I -- I
9 heard them say a name.

10 Q Okay. At any point, did you hear him say
11 that he was going to do anything to himself or to his
12 girlfriend?

13 A No. I didn't hear that at all.

14 Q Okay. Give me just one second here.

15 A He was kicking the door and kept opening it
16 and closing it. And I'm like, is he trying to die?
17 That's what I was thinking in my mind. Like, is he
18 doing his -- he's tripping.

19 That's what I kept -- so I had a video of --
20 I recorded -- like, I just recorded us in the room and
21 I'm like, oh, my God. Like, 'cause we couldn't leave
22 forever, it seemed like.

23 Q What about his actions made you think that
24 he was trying to die?

25 A He just -- when he -- when he said, "I told

Examination of Roberta Stewart

1 you this was going to happen." He kept saying that
2 and stuff.

3 Q Okay. And do you remember talking with
4 Detective Posey?

5 A Yeah, a detective. I don't remember.

6 Q Okay. And I'm going to show you a
7 transcript here.

8 A Mm-hmm.

9 Q Does that refresh your memory --

10 A Oh.

11 Q -- a little bit?

12 A Okay. So --

13 Q Does that refresh --

14 A Outside --

15 Q -- your memory?

16 A Outside -- can I --

17 Q So --

18 A -- repeat myself?

19 Q Does that refresh your memory about what you
20 heard on that day?

21 A I mean, he might have said that outside,
22 but --

23 Q Okay. Well, we -- we just want --

24 A I don't remember.

25 Q -- we want to know what you remember, so

Examination of Roberta Stewart

1 with regard to --

2 MR. HANNON: If I can interrupt that
3 question.

4 MS. MARRERO: Mm-hmm.

5 THE WITNESS: 'Cause I don't remember --

6 MR. HANNON: So --

7 THE WITNESS: -- saying it like that.

8 BY MR. HANNON:

9 Q So the statement was --

10 A Maybe.

11 Q Wait. So the question from the detective
12 was, "Did you hear him threaten the girl at all?" And
13 you -- the quote is, "No, not at all. No. He did,
14 yes. He did. He said, 'I'm going to kill her, kill
15 myself.' And he said that before he went to the
16 room." But you -- and -- and you -- this is from a
17 transcript from an interview the day of the incident.

18

19 A Mm-hmm.

20 Q But you don't recall him -- you don't recall
21 the -- do you recall if he made any statements or you
22 just don't recall the exact statements?

23 A He was saying a whole lot. But so at that
24 point where I was standing across the street, I know
25 he started talking crazy. That's why I was like, he

Examination of Roberta Stewart

1 tripping. I didn't know he was crazy. Like, he was
2 tripping.

3 Q Mm-hmm.

4 A So, I mean, he might have said that. But I
5 -- I mean, it's been a minute for me, so, I mean --

6 Q Well, and this -- and we're asking this
7 question --

8 A 'Cause --

9 Q -- you know --

10 A Months later.

11 Q -- over a month later. Was your memory
12 better closer to the incident than it is today?

13 A I mean, it's not that foggy. I'd been
14 drinking a little bit. But, I mean, I don't -- he --
15 I mean, he probably did say it. I mean, it's been a
16 little bit of a -- I've been -- I've been through a
17 lot of things since that time period --

18 Q That's okay.

19 A -- so --

20 BY MS. MARRERO:

21 Q Okay.

22 A I'm not trying to --

23 BY MR. HANNON:

24 Q That's okay. I just want to --

25 A -- make up my story.

Examination of Roberta Stewart

1 MR. HANNON: -- make sure that that sounded
2 familiar to you or not. But -- okay.

3 Sorry. Go ahead.

4 BY MS. MARRERO:

5 Q Okay. And did you watch as they went into
6 the room?

7 A No.

8 Q Did you see what happened when they went in?

9 A I was not there.

10 Q Okay. Do you remember the detective asking
11 whether or not the girlfriend had willingly gone into
12 the room?

13 A She did. I don't think she was -- well, I
14 -- I can't talk the way -- I can't talk about what
15 somebody else told me, so that's where you -- probably
16 where you got that from when he's saying that.

17 Q Okay.

18 A Shouldn't have said that.

19 Q Shouldn't have said --

20 A Someone else saying something to me about
21 the situation with the person 'cause they could hear
22 it a little bit better than me, so --

23 Q Got it. So --

24 A Yeah.

25 Q So did you --

Examination of Roberta Stewart

1 A So you said don't talk a certain way, so --

2 Q So did you talk to somebody else about what
3 had occurred on that day?

4 A Yes.

5 Q And who was that?

6 A Andrew.

7 Q And --

8 A My boyfriend.

9 Q -- what's your boyfriend's last name?

10 A English.

11 Q Okay. Had you ever seen any of these people
12 before?

13 A No.

14 Q And did you -- were -- at some point, did
15 you go back into your hotel room or were you outside
16 the whole time?

17 A No. I went back into the room 'cause I
18 wanted to tell Andrew, you know, about the whole
19 situation that was going on 'cause I was -- I had some
20 business I had to go handle and --

21 Q And --

22 A Yeah.

23 Q -- when -- when you were in the room, did
24 you hear anything?

25 A Mm-hmm.

Examination of Roberta Stewart

1 Q What did you hear when you were in
2 your room?

3 A Like, he -- the guy kept opening and closing
4 the door and stuff. And, like I said, one of the
5 officers -- like, I -- excuse me -- I assumed it was
6 his name. And they were telling him to kind of, like,
7 calm down.

8 And he just kept saying, "I knew -- told you
9 this was going to happen. I knew this was going to
10 happen," and kicking the door. And I'm like, you
11 know, he -- he really tripping, you know what I'm
12 saying? So that's what I was thinking.

13 I was thinking, you know, I hope he don't
14 get killed, you know, 'cause, like, he tripping in the
15 room. And I was like, "I hope the girl's okay."

16 Q Did you ask --

17 A That's one of the things I was just saying.

18 Q Okay.

19 A So --

20 Q So did you have some concern for her safety
21 based on what you'd seen?

22 A I had more concern for his, the way he was
23 acting. Like I told you, she seemed like this is what
24 happens with him all the time.

25 MS. MARRERO: Okay. Folks, do you have any

Examination of Roberta Stewart

1 questions for Ms. Stewart?

2 A GRAND JUROR: What was your room in the
3 hotel room?

4 THE WITNESS: It was, like, the third room
5 from the -- at the -- in the -- at the beginning. So
6 it's --

7 A GRAND JUROR: And where did he go?

8 THE WITNESS: He went down some doors. He
9 went, like, a couple doors down.

10 A GRAND JUROR: Do you think he was close to
11 your room?

12 THE WITNESS: Yeah, you could hear the
13 situation.

14 A GRAND JUROR: Ms. -- so would you -- were
15 you on this side of the motel or this side of the
16 motel?

17 THE WITNESS: That's it. The first side.
18 That's right.

19 A GRAND JUROR: Okay. And closer to the
20 office right around here?

21 THE WITNESS: So --

22 A GRAND JUROR: Can you just
23 (indiscernible) it?

24 THE WITNESS: So he had to have been about
25 three doors down, for sure.

Examination of Roberta Stewart

1 BY MS. MARRERO:

2 Q Okay. So -- so is this the office?

3 A Yeah.

4 Q And were you closer to the office or further
5 away --

6 A I was closer to --

7 Q -- (indiscernible)?

8 A I was closer to the office.

9 Q You were closer to the office. And
10 approximately how many doors down was it?

11 A So one -- I was the third door.

12 Q You were the third door?

13 A Yeah.

14 Q How many doors down was he from you?

15 A It had to have been two or three, like,
16 'cause he -- I can't -- it was just a -- he wasn't
17 that far down.

18 MS. MARRERO: Okay.

19 A GRAND JUROR: And then did you leave
20 before all this kind of ended? Did you leave while
21 this all happened?

22 THE WITNESS: I mean, a lot of police
23 started coming, so, like, the SWAT or whatever --
24 whatever you call it, whatever. And so I was like --
25 I had opened the door, like, "Can I leave? Is it

Examination of Andrew English

1 okay?" type of thing. So, yeah, I had to leave. I
2 had to leave; but, apparently, not that long after
3 that, he was -- passed.

4 MS. MARRERO: Okay. Any other questions?
5 Okay.

6 MR. HANNON: May this witness be excused?

7 A GRAND JUROR: Yes.

8 MR. HANNON: Okay. Why don't we take two
9 minutes, coordinate with our next witness.

10 (Recess taken, 11:35 a.m. - 11:48 a.m.)

11 MS. MARRERO: Okay. We are back on the
12 record. The State's next witness is going to be
13 Andrew English.

14 Mr. English, can you please raise your right
15 hand?

16 **ANDREW ENGLISH**

17 Was thereupon called as a witness; and, having been
18 first duly sworn, was examined (via simultaneous
19 electronic transmission) and testified as follows:

20 **EXAMINATION**

21 BY MS. MARRERO:

22 Q Thank you, Mr. English. Can you please tell
23 the grand jury how old you are.

24 A I'm 32 years old.

25 Q Thank you.

Examination of Andrew English

1 A 30 -- 31.

2 Q And how do you know Roberta Stewart?

3 A She's my fiance.

4 Q Thank you. I want to speak with you about

5 an incident that occurred on October 10th of 2018.

6 Are you aware of the incident that I'm talking about?

7 A Yes.

8 Q Where were you located when you first

9 noticed something was out of the ordinary?

10 A Well, we were -- we used to stay at the

11 Dar-Ron Motel, which is right across the street from

12 the Del Rancho. And we stayed there for a few months

13 all the time, so we're, like, pretty familiar with

14 the area.

15 Q And where --

16 A So --

17 Q -- where were you on that particular day?

18 A I was -- well, it all happened so fast

19 really. I -- I want to say that I got -- I left -- I

20 just got off work and I was going to the store to get

21 something, like some noodles or something for my

22 daughter. And then when I go back, then my wife, she

23 went -- I -- I forgot her -- forgot to get her a

24 drink.

25 So she went there herself to get a drink.

Examination of Andrew English

1 And she comes back and tells -- she texts me and says,
2 "Come outside." No. No, I'm sorry. I'm sorry.
3 That's not -- the -- okay. Now, I remember.

4 Okay. So I went -- we stayed at the
5 Dar-Ron, but we had to leave for one night. That's
6 what happened. Because after -- you can only stay
7 here for 29 days at a time in any motel in Oregon
8 before you have to check out for one day.

9 So that's what we did, we went over to the
10 Del Rancho. And we was a couple doors down from when
11 -- when it happened. So --

12 Q And --

13 A -- we -- I was -- that's right. I just got
14 off work. I was in the room. So my wife left to go
15 get a drink and she text me, "Come outside." That's
16 what happened.

17 So I come outside and I see just police
18 everywhere, you know, all of a sudden. So I talked to
19 -- I go over there. And she said, "Yeah. Some guy
20 was fighting in the store with some other guy."

21 Q So --

22 A I'm not --

23 Q So I'm going to --

24 A Yeah.

25 Q Mr. English, I'm going to ask you a couple

Examination of Andrew English

1 of clarifying questions and then I'll have you go into
2 detail about what occurred.

3 A All right.

4 Q Did you go with Ms. Stewart to the 7-Eleven?

5 A No, I did not.

6 Q Okay. And was anybody else present with you
7 in the room when -- when she came back or when she
8 texted you?

9 A No, it was just me.

10 Q Okay. And so once you were alerted that
11 something was going on, did you exit your hotel room?

12 A Yes.

13 Q And can you tell us what you saw when you
14 exited your hotel room.

15 A So when I exited my hotel room, that's when
16 I was going to meet her. I had looked to my right and
17 I -- a dude, a bald-headed gentleman kind of my --
18 I'm -- I'm guessing my age or a little younger was
19 frantically -- grabs his girlfriend and says, "I'm
20 going -- I'm going to kill her and myself."

21 He screams that. He said, "I'm going to
22 kill her and myself." And from that point on, he put
23 -- shoves his girlfriend into the room and himself as
24 well. And then the police stand off. From that point
25 on, they said -- so I went to the corner to -- to meet

Examination of Andrew English

1 her because it's right across the street, the 7-Eleven
2 is. Like, literally, right across the street.

3 So I went to the corner. I didn't see her
4 anywhere. I was just watching the thing 'cause I
5 guess they had her and everybody over there blocked
6 off at this point, so --

7 Q Meaning --

8 A -- I go that --

9 Q Meaning Ms. Stewart was blocked off?

10 A Yeah. Like, across the street the police
11 already came and they had, like, they started to not
12 let civilians go past or anything. Not -- so I go
13 back into my room. And then as I'm -- I'm watching.
14 I, like, record FaceTime -- or, I mean, Snapchat of
15 the situation out my window.

16 And then the whole time the guy's just going
17 off. The police are -- they're giving him multiple
18 chances. I do -- they do say, "Come on, man." He
19 comes outside multiple times egging the police on
20 pretty much, saying, "Get away from here. I did
21 nothing wrong."

22 Q What were --

23 A It kind of was --

24 Q What --

25 A Oh, sorry. Go ahead.

Examination of Andrew English

1 Q What were the police doing or saying in
2 response?

3 A Well, they -- I was looking out my window.
4 I observed them -- it was about five or six of them in
5 regular -- like, regular police clothes across the
6 street. Like, not across the street, but across the
7 little walkway where the other motel rooms are.

8 And they were -- one officer was
9 communicating or trying to communicate with the
10 gentleman saying, "Can you please calm down? Let's
11 talk about it. What's going on? We're here to help
12 you." And then he just was, like, being very, very --
13 he was on drugs, clearly high. He was -- it -- it
14 was, you know, drugs.

15 I mean, you know what I'm saying, you know
16 anybody, he was out of his mind just shouting random
17 stuff. Like, stuff about his girlfriend being --
18 having sex with -- or giving fellatio to somebody or
19 something. So this is what he's yelling and the
20 police are just like, "Calm down."

21 And then so after about five to six minutes
22 of that, the SWAT team comes and evacuates everybody
23 from the motel room. So he makes everybody from the
24 motel room get out, go across the street. They yellow
25 caution taped the -- the scene and we don't hear

Examination of Andrew English

1 nothing from that point in time.

2 We don't hear -- 'cause we can't hear
3 nothing. So I didn't hear no more -- no more
4 negotiations or nothing. And then we hear, "Pow."
5 And that's -- we hear just -- I heard once. I'm not
6 -- people said it was -- it was two or three times,
7 but I only heard one --

8 Q Okay.

9 A -- loud bang.

10 Q Okay. And let me ask you some clarifying
11 questions, Mr. English. At any point, did you see the
12 bald gentleman with a knife in his hand?

13 A Yes, yes. I seen -- it was -- it was, like,
14 a machete-type knife.

15 Q Okay. And approximately how big was it?

16 A Oh, man. If I would have to give a guess,
17 it was probably a good, like, 12 to 18 inches.

18 Q Okay.

19 A Probably sharp, serrated and -- if I
20 remember, it was serrated on one end.

21 Q Okay. And what did you -- at what point did
22 you see him with the knife?

23 A When I first came out of the room. When he
24 said, "I'm going to kill you and -- I'm going to kill
25 her" -- and so he was talking to the girl. When --

Examination of Andrew English

1 when he first came out, he was like, "Babe, get in
2 where" -- so he's -- let me talk. So when he
3 (indiscernible) he was like, "Babe, we're about --
4 we're about to get in trouble here. Get in."

5 And then the -- then the police said
6 something. He was like, "I'll kill her and myself."
7 That's exactly what he said. And then he rushed into
8 the room. And then you hear -- when he pushed her
9 into the room, you hear a slam of the door.

10 So she ran -- so at the Del Rancho, the --
11 you come into the door. There's a bathroom door only.
12 There's no back door or nothing. So -- all the rooms
13 are set up the same. So I assume that when she ran in
14 there, that big slam was her running into the bathroom
15 door, running -- and locking herself in there. Then I
16 hear a couple kicks and --

17 Q Okay. And --

18 A -- stuff like --

19 Q So just to clarify, so the -- the slammed
20 door that you heard, you didn't think that was the
21 front door?

22 A No, because the police was outside. They
23 was, like, right outside. It was -- I knew he wasn't
24 going outside to run towards them.

25 Q Okay. And so based on your knowledge of the

Examination of Andrew English

1 inside of the hotel rooms at the Del Rancho did you
2 believe that it was the bathroom door slamming?

3 A Yes. It was --

4 Q Okay.

5 A -- only the -- the only logical explanation.
6 There's no back doors --

7 Q Okay.

8 A -- and nobody was out -- nobody ran out the
9 front door. Like, she wasn't screaming, "Help," to
10 the police or anything.

11 Q Okay. And when she -- when he sort of
12 shoved her into the room, can you describe what that
13 looked like?

14 A It was a more -- like, so -- to me,
15 personally, it was just like me -- he was trying to,
16 like, defend his girlfriend. Like I said, he was in
17 -- he was in a -- a delusional state of mind. You
18 could tell the whole time.

19 But when he pushed his girl -- when he did
20 it, he was like, "Babe." And he was like -- dude, he
21 -- he -- he -- he's stronger than her and she's --
22 like, compared to her -- him, she's little as hell.
23 So when he took her by her shoulder, she was like, "We
24 in trouble, babe." But then -- then the police said
25 something.

Examination of Andrew English

1 And then he's -- that's when he was like,
2 "Oh, I'll kill" -- he said, "I'll kill her and
3 myself." I don't know if he ever had an intention to
4 without reading the dude's head, but that's -- he did
5 say that. And he said it a couple times.

6 Q Okay. And -- and how far were you standing
7 from him when he said that?

8 A Oh, shoot, I was, like, two doors down. So
9 probably -- well, I thought 100 feet or less.

10 Q Did you get the impression that he was
11 saying that to you or to the girl or to the police or
12 could you tell?

13 A No. He was talking to -- he was definitely
14 talking to the police. There was no civilians around.
15 It was only police. That -- they had it pretty much
16 shut down when the officers came. But then the SWAT
17 came, they totally shut it down.

18 Q Okay. And once -- once he went inside the
19 room, did you hear anything from inside prior to
20 hearing the loud bang?

21 A No. I was -- at that point, I was across
22 the street and the -- the -- the whole hotel was
23 blocked off with yellow caution tape.

24 Q Okay. And before you got removed from the
25 hotel, did you hear anything other than what you

Examination of Andrew English

1 thought was the bathroom door slamming?

2 A No. Just some more -- just, basically, him
3 screaming with the top of his lungs, again, about
4 random stuff, about his female cheating or something
5 of that nature.

6 Q Okay.

7 A So I don't -- I don't know if that was true,
8 if he was just delusional. I don't know.

9 Q Okay. And did you hear her say anything?

10 A No. I didn't hear one word from her,
11 actually. I didn't hear a scream from her. I didn't
12 hear nothing like that.

13 Q Okay. And once you were removed from the
14 building, did you -- were you able to observe much of
15 what was going on?

16 A No, no.

17 Q Okay.

18 A It was -- they blocked it off with big, old
19 SWAT trucks and firefighter trucks and school -- not
20 school buses, but TriMet buses.

21 Q Okay. You mentioned that you had taken a
22 Snapchat video. Did that get saved on your phone?

23 A Yeah. And I submitted it to the
24 investigating officers at the time.

25 Q That was going to be my next question. Did

Examination of Andrew English

1 you provide that to the police?

2 A Yes, I did.

3 Q And did you alter that in any way before it
4 was provided to the police?

5 A Oh, no.

6 Q Okay. Had you ever seen these individuals
7 before?

8 A Yes. I've seen them -- he's staying -- the
9 guy -- the gentleman stayed at that motel for, like,
10 as long as I was staying at the Dar-Ron. He would
11 always -- I would see him at 7-Eleven. He was kind
12 of, like, a mean -- he had a mean persona about him.

13 But he -- when you spoke to him, he wasn't
14 mean. He was - he'd be like, "Oh, hi. How are you
15 doing?" But he -- just (indiscernible) things, like,
16 man, he was crazy, you know what I'm saying? But he
17 was really --

18 Q But you never had any problems with him
19 or --

20 A No. He had some --

21 Q -- anything like that?

22 A He -- he -- he clearly had some mental
23 issues of some sort. Like, slow, you know, I don't --
24 he wasn't to the point where he couldn't take care of
25 himself, but he just -- you could tell he wasn't

Examination of Andrew English

1 computing things as fast as the -- you or I.

2 Q And did you -- at any point, did you think
3 that his girlfriend looked afraid or scared of what
4 was going on?

5 A I think, yeah, man, she did. She was just
6 super shocked by the whole situation. I could just
7 tell she was just like, what in the hell is going on
8 right now?

9 Q Okay.

10 A It was -- it was, like, a 0 to 60 moment
11 pretty much.

12 Q Okay. Mr. English --

13 MR. HANNON: Do -- does the grand jurors
14 have any questions?

15 And may this witness be excused?

16 A GRAND JUROR: Yes.

17 MS. MARRERO: Thank you, Mr. English. We
18 don't have any other questions for you. We
19 appreciate --

20 THE WITNESS: Okay.

21 MS. MARRERO: -- your time.

22 THE WITNESS: Awesome. Thank you.

23 MS. MARRERO: Thanks.

24 So let's go off while I turn off the --

25 (Recess taken, 12:00 p.m. - 12:02 p.m.)

Examination of Tariq Awan

1 MS. MARRERO: Okay. We are back on the
2 record. The State's next witness will be Tariq Awan.

3 Mr. Awan. If you can just remain standing,
4 please, for one moment and raise your right hand.

5 TARIQ AWAN

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

8 EXAMINATION

9 BY MS. MARRERO:

10 Q Go ahead and grab a seat, please.

11 A Thank you.

12 Q And can you please state and spell your
13 first and last name?

14 A T-a-r-i-q, A-w-a-n, Tariq Awan.

15 Q Thank you, Mr. Awan. Can you tell us how
16 old you are.

17 A I'm 42 years old.

18 Q Where do you work?

19 A I work at 7-Eleven --

20 Q And --

21 A -- on Flavel and 82nd.

22 Q Flavel and 82nd?

23 A Yeah.

24 Q And so I will pull up a Google Map here.

25 And we'll be looking at an overhead view of your place

Examination of Tariq Awan

1 of employment.

2 A Yeah.

3 BY MR. HANNON:

4 Q I'm going to interrupt real quick.

5 Mr. Awan, thank you for being here. So this is being
6 recorded and so if you can speak up just a little bit
7 to make sure that they can hear the --

8 A Okay.

9 Q -- recording. That would be very helpful.

10 A No.

11 MR. HANNON: Thank you.

12 BY MS. MARRERO:

13 Q And if -- if you want to move your chair a
14 little closer to that microphone --

15 A That's fine.

16 Q -- you can do that as well.

17 And, Mr. Awan, I want to speak with you
18 about an incident -- incident that occurred on October
19 10th of this year. Are you aware of the reason you're
20 here to testify?

21 A Yes.

22 Q And were you working on that day?

23 A Yes, I was working.

24 Q What is -- what are your job
25 responsibilities?

Examination of Tariq Awan

1 A Cashier.

2 Q And when did you first notice that something
3 was out of the ordinary?

4 A Okay. These two gentlemen, they come to the
5 store and I was helping customer -- taking customers.
6 And they start fighting inside the store. And I told
7 them to stop or I'm going to call the cops. And they
8 did not stop. The other guy took the knife out and he
9 was about to stab the guy.

10 And before he took the knife out, the other
11 guy hit him on the hand and the knife fell. And then
12 the guy picked up the knife again. And when he picked
13 up the knife, I called the cops. And when the cops
14 come, the guy ran into a motel.

15 And after that, I have no idea what happened
16 'cause the guy just ran to a motel and the -- all the
17 cops showed up over there. And I was busy with a
18 customer, handling customers, you know.

19 Q Okay.

20 A But I --

21 Q So I'm going to interrupt. I'm going to
22 take you step by step and ask a couple of follow-up
23 questions --

24 A Okay.

25 Q -- if I may. Were you the only person

Examination of Tariq Awan

1 working that day?

2 A Yes. At that time, I was the only one.

3 Q And were you paying attention to these two
4 men when the fight first started?

5 A I was not paying attention until the other
6 -- the guy that got killed, he pushed the other
7 gentleman to my doughnut display. The doughnut
8 display fell off, so I told him, "Stop," you know.
9 And they never listened to me.

10 Q Okay.

11 A And --

12 Q So -- so did you see how -- what started the
13 fight before that push?

14 A I don't know how the fight started because I
15 was taking customers, to be honest with you. But when
16 the fight, like, fistfight and there was the -- they
17 were dragging each other on the ground. That's the
18 time I told them to stop or I'm going to call the
19 cops. And they was not listening to me.

20 Q Okay. And so you -- we're talking about two
21 men. And I want to make sure we're clear about who
22 we're talking about. Are you able to give a
23 description of -- of either man?

24 A There was one younger guy and there was the
25 older guy. The older guy, I could see that he's

Examination of Tariq Awan

1 sitting outside. He was the one, yeah.

2 Q The older guy sitting outside --

3 A Yeah.

4 Q -- today?

5 A Uh-huh.

6 Q Okay. Do -- was there anything notable
7 about the younger guy that you remember?

8 A No. I don't know. He just started fighting
9 with this gentleman. And, to be honest, I don't know
10 what happened 'cause when they walked in -- inside the
11 store, I had about four or five other customers that I
12 was dealing with. So I don't know what they got a
13 fight with, but the time I noticed when they were on
14 the ground --

15 Q Okay.

16 A -- and they hit my doughnut display case.
17 So that's the time I told them, "Don't fight inside
18 the store or I'm going to call the cops." And --

19 Q So you said that, at some point, you saw a
20 knife? Did you actually --

21 A I did saw a knife.

22 Q Did you actually visit -- visually see the
23 knife yourself?

24 A Yes. Because I went through the other side
25 of the cash -- cash register just to separate them.

Examination of Tariq Awan

1 And then when I see the knife in the other guy's hand,
2 I just moved back and I just called the cops.

3 Q Which of the two men had the knife?

4 A The man that died.

5 Q The younger man?

6 A Yes.

7 Q Okay. Not the man who is out --

8 A No.

9 Q -- in the hallway right now?

10 A Hmm-mm.

11 Q And did you see the man -- the younger man
12 who had the knife, did you see him make any motions
13 with the knife?

14 A No. He -- he had him in his hand and he was
15 about to stab him in the arm. And then this guy went
16 over telling them to stop fighting inside the store.
17 This man was trying to hit him on the hand, so he --
18 the knife can fall off of his hand. And the knife did
19 fell off of his hand.

20 And then he was trying to grab it again when
21 they were on the ground. And when I was -- when --
22 when I -- on the other side just to separate them, he
23 picked up the knife again. That's the time I called
24 the cops. And then when the cops came, he went to a
25 motel and I have no idea after that what happened.

Examination of Tariq Awan

1 Q Okay. And so you said that he tried to stab
2 him. Was it the younger man who tried to stab --

3 A The older man.

4 Q -- the man who was --

5 A Yes.

6 Q -- outside?

7 A Yes.

8 Q Okay. And then you said he tried to punch
9 him to make him drop the knife. Was it the older man
10 who tried to --

11 A The older -- yeah.

12 Q -- punch the younger man?

13 A Yes.

14 Q Okay. And, at some point, did the younger
15 man leave the store?

16 A Yes. He -- when I called the cops, the
17 younger man did left the store. And the older man, he
18 left after him and he gave me his information. He
19 said, "When the cops come, would you give them my
20 information?"

21 And when the cops arrived at the store. I
22 told them, "Go look at the video." And then the cop
23 did look at the video and he see all the fights and
24 stuff happened over there.

25 Q Okay. So I want to be clear. The older man

Examination of Tariq Awan

1 left contact information with you to give --

2 A And then --

3 Q -- to the police?

4 A -- I hand it to the police officer, yes.

5 Q Okay. And you personally called 9-1-1?

6 A Yes, I did.

7 Q And did you provide a copy of the video to
8 the police officers?

9 A Police officers -- the one who went inside
10 because I -- I'm a worker over there and I don't have
11 authority to go through the room. So I called the
12 owner and the owner said, "Let the cops inside and he
13 know what to do." So the cop just went inside and he
14 looked at -- he looked at the video.

15 Q Okay. So you let the officers inside --

16 A Yes.

17 Q -- to take the video?

18 A Yes.

19 Q Okay. And did you see the video yourself?

20 A I did not.

21 MS. MARRERO: Okay. Folks, are there any
22 other questions for Mr. Awan? Okay.

23 Thank you, sir. That's all --

24 THE WITNESS: So I'm --

25 MS. MARRERO: -- we have for you.

1 THE WITNESS: -- good to go?

2 MS. MARRERO: And may this --

3 MR. HANNON: May this witness be excused?

4 GRAND JURORS: Yes.

5 MR. HANNON: Great.

6 MS. MARRERO: Yes, you're free to go. Thank
7 you --

8 THE WITNESS: Thank you.

9 MS. MARRERO: -- for coming in.

10 Okay. Okay. So I think we're going to
11 break for lunch now, so let's go ahead and go off the
12 record.

13 * * *

14 (Noon Recess taken at 12:09 p.m.)

15

16

17 ***AFTERNOON SESSION***

18 (The following proceedings were held before
19 Grand Jury No. 1, 1:20 p.m.):)

20 MS. MARRERO: Okay. So we are back on the
21 record. The State's next witness is Starla Starn.

22 Ms. Starn. If you can just remain standing
23 by that chair for a moment, please go ahead and raise
24 understand right hand.

25 **STARLA STARN**

Examination of Starla Starn

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

3 MS. MARRERO: Okay. Go ahead and grab
4 a seat.

5 EXAMINATION

6 BY MS. MARRERO:

7 Q And can you please state and spell your
8 first and last name for us.

9 A Starla Starn, S-t-a-r-l-a, S-t-a-r-n.

10 Q Thank you, Ms. Starn. Can you tell us how
11 old you are?

12 A 35.

13 Q And are you from the Portland area?

14 A Yes.

15 Q I want to talk with you about an incident
16 that occurred on October 10th, 2018. Are you aware of
17 what I'm referring to?

18 A Yes.

19 Q And where were you staying that day?

20 A In Room 17 of the Del Rancho Motel.

21 Q Okay. And the -- what was the first thing
22 that drew your attention to anything being off that
23 day?

24 A That day?

25 Q Mm-hmm.

Examination of Starla Starn

1 A I was woken up to the people in the Room 16
2 right next to us fighting and yelling through the
3 parking lot. And the guy with the bald head had a
4 long knife and was dragging the girl into the room
5 next to us.

6 Q Okay. And you had seen that earlier in
7 the day?

8 A Yeah.

9 Q Okay. And did you have any contact with
10 them or any sort of confrontation at that point?

11 A No, I stayed in my room.

12 Q Okay. And could you hear anything specific
13 that was being said?

14 A Yeah, that he was yelling at her. He said
15 he had caught her sucking someone's dick at the
16 7-Eleven early in the morning.

17 Q Okay. And did you hear her say anything
18 to him?

19 A She was just, like, screaming at him, like,
20 trying to get away, I think. She was -- I didn't
21 really -- could not understand her.

22 Q Okay. Did you -- had you ever spoken with
23 them or encountered them before that day?

24 A Yeah. They had been staying there for a few
25 days before it all -- had all happened. They were

Examination of Starla Starn

1 fighting almost every single day, yelling at each
2 other, slamming the doors. It seemed like they were
3 on drugs 'cause they were up, like, all the time.

4 He had asked me for a cigarette once, like,
5 the night before and I gave him one and she freaked
6 out on him about that and was screaming and yelling at
7 him, telling him that she told him not to talk to
8 nobody and he wasn't allowed to speak to other people.

9 And he was just telling her he was just
10 getting a cigarette and that was it. And that's all
11 he did is ask me for a cigarette. And I handed him
12 one and that was it.

13 Q And --

14 A So --

15 Q -- that had been a day or two before
16 this happened?

17 A I think it was the night before.

18 Q Okay. And on the day that this incident
19 happened -- well, let me back up.

20 You said you were in Room 17. What room
21 were they in, to your knowledge?

22 A 16, right next door.

23 Q So immediately next door to you?

24 A Yeah.

25 Q And did you become aware at some point that

Examination of Starla Starn

1 police were present?

2 A Yeah. When I heard him screaming 'cause he
3 had, like, tackled her into the -- the window by our
4 -- to our window and our door, which made a thud. And
5 I looked out the window and that's when I seen the
6 long knife and him dragging her in the room. And he
7 slammed the door once he got her in the -- the room.

8 And I kind of opened my door just a crack
9 'cause I seen there was two officers out. And I was
10 like, "You guys know he's got a really big knife?"
11 And they were like, "Yeah, we know. Just stay in your
12 room," so I went back in my room and shut the door.

13 Q Okay. And so prior to hearing that large --
14 that loud thud on the outside of -- of your room, had
15 you heard any yelling immediately --

16 A Yeah, I had heard it --

17 Q -- prior to that?

18 A -- right before that, yeah.

19 Q Okay.

20 A They were, like, running through the parking
21 lot from the 7-Eleven across the street over into the
22 hotel parking lot, motel parking lot.

23 Q Okay. And did you actually see them
24 running?

25 A Yeah.

Examination of Starla Starn

1 Q And could you hear anything that was
2 being said?

3 A Just that he, like, screamed at the cops to
4 not kill him. He's like, "Don't kill me. Kill the
5 motherfucker across the street that had his dick in my
6 wife's mouth." That's, like, his exact words.

7 And he just kept coming in and out of the
8 room, slamming the door real loud, which woke my kids
9 up. And he kept coming out, like, screaming that he
10 was going to blow their heads off or cut their heads
11 off, just -- just random, weird stuff that didn't
12 really make a lot of sense other than he was
13 threatening the cops.

14 Q Okay. And specifically with regard to what
15 you saw when he pulled her into the room, can you
16 describe with a little bit more specificity what
17 exactly you observed?

18 A Just her running, trying to get -- I don't
19 know if she was trying to get back into their room or
20 just trying to run away from him, but he just had
21 tackled her right by our door and kind of tackled her
22 into the wall and into the door and then drug her into
23 the -- back into their room.

24 Q Okay. Did she appear to want to be going
25 willingly with him?

Examination of Starla Starn

1 A No, she was trying to get away.

2 Q Okay. And once they got into the room, did
3 you hear anything given that you had --

4 A Yeah. I --

5 Q -- a shared wall?

6 A -- I heard them screaming at each other
7 and him -- he kept coming in and out of the room and
8 slamming the door. And you could hear her. She had
9 went towards the back of the motel 'cause you can
10 hear everything.

11 And she was in their bathroom -- the
12 bathroom part 'cause you can really -- it echoes or
13 some -- for some weird reason. So you heard her. I
14 think she had maybe locked herself in the bathroom.
15 I'm not sure. But you just heard him, like, screaming
16 at her and --

17 Q What was --

18 A -- her screaming back. I couldn't --

19 Q What was he saying?

20 A Couldn't really understand at that
21 point 'cause they were in the room, so it was just,
22 like, muffled screams, like, screaming at each other,
23 arguing.

24 Q Okay. But did you believe she was in the
25 bathroom at that point?

Examination of Starla Starn

1 A Yeah.

2 Q Okay. And when he would go -- you said he
3 was in and out of the front door?

4 A Yeah. He kept coming in and out, yelling at
5 the cops and then going back in. And he'd come back
6 out and scream and yell at them, threatening them
7 and --

8 Q That's what I was going to say. Do you
9 recall specifically what he said or -- or did?

10 A It was either he was going to blow their
11 heads off or chop their heads off, something about
12 killing them with -- removing their heads. I forget
13 exactly which one he used.

14 Q Okay. And when you communicated to the
15 officers that he had a knife, did the officers
16 communicate back to you that they were aware of that?

17 A Yeah. They said that they knew and for me
18 to go back in the room and stay in there, which
19 we did.

20 Q Okay.

21 A Until they called about 10 minutes later,
22 15 minutes later. They called the room and had
23 us evacuate.

24 Q Okay. Did you see how the cops were
25 reacting to him?

Examination of Starla Starn

1 A Yeah.

2 Q And how -- what were the police doing in
3 response to how he was acting?

4 A They just had stayed across the parking lot
5 just with their guns drawn, watching him, making sure
6 he wasn't trying to get in any other rooms or
7 whatever.

8 Q Did you hear them saying anything back
9 to him?

10 A Yeah. Just to, "Put the knife down and
11 to -- let's talk about it." The -- the, like,
12 maintenance man that lives in the motel -- he, like,
13 works there or lives there.

14 I don't know his exact -- he was trying to
15 help the cops, too. He was talking. His name's Todd
16 or Tom. He was trying to talk him and calm him down,
17 too, 'cause nothing was working.

18 Q Okay. And were you present when the
19 incident sort of came -- came to a conclusion?

20 A No, they had evacuated everybody. We were
21 out on the TriMet bus they had kind of pulled and
22 blocked 82nd off with.

23 Q Okay. So did you observe anything related
24 to the shots being fired, anything like that?

25 A No.

Examination of Starla Starn

1 MS. MARRERO: Okay.

2 MR. HANNON: Just a -- a -- one or two
3 follow-up questions. The -- when you were evacuated
4 to the Tri-Met bus, did any of the officers talk with
5 you about your interactions with these two in the bus?

6 THE WITNESS: No. An officer had come over
7 and pulled me aside at the side of the 7-Eleven -- and
8 I forget his name -- and asked me everything that I
9 had seen. I just told him what I just pretty much
10 told you guys.

11 MR. HANNON: And -- and was that after
12 everything resolved --

13 THE WITNESS: Yeah.

14 MR. HANNON: -- or was that while --

15 THE WITNESS: It was after.

16 MR. HANNON: -- the shots fired?

17 THE WITNESS: It was right before we were
18 able to get back into the room.

19 MR. HANNON: Okay. So -- so you --

20 THE WITNESS: It was hours after.

21 MR. HANNON: So you never spoke with the
22 officers about you -- what you observed of these two
23 prior to the shot that was fired?

24 THE WITNESS: No.

25 MR. HANNON: Okay. That -- I just wanted to

Examination of Ronald Pearson, Jr.

1 clarify that.

2 MR. HANNON: Okay.

3 THE WITNESS: Okay.

4 MS. MARRERO: Folks, any other questions?

5 May this witness be excused?

6 Okay. Thank you.

7 THE WITNESS: Thank you.

8 MS. MARRERO: Thank you, Ms. Starn.

9 A GRAND JUROR: Thank you.

10 THE WITNESS: Have a good day, you guys.

11 MS. MARRERO: Thank you for coming in.

12 The State's next witness is Ronald Pearson.

13 If you can just remain standing for a
14 moment, please. Go ahead and raise your right hand
15 and we'll get you sworn in.

16 **RONALD R. PEARSON, JR.**

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

19 A GRAND JUROR: Okay. Thank you.

20 THE WITNESS: Wow, I'm never been in one
21 of these.

22 **EXAMINATION**

23 BY MS. MARRERO:

24 Q Mr. Pearson, can you please state and spell
25 your first and last name.

Examination of Ronald Pearson, Jr.

1 A Ron Pearson. Ronald R. Pearson, Jr. That's
2 R-o-n-a-l-d; R.; P-e-a-r-s-o-n, J-r.

3 Q Thank you. Mr. Pearson, how old are you?

4 A 58.

5 Q And do you live here in the Portland area?

6 A Yes, ma'am, I do.

7 Q I want to speak with you about an incident
8 that occurred in October of -- on October 10th of this
9 year. Are you aware of the incident that I'm
10 referring to?

11 A Yes, I do.

12 Q And where were you that day?

13 A 7-Eleven on 82nd and Flavel.

14 Q And approximately what time of -- of day
15 was this?

16 A I don't know. I think it was more toward
17 the morning.

18 Q Okay. And were you with anyone or were you
19 by yourself?

20 A I was with my -- I had my dog with me.

21 Q What type of dog do you have?

22 A It's a pug and chihuahua mix.

23 Q And what -- can you walk us through what
24 happened when you walked into 7-Eleven? What did --

25 A I --

Examination of Ronald Pearson, Jr.

1 Q -- you first notice?

2 A I -- I walked into 7-Eleven and I noticed a
3 couple to the left of me at -- by the ATM machine.
4 And I don't know if they were arguing, but it kind of
5 seemed like they were having a -- a -- a discussion
6 anyway.

7 So I walked over to the counter. I was
8 going to buy a pack of cigarettes. And I'm standing
9 there waiting and his girlfriend come walking up and
10 walked right up in front of me and stood there. And I
11 said, "Ah, the line's behind me."

12 And she goes, (demonstrative sound). I
13 said -- I said, (demonstrative sound), "Well, it's
14 still behind me, so" -- and that's when her boyfriend
15 come running over from the -- around the corner there
16 and got up in my face and started screaming at me
17 about what did I say to his girlfriend or -- and I was
18 disrespecting her or something like that.

19 And I said, "Man, get out of my face." I
20 said, "I wasn't doing nothing like that. I was just
21 telling her to get back -- in the back of the line."
22 Well, he tended to come right up in my face like this
23 and so I pushed him back like this.

24 And he reached into his pocket and he says,
25 "I'll gut you like a fish." And he pulls out a knife

Examination of Ronald Pearson, Jr.

1 and he starts coming like this and then hit me right
2 here in my gut. And I deflected it like this and then
3 I punched him in his wrist and the knife came out of
4 his hand.

5 And then that's when we went at it and he
6 grabbed me by the hair and slung me around and knocked
7 over the doughnut case or some potato chip case. And
8 we got back up and he said, "Where's my knife?
9 Where's my knife?"

10 And he's looking all over for his knife and
11 I was getting ready to start back into him again. And
12 he took off out the door, him and his girlfriend,
13 while I'm standing there going -- while I'm yelling at
14 the guy behind the counter to, "Call the police, man.
15 Call the police."

16 But, anyway, he came around the corner. He
17 was trying to tell us, "Hey, man, stop it. Get out.
18 Get out." And that's when the kid took off. Well,
19 they came back. I'm standing there talking with the
20 clerk. And he came back and he was searching all over
21 for his knife and he finally found it underneath
22 the -- another potato chip rack right in front of the
23 counter there.

24 And he grabbed his knife and I thought he
25 was going to go at it again, but instead he ran past

Examination of Ronald Pearson, Jr.

1 me and went out the front door.

2 Q Okay. And then was that the last time you
3 saw him in the 7-Eleven?

4 A No. That was not the last time I saw him.

5 Q In -- inside the 7-Eleven?

6 A Yes, inside the 7-Eleven. Yes.

7 Q Okay. And had you ever met this guy before?

8 A No, ma'am, I had not.

9 Q Can you describe him for the grand jury?

10 A Oh, my gosh.

11 Q To the best of your ability?

12 A The best -- yeah. Shorter hair, kind of
13 blondish, I think. He was a white man. He was just a
14 little shorter than I was, a little bit heavier. I
15 can't tell you what he was wearing. That's about it.

16 Q Okay. And when he retrieved the knife,
17 where did that come from?

18 A His pocket, his right-hand jacket pocket.

19 Q Okay.

20 A 'Cause he reached into it and that's when I
21 became aware. And he was saying he was going to gut
22 me like a fish, so I kind of, like, you know, turned
23 and looked at what's going on, you know?

24 Q Can you describe the knife for us?

25 A Oh, it -- it was like a kitchen knife.

Examination of Ronald Pearson, Jr.

1 Q And --

2 A Steak knife, you know.

3 Q And when you were involved in the struggle
4 with him, were you able to land any punches or make
5 contact with him --

6 A Oh, yes.

7 Q -- at all?

8 A Yes, I -- I got quite a few. But I was
9 paying attention more to what kind of weapons he was
10 having, so I really wasn't hitting him hard.

11 I got a knock-out punch and he -- I mean,
12 but he wasn't -- I mean, I was just pretty much kind
13 of hitting him, but really wasn't -- I just did it
14 again and moved back. I wasn't trying to hurt him or
15 nothing like that.

16 Q Okay. You just said that you got a
17 knock-out punch, though. Did you knock him out at any
18 point?

19 A No, I did not.

20 Q Okay.

21 A That's why I -- they weren't heavy punches.
22 I was just kind of, like -- that's what I was trying
23 to say. I was just kind of, like, maybe pushing him
24 back or -- or, like, trying to blind him so he'd quit
25 fighting or whatever. I don't know.

Examination of Ronald Pearson, Jr.

1 Q Okay. And when -- when he left the 7-Eleven
2 and came back, had -- you indicated that you had
3 separated and then started fighting again. Was that
4 before he left the first time?

5 A No. No, we did try to fight again. When he
6 left the first time and then he came right back,
7 like -- it was, like, three minutes. He came back and
8 he was looking for his knife. And he came past me and
9 found his knife underneath the potato chip rack.

10 And that's when I thought we were going to
11 go at it again 'cause when he got ahold of his knife
12 -- but he -- instead, he just kind of, like, stuck it
13 in his pocket and ran past me and out the door.

14 Q Was he saying anything during this
15 altercation?

16 A That's the only thing he said to me. I
17 think that was the last thing he said to me, was,
18 "I'll gut you like a fish." And then he tried to
19 stab me.

20 Q And you indicated that -- that the knife had
21 sort of poked you in the stomach. Did you actually
22 get stabbed?

23 A No. It didn't break the skin --

24 Q Okay. Did --

25 A -- because I -- I -- like I said, I

Examination of Ronald Pearson, Jr.

1 deflected it at -- at that time when I seen what was
2 happening.

3 Q And --

4 A A lot of people will say things and not
5 really come out with one, but when I saw the silver of
6 the blade, that's when I went into action.

7 Q Did you suffer any injuries from the knife?

8 A No. I did not, except for I lost a bunch
9 of hair.

10 Q And walk us through that. What happened
11 with your hair?

12 A Well, he grabbed me. That's how he got
13 ahold of me when we were -- when I was punching him
14 because he -- you couldn't get a punch in edgewise.
15 Like I said, I'm more, like, blinding him and pushing
16 him back. I really wasn't trying to hurt him.

17 So he reached up and grabbed me by -- both
18 hands around my neck like this by my hair -- it wasn't
19 up in a ponytail that day -- and just proceeded to
20 swing me around.

21 Q At any point, did you have the knife?

22 A No, ma'am, I didn't ever touch it.

23 Q Okay. You didn't pick up the knife and put
24 it on the counter?

25 A No, I did not.

Examination of Ronald Pearson, Jr.

1 Q Okay. When he left the 7-Eleven, where did
2 you see him go?

3 A He went across the street to the hotel and
4 at that time, I came walking out and the police had
5 arrived. And I was standing by the fence that's out
6 in front of the 7-Eleven and he comes out of the
7 office of the hotel.

8 And that's when the cop -- officers were
9 telling him, you know, "Halt. Cease," you know. And
10 he grabbed his girlfriend and pulled his girlfriend
11 in front of him. And he had the knife out then. And
12 then he was saying -- I couldn't make out what he was
13 saying, something about, "You better leave me alone,"
14 or something anyway.

15 And the cops, you know, were getting closer
16 step by step, you know, trying to get him to calm
17 down. And then him and his girlfriend ran back to --
18 back toward the back of the hotel to their room, I
19 guess, and I just went home.

20 Q Okay.

21 A Well, I gave the clerk my name, number and
22 all that stuff, so I knew the cops were wanting to
23 talk to me, so --

24 Q The 7-Eleven clerk?

25 A Yes. Yes, ma'am.

Examination of Ronald Pearson, Jr.

1 Q You indicated that you saw him grab his
2 girlfriend. Can you describe exactly what you saw.

3 A They both come walking out of the office and
4 they were standing together there. And that's when
5 they noticed the police officers 'cause he was telling
6 them to put his hands -- turn around, you know, that
7 kind of stuff.

8 Q Who was, the police officer was?

9 A The police officer was.

10 Q Okay.

11 A Two of them. There was one -- I could tell
12 you their (indiscernible). But, ah, they were coming,
13 you know, like, trying to get on either side of him.
14 They were telling him to calm down, turn around, I
15 don't know, the normal police procedure things.

16 That's when he grabs his girlfriend and --
17 and kind of, you know, put her, like, in front of him.
18 And then they separated and they both ran back to the
19 back of the hotel room -- complex anyway.

20 Q Did you hear him make any threats?

21 A I think that's what he was saying --
22 yelling, but, I mean, I really couldn't make it out.
23 But I'm -- I'm sure it was kind of -- the same kind of
24 threats, "Well, you know, I'll hurt her if you don't
25 leave me alone," or something like that.

Examination of Ronald Pearson, Jr.

1 Q Okay. But you're not sure exactly verbatim
2 what he said?

3 A No, I'm not sure exactly.

4 Q Okay. How far from -- from this were you
5 standing when you were watching this?

6 A Across the street.

7 Q Okay. So --

8 A That's four lanes -- or five lanes,
9 actually, with the middle one.

10 Q Okay.

11 A And --

12 Q So were you still at the 7-Eleven then?

13 A No. I was in front of the fence out --
14 okay. In front of the 7-Eleven on 82nd there, you can
15 walk around the fence. It's right across -- yeah.
16 Right there in front of the fence where that car --
17 yellow car is parked. Yes. Okay. Go in front of
18 that fence. Yeah, right there. That's where I was
19 standing.

20 Q Okay.

21 A And I'm a little hard of hearing, so I
22 really couldn't make out what he was saying. But I'm
23 sure it was some kind of threat. I know he said, "You
24 better leave me alone," or, "Back off," or something
25 like that.

Examination of Ronald Pearson, Jr.

1 MS. MARRERO: Okay.

2 MR. HANNON: Just a couple points of
3 clarification. When you said you have a knock-out
4 punch, you're saying you had the ability to knock him
5 out, but --

6 THE WITNESS: Oh, yes.

7 MR. HANNON: -- you didn't --

8 THE WITNESS: Yes, sir.

9 MR. HANNON: -- try to knock him out?

10 THE WITNESS: Yes, sir.

11 MR. HANNON: Okay.

12 THE WITNESS: In the -- in the past, every
13 time it's been -- that's what -- and why I'm saying
14 I'm --

15 MR. HANNON: But you have the capability?

16 THE WITNESS: Oh, yeah.

17 MR. HANNON: Okay.

18 THE WITNESS: Very much so.

19 MR. HANNON: And then you mentioned the
20 knife. I -- it was unclear to me. Did you describe
21 it as a steak knife or fake knife? How -- how did you
22 describe the knife?

23 THE WITNESS: A steak knife.

24 MR. HANNON: Steak --

25 THE WITNESS: It was a black-handled

Examination of Ronald Pearson, Jr.

1 steak knife.

2 MR. HANNON: Okay. And how big was it? Was
3 it, like, a steak knife?

4 THE WITNESS: Just a normal, regular steak
5 knife from your --

6 MR. HANNON: Okay.

7 THE WITNESS: -- kitchen.

8 MR. HANNON: Okay. One that you would cut
9 large pieces of meat or dinner meat?

10 THE WITNESS: Your -- your steak ones.

11 MR. HANNON: Okay.

12 THE WITNESS: I mean, yeah, just dinner.

13 MR. HANNON: Okay. And how -- how would you
14 describe the officers' demeanor with him and his -- in
15 contrast to his demeanor with the officers? How were
16 they -- how were -- were they acting animated or
17 aggressive towards him?

18 THE WITNESS: No. They were coming -- they
19 had their guns drawn and they were just telling him --
20 you know, giving him orders.

21 MR. HANNON: Were they yelling orders? Were
22 they --

23 THE WITNESS: I'm sure they were --

24 MR. HANNON: -- talking to him?

25 THE WITNESS: -- yeah. I'm -- I'm almost

Examination of Ronald Pearson, Jr.

1 sure they were yelling, you know, "Hey," you know,
2 because they had to get his attention I'm sure."

3 MR. HANNON: Okay. And you said you
4 couldn't hear exactly what he was saying, but it
5 sounded like threats. Is that based on his behavior?
6 What did you observe about his behavior that made you
7 think --

8 THE WITNESS: His behavior and I'm sure --
9 I -- I know I heard him say, "Leave me alone," or,
10 "Back off."

11 MR. HANNON: Mm-hmm.

12 THE WITNESS: Okay. That was -- that was --
13 and probably said both those words.

14 MR. HANNON: Okay. Okay.

15 MS. MARRERO: Folks, are there any
16 other questions --

17 A GRAND JUROR: Yeah.

18 MS. MARRERO: -- for Mr. Pearson?

19 A GRAND JUROR: In the store while you were
20 having an altercation with the guy, did the girlfriend
21 do anything?

22 THE WITNESS: No. She just stood back and
23 -- she was standing right behind him. I was a little
24 concerned about her, too, but, I mean, not really
25 'cause she kind of, like, stepped back away. He

Examination of Ronald Pearson, Jr.

1 totally, you know, took the whole front field on this
2 thing.

3 A GRAND JUROR: Mm-hmm.

4 BY MR. HANNON:

5 Q So when you answered that question, just to
6 be clear, was your attention more focused on him
7 because he's in your face? Could you really pay
8 attention to what she's doing?

9 A Well, she was, like -- he was, like, right
10 here and she was, like, right behind him like this.

11 Q Mm-hmm.

12 A And I was, like, standing, like, almost this
13 close in back --

14 Q Mm-hmm.

15 A -- standing right here and he just kept
16 coming, like, right up. And I thought he was going to
17 sucker punch me, is what I thought he was going to do.

18 Q So is it fair to say that most of your
19 attention was drawn towards him and not --

20 A Yes.

21 Q -- towards her?

22 A Yes, sir, it was.

23 MR. HANNON: Okay.

24 A GRAND JUROR: I think you said after they
25 left the motel, afterwards, he grabbed her and he had

Examination of Ronald Pearson, Jr.

1 the knife. And then you said they separated and both
2 went back to the --

3 THE WITNESS: Yes.

4 A GRAND JUROR: -- room?

5 THE WITNESS: Well, what -- actually, yeah.
6 They came apart, he had her around like he was holding
7 her. And then they kind of, like -- she -- I -- I
8 don't know what was said, but I know that they both
9 turned around like this and they both ran together
10 back to the back.

11 A GRAND JUROR: So was he holding onto her
12 at that point?

13 THE WITNESS: No, he was not. He did not
14 have his hand on her --

15 A GRAND JUROR: Okay.

16 THE WITNESS: -- at this point. It looked
17 like a -- you know, to me, it looked like they were --
18 he was just using her and she was, you know, willing
19 to be used in the situation, you know, like, okay.
20 Because they both -- he was not dragging her or
21 pulling on her or nothing like that. He just -- they
22 just ran back to the room.

23 A GRAND JUROR: To -- to follow up on that,
24 just to clarify, 'cause you saw him run to the rear of
25 the hotel, but did you lose view of them?

Examination of Ronald Pearson, Jr.

1 THE WITNESS: I could show you.

2 A GRAND JUROR: Sure.

3 A GRAND JUROR: Sure.

4 THE WITNESS: Okay. Okay. They were
5 underneath this thing right here.

6 MS. MARRERO: And --

7 THE WITNESS: And I was standing right
8 across here.

9 MS. MARRERO: -- can I have you turn around?

10 THE WITNESS: Yeah.

11 A GRAND JUROR: There you go.

12 THE WITNESS: They were standing right here
13 underneath this, the awning. And I could see them
14 separating from here and then run back like this
15 toward the rooms.

16 BY MR. HANNON:

17 Q And where did you lose sight of them then?
18 How -- where were they --

19 A Right -- right about in this -- where the
20 car is --

21 Q Okay.

22 A -- right around -- right -- right around in
23 here.

24 Q So to follow up with the grand juror's
25 question, you never actually saw him go into

Examination of Ronald Pearson, Jr.

1 the room --

2 A No, sir, I did not.

3 Q -- or in any room. You just saw them go
4 down that direction?

5 A Yes, sir, I did. And, no, sir. I did not
6 see them go in any room.

7 MR. HANNON: Okay.

8 MS. MARRERO: Any further questions for
9 Mr. Pearson? Okay. May this witness be excused?

10 THE WITNESS: Why, thank you.

11 A GRAND JUROR: Thank you.

12 THE WITNESS: Okay.

13 MS. MARRERO: Thank you, Mr. Pearson.

14 A GRAND JUROR: Bye-bye.

15 MS. MARRERO: We can go off for a quick
16 minute while we get the next witness organized.

17 (Recess taken, 1:44 p.m. - 1:59 p.m.)

18 MS. MARRERO: Okay. We are back on the
19 record. The State's next witness is Talon Ochoa.

20 All right. Talon, we're ready for you.

21 THE WITNESS: Hi.

22 MS. MARRERO: If you can just stay standing
23 for a moment. Please raise your right hand and we'll
24 swear you in.

25 TALON OCHOA

Examination of Talon Ochoa

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

3 EXAMINATION

4 BY MS. MARRERO:

5 Q Go ahead and grab a seat, please.

6 Can you tell us what your full name is.

7 A Talon Ochoa.

8 Q And are you able to spell that for us?

9 A T-a-l-o-n, O-c-h-o-a.

10 Q Thank you, Ms. Ochoa. How old are you?

11 A 30 years old.

12 Q Thank you. And do you live in the
13 Portland area?

14 A Yes. I live with SL Start also.

15 Q What is SL Start?

16 A It helps people with disabilities to
17 provide.

18 Q And do you actually live with SL Start?

19 A Yes.

20 Q And is that in some sort of a group home?

21 A No, it's apartment.

22 Q It's an apartment? Okay.

23 A Yes.

24 Q I want to speak with you about an incident
25 that occurred back in October, October 10th.

Examination of Talon Ochoa

1 A Okay.

2 Q Are you aware of what I'm talking about?

3 A Yes.

4 Q So let's start out with a little bit of
5 background information.

6 A Okay.

7 Q Can you tell us what your boyfriend's
8 name is?

9 A Samuel Edward Rice.

10 Q And at the time that this happened, was he
11 going by the name Samuel or was he going by some other
12 name?

13 A He calls him another name, Arani.

14 Q Arani?

15 A Yeah.

16 Q Okay. But his --

17 A Real name is Sam.

18 Q -- his real name is Sam?

19 A Yes.

20 Q And how long have you known Sam?

21 A We've been dating for a year.

22 Q And did you guys live together at the time
23 this happened?

24 A Yes.

25 Q Where had you been staying?

Examination of Talon Ochoa

1 A We were staying -- we got kicked out of our
2 apartment at Eastport. Then we went to Del -- Del
3 Rancho Motel.

4 Q Okay. And do you remember where the Del
5 Rancho Motel was?

6 A Yes. It was on Flavel.

7 Q Okay. And does 82nd and Flavel --

8 A Yes.

9 Q -- sound about right?

10 A Yes.

11 Q How long were you guys at that hotel?

12 A For a week.

13 Q And was anybody else staying with you?

14 A No.

15 Q Do you remember which hotel room you
16 were in?

17 A 16.

18 Q And were you there in Room 16 the whole time
19 you were there?

20 A Yes.

21 Q I want to talk about what happened the day
22 that -- that he was shot. About what time did you
23 guys get up that day?

24 A We got up around 8:00.

25 Q And what did you do when you woke up?

Examination of Talon Ochoa

1 A We went over to 7-Eleven.

2 Q And was it the 7-Eleven right across
3 the street?

4 A Yes.

5 Q And what were you going to 7-Eleven for?

6 A To get some oatmeal and some drinks for
7 breakfast.

8 Q Okay. And did you get oatmeal and drinks?

9 A No. I put it back down. I was going to pay
10 for it.

11 Q And what happened before you had a chance to
12 pay for your oatmeal and drinks?

13 A See if I can ask him -- see if I can go
14 first. Then he said, "No." Then Sam got in his face
15 and they started fighting.

16 Q Okay. And you said that you asked if you
17 could go first.

18 A Yes.

19 Q Who did you ask if you could go first?

20 A With -- the guy with the dog.

21 Q Okay. The guy with the dog. And did you
22 see that guy here today as well?

23 A Yes.

24 Q Okay. Was that the guy who was just in here
25 before you?

Examination of Talon Ochoa

1 A Yes.

2 Q And you said Sam got in his face. What do
3 you mean by that?

4 A They started fight -- fighting.

5 Q Okay. And did Sam say anything to him?

6 A No. They just started fighting. He just
7 pulled out a knife.

8 Q Who pulled out a knife?

9 A Sam did.

10 Q And what did that knife look like?

11 A It was a kitchen knife, like, this long.

12 Q Okay. So about a foot?

13 A Yeah.

14 Q And is that a knife that you guys had had
15 back at the hotel --

16 A Yeah.

17 Q -- room? And what happened when Sam pulled
18 out the knife?

19 A Then he started stab -- trying to stab him.

20 Q Trying to stab who?

21 A The man with the dog.

22 Q Okay. And what did the man with the dog do
23 when Mr. Rice tried to stab him?

24 A They just kept on fighting.

25 Q And, at some point -- well, what happened

Examination of Talon Ochoa

1 with the knife?

2 A Then Sam put it back in his -- then Sam
3 dropped the knife and the clerk, the store manager,
4 picked it up and gave it back to him.

5 Q Okay. Did you see, at any point, whether
6 Sam was actually able to stab the person?

7 A No.

8 Q Did he make a motion like he was trying to?

9 A Yes, he was trying to.

10 Q And did you see the other person fighting
11 Sam back?

12 A They -- Sam was getting on top of him.

13 Q How did the fight break up?

14 A 'Til the -- 'til the clerk and -- told them
15 to stop and the police just came.

16 Q And did the police come while you were still
17 at 7-Eleven or had you left?

18 A We left. We went back to the room.

19 Q And did you go anywhere between when you
20 left 7-Eleven and when you went back to the room?

21 A No.

22 Q And did you go directly to the room or did
23 you stop anywhere?

24 A We just went back to the room.

25 Q And as you were getting back to the room,

Examination of Talon Ochoa

1 did anybody else arrive?

2 A 'Til the SWAT team and the police came.

3 Q Okay. Tell me about that. What did you see
4 when the -- when the police came?

5 A After they came, I took a shower. After I
6 got out of the shower, then Sam opened the window
7 because I took a hot shower. He got some air. Then
8 the -- one of the police came back in the back
9 building, shoot Sam in the head.

10 Q Okay. So we're going to talk about that in
11 a minute, but I want to talk about what happened
12 before that, okay? So when you guys first got to the
13 hotel room, how did you get inside?

14 A We forgot the room key.

15 Q Okay. So what happened then?

16 A Sam just shoved the door in.

17 Q And did you see any police officers outside
18 at that point?

19 A No.

20 Q And, at some point, did Sam grab you?

21 A No.

22 Q Okay. Did the guy with the dog follow you
23 back to the hotel?

24 A No, he went back to his place.

25 Q So after Sam shoved the door in, how did you

Examination of Talon Ochoa

1 get inside the hotel?

2 A I went after him. He went after me.

3 Q He went after you into the hotel room?

4 A Yes.

5 Q At any point, did he push you into the hotel
6 room or --

7 A No.

8 Q -- anything like that? Did you hear him say
9 anything?

10 A No. He had just blocked the door with
11 the bed.

12 Q Was that before or after you got into the
13 hotel room?

14 A Before.

15 Q Before you were in the hotel room?

16 A Yes.

17 Q So -- and I might -- I want to clarify. Was
18 the bed in the hotel room?

19 A Yes.

20 Q So he blocked the door after you guys had
21 gone inside?

22 A Yes.

23 Q Okay. And did he say anything when he was
24 putting the bed in front of the door?

25 A No.

Examination of Talon Ochoa

1 Q Did he put anything else in front of
2 the door?

3 A Just only the bed.

4 Q Okay. He didn't put the -- the
5 dresser/nightstand?

6 A No.

7 Q And did you guys fight at all once you were
8 in the hotel?

9 A No. He was pacing back and forth outside to
10 get a cigarette.

11 Q Mm-hmm.

12 A To calm down.

13 Q Okay. Outside the door?

14 A Yes.

15 Q And did you see what he was doing or hear
16 what he was saying at that time?

17 A No.

18 Q Where were you at that time?

19 A Inside.

20 Q At some point, did Sam call 9-1-1?

21 A Yes.

22 Q And at what point did he call 9-1-1?

23 A I don't know.

24 Q Do you remember what he said to 9-1-1?

25 A No.

Examination of Talon Ochoa

1 Q Did you know whether anybody from 7-Eleven
2 had called 9-1-1?

3 A The clerk did.

4 Q And how did you know that?

5 A He called the police.

6 Q Did you hear him --

7 A Yes.

8 Q -- talking on the phone to the police?

9 A Yes.

10 Q And did you hear anything Sam said when he
11 was on the phone with the police?

12 A No.

13 Q I want you to tell me a little bit about the
14 hotel room and -- and where the hotel room -- how it
15 was laid out. How many bedrooms is in the hotel room?

16 A There were two separate beds.

17 Q Two beds, but how many rooms?

18 A One.

19 Q Just one room with two beds in it?

20 A Yes.

21 Q And was there a separate bathroom?

22 A Yes.

23 Q And was there a door to the bathroom?

24 A Yes.

25 Q Okay. Was there a separate kitchen?

Examination of Talon Ochoa

1 A There was no kitchen.

2 Q Okay. Was there -- there was obviously a
3 front door. Can you answer out loud?

4 A There was a front door.

5 Q Okay. And then about a back door? Was
6 there a back door?

7 A No.

8 Q Okay. And so when Sam called 9-1-1, did he
9 tell you why he was going to call?

10 A No.

11 Q Okay. Did he seem to be frustrated?

12 A He was frustrated.

13 Q What was he frustrated about?

14 A I don't know.

15 Q Okay. Did he see the police outside?

16 A He just peeked out the window.

17 Q And how many times did he peek out the
18 window?

19 A Like, twice.

20 Q Okay. And did you hear the police say
21 anything to him?

22 A They just wanted him to come out --

23 Q Okay.

24 A -- and he didn't do it.

25 Q And did he say anything about why he wasn't

Examination of Talon Ochoa

1 going to go out?

2 A Because he had a warrant for his arrest for
3 not showing up to court.

4 Q Okay. Did he -- did he -- did you hear the
5 police tell him to come outside?

6 A Yeah.

7 Q You're nodding your head yes? Okay.
8 Did you tell him to go outside and talk
9 to them?

10 A Yeah. I told him to go outside and go talk
11 to them and he didn't do it.

12 Q Okay. And at some point when he called the
13 police, did he say something about money?

14 A He wanted some money.

15 Q And what was he saying about that?

16 A He wanted to start a new -- he just wanted
17 to get out of the state and start fresh.

18 Q Okay. And did he tell that to the police?
19 Did you --

20 A Yeah.

21 Q -- hear him say that?

22 A Yeah.

23 Q Okay. And when he was saying that, where
24 was the knife?

25 A In the bathroom.

Examination of Talon Ochoa

1 Q Okay. Did you come out of the hotel room?

2 A He wouldn't let me go outside and get fresh
3 air after I just took a hot, steaming shower.

4 Q Why wouldn't he let you go outside?

5 A Because the police were out there.

6 Q Okay. Did you tell him that you wanted to
7 go outside?

8 A He wouldn't let me go outside. There was
9 strange people out there.

10 MS. MARRERO: Okay. Did --

11 BY MR. HANNON:

12 Q Sorry to interrupt. But she had -- one of
13 the -- thank you for that explanation. But one of the
14 questions was, would he let you -- he wouldn't let you
15 outside and the answer was, yes, he would not let you
16 outside?

17 A Yes.

18 MR. HANNON: Thank you.

19 BY MS. MARRERO:

20 Q And -- and so did you -- did you feel like
21 you could go outside?

22 A He wouldn't let me go outside.

23 Q What did you think he would do if you tried
24 to go outside?

25 A 'Til the police came in.

Examination of Talon Ochoa

1 Q What -- what -- what did you think he would
2 do if you had tried to go outside, though?

3 A He wouldn't let me go outside.

4 Q What was he doing so that you couldn't go
5 outside?

6 A I asked him if I can go out some -- go get
7 some fresh air.

8 Q What --

9 A He said no.

10 Q Okay. And did he say why?

11 A Don't know.

12 Q Okay. And, at that time, was the door
13 locked?

14 A Yes.

15 Q Okay. Do you remember telling the police
16 officers who you spoke with that the night stand was
17 also in front of the door?

18 A Mm-hmm.

19 Q You did? So, at some point, did he move the
20 night stand in front of the door?

21 A A little bit.

22 Q Okay. And so could you have gotten through
23 the -- the mattress and the nightstand --

24 A I couldn't --

25 Q -- to get outside?

Examination of Talon Ochoa

1 A -- move the mattress or the nightstand.

2 Q Okay. And did he indicate that he wasn't
3 going to let you out?

4 A Yes.

5 Q Okay. At some point, did he -- well, were
6 you afraid that he was going to hurt you?

7 A Yes.

8 Q What were you afraid he was going to do?

9 A He was trying to hurt me.

10 Q And -- and -- and, specifically, what was he
11 doing?

12 A He was trying to trap me in the motel room.

13 Q Okay. And what were you afraid he was going
14 to do?

15 A Try and cut my throat.

16 Q Did he tell you that that's what he was
17 going to do?

18 A Yes.

19 Q And did he also say something about
20 his ears?

21 A No.

22 Q Did he tell you that he was going to cut off
23 his ears?

24 A Yeah.

25 Q Okay. Did he tell you that or did he tell

Examination of Talon Ochoa

1 that to the police when he was on the phone?

2 A He told the police about that.

3 Q Okay. But you heard him say that he would?

4 A Yes.

5 Q Okay. And then you, specifically, heard him
6 say that he would try and cut your throat?

7 A Yes.

8 Q Okay. So were you afraid at that point?

9 A Yes.

10 Q Did you feel like you could leave safely?

11 A (No audible response.)

12 Q Did you feel as though you were able to
13 leave the room at that point or were you too afraid?

14 A I was too afraid. I was shaking.

15 Q Okay.

16 A I had no socks on, no shoes on 'til the
17 police shattered the window.

18 Q Okay.

19 A And bombed the room.

20 Q So let's talk about that. So at -- when you
21 said that, "the police shattered the window," which
22 window got shattered?

23 A The front window next to the front door just
24 when you go outside.

25 Q Okay. Before that, did something else

Examination of Talon Ochoa

1 happen?

2 A No.

3 Q Okay. And was that when the police came in?

4 A Yes.

5 Q Okay. And at what point did Sam get shot?

6 A In the bathroom.

7 Q Okay. So he wasn't standing in front of the
8 front window when that happened?

9 A No. He just opened the window to get some
10 air in there.

11 Q Okay. And where were you located when that
12 happened?

13 A I was sitting on the bed.

14 Q Okay. And was the bathroom door open or
15 closed?

16 A Open.

17 Q Okay. And did you see him open the window?

18 A Yes.

19 Q How far from that window were -- was the bed
20 that you were on?

21 A I was against the wall.

22 Q And so sort of across the room?

23 A Yes.

24 Q And did he say anything before he opened the
25 window?

Examination of Talon Ochoa

1 A Then he got shot -- shot.

2 Q Okay. And did you see him after he had
3 been shot?

4 A No. There was blood coming all out.

5 Q Coming out from the bathroom?

6 A Yeah.

7 Q Okay. And did you look at his body at all?

8 A No. I looked from it, then I turned around.

9 Q Okay. And as soon as -- as soon -- well,
10 did you hear when the -- when the shot happened?

11 A Yes.

12 Q What did you hear?

13 A The gunshot.

14 Q And do you remember how many shots you
15 heard?

16 A One.

17 Q And how soon after that gunshot did -- did
18 they shatter the glass in the front?

19 A About two minutes.

20 Q And what happened when the police came in?

21 A I just went outside.

22 Q How did they come in?

23 A They just opened -- pushed the door in.

24 Q Okay. And so were -- was the mattress and
25 the nightstand still in front of it?

Examination of Talon Ochoa

1 A Yes.

2 Q Okay. And did they push past that?

3 A Yes.

4 Q And what did you do once they came inside?

5 A They just took me outside.

6 Q All right. And did you have a chance to
7 speak with them that day?

8 A Yeah.

9 Q Okay. And you spoke with police a couple of
10 times that day; is that right?

11 A Yes.

12 Q Okay. And do you remember specifically
13 talking to them sort of about what had happened?

14 A (No audible response.)

15 BY MR. HANNON:

16 Q I'm sorry. I missed that last sentence.
17 Did you -- did you have a couple of interviews with
18 them about what happened in the room?

19 A Yeah.

20 Q Okay.

21 A I had my two cats under the bed, too. They
22 got scared.

23 BY MS. MARRERO:

24 Q Okay. Did you get your cats back, though?

25 A Yes.

Examination of Talon Ochoa

1 Q Did you give the police permission to go in
2 the room and look for evidence?

3 A Yes.

4 Q Okay. And they went over some paperwork
5 with you for that?

6 A Yes.

7 Q Okay. Talon, so Mr. Hannon has some
8 follow-up questions for you.

9 A Okay.

10 Q Okay?

11 A Okay.

12 BY MR. HANNON:

13 Q Just a couple of followup, Talon. And,
14 first of all, thank you for being here.

15 A Yeah.

16 Q So you mentioned you live at SL Start?

17 A Mm-hmm.

18 Q Which is a place that helps people with
19 disabilities.

20 A Yes.

21 Q Do you know what your disability is or why
22 you have the help of SL Start?

23 A They just help us pay rent, really, on time.

24 Q Okay. Do you have a caregiver or provider
25 that helps you as well with your money and other

Examination of Talon Ochoa

1 stuff?

2 A No. I'm my own payee.

3 Q Gotcha. Now, you mentioned that prior to
4 living at the Del Rancho with Mr. Rice, you guys were
5 evicted from your last apartment.

6 A Yes.

7 Q Was there another incident kind of like this
8 that occurred at your first apartment where the police
9 had to show up?

10 A He just making too much noises --

11 Q Mm-hmm.

12 A -- and start yelling at people.

13 Q And did the police have to come over to that
14 apartment once or twice?

15 A Yes.

16 Q And when the police came over the prior
17 times, were -- did Sam let you talk to the police to
18 tell you -- to tell the police that you were okay?

19 A Yes.

20 Q Okay. At your -- at the Del Rancho --

21 A Mm-hmm.

22 Q -- place when you were inside the room, do
23 you recall Sam having to pull you into the room when
24 the police arrived?

25 A No.

Examination of Talon Ochoa

1 Q You don't remember that?

2 A No.

3 Q Okay. Going to inside the room when Sam
4 wouldn't let you out, he -- he put a mattress and the
5 nightstand partially in front of the front door,
6 right?

7 A Yes.

8 Q Did he also put a mattress in front of the
9 window so the police couldn't see inside?

10 A Yes.

11 Q And did he also put a mattress in the back
12 window so the police couldn't see inside?

13 A No.

14 Q You don't remember that?

15 A No.

16 Q Okay. Did you personally ever -- you have a
17 cell phone, right?

18 A Yes.

19 Q And did -- do you know how to text message
20 and receive and send text messages?

21 A Yes.

22 Q Do you know or remember if you personally
23 received any text messages from somebody or the police
24 while Sam wouldn't let you out?

25 A No.

Examination of Talon Ochoa

1 Q Okay. Did Sam -- was Sam ever allowed to
2 use your phone?

3 A No, he had his own cell phone.

4 Q Okay. Do you remember any text messages
5 while you were stuck in the room with Sam when the
6 police were outside?

7 A No.

8 Q Okay. Now, you were -- Sam was your
9 boyfriend --

10 A Yes.

11 Q -- when this all occurred?

12 A Yes.

13 Q And so has this been pretty tough for you to
14 go through?

15 A Yes.

16 Q And I'm sorry for your loss.

17 A Thank you.

18 Q But were -- when you were ultimately let out
19 of the room, did you feel safer outside of the room --

20 A Yes.

21 Q -- once the police let you out?

22 A Yes.

23 MR. HANNON: Okay.

24 MS. MARRERO: Folks, does anybody have any
25 questions?

Examination of Talon Ochoa

1 BY MS. MARRERO:

2 Q I have just one quick followup. Ms. Ochoa,
3 do you have a caseworker that helps you with SL Start?

4 A Yes.

5 Q Okay. So you're your own payee, but you do
6 have a caseworker who --

7 A Yes.

8 Q -- helps you? What types of things does
9 that person help you with?

10 A They just help us find jobs in the
11 community.

12 Q Okay. And what's your caseworker's name?

13 A Ah, I forgot his name.

14 Q That's okay. Was it the same caseworker
15 that Mr. Rice had?

16 A Yes.

17 Q Okay. And is that how you two met?

18 A Yes.

19 Q Okay. And at the time that this happened,
20 was Mr. Rice still working with that caseworker?

21 A Yes.

22 MS. MARRERO: Okay. Any other questions,
23 folks?

24 Okay. Ms. Ochoa, thank you for coming --

25 THE WITNESS: Thank you.

Examination of Jerrold Higginbotham

1 MS. MARRERO: -- and testifying.

2 We can go off the record.

3 (Recess taken, 2:21 p.m. - 2:28 p.m.)

4 MR. HANNON: We are back on the record in
5 this case. And the next witness is
6 Officer Higginbotham.

7 Officer, come on in. Just stand right here.
8 Raise your right hand. They'll swear you in.

9 **JERROLD DALE HIGGINBOTHAM**

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

12 **EXAMINATION**

13 BY MR. HANNON:

14 Q And could you --

15 A Yeah.

16 Q Feel free to get situated. When you're
17 ready, could you please state and spell your name for
18 the record.

19 A It's Jerrold Dale Higginbotham,
20 J-e-r-r-o-l-d, D-a-l-e, H-i-g-g-i-n-b-o-t-h-a-m.

21 Q And, Officer Higginbotham, how are you
22 currently employed?

23 A I'm a police officer for the City of
24 Portland.

25 Q How long have you been with the City of

Examination of Jerrold Higginbotham

1 Portland?

2 A Just over 25 years.

3 Q Any other prior law enforcement experience?

4 A Just some military police stuff in the
5 Marine Corps, but very brief.

6 Q And were you -- what's -- what's your
7 current assignment with the Portland Police Bureau?

8 A I work uniform patrol.

9 Q Any particular precinct?

10 A I work out of East Precinct and usually in
11 the 921 District area, which is basically 82nd to
12 Holgate down to Clackamas County out to Cesar Chavez.

13 Q And is that the location you were working at
14 back on October 10th --

15 A It was.

16 Q -- 2018? And were you -- were you called to
17 respond to a disturbance at a 7-Eleven at or near 82nd
18 -- Southeast 82nd and Flavel in the morning hours of
19 that day?

20 A Yes, I was.

21 Q In your own words, why don't you walk us
22 through what you were responding to?

23 A Okay. I was dispatched to a call about some
24 people fighting inside the 7-Eleven. I had a partner
25 with me, his first day on the street. And we were --

Examination of Jerrold Higginbotham

1 had just got done doing the safe streets -- the -- or
2 safe walks or routes to school at Whitman Elementary.
3 And so we were just down the street from it.

4 We went and parked -- there's a DHS office
5 that is right behind the 7-Eleven. And we parked on
6 the back side of that so that we could walk up around
7 the -- the side of the building.

8 There was also some construction equipment
9 in the way. But -- so we could walk around and take a
10 look inside the -- the store to see if there was still
11 a fight going on and assess what was going on.

12 As we were walking up, a construction worker
13 said, "Hey, you want to -- going to want to talk to
14 that guy," and he pointed to the gentleman who had
15 just walked out of the store and was heading over
16 towards a big white construction-type van.

17 Q And I'm going to interrupt you real quick.

18 A Sure.

19 Q When you responded to that disturbance at
20 the 7-Eleven on the -- you received these on a radio
21 call or through the BOEC dispatch; is that --

22 A Yes, I was.

23 Q Was there any information provided to you in
24 the call or the dispatch that kind of gave you a
25 preview of what the disturbance may or may not

Examination of Jerrold Higginbotham

1 be about?

2 A I -- I believe it just said that there was
3 two -- two men fighting inside the store.

4 Q Okay.

5 A I don't recall.

6 Q So you arrived and a construction worker
7 points you to an individual who would be helpful.
8 What happened next?

9 A So as he was walking out, I asked him, you
10 know, "Hey, can I talk to you for a second about what
11 was going on inside the store?" And he goes, "Yeah,
12 the -- that guy over there tried to stab her with a
13 knife." And I'm like, "Oh, wait a second. You know,
14 he tried to stab who, you know, with the knife?"

15 And -- and he said, "He made a motion like
16 this trying to stab that woman," and he -- I go,
17 "Where are they at?" And he -- he points over across
18 the street at the Del Rancho Hotel.

19 And, at that time, the person, I guess,
20 later identified as Mr. Rice and his girlfriend --
21 Talon was her first name. I want to say Ochoa is her
22 last name -- were over in -- in front of the stairs to
23 the Del Rancho.

24 There's some stairs down below the office
25 and then there -- the office is elevated and there's

Examination of Jerrold Higginbotham

1 some stairs. And they were kind of walking back and
2 forth at the base of the stairs. And they had noticed
3 that I was there and that the person was pointing
4 them out.

5 Q And in that -- when you responded to the
6 scene and that individual is pointing them out to you,
7 that conversation with that individual pointing out
8 the person later identified as Mr. Rice and Ms. Talon,
9 how quickly would you describe that exchange with that
10 witness as you're learning about --

11 A Just --

12 Q -- the information?

13 A Just about as quickly as I gave it to you
14 right here.

15 Q So a few seconds?

16 A Yeah, a few seconds.

17 Q Okay. So when you -- when he points out
18 that direction and you're making those observations of
19 those two individuals at the Del Rancho, what are you
20 thinking and what happens next?

21 A Well, one, I'm concerned, you know, if -- if
22 he just tried to stab her and -- that he's, you know,
23 going to try and do it over there.

24 Q Mm-hmm.

25 A And that he's armed with a knife 'cause

Examination of Jerrold Higginbotham

1 that's what I -- was described to me by the gentleman
2 at the -- with the van. And I don't want to lose
3 sight of him. And I didn't want to send my partner
4 back to get the car to go across the street. 82nd's a
5 pretty busy thoroughfare.

6 There's, you know, two lanes each direction,
7 plus a -- a turn lane. I was concerned that if they
8 -- if I lost sight of them, he may take her someplace
9 into one the rooms and me not know it, take her
10 anywhere, get into a car, you know, any number of
11 things. So I didn't want to lose sight of him.

12 Q So what did you do?

13 A So then I started walking across the street.
14 Traffic stopped for us and he's, you know, seeing me
15 coming across and he's acting very agitated, very
16 angry, saying things that it's all my fault. It's my
17 -- you know, my --

18 Q "My" meaning his or "my" meaning yours?

19 A Mine meaning either me, personal -- me,
20 personally, or the police.

21 Q Okay.

22 A It's our fault that -- and he started
23 rambling about his girlfriend getting raped and just
24 -- just really yelling kind of some nonsensical kinds
25 of stuff.

Examination of Jerrold Higginbotham

1 And, at this point, I walked to about the --
2 the center lane of 82nd and I'm trying to talk to him,
3 you know, telling him to keep his hands where I can
4 see him 'cause I -- you know, I haven't seen the knife
5 yet.

6 But he keeps reaching his right hand into
7 the pocket of his hoodie that he's wearing. And he'd
8 -- he would bring it out, but there wasn't any --
9 anything in it. And so it's like he was, you know,
10 checking to either make sure that something was still
11 there or -- you know, I don't know why he was
12 doing it.

13 So I'm -- you know, I ask him, "Hey, I just
14 need to talk to you. You know, can I -- can I talk to
15 you?" And trying to get him to -- to move away from
16 her. And anyplace that he would move, she kind of
17 moved with.

18 Q Mm-hmm.

19 A And so I wasn't able to get them separated.

20 Q Uh-huh.

21 A But just kept trying to deescalate the
22 situation just trying to talk. You know, "Hey, just
23 need to talk to you about what's going on." And --
24 and, again, he's just super elevated. I thought that
25 he was either high on methamphetamine or bath salts or

Examination of Jerrold Higginbotham

1 -- or, you know, something along those lines. He was
2 just -- he was just extremely angry and --

3 Q Mm-hmm.

4 A -- and agitated.

5 Q Was he giving you -- how was he identifying
6 himself as he was giving some of these other
7 statements that were unusual?

8 A Well, you know, first, you know, I had asked
9 him what his name was and he said -- you know, he used
10 some expletives and said that he didn't need to tell
11 me that information. And then he told me that his
12 name was Aaron. And then he eventually told me that
13 his name was Aaron Lex Luther.

14 Q Mm-hmm.

15 A And then he later on, he told me that his
16 name was Aaron Diesel.

17 Q Mm-hmm. So as you're hearing this, you
18 know, what's -- what's going through your mind as to
19 this guy's behavior and his interactions with you?

20 A Again, I -- I thought he was -- I thought he
21 was high and having some sort of euphoria or something
22 about maybe being, you know, Lex Luther from Superman
23 novels. You know, that he's, you know, being some
24 super villain or something along those lines. I don't
25 know.

Examination of Jerrold Higginbotham

1 Q What happens next?

2 A So I -- as I -- you know, we're trying to
3 engage with him, he takes off -- well, first, they --
4 they'd gone up and tried to get into the office. They
5 can't get into the office. Actually, that was before
6 I had started coming across the street. He tried to
7 get into the office.

8 And they -- they came back down. And that's
9 where I was talking to him. He took off running down
10 to the east towards Room 16. He had tried to get into
11 the door and wasn't able to -- to get in. Like, he,
12 you know, didn't have the key or something.

13 And I was trying to talk to Talon, you know,
14 trying to motion her and tell her, you know, "Come --
15 you know, come over to here," you know, to -- 'cause
16 there was a separation now. And she didn't come my
17 direction. She followed him down towards the room --

18 Q Mm-hmm.

19 A -- and actually went past the room. And
20 then he tried the door a couple more times, hit his
21 shoulder into it and then backed up. And then took a
22 running start and -- and was able to -- to break open
23 the door and get inside.

24 He was inside for a couple seconds and then
25 he came outside and grabbed Talon around the waist

Examination of Jerrold Higginbotham

1 with one arm and around the shoulders with his other
2 arm and then drug her into the room.

3 Q And what was going through your mind as you
4 observed that?

5 A That, you know, now, I had a -- a hostage
6 situation. I wasn't sure what he was going to do with
7 her inside the room.

8 Q And at any point during that interaction,
9 did you yet see a knife or was it still just
10 secondhand information?

11 A Just secondhand information.

12 Q Was he yelling or saying anything as he was
13 trying to get her into the room or pulling her into
14 the room?

15 A I think he was yelling, you know, saying,
16 you know -- you know, telling her to come on. And,
17 you know, her eyes -- she acted nervous. She was --
18 it was almost like she had been, like, the victim of
19 domestic violence type.

20 And -- and she was trying to weigh whether
21 it was going to be better for her to leave him or go
22 with him depending on, you know, once, you know, this
23 is all done, what the repercussions are going to be
24 for her when, you know, the police are no longer
25 there.

Examination of Jerrold Higginbotham

1 Q Mm-hmm.

2 A You know, she had -- you know, her eyes were
3 big. Her mouth was open. But she never -- again,
4 would never say anything --

5 Q Didn't scream or --

6 A -- and it wasn't -- and didn't scream and --
7 and wasn't actively resisting him.

8 Q Mm-hmm.

9 A But seemed surprised that she was being
10 grabbed and -- and pulled into the room at the same
11 time. So she went in -- she was inside the room with
12 him. He'd come out. He'd yell some more stuff.

13 He would, you know, again tell us that it
14 was all our fault that she'd been raped. He said that
15 it was our fault that she had, I think, razor blades
16 and glass put inside her vagina, but that's not the
17 words he used.

18 And that he's the only one who can protect
19 her and he -- and he could protect her with -- and he
20 grabbed his crotch, that he could protect her with his
21 penis as well as -- and he acted like he had a knife
22 and -- and then said, you know, "I can protect her
23 with this." And -- but there was no knife in his
24 hand. And then he would go back into the room.

25 Q And --

Examination of Jerrold Higginbotham

1 A And I --

2 Q And the manner -- describe the mannerisms in
3 which he's saying this to you. Is he saying it pretty
4 calmly or is he acting --

5 A No, he was --

6 Q -- highly agitated?

7 A -- highly agitated.

8 Q Okay.

9 A Very angry. Like I said, just, you know,
10 kind of vein popping, kind of, you know, super
11 aggressive, angry. He would go into the room and I
12 kept trying to ask him to come out. And then the door
13 would open up and he came out and would stand in the
14 doorway and told me that he wanted me to take out my
15 gun, wanted me to come over to the door.

16 And he, you know, put his head against the
17 door and he told me that he wanted me to come over
18 there and put my head against the door so he could
19 bash my head in and kill me. And, you know, just
20 would rant and then went back inside the room.

21 Q And -- and at some point in this interaction
22 with him, did other officers begin arriving on scene?

23 A Yes. As I had been -- this had been taking
24 place, I'd been kind of giving updates broadcasting
25 about him taking her in the room and -- and kind of

Examination of Jerrold Higginbotham

1 the -- the type of situation it was evolving to
2 become.

3 Officer Martin was the first officer to
4 arrive. He brought his patrol car into the parking
5 lot not quite all the way down to Room 16 so that we
6 had some place to kind of retreat to.

7 Q Uh-huh.

8 A And we started getting more resources,
9 started getting less lethal 40-millimeter guns there.

10 Q What -- what's a --

11 A They're --

12 Q What's do -- what do you mean less lethal
13 40-millimeter gun? What are those?

14 A The -- the 40-millimeter, it's a less lethal
15 round. It shoots a -- a round that's about that big
16 around.

17 Q Mm-hmm.

18 A A little bit bigger than, like, a golf ball
19 that's got a soft, rubber end to it. It's what we use
20 now that's replace the -- the bean bag rounds that we
21 used to use.

22 Q Mm-hmm.

23 A It's more accurate and -- and has a -- a
24 better punch to it.

25 Q And as you're doing that, I notice that you

Examination of Jerrold Higginbotham

1 have right here the radio in your ear?

2 A Mm-hmm.

3 Q Are you radioing these things out over
4 dispatch or DOEC?

5 A Yes.

6 Q So as you're radioing this information out
7 asking for assistance and other officers, are other
8 officers on the net able to kind of hear the requests
9 coming in to your location about what's unfolding?

10 A Yes.

11 Q So if I'm just some random officer with the
12 Bureau in the precinct on the net and I'm hearing
13 this, am I getting a sense that this is an escalated
14 situation --

15 A Yes.

16 Q -- over the radio?

17 A Yes.

18 Q Okay. What happens as other officers
19 arrive?

20 A We start formulating a plan. You know, we
21 get a -- a barricade there -- or shield rather there.
22 We're trying to put together a plan. If he comes out,
23 who's going to be custody teams. You know, if he gets
24 to -- basically, we used kind of the -- the lines --
25 the parking lines are on -- they -- oh. They probably

Examination of Jerrold Higginbotham

1 show on there.

2 If he got out far enough from the -- the
3 room to the parking line, then we weren't going to
4 allow him to -- to get back in. We were going to use,
5 you know, less lethal and whatever means that we
6 could --

7 Q So to that point --

8 A -- to --

9 Q -- using my arrow here, what you're -- if I
10 understand correctly, if -- if he's in one of these
11 rooms?

12 A Yeah.

13 Q And you managed to convince or provoke him
14 to come out --

15 A If we could.

16 Q -- approximately --

17 A Yeah.

18 Q -- approximately at this stage, you're
19 coming up with a plan potentially --

20 A Yeah.

21 Q -- to take him into custody with less lethal
22 force?

23 A Yes.

24 Q Okay. And, again, this is something you're
25 radioing and discussing with your --

Examination of Jerrold Higginbotham

1 A Well --

2 Q -- responding officers?

3 A That wasn't on the radio. That was with
4 our -- once the officers had gotten on scene, what we
5 were coming up with. And -- and by now, a couple of
6 sergeants had arrived on scene, Sergeant Hansen, and
7 I'm trying to remember who else was there.

8 I think Sergeant Nice and a couple other
9 were there. They're -- Officer Young and Officer
10 Brown were going to be part of the -- the custody
11 team. Officer Brown had the less lethal. Officer
12 Zeits (phonetic) and Officer Strawn had arrived.

13 And I asked them to go around to the back of
14 the hotel because I learned that there was two windows
15 over there, one to the bathroom and one to the kind of
16 the living room area.

17 Q Mm-hmm.

18 A So I didn't want him to be able to go out
19 through the -- the back so that we kind of had him at
20 least contained in -- into the room.

21 Q What would be the concern if he -- escaping
22 out the back, what was your concern there?

23 A Again, that, you know, if he's armed and --
24 and acting this way, other potential victims he may
25 come across. You know, and -- and if he could even,

Examination of Jerrold Higginbotham

1 you know, potentially get her out the window and, you
2 know, take her -- her with and, you know, now, we
3 don't know where they're at.

4 Q As your team of officers are arriving and
5 assisting and sergeants are arriving, at some point
6 during this response, were -- were you or other
7 officers able to learn the identity of both the female
8 and male involved?

9 A Yes. When this was going on, I sent my
10 partner up to the hotel to try and get the
11 registration card --

12 Q Mm-hmm.

13 A -- so that we'd find out who the room was
14 registered to. Found out that it was registered to
15 Talon.

16 Q Mm-hmm.

17 A And I had broadcast that information and
18 asked dispatch to try and run her name so that we
19 could see if there's any associates that we could
20 learn his actual identity.

21 And, at that point, Sergeant Nice had
22 recognized her name as being somebody that he had had
23 contact with earlier in the week regarding some other
24 incidents.

25 Q Incidents also, from your understanding,

Examination of Jerrold Higginbotham

1 related to Mr. Rice --

2 A Yes.

3 Q -- or this other male?

4 A Yes.

5 Q Okay. So --

6 A And -- and he had asked, I believe over the
7 air, you know, "Is it Sam Rice?" And I'm like, "I
8 don't -- I don't know."

9 Q Mm-hmm.

10 A I had never had any contact with him and the
11 name he's giving me is this, you know, Aaron Lex
12 Luther --

13 Q Right.

14 A -- or Aaron Diesel.

15 Q You learned the identity -- the identity of
16 Talon. The other officers were arriving. You're --

17 A Mm-hmm.

18 Q -- developing that plan. Sergeant Nice is
19 asking you if there's a Sam Rice involved.

20 A Mm-hmm.

21 Q What happens next?

22 A Let's see. You know, we kind of got
23 everything locked down. And then, at some point, I
24 believe one of the sergeants had called SERT.

25 Q Mm-hmm.

Examination of Jerrold Higginbotham

1 A And they responded to the scene and then
2 started taking a -- 'cause we -- we had different
3 officers in different capacities staged around, some
4 of them providing long cover with AR-15s and, like I
5 said, the custody team that we had formed.

6 And we were evacuating the other residents
7 out of the other rooms that were in the hotel. And,
8 at some point, SERT came up and -- and took all of the
9 officer positions.

10 Once they started taking over that, then it
11 became the Crisis Negotiation Team -- they took over
12 as the communication piece, trying to establish
13 communication with Mr. Rice. And I had gone -- after
14 getting everybody out of the hotel rooms, had gone
15 back to give a briefing to HNT.

16 Q HNT?

17 A Yeah. The Hostage Negotiation -- the
18 Negotiation Team.

19 Q Okay.

20 A To give them a briefing of -- of the
21 incident as I had it, as I knew it.

22 Q Okay. At some point, do you recall ever
23 asking him once you heard from Sergeant Nice that it
24 might be -- or, "Is it Sam Rice?" Did you ever ask
25 him, "Hey, are you Sam Rice as opposed to" --

Examination of Jerrold Higginbotham

1 A I --

2 Q -- "Aaron" --

3 A I did.

4 Q -- "or Aaron Diesel?"

5 A And he told me -- he told me not to refer to
6 him by that name. And if -- if I called him that, he
7 was -- he was going to kill me and kill -- and then I
8 think kill her or kill somebody. You know, he -- he
9 said he was going to kill somebody if I -- if I
10 referred to him by that name.

11 Q And -- and going back to as more personnel
12 are arriving and SERT is -- and the response team is
13 getting a consult and then activated, as that unfolds,
14 you're remaining on scene as auxillary support for
15 these other units?

16 A Yes.

17 Q When that occurs, obviously you've been
18 through a dynamic situation with both Mr. Rice and --
19 and Talon. Is there any point or opportunity in
20 addition to what you're reading over the air where
21 you're able to brief other officers or sergeants of,
22 "This is the interact -- this is what I responded to.
23 This is the interaction and these are the threats
24 and -- and things that I perceived"?

25 A I -- I believe I gave Sergeant Hansen, you

Examination of Jerrold Higginbotham

1 know, kind of a rundown again of, you know, the
2 information as I had it, as I knew it. Again, I never
3 saw the knife, but he -- I was told that he had a
4 knife.

5 Q Mm-hmm.

6 A And he was acting like he had a knife, but I
7 never saw one.

8 Q Sure.

9 A So I also, you know, relayed that
10 information as well.

11 Q And did you -- were you relaying to the
12 other officers the information of him dragging the
13 female into the --

14 A Yes.

15 Q -- room? And were you relaying to the other
16 officers both threats to the officers or others,
17 including potentially Talon, in his exchanges with
18 you?

19 A Yes.

20 MR. HANNON: Do the grand jurors have any
21 other questions?

22 BY MR. HANNON:

23 Q And were you present at the scene ultimately
24 when this situation concluded with the ultimate
25 fire --

Examination of Jerrold Higginbotham

1 A I --

2 Q -- firearm being discharged?

3 A I did. I was -- I was down -- do you want
4 me to show you on that?

5 Q Sure.

6 A Okay. So --

7 Q Excuse me.

8 A I'm kind of a little wide.

9 Q Well --

10 A So I was back down -- actually, it'd be
11 down here.

12 Q Sure. I can --

13 A Just where the -- the HNT van was parked
14 here.

15 Q Okay.

16 A Yeah, like, right here. And so
17 (indiscernible) I heard what I thought was a
18 flash-bang --

19 Q So --

20 A -- or a breaching --

21 Q So it looks about midblock between Flavel
22 and the next street --

23 A Yeah.

24 Q -- that -- that there's a kind of command
25 setup there?

Examination of Jerrold Higginbotham

1 A Yes. Yes. So we have (Indiscernible) and
2 Lambert is -- is down just -- and so we were right
3 about here with the HNT van.

4 Q And on the east side of the street or --

5 A Yes.

6 Q -- do you know?

7 A East side of the street.

8 MR. HANNON: Okay. Okay. Thank you.

9 THE WITNESS: Okay.

10 MR. HANNON: Anybody else have any follow-up
11 questions, grand jurors? And may this witness be
12 excused?

13 GRAND JURORS: Yes.

14 MR. HANNON: Great.

15 THE WITNESS: Thank you.

16 MR. HANNON: Thank you. I'll take him out.

17 All right. The next witness we have is
18 Sergeant Nice.

19 So raise your right hand and we'll swear
20 you in.

21 **KYLE NICE**

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

24 MR. HANNON: Okay. Go ahead and have a
25 seat.

Examination of Kyle Nice

EXAMINATION

1
2 BY MR. HANNON:

3 Q And could you start by please stating and
4 spelling your name for the record.

5 A My name is Kyle Nice, N-i-c-e.

6 Q And what is your current employment?

7 A I'm employed by the Portland Police Bureau.
8 I'm an acting lieutenant currently out of East
9 Precinct.

10 Q And how long have you been with the Portland
11 Police Bureau?

12 A 26-and-a-half years roughly.

13 Q And what are some of the rules or duties as
14 acting lieutenant?

15 A Basically, I'm the shift supervisor. So I
16 supervise the sergeants and the officers on the day
17 shift out of East Precinct, which is 7:00 to 5:00. I
18 have a variety of duties of anything from approving
19 administrative actions to responding to -- to serious
20 calls, to discipline issues and any of the numerous
21 administrative tasks at the precinct.

22 Q And was that you -- were you working in that
23 capacity back during this incident on October 10th,
24 2018?

25 A Yes, I was.

Examination of Kyle Nice

1 Q And why don't you just walk us through, for
2 the grand jury, how the morning started before all of
3 this unfolded?

4 A Yeah. So we had role call. And, generally,
5 I meet with my sergeants for coffee in the morning to
6 discuss things going on in the precinct. We were
7 doing that when the call came out about the subject
8 with the knife at the 7-Eleven.

9 Q Mm-hmm.

10 A I don't remember now, thinking back to what
11 spurred us to respond. But Sergeant Hansen got up
12 from the table to go respond to that call.

13 Q Okay.

14 A And so we all got up and -- and went to our
15 cars. And about a minute or two later,
16 Officer Higginbotham said something about a hostage --

17 Q Mm-hmm.

18 A -- which obviously got all of our attention.
19 And I started heading that way also.

20 Q What -- what happened -- and how far away
21 were you? I mean, how long -- how much time
22 transpired between when --

23 A I was quite a ways away. I was at 122 and
24 Stark.

25 Q Mm-hmm.

Examination of Kyle Nice

1 A And this is 80 -- or not -- 82 and just off
2 of Flavel. So, I mean, we're almost halfway across
3 the precinct.

4 Q So it took you a little -- a few minutes to
5 get to the scene?

6 A Yeah. Even going Code 3, lights and siren,
7 it -- it took a while, so --

8 Q When you arrived, were you monitoring the
9 radio or listening to the air traffic as you were
10 heading to the scene?

11 A Yeah. I was actually doing a couple things
12 on the scene. Earlier that morning, I had been
13 advised that our SWAT team had been doing warrants.
14 So I knew that they -- I -- so I did not know what
15 their availability was.

16 Q Mm-hmm.

17 A So I called for a SERT sergeant to contact
18 me just -- if I -- if they were not available and I
19 needed to call another team, it would kind of affect
20 how I'd run the call 'cause the -- the delay in
21 response from, you know, getting Washington County's
22 team over or something like that.

23 Q And so let me just stop you right there real
24 quick --

25 A Yeah.

Examination of Kyle Nice

1 Q -- if you don't mind. So you said SWAT and
2 SERT, that those are --

3 A Yeah.

4 Q -- the same thing?

5 A SWAT's the general term. We call our team
6 SERT. And I'm not sure if you guys are familiar with
7 all those terms, but SERT is what we call our SWAT
8 team.

9 Q Mm-hmm. So you called just to consult with
10 someone with SERT to see their availability?

11 A Availability, yeah. I -- it -- once -- once
12 Officer Higginbotham mentioned a hostage, that's --
13 that's a mandatory call-out for a SERT team, so --

14 Q Mm-hmm.

15 A -- I -- I wanted to know whether they were
16 available or not to respond.

17 Q Okay. And do you recall who you spoke with
18 during that consult?

19 A Sergeant McConnell.

20 Q Okay. When you spoke with them, did they --
21 was there any indication that they would at least
22 start heading in that direction?

23 A Yeah. They -- they said that they had
24 wrapped up the -- the work that they had done earlier
25 in the morning and were ready to go.

Examination of Kyle Nice

1 Q So -- and all of that is occurring before
2 you actually arrive on scene at --

3 A Yeah. I'm actually talking to him on the
4 phone while I'm driving down there.

5 Q Okay. So when you -- when you arrive on
6 scene, what's the first thing that occurs when you get
7 there?

8 A I park my car. I walk in and -- actually,
9 I -- back up. I -- there was a couple things that
10 happened on the way down there. I recognized Talon,
11 her name, as we got there. And so I had dealt with
12 her and Mr. Rice at another address. And so I was
13 starting to think about how we handled that call when
14 we got to this one.

15 Q And -- and just going back, was that a call
16 that you responded to within the last calendar year?

17 A Oh, yeah. It was only a couple weeks before
18 this -- this event.

19 Q Okay. And what stood out for you or -- or
20 what worked in that prior situation when you engaged
21 with them on the prior occasion?

22 A So we were -- officers were called to a
23 disturbance. Some officers went to the door and
24 Mr. Rice answered the door with a knife. By the time
25 I arrived there as a supervisor, he was very agitated,

Examination of Kyle Nice

1 screaming, hollering, waving a knife around. But
2 Talon -- and I forget her last name -- Ochoa --

3 Q Mm-hmm.

4 A -- Bailey (phonetic) was behind her -- it
5 was almost as if he was protecting her from something.
6 And we -- we backed away, stepped around the corner
7 and really minimized our presence.

8 And he calmed down quite a bit and went back
9 in the apartment. We were able to get
10 Ms. Ochoa-Bailey on the phone. She -- she said she
11 was fine. So we walked away from that call.

12 Q Mm-hmm.

13 A And I had that in my mind as I responded to
14 this call, that, you know, maybe he's just acting out.
15 I know that there was a history of mental illness and
16 some drug use mixed in with that.

17 And so when I got there, I kind of had all
18 my officers back up. I kind of had them kind of move
19 behind the row of parked cars in the -- in the lot
20 trying to kind of calm the situation down 'cause that
21 had worked before.

22 Q So -- so to clarify if I'm understanding the
23 chronology, as you're arriving -- well, first of all,
24 your recollection of Talon, was that before or after
25 the SERT consult with Sergeant McConnell?

Examination of Kyle Nice

1 A That was before, I believe.

2 Q Okay. And if you don't, I mean --

3 A I'm not 100-percent sure.

4 Q But they both happened on the way to --

5 A Yes.

6 Q -- the scene?

7 A Yeah.

8 Q And so when you arrived on scene with the
9 knowledge you had about Talon and Sam Rice --

10 A Yes.

11 Q -- when you arrived on scene, you pulled the
12 officers back and tried to deescalate?

13 A Yes.

14 Q Okay. And -- and did that, in fact, happen?
15 Did the -- did the officers kind of pull back --

16 A Yeah.

17 Q -- a little?

18 A Yeah, we -- we moved back. I mean, we
19 didn't leave the parking lot, but we -- we got several
20 car lengths farther away. You know, we kind of stood
21 behind cars not to be a presence. Just a very minimal
22 presence, but still able to contain the area.

23 Q Okay. As that happened, what else was going
24 on? What happened next?

25 A Well, he -- Mr. Rice came out. There was

Examination of Kyle Nice

1 some communication back and forth between my contact
2 officers and him, some yelling from him. I don't
3 really -- a lot of it was unintelligible, but he said
4 something about, "Why don't you guys go shoot
5 yourselves?"

6 And -- and he slammed the -- opened and
7 slammed the door a couple times. You know, I --
8 Sergeant Hansen was running that part of the team. I
9 was still talking to Officer Higginbotham and Officer
10 Huntinghouse about the previous call over at the
11 7-Eleven.

12 Q Mm-hmm.

13 A And I was trying to make an assessment of --
14 of really what to do next.

15 Q Mm-hmm. And as that's going on, with the
16 knowledge you had on the prior incident involving
17 Sam Rice and Talon, were there any -- could you
18 already notice or were you developing any differences
19 in the way Mr. Rice and Talon interacted with the
20 police on this particular occasion versus the prior
21 occasion?

22 A Yeah. The prior occasion, we were able to
23 get Talon on the phone and -- and talk to her and --
24 and kind of make an assessment of -- of how she felt
25 about it. And -- and previously, she -- she said that

Examination of Kyle Nice

1 she didn't feel that she was in any danger. And when
2 we asked if we could -- thought we could walk away,
3 she said, "Yeah. He'll -- he'll calm down as soon as
4 we, you know, go away."

5 My communications officer, Officer Zeits,
6 was unable to get ahold of Talon on the phone. We
7 tried calling her cell phone. We tried calling the --
8 the motel room phone. And I don't want to quote what
9 she said, but I think somebody answered, but then,
10 like, put the phone down and wouldn't talk to us.

11 And those were big red flags for me 'cause,
12 you know, it made me think that either he wasn't
13 letting her talk to us or something else had happened
14 in the room. Maybe she was already injured. And
15 that's about the time I decided to activate the SERT
16 team.

17 Q And -- and was it you who activated the SERT
18 team?

19 A Yes.

20 Q And as you did that, was there any other
21 procedural or safety steps made for the surrounding
22 area around the room in question?

23 A Oh, yeah. We'd -- we'd -- like I said, we
24 put containment around the hotel and made a custody
25 team in case he came out. I formulated an entry team

Examination of Kyle Nice

1 to go in in case something happened. We started to
2 evacuate all the hotel -- or motel rooms of the entire
3 motel. We started with the ones next to them.

4 Q Mm-hmm.

5 A And, basically, wanted all of those people
6 out of the way.

7 Q And had SERT actually arrived as you made
8 the SERT call or were they still en route?

9 A SERT had been listening to the call and
10 decided to go and stage, so --

11 Q Mm-hmm.

12 A -- when I actually said over the air I
13 needed them, they walked over from their staging area.
14 They were right there. And so it didn't take them any
15 time to get there.

16 Q So -- but all of these things are happening
17 simultaneously? In other words, you -- are you
18 working on the evacuation while --

19 A Not --

20 Q -- SERT's going on?

21 A -- simultaneously. This is all happening
22 over a period of 10 to 15 minutes --

23 Q Okay.

24 A -- maybe 20 minutes. You know, they're
25 sequential steps, but they all happened in a short

Examination of Kyle Nice

1 period of time.

2 Q And -- and let's talk about that real quick
3 because have you been a part of these types of calls
4 before where there's either a hostage situation or
5 someone who's in some form of distress engaged with
6 officers?

7 A Oh, yes. Yeah, several.

8 Q And in those other occasions where these
9 instances occurred, have they escalated as fast,
10 typically, as this one did or do they usually --

11 A No.

12 Q -- get drawn out?

13 A No. This one -- this one was -- went
14 surprisingly quick. A lot of times when we call SERT,
15 there's negotiations that go on for a period of time.
16 They may, you know, attempt to deploy gas or something
17 in and to flush people out of a residence or where
18 they're hiding. But this -- this was an actual, true
19 hostage situation, which is fairly rare. But it -- it
20 did devolve a lot quicker than I expected.

21 Q And was the lack of phone contact, both with
22 your initial officers and then when SERT ultimately
23 arrived, a contributing factor in that and the fact
24 that no one would talk --

25 A Yeah. I mean --

Examination of Kyle Nice

1 Q -- to people inside the room?

2 A -- my -- my primary concern was Talon's
3 safety.

4 Q Mm-hmm.

5 A And not being able to talk to her in any --
6 or even -- even see her through the door or anything
7 really made me very concerned that maybe he had gone
8 off this time and -- and -- and hurt or killed her.

9 Q Mm-hmm.

10 A So I had -- I had some big concerns about
11 that. You know, when I initially arrived, I thought,
12 okay, you know, we'll do the same that we did last
13 time. We'll talk to Talon and, you know, we'll kind
14 of calm him down.

15 And -- and when I couldn't see or talk to
16 Talon, I started to think that maybe something had
17 already happened. And that's -- that's one of the
18 reasons I activated the SERT team, 'cause I needed
19 their assistance.

20 Q To that end, both your prior experience with
21 Mr. Rice and with Talon along with what you learned
22 from Officer Higginbotham and the circumstances that
23 were still -- that you were able to observe firsthand,
24 is all of that information being relayed to both the
25 uniformed officers that you were overseeing on the

Examination of Kyle Nice

1 initial scene as well as the SERT responding
2 officers --

3 A Yes.

4 Q -- as they stage?

5 A Yeah. So I had briefed Sergeant Hansen on
6 my history with Mr. Rice. And I think he was somewhat
7 aware of that history.

8 I had spoken to the group of officers that
9 were out there about wanting to deescalate and try and
10 get Mr. Rice calmed down. And then I gave a full
11 brief of the situation to the responding SERT
12 sergeant, who was Sergeant Livingston.

13 Q Mm-hmm.

14 A Who came and talked to me and then I briefed
15 the -- the command group also that -- that arrived.

16 Q And, in that briefing, were the -- was the
17 information related to the prior experience; the
18 ability to contact Talon before, but not this time; as
19 well as the initial response of a knife or threat of
20 knife at 7-Eleven and in the hotel -- the motel room
21 all conveyed --

22 A Yes.

23 Q -- in those briefings?

24 A All that information was given to them.

25 Q Okay. And did you, personally, kind of

Examination of Kyle Nice

1 convey your concerns about Talon's safety in this
2 particular situation in these conversations?

3 A Yes. I -- I explained how that was -- that
4 was a major difference and -- and a concern on -- on
5 this event.

6 Q When SERT arrived, just firsthand, what --
7 what did you observe happening after SERT arrived?

8 A They -- they consulted with me. And then
9 they began a process of replacing my patrol officers
10 with the SERT officers.

11 Q Okay.

12 A That's generally the first thing. So we --

13 Q And then --

14 A -- we were replaced one at a time. We -- a
15 couple officers assisted with the -- the last couple
16 evacuations out of the hotel room; but 15, 20 minutes
17 from the time -- well, maybe 10 minutes from the time
18 they arrived, all of our patrol officers had -- had
19 been removed from the scene.

20 Q And then what happened?

21 A It just -- we just began to wait around a
22 little bit. And then I heard what I believe were a
23 gunshot and explosion.

24 Q And -- and how quickly did that transpire
25 where you were sitting and waiting? You know, SERT

Examination of Kyle Nice

1 comes, your officers assist in the evacuation and then
2 all -- and then a shot is heard and then an explosion.

3 How much time would you say --

4 A From the time SERT got there?

5 Q Mm-hmm.

6 A Time's a funny thing, but I would guess
7 20 to 30 minutes at the most.

8 Q And, in your experience, again, with these
9 types of situations, whether regarding SERT or the
10 Crisis Negotiation Team and this kind of barricading
11 or hostage situation, is that a rather quick --

12 A In -- in my --

13 Q -- evolution?

14 A -- experience, it is quick, yeah. Most --
15 most of the time, there's -- there's more
16 communication and -- and talk between the negotiators
17 and the people -- and the people in the -- in the
18 buildings, so --

19 Q Meaning not talk amongst the Bureau, but
20 there's --

21 A No. Communication --

22 Q -- contact with the --

23 A -- between -- between --

24 Q -- person inside of the room.

25 A -- the -- the negotiators and either the

Examination of Kyle Nice

1 suspects or the hostages, or, you know, some --
2 something like that. There's -- there's more -- it
3 goes on for a while. But this -- this was a rather
4 unique situation.

5 Q Oh. Were you familiar with or observe
6 firsthand or did you hear about any barricading inside
7 the --

8 A Yes.

9 Q -- hotel room? And did you observe that
10 firsthand or did you hear about it from other
11 uniformed officers?

12 A I believe Sergeant Hansen notified me that
13 he was barricading the door. I had heard him slamming
14 the door. And I think I had heard some other noise
15 that I didn't really recognize. It's kind of as I was
16 on the radio and on the phone. And then Sergeant
17 Hansen advised me that -- that they thought that he
18 had barricaded the door.

19 Q And were there -- were you able to -- was
20 there any clear view into the window of that motel
21 room or was it --

22 A No.

23 Q -- obstructed?

24 A No. The -- the windows had the curtains
25 pulled and there's no -- no other windows that I was

Examination of Kyle Nice

1 able to -- to peer into. So --

2 Q Going back to the issue of the knife. You,
3 personally, never saw the knife personally --

4 A No --

5 Q -- firsthand?

6 A -- I did not.

7 Q But based on your training and experience in
8 your 26 years, how quickly can an incident turn lethal
9 when someone is using a knife?

10 A Oh. Oh, very quickly. I mean, the -- the
11 MAX incident from last year was an example of that. I
12 mean, you can injure or kill people in seconds.

13 Q And unlike a firearm, will you be able to
14 hear when a knife is being used in this kind of fluid
15 or chaotic situation compared to a gun?

16 A I would not have been able to in this
17 situation, no.

18 Q Okay. So given the obstructions, the window
19 being closed and the fact that you've heard about a
20 knife and not a firearm --

21 A Yeah.

22 Q -- did that create some concerns about
23 Talon's safety behind those obstructions?

24 A Yes. There was a debate I kind of had with
25 myself about making entry prior to SERT getting there.

Examination of Kyle Nice

1 Like I said, I had the fear that -- that maybe he'd
2 actually hurt her this time.

3 Q Mm-hmm.

4 A And that's why we were desperately trying to
5 contact her, either by phone -- I think -- I think if
6 SERT hadn't gotten there quickly, I would have started
7 to loud hail her to -- to just some type of proof that
8 she's still alive.

9 Q Mm-hmm.

10 A And if I hadn't got that, and, you know,
11 SERT was still maybe an hour away, I think I may have
12 made entry with the officers I had. So I was very
13 concerned for her safety because we had no -- you
14 know, we knew she was in there.

15 We knew that Mr. Rice was armed, that he had
16 a -- a fascination with knives. He had a knife at the
17 previous call. And, you know, it's not unusual that
18 relations like this go bad. And I -- I was very
19 fearful that he'd already killed her.

20 MR. HANNON: Yes, sir. We have grand -- a
21 grand juror question over here. Yes.

22 THE WITNESS: Yes.

23 A GRAND JUROR: So just a clarification on
24 the deployment of SERT.

25 THE WITNESS: Yes.

Examination of Kyle Nice

1 A GRAND JUROR: So you said that whenever
2 there's -- I don't want to use your words, but in --
3 in a hostage situation, that -- is it a mandatory
4 thing that you do?

5 THE WITNESS: Yes.

6 A GRAND JUROR: Okay. So it's a --

7 THE WITNESS: Yeah.

8 A GRAND JUROR: -- it's policy, not a
9 judgment call?

10 THE WITNESS: Yes, it's policy.

11 A GRAND JUROR: Okay.

12 THE WITNESS: Yeah. The reason I didn't
13 activate them on the drive down was I knew that, you
14 know, this was not a stranger abduction. This is --
15 this is his girlfriend.

16 And I had dealt with him before; and, you
17 know, I guess I was thinking that -- that I would be
18 able to resolve it like we did last time, which is --
19 which caused me to kind of, "Hey, I know SERT's there.
20 Give me just a few minutes."

21 And I -- actually, I think I told the SERT
22 sergeant. I said, "I'm going to go down to the scene,
23 but I might be calling you in a few minutes," because
24 I -- I kind of knew these -- these people that were
25 involved and I wanted to make a judgment once I got

Examination of Kyle Nice

1 there.

2 And once I got there and I knew that we
3 couldn't contact Talon, then I -- then I said, "Yep, I
4 want -- want you guys to come."

5 A GRAND JUROR: Okay.

6 THE WITNESS: Yep.

7 A GRAND JUROR: And then just a chain of
8 command, so once SERT arrives, what's the chain of
9 command?

10 THE WITNESS: I'm the incident commander
11 until relieved by one of the CICs.

12 BY MR. HANNON:

13 Q And CIC means?

14 A It's critical incident commander.

15 Q Okay.

16 A It's one of our higher-ranking command staff
17 officers, usually either a captain or commander or
18 somebody like that. Sometimes it's an assistant chief
19 that -- as it was in this time. But until they decide
20 to -- to take over the entire event.

21 A GRAND JUROR: All right. Thank you.

22 MR. HANNON: Is there any other grand juror
23 questions?

24 A GRAND JUROR: Yeah. Where were you in
25 conjunction when the fire happened? When the gun went

Examination of Kyle Nice

1 off, where were you?

2 THE WITNESS: I was standing on the sidewalk
3 on 82nd Avenue about 15 yards to the south of the
4 driveway into the Del Rancho.

5 A GRAND JUROR: So you wouldn't be able to
6 see the door or wherever it --

7 THE WITNESS: Yeah. So when the -- the SERT
8 officers brought the explosives up, you never want to
9 be in line with an explosive. And so we all move
10 further south and further north away from the driveway
11 in case it went off, which it did.

12 A GRAND JUROR: And the -- the explosive was
13 on the front side of the --

14 THE WITNESS: You know, honestly, I don't
15 know where they deployed that. You'll have to ask
16 them. I just saw them as --

17 A GRAND JUROR: Those will be --

18 THE WITNESS: -- I -- I --

19 A GRAND JUROR: Those will be --

20 THE WITNESS: -- saw them as they brought
21 them in. I don't know where they placed them. I just
22 -- I know what they sound like, so --

23 MR. HANNON: Do any other grand jurors have
24 questions?

25 May this witness be excused?

Examination of Jami Resch

1 GRAND JURORS: Yeah.

2 THE WITNESS: All right. Thank you for
3 your time.

4 A GRAND JUROR: Thank you.

5 MR. HANNON: Let's take a ten-minute
6 restroom break and we'll resume in ten minutes.

7 (Recess taken, 3:12 p.m. - 3:31 p.m.)

8 MR. HANNON: And we are back on the record,
9 ready to call our next witness, Assistant Chief Resch.
10 If you could stand right there.

11 THE WITNESS: Sure.

12 MR. HANNON: Raise your right hand and
13 they'll swear you in.

14 **JAMI RESCH**

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

17 A GRAND JUROR: Thank you.

18 **EXAMINATION**

19 BY MR. HANNON:

20 Q And could you please state and spell your
21 name for the record.

22 A It's Jami Resch. It's J-a-m-i, R-e-s-c-h.

23 Q And how are you currently employed?

24 A I'm the assistant chief of investigations
25 for the Portland Police Bureau.

Examination of Jami Resch

1 Q And how long have you worked for the
2 Portland Police Bureau?

3 A It'll be 20 years in February.

4 Q And what are some of the duties or roles you
5 play with the Portland Police Bureau as
6 assistant chief?

7 A So I supervise basically everybody that's
8 not in operations. So everybody that doesn't take
9 active 9-1-1 calls, I supervise. So our detectives;
10 Tactical Operations Division, which is our SERT team
11 and our CNT team; our gang team; TriMet; family
12 services; property evidence; forensics evidence;
13 basically everybody else.

14 Q And turning your attention, were you working
15 for the Portland Police Bureau on this particular
16 incident at Del Rancho on October 10, 2018?

17 A Yes, I was.

18 Q Now, it's my understanding from talking to
19 Lieutenant Eck (phonetic) and Lieutenant Nice that
20 there was a SERT consult that day.

21 A Correct.

22 Q And part of the calculation was that SERT
23 had executed some warrants --

24 A Mm-hmm.

25 Q -- prior to this incident.

Examination of Jami Resch

1 A Correct.

2 Q Were you part or with the SERT team or aware
3 of what the SERT team was doing --

4 A That morning?

5 Q -- that morning?

6 A Yes. So I was the critical incident
7 commander overseeing the warrant that SERT was doing
8 just prior to this activation.

9 Q And critical incident commander, we've heard
10 that term before or also the acronym CIC; is that
11 right?

12 A Mm-hmm, correct.

13 Q And just briefly, can you explain for
14 the grand jury what a CIC or the critical incident
15 commander is?

16 A So when we have certain -- like, SERT
17 activations, our SERT team and our CNT team, Crisis
18 Negotiation Team, they respond. And we have one
19 person who oversees the event, which is the critical
20 incident commander. We also respond with both those
21 teams.

22 There are four of us that rotate being on
23 call two weeks out of every eight. And so there's
24 always a critical incident commander that responds in
25 addition to both teams. And that person is in charge

Examination of Jami Resch

1 of the -- basically, the flow of the overall event.

2 And we -- we work in conjunction with the
3 SERT lieutenant and the CNT lieutenant, so there's
4 usually the three of us in the command post.

5 Q And as that's going on in the command post,
6 is information being relayed amongst you to inform the
7 decision-making process?

8 A Correct.

9 Q Go ahead.

10 A So -- so CNT -- to kind of divide it out,
11 CNT will be over here. They're doing all of the intel
12 gathering on anybody that we can find that's involved
13 in the incident.

14 SERT is over here planning the tactical
15 piece of how -- if it has to be tactically handled,
16 how we would approach it that way.

17 We have intel officers in both of those
18 groups that are feeding information to the groups'
19 lieutenants, so the CNT lieutenant and the SERT
20 lieutenant, who then feed it to me and I make the
21 decisions of what we're going to do based on all of
22 that information that's coming in.

23 Q And how -- how -- is that a pretty fluid
24 situation?

25 A Yes.

Examination of Jami Resch

1 Q Information coming in and out?

2 A Right, yeah. And so, basically, the radios
3 are sitting on the tables. I can hear it and I may,
4 you know, ask the -- the SERT lieutenant, being like,
5 "Hey, clarify this for me."

6 Or tell the -- the CNT lieutenant, "I need
7 more information on whatever was just said," or, "More
8 information on this suspect," or, "Find me, you know,
9 some witnesses," something like that.

10 Q Mm-hmm.

11 A So it's kind of a constant talking.

12 Q And in this particular incident, was --
13 prior to SERT being activated and involved, was there
14 information spilling out on the air about an
15 escalating event at the Del Rancho that morning or --
16 or -- are you aware of that or were you preoccupied
17 with the SERT warrants being executed?

18 A So just as we were wrapping up the warrants,
19 I was notified by the lieutenant that was in the car
20 with me for the warrants, "Hey, East has got something
21 started." And so I was like, "Well, what's going on?"

22 And they said, "There might -- there's
23 some -- some sort of altercation at a 7-Eleven. We're
24 not trying -- we're not exactly sure what's going on
25 yet. Maybe, you know, that the guy took a -- a girl

Examination of Jami Resch

1 with him into a room. They're doing a SERT consult,"
2 which is when the precincts may have something,
3 they're not sure what it is, but it seems like it's
4 escalating into something.

5 They will, over the air, ask the dispatcher
6 to do a SERT consult, which means the SERT lieutenant
7 or sergeant will call the person who's at the scene
8 and say, basically, "What do you got? Tell me what
9 you got."

10 And they will kind of work their way through
11 it. And, you know, they may give some suggestions for
12 the precinct to try or they may say, "Yeah, go ahead
13 and activate SERT." So they were just about at that
14 point where they were still in the consult phase.

15 Q Mm-hmm.

16 A And since we had just completed a warrant
17 and we were all in a group already, which isn't how it
18 normally works, we just decided, "Hey, we'll just kind
19 of stay here in this group and kind of migrate that
20 way. In case it turns into something, we're all kind
21 of ready to go."

22 Q Gotcha. And when SERT is activated
23 and engaged --

24 A Mm-hmm.

25 Q -- that CIC or critical incident commander

Examination of Jami Resch

1 process then takes over the scene when they arrive?

2 A When they arrive, yeah. So, like, for
3 example, on this one, when I arrived, I had been given
4 information as I'm en route, like, "This is what
5 they've got. This is what we think is happening so
6 far."

7 But I believe, at least, it was Nice who was
8 the on-scene supervisor at that point. When I get
9 there, I find him or he finds me and I'm like, "Tell
10 me what you've got, what you've done. What do you
11 have in place?"

12 He briefs me and then I, over the air,
13 say -- you know, my number is 9997. So I say, "9997,
14 I've taken command." That way, everybody knows it's
15 me making decisions now, so that's what I did on this
16 scene.

17 Q And -- and before you do that or did that,
18 Nice would -- would've been the supervising officer at
19 the time?

20 A Correct.

21 Q Okay.

22 A Mm-hmm.

23 Q And have you done these kind of calls or had
24 kind of SERT callouts that had escalated like this
25 kind of hostage situation before or anything like it?

Examination of Jami Resch

1 A They're rare. I've been on a couple. This
2 one was pretty quick as -- as far as how fast it -- it
3 went; but, yeah, I've been on a couple of these.

4 Q And -- and that was going to be my next
5 question, is that when these kind of calls typically
6 occur either directly as you've observed or working
7 with the Portland Police Bureau and you watch --

8 A Right.

9 Q -- review other people incidences --

10 A Mm-hmm.

11 Q -- is it fair to characterize most of these
12 situations as transpiring over hours --

13 A Yes.

14 Q -- versus minutes?

15 A Yes, absolutely. Usually -- I mean, I don't
16 want to give, like, a -- I don't have an exact number.
17 But the majority of calls like this are handled by our
18 Crisis Negotiation Team.

19 They eventually, you know, lead to some sort
20 of resolution where the person will come out. Or even
21 if we do make an entry, it's more of a, you know, not
22 dynamic entry where we don't just go in and, you
23 know -- you know, like, maybe we have to, like, deploy
24 gas or something, but that would take hours before we
25 got to that point.

Examination of Jami Resch

1 Q And -- and the reason why it'd take hours
2 is because the entire time you have the Crisis
3 Negotiation Team engaged with the suspect --

4 A Correct.

5 Q -- or person?

6 A Yeah. There's multiple ways that our CNT
7 team can try and make communication with someone,
8 whether it's via telephone. We have throw phones. We
9 have PA systems, text message. We did one entire
10 negotiation via Facebook one time.

11 I mean, they are amazing at being able to
12 talk to people. That's why they're so important is
13 'cause they solve the majority of our cases verbally
14 as opposed to us having to do a tactical entry.

15 Q And -- but in that -- in that theme or -- or
16 the typical way these resolve, usually, I presume that
17 that's a two-way conversation and the other side is
18 engaged with the Crisis Negotiation --

19 A Yes.

20 Q -- Team in some form?

21 A Mm-hmm, mm-hmm.

22 Q When CIC is not -- or SERT is not engaged
23 and there is a CIC and law enforcement officers, such
24 as Supervising Officer Nice or anybody else, is
25 certainly just going through a normal escalating

Examination of Jami Resch

1 situation, is there a normal standard rules of
2 engagement that are occurring that dictate what
3 officers can or cannot do?

4 A Right. So standard rules of engagement are
5 kind of what we all come to work with every day. It's
6 just your -- this is how you would normally handle a
7 call. And so there isn't any limitations placed on
8 them, but there isn't any greater authority given to
9 them either.

10 So that's what they were operating under at
11 this point. I didn't have any reason to change the
12 rules of engagement. It would've just been like if
13 they were just a regular police officer out there
14 taking calls without a CIC on scene. That's how they
15 were operating at that time.

16 Q And not to engage in too many hypotheticals,
17 but --

18 A Mm-hmm.

19 Q -- under the standard rules of engagement or
20 if a uniformed officer is -- is in the public on the
21 street and sees -- either feels themselves in
22 distress, in danger --

23 A Mm-hmm.

24 Q -- or believes that another person's in
25 danger, are they permitted to use reasonable force to

Examination of Jami Resch

1 protect themselves or others so long as they can
2 explain why they're doing it?

3 A Yes, absolutely.

4 Q And in that -- again, with that in mind, if
5 someone sees someone else in distress where there is a
6 higher chance or a lethal issue involved either to
7 another or themselves, do the standard rules of
8 engagement permit to, again, defend themselves or
9 others as reasonably necessary?

10 A Yes, they do.

11 Q There's a phrase we discussed before you
12 came in here again, which is appropriate initiative.

13 A Mm-hmm.

14 Q What does that -- what does that mean?

15 A So, I mean, it's -- it's not that far off
16 from standard rules of engagement, is if you see
17 something, you're always taking appropriate steps to
18 prevent injury to yourself or someone else. So
19 it's -- it's a very similar term to standard rules.

20 All police officers have it unless, for some
21 reason, like, a CIC would take it away. You know,
22 like, we have information that, you know, you will not
23 do something unless you're given specific authority to
24 do that. In this case, I hadn't done anything like
25 that, so everything was very standard.

Examination of Jami Resch

1 they're -- got their hasty team ready, what they're
2 supposed to be doing for me as -- as more people
3 arrive is to develop a deliver plan, which means much
4 more complex, like, if we needed to put a charge on
5 the door or what's the best entry now that we have
6 time to sit down and look at it.

7 That's what they're planning, but I did
8 grant that hasty team group to get ready to go in if
9 they needed to save someone's life.

10 Q And was there any other request or order
11 granted in that process?

12 A Right. The second request was for gun
13 ports. So they had evacuated the two rooms on either
14 side of the room that we thought the suspect and the
15 victim were in.

16 And so for gun ports, basically, what it is,
17 it's a -- best way to describe it, like IV water bags
18 when you go to the doctor's office, they're almost
19 like that.

20 And they -- they stick them on the wall and
21 there's a charge that goes around it, so it's, like, a
22 water charge, almost, kind of, like, thing. And all
23 it does is create a hole in the wall.

24 So if, for some reason, that hasty team
25 needed to go in, they would be able to basically blow

Examination of Jami Resch

1 holes in these walls and see inside and so the
2 officers would be able to look inside the room. So I
3 granted gun ports.

4 Q And -- and did they set the -- to your
5 knowledge, did they set those up?

6 A Ah, I don't know if they were fully set up.
7 I know I granted them.

8 Q Mm-hmm.

9 A I'm not exactly sure if they were all the
10 way up yet by the time the incident occurred.

11 Q So -- so that was granted. What,
12 independently, do you recall then after this is
13 unfolding, do you recall happening next?

14 A So I just remember CNT was still trying to
15 make contact with the suspect. SERT was giving intel.
16 I think, at one point, they thought maybe he was
17 barricading a window or a door with a mattress or a
18 blanket of some sort like that.

19 And it wasn't very long after that that I
20 heard one shot. And that one shot then triggers the
21 team to make entry.

22 Q Mm-hmm.

23 A And so that's what they did there.

24 Q And so when you say you heard that one shot,
25 you, like, physically, audibly --

Examination of Jami Resch

1 A Oh, yeah.

2 Q -- heard the gunshot --

3 A Yeah.

4 Q -- that occurred? Okay.

5 A Yeah. And then the -- it's -- the sniper --
6 it's not the sniper that fired, but his partner
7 basically says, "Sniper shot," which initiates the
8 team going in.

9 Q Okay. And after they went in, what
10 happened? Well, how does your -- does your role
11 change or is it still the same?

12 A I'm still the critical incident commander at
13 that point. My role switches into, one, making sure
14 that everybody's safe and the scene is secure and then
15 notifications as far as up our chain: So basically
16 the -- the -- the deputy chief, the chief, the city
17 attorney, the union and that kind of thing.

18 So I make -- make -- just make sure that
19 everybody's notifying everything, that the scene is
20 locked down; obviously, that medical is brought in.
21 Our SERT team has SERT medics assigned to it, which
22 are Portland Fire Bureau medics assigned to the team,
23 so we have medical people right there right away.

24 Q And, to your knowledge -- and so did you do
25 that? Did you secure the scene and make sure that

Examination of Jami Resch

1 everyone was okay --

2 A Yeah.

3 Q -- right after the --

4 A Mm-hmm.

5 Q -- incidence? And did you hand off command
6 after that to another --

7 A It took a little while. Commander Krantz
8 (phonetic) came to the scene. And since -- since,
9 technically, now, I'm involved in this incident, then
10 I handed off command to Commander Krantz who just
11 ensured that everything else was handled, you know,
12 throughout the hours that it takes for this to go on.

13 And then they also -- he also monitored, you
14 know, the rest of the precinct to make sure that we
15 were still responding to the other 9-1-1 calls that
16 were coming in.

17 MR. HANNON: Okay. Does the grand jury have
18 any other questions?

19 A GRAND JUROR: Can you talk about the
20 deployment of the snipers of -- 'cause you talked
21 about the -- setting up the holes in the wall and --

22 THE WITNESS: Right.

23 A GRAND JUROR: -- for each team, but you
24 didn't talk about the -- the sniper piece of it.

25 THE WITNESS: The sniper. So I know that --

Examination of Jami Resch

1 so I don't always know exactly where all of the SERT
2 personnel are exactly. What the SERT lieutenant will
3 tell me is that they have the location contained. So
4 that usually means, like, if this table is the square,
5 we numbered the houses, so it'd be 1, 2, 3 and 4.

6 So that would mean that we have, you know,
7 usually, somebody, like, on maybe, like, the 2-4
8 corner and the -- the 1-4 corner so that we have
9 everybody -- you can see it. So the lieutenant will
10 tell me, you know, "We have the scene secure."

11 And that usually means that we have a sniper
12 usually on the front side and the back side trying to
13 see in different windows and gain intelligence, so --
14 BY MR. HANNON:

15 Q And is the inner perimeter team the same as
16 a sniper?

17 A No.

18 Q Okay. So what is the difference between
19 them two?

20 A So -- well, that would be more like the guys
21 on the ground who have the eyes on the house and then
22 our snipers are outside of that. So it could be that
23 snipers are, like, in a house across the street kind
24 of thing or up elevated somehow so that they can see
25 down into windows. So the snipers aren't ever going

Examination of Jami Resch

1 to be the ones that make entry.

2 Q Mm-hmm.

3 A Yeah.

4 MR. HANNON: Okay.

5 A GRAND JUROR: So I think that makes -- so
6 is it standard practice to deploy snipers?

7 THE WITNESS: Yes.

8 A GRAND JUROR: Okay.

9 THE WITNESS: Mm-hmm.

10 A GRAND JUROR: That's what I was --
11 thank you.

12 THE WITNESS: Yeah.

13 A GRAND JUROR: Would --

14 MR. HANNON: Yes.

15 A GRAND JUROR: Would this have ever been a
16 case where you would use tear gas?

17 THE WITNESS: Yeah. So, eventually, if this
18 had progressed and we weren't getting anything and we
19 felt like, you know, things were escalating, not to
20 the point where we needed to make entry, but it could
21 be, based on if I had been given different information
22 and the negotiations wasn't working, that's where I
23 say this would -- that would've been hours down the
24 road.

25 A GRAND JUROR: Mm-hmm.

Examination of Jami Resch

1 THE WITNESS: But that would've been
2 something that we could consider, is -- is a -- we
3 have different types of gas, but, yeah.

4 A GRAND JUROR: Okay.

5 THE WITNESS: That could've been considered.

6 BY MR. HANNON:

7 Q Going to that again, not to engage in
8 hypotheticals --

9 A Mm-hmm.

10 Q -- but in those situations where you might
11 deploy gas where it -- it is going on for several
12 hours, again there are -- in those situations, there
13 are knowns that are dictated through the CNT or Crisis
14 Negotiation Team; is that right? Like --

15 A There are --

16 Q -- and there's intelligence coming in --

17 A Yes.

18 Q -- from the caller inside the residence,
19 whether it's a person who's not free to leave --

20 A Mm-hmm.

21 Q -- or the actual person who is keeping
22 people against their will?

23 A Correct.

24 Q In this situation, was there any -- was CNT
25 able to get any information as to the welfare of this

Examination of Jami Resch

1 potential female inside when they kept trying to call
2 into the room?

3 A I don't think they ever got to her. I think
4 that they -- you know, that there was brief
5 conversations with him, but I don't think that we were
6 ever able to verify if she was okay.

7 Q And if there's barricades and everything
8 else -- and I know you're at the CIC level --

9 A Yeah.

10 Q -- so you may not be the person who's got
11 eyes on the room.

12 A Mm-hmm.

13 Q But was there any -- was there any
14 information coming in that we could see her, well,
15 that she is okay or anything like that despite the
16 barricades and everything obstructing --

17 A No. I had not --

18 Q -- the windows.

19 A -- heard anything that anybody had seen her
20 up until that -- up until that point. So I think that
21 was part of their concern, too, is if he started
22 blocking all of the windows, our snipers were
23 basically useless at that point. So I don't know what
24 they saw in that window.

25 A GRAND JUROR: My question: With limited

Examination of Jami Resch

1 visibility was what -- was escalating the whole thing?

2 THE WITNESS: Yeah.

3 A GRAND JUROR: Mm-hmm.

4 THE WITNESS: Yeah. We do have some ability
5 sometimes to, like, if there's curtains, to knock
6 those curtains down, but not mattresses or boards or
7 anything else that they could barricade with.

8 BY MR. HANNON:

9 Q But if there's obstructions, if CNT is able
10 to establish contact or rapport --

11 A Mm-hmm.

12 Q -- or communication with the person inside
13 the residence or dwelling or building --

14 A Mm-hmm.

15 Q -- then that might supplement or replace the
16 need to see 'cause you might have --

17 A Oh, absolutely.

18 Q -- information coming in?

19 A Yeah. There's lots of times where can't see
20 inside, but we have some way of communicating that we
21 know either -- even if we don't have a hostage, but
22 just a barricaded, armed suspect or something, you
23 know, we are having some sort of communication with
24 him. So -- and, like I said, CNT's very good at
25 finding ways to get people to communicate.

Examination of Jami Resch

1 A GRAND JUROR: So then the -- the sniper --
2 the officer who ended up firing a shot --

3 THE WITNESS: Mm-hmm.

4 A GRAND JUROR: -- he was operating on
5 that --

6 THE WITNESS: Standard rules of engagement.

7 A GRAND JUROR: Yes.

8 THE WITNESS: Mm-hmm.

9 A GRAND JUROR: Yes.

10 BY MR. HANNON:

11 Q Just to go back to your point --

12 A Yeah.

13 Q -- there were no orders precluding him from
14 doing what he felt was necessary under the standard
15 rules of engagement?

16 A Correct.

17 A GRAND JUROR: And I'm assuming he was also
18 aware of the lack of communication with folks
19 inside --

20 THE WITNESS: Correct.

21 A GRAND JUROR: -- and the lack --

22 THE WITNESS: So, usually --

23 A GRAND JUROR: -- of visibility?

24 THE WITNESS: -- any information that comes
25 from either the SERT side or the CNT side is broadcast

Examination of Jami Resch

1 out to everybody so everybody knows who's seeing
2 everything and what information we know about
3 the scene.

4 So -- and that's why we have -- we have a
5 SERT intel person with CNT and a CNT intel person with
6 SERT so that they -- everybody speaks the same
7 language and everybody knows what's going on. Yeah.

8 MR. HANNON: Any other questions by the
9 grand jury? May this witness be excused?

10 A GRAND JUROR: Yes.

11 MR. HANNON: Great.

12 THE WITNESS: Thank you.

13 MR. HANNON: And -- and -- and that
14 concludes the testimony for today. Thank you.

15 * * *

16 (Grand Jury adjourned, 11-28-18 at 3:51 p.m.)

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REPORTER'S CERTIFICATE

I certify, by signing below, that the foregoing is a correct transcript, of the audio record in the above-entitled cause, as recorded on CD and transcribed to the best of my ability and in accordance to the quality of the audio CD.



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