

1 MULTNOMAH COUNTY GRAND JURY

2 DEATH INVESTIGATION

3
4 Deceased: SANTIAGO CISNEROS) DA Case No. 2265810-1
5) DA Case No. 2265810-2
6 Date of Incident: March 4th, 2013) PPB Case No. 13-018128
7 Location: N.E. 7th and Lloyd)
8 Portland, Oregon)
9

10 TRANSCRIPT OF PROCEEDINGS

11 BE IT REMEMBERED that the above-entitled
12 transcript of Grand Jury proceedings was heard, commencing
13 at the hour of 1:30 on Wednesday, March 20, 2013, in Grand
14 Jury 1, Multnomah County Courthouse, Portland, Oregon.
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16
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18

19 APPEARANCES

20 Ms. Kirsten Snowden, Senior Deputy District Attorney,
21 Appearing on behalf of the State.

22 JULIE L. BOURGEOIS
23 Court Reporter
24 Multnomah County Courthouse
1021 SW 4th Avenue Rm. 311
Portland, Oregon 97204
25

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TRANSCRIPT OF PROCEEDINGS 3/20/13 1:30

DIEGO DANIEL CISNEROS,
called as a witness in behalf of the
State, being first
duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. SNOWDEN:

Q If you could begin by telling us your first and last name.

A My names is Diego Daniel Cisneros.

Q And Mr. Cisneros, I understand that Santiago was your brother; is that correct?

A Santiago, the III, is my brother, yes.

Q I'm sorry, yes. How old are you?

A I'm 28.

Q How old was your brother?

A Four years older than me.

Q Okay. Uhm, I have reviewed an interview that you gave the police the evening that your brother was involved in a shooting incident, where he was shot and killed by Portland police. So I understand that you had some interaction with him or some phone conversations with him. So I want to talk about that.

First, if you can just begin by telling the grand

1 jury a little bit about your brother. From that interview,
2 I understood that he suffers from some mental illness.

3 A Okay.

4 Q Okay. Would you mind telling us a little bit
5 about that?

6 A About --

7 Q About your brother and his mental illness.

8 A Well, he was diagnosed with mental illness. I
9 never thought, myself, that my brother was mentally ill.

10 Q Okay.

11 A Uhm, yeah. I mean, as far as people saying he has
12 mental illness, I believe he was diagnosed. But as for me,
13 I don't believe my brother had mental illness.

14 Q Okay. Maybe I misunderstood. Why don't you tell
15 us what your impression was, then, of your brother.

16 A Well, from what I understand, when my brother was --
17 came back from Iraq and was discharged from the military,
18 the veterans or the VA, uhm, apparently diagnosed him with
19 PTSD, posttraumatic stress syndrome.

20 Q Okay. Did you see any symptoms of that or you did
21 not?

22 A Symptoms of PTSD?

23 Q PTSD.

24 A I'm not an expert on PTSD. I don't know what
25 symptoms are.

1 Q Okay. So was there anything about your brother's
2 interaction with other folks socially that was unusual, or
3 anything that gave you any concerns about his well being or
4 mental state?

5 A Not cause for concern. But, you know, sometimes
6 my brother would have a bad day, just like I would have a
7 bad day.

8 Q Okay. I understand he was living in Seattle?

9 A Yes.

10 Q Do you know why he was in Portland?

11 A I was not aware.

12 Q So he was not coming down to visit you, that you
13 were aware of?

14 A He comes and sees us.

15 Q Uh-huh. But you didn't have plans for him to come
16 visit you?

17 A No. I was up there previously, the week before,
18 in Seattle visiting him. You know, "Hey, come to town to
19 see me."

20 Q How was he doing then?

21 A Fine. Really good. Showed me around where he was
22 working. He was doing really good.

23 Q You have a sister as well that lives in the
24 Seattle area?

25 A Yes.

1 Q Who is that, what's her name?

2 A Christina Cisneros.

3 Q Christina. Where does she work?

4 A For a law office.

5 Q Was your brother also doing work for that law
6 office?

7 A He was a legal intern, I believe.

8 Q When you say he was showing you around where he
9 worked, was that the work place?

10 A Downtown, Pioneer Plaza, I think it is, just a
11 whole area downtown in Seattle. I don't know Seattle that
12 well, so I went to see it.

13 Q And so then when -- prior to the evening where he
14 was shot and killed, when was the last time you had had
15 contact with your brother?

16 A Before he was killed?

17 Q Right.

18 A Was that night.

19 Q Okay. Prior to that night?

20 A Prior to that night?

21 Q Yeah.

22 A Uhm, let me think on the one. I went up Sunday,
23 and I left Monday. So it was probably that Monday
24 afternoon. I gave him a hug and a kiss, I said, "I love you
25 and I'm proud of you."

1 Q So then you left Seattle?

2 A Uh-huh.

3 Q And you indicated you talked to him the night he
4 was shot?

5 A Yes.

6 Q Can you tell us about that?

7 A Sure.

8 Q Tell me about your -- did you have a conversation
9 with him?

10 A I work early mornings, I start about 3:00 a.m.
11 When I get off, sometimes I go take a nap. I had got off
12 work, I went home, took a nap. And I had gotten a phone
13 call from my sister saying, "Hey, Ago is in town, give him a
14 call." I said "Okay." This is, I believe, around 8:30. I
15 tried to pull my phone records to find out the exact time.
16 I'm sorry, I don't know exact times.

17 Q What sister was it that called you?

18 A My sister Cindy. She lives here in Portland, my
19 oldest sister.

20 Q How many siblings are there?

21 A There are -- there was five of us. I have two
22 sisters that are older, and one younger brother, and my
23 brother that is deceased.

24 Q So, who is the oldest, can you go through that?

25 A Cindy.

1 Q Cindy is the oldest?

2 A Cindy or Cynthia would be the oldest, Christina is
3 the second, my brother Ago and me, and then my little
4 brother.

5 Q What's your younger brother's name?

6 A Antonio.

7 Q Where does he live?

8 A In Portland when he wants to.

9 Q Okay. Right. So Cindy called then and said what,
10 I'm sorry?

11 A Ago -- she said, "Ago is in town." I said, "Okay,
12 I'll give him a call." I got right on the phone with him,
13 and he sounded fine.

14 Q Okay.

15 A I know by the way my brother says hello to me, I
16 know my brother. I know -- I can tell within a millisecond
17 if there's something wrong with him. And it's a lot of the
18 way he says "Hi" to me. He says, "Hey, Diego." I said,
19 "Hey, Ago." I said, "Hey, Ago, where you at? I heard
20 you're downtown." Or, I believe -- I'm sorry. I have to --
21 the whole night is kind of jumbled in my head.

22 I said, "Where you at?" He says, "I'm downtown."
23 I said, "Where at?" He said, "4th and Morrison." I said,
24 "I know where that is," because my fiancée works at the mall
25 right here. So I know where 4th and Morrison is, because I

1 used to drop her off there.

2 I left my house, it took about ten minutes to get
3 there, and he was not there. So I called him back, and I
4 said, "Where you at?" And he said, "I'm on 2nd and
5 Madison." And he sounded, you know, he sounded fine. And I
6 said, "Okay." I said, "Are you on foot or you in a car?" I
7 thought he was on foot. He said, "I have my car." I said,
8 "Okay, great, I thought you were on foot. Meet me at
9 Cindy's," my oldest sister's. "Let's meet up over there."
10 He said, "Okay, great." I said, "Okay." That's the last
11 time I spoke to my brother.

12 Q Why is it you thought he was on foot?

13 A Why is it I thought he was on foot?

14 Q Right.

15 A I don't know. I just assumed he was on foot, just
16 my own self assumption. I was also half awake.

17 Q So you were headed downtown to pick him up?

18 A Uh-huh. Or meet up with him. Not necessarily
19 pick him up, but meet up with him.

20 Q And so did you ever go to 2nd and Madison to look
21 for him?

22 A No. That's why I'm saying, I know my brother. I
23 know if I had an inkling that there was something wrong,
24 anything, I would have just driven those two blocks and
25 gotten to him. There's no -- he was fine.

1 Q Right. Uh-huh.

2 A He was absolutely fine. He's my brother, years, I
3 know his voice.

4 Q Uh-huh.

5 A I know if there's something wrong.

6 Q When you say you know if there's something wrong,
7 you mean, you know if he's kind of upset or like what kind
8 of thing would be wrong?

9 A If he has a cold, if he doesn't feel good, if he's
10 looking for directions to get some place, it's just a
11 connection with your brother you can't explain.

12 Q Okay. And what about -- could you tell -- I mean,
13 I understand he takes several medications for -- various
14 medications for mental illness?

15 A Sure. I don't know his medications.

16 Q Okay. Can you tell, though, if he is taking his
17 medications or if he's off his medications?

18 A No. I mean, no. It wouldn't be something
19 obvious, because, I mean, just no.

20 Q Okay. So I also recall from your interview that
21 there was reference to him having been arrested that
22 evening. Was that related to why you thought he was on foot
23 or why you needed to pick him up?

24 A Yes. I don't know what had happened that evening.
25 Until this day, I don't know anything. What I had heard is

1 he was arrested for soliciting a prostitute.

2 Q Okay.

3 A When I spoke to him, "Hey, Ago," I said. He says,
4 "You must have heard." And I said -- I stopped right there
5 and I said, "I don't care what I've heard. All I care is
6 you're okay." Uhm, I have been trying to figure out whether
7 or not I can get that from the phone company, so I can
8 figure out exactly what was said. But, "All I care is that
9 you're okay."

10 Q And so how did you hear he had been arrested?

11 A My sister had mentioned something to me.

12 Q When she called you?

13 A Yeah. It was just a split second, she woke me up
14 from a sleep. I rolled over and talked to her and I called
15 him.

16 Q So this was the conversation where she called you
17 and said that Ago was in town?

18 A Yes.

19 Q And so when you talked to him on the phone --

20 A I'm sorry, she -- I think she called me the day
21 before, and also mentioned that he was in town. But I was
22 already at home. I was going to bed. I figured I would see
23 everybody the next day.

24 Q Okay. But it was your impression that he had been
25 arrested that evening?

1 A Yes.

2 Q Okay.

3 A At some point he was arrested.

4 Q All right. Did he, other than saying "I suppose
5 you heard," did he make any other reference to that?

6 A He did not.

7 Q And so, now 2nd and Madison is central precinct or
8 is where central precinct is located. Was there any
9 discussion about him getting out of jail or needing to get
10 picked up from jail?

11 A Nothing. It was a very fast conversation, I just
12 wanted to get to him.

13 Q Okay. After you got off the phone with him, where
14 he told you he was at 2nd and Madison, and you agreed to
15 meet at your sister's, what happened next?

16 A He told me he was at 4th and Madison the first
17 time. And then I drove down here --

18 Q 4th and Morrison.

19 A Excuse me, 4th and Morrison. I get confused with
20 the M. I drove down here -- hung up with him, drove down
21 there, he was not down there. That's why I was confused, I
22 thought he was on foot. I guess I just kind of thought he
23 was on foot, because if he got arrested, I figured they
24 would impound his car or something. So, that's why I
25 assumed he didn't have a car, I guess.

1 Q Okay. After you got off the phone with him the
2 last time, where did you go?

3 A Uhm, let's see here. I think I hopped on the 405,
4 I went all the way up to the 5, to the Lombard or the 5, and
5 took it to the Lombard west exit, and then went to my --
6 down to my sisters' house.

7 Q Then what happened?

8 A I went to my sister's house, we sat down and just
9 started to wait for him. We started goofing off, joking
10 about him, because we were kind of excited to see him. And,
11 uhm, we were sitting on the floor, and my sister had just
12 gotten a roommate. They were kind of explaining their new
13 roommate to me. And then she answered her phone and walked
14 away, and then I could hear her say, "What?" And I just
15 stood up, I don't know, I just stood up and went over to
16 her. She handed me the phone. She didn't say anything, she
17 just handed me the phone. I guess it was my mother. I have
18 not talked to my mom since my parents got divorced. So that
19 was kind of the first time I talked to her.

20 I got on the phone, I said, "Hello." At first I
21 didn't know it was her. All I heard was somebody hysterical
22 saying, uhm -- I had to ask her to say it again. She said,
23 "You need to get to Ago." She says, "He was on the phone
24 and the police -- he said the police are forcing him higher.
25 They are forcing him higher." And then she heard loud, like

1 she said trash can lids getting slammed together. And then
2 she heard someone yelling, "Stop firing. Stop firing." And
3 that's the gist of what I understand that she heard.

4 Q So what did you do after that?

5 A Uhm, I immediately turned -- when my sister handed
6 me the phone, I started walking towards the front door, so I
7 could go outside and hear what was going on. And I don't
8 know if it was subconsciously, but I could hear sirens. And
9 so I was standing in the doorway of the front door. I just
10 turned around, and I told my fiancée and my sister, I said,
11 "Wait here," and I just left.

12 I headed down Lombard going east, and I saw one
13 police officer in a car. And I tried to wave him down, and
14 he just drove off. And I just -- my first thought was,
15 like, okay, he's on his way to me. If I can either meet him
16 at Williams or one of the streets or Lombard and I can see
17 him, I know everything is okay.

18 I started heading that way, and I turned right
19 onto Lombard, starting going down Lombard. I know there was
20 the police station there, the MLK police station. And I
21 went over there, and there was nobody in the parking lot.
22 So I walked back to my car, I saw two officers pulling a
23 truck out of a garage.

24 I said, "Please, I need help. It's my brother."
25 And the guy very quickly brushed me off, he said, "You need

1 to call 911. We're on our way to another emergency." I
2 started to call 911, as I'm saying it, he's walking away, I
3 just said, "Please, I think it's my brother. I think he's
4 been shot." And then he stopped, I think he said something
5 on the radio. I pulled out my ID, I handed him my ID. He
6 had two officers come take me into the building, and then
7 they had me there and just started questioning me. I'm
8 sorry.

9 Q That's all right. I'm sorry.

10 A I have not really had time to process everything.
11 I'm still processing everything.

12 Q I know, it was only a couple of weeks ago.

13 A I'm sorry. Go ahead.

14 Q So, did you -- based on what your mother had told
15 you, is that what made you believe that your brother had
16 been involved in some sort of shooting incident with the
17 police?

18 A Uh-huh. I don't know if it was with police, but
19 she -- from what she said, it was enough concern for me to
20 just leave and go try to find somebody.

21 Q So you were concerned that he had been shot by
22 someone, based on what she said?

23 A (Nods head.)

24 Q Had you seen anything on the news about it or that
25 there had been --

1 A No. I had gone straight to the police station.

2 Q I see. Okay. And did you know your brother to
3 have weapons?

4 A You need to clarify that, what do you mean, have
5 weapons?

6 Q Did he possess guns? Did he own guns?

7 A He owns guns, yes. We grew up in Idaho, we grew
8 up hunting.

9 Q Sure. Tons of people have guns. I'm just --

10 A Yeah.

11 Q Do you know what kind of guns he had?

12 A Uhm, yeah. He had a couple of different ones.
13 Specifically, I remember his .30-06 -- he had a .30-06
14 hunting rifle, and then his shotgun, his 12 gauge Benelli
15 Nova shotgun.

16 Q Okay. Did you ever go shooting with him when he
17 had those weapons?

18 A All of the time.

19 Q What kinds of things would you guys do, were you
20 target shooting, were you hunting?

21 A Yes, target shooting or hunting. We have not
22 really hunted for a few years. Usually if we ever went out,
23 it was if we could afford ammo, then we just go target
24 shooting. Something we have done since we were children.

25 Q So, sounds like growing up in Idaho, you guys were

1 both very familiar with firearms?

2 A Yes.

3 Q And then you referenced that he was a veteran;
4 correct?

5 A Uh-huh.

6 Q Presumably, he was also familiar with firearms
7 from his service, as well?

8 A Yes. He earned his marksmanship in the military
9 for expertise marksman.

10 Q Okay. So, when you're -- when you had the
11 conversation with your mother about the police, at no time
12 during that evening had he made any reference to police or
13 having been arrested or anything that was going on for him
14 that evening?

15 A No.

16 Q Do you know how long he had been in Portland?

17 A No.

18 Q Do you know what he was doing when he was here?

19 A No.

20 Q Do you know where he had been staying?

21 A I have no idea.

22 Q Or if he was staying anywhere?

23 A Yeah, no.

24 Q Okay.

25 A The last -- like I said, I left Seattle, and he

1 was working. I said, "I'm going to work."

2 Q Did you see a news segment about him being
3 involved in some homeless issues or a protest downtown?

4 A I have been trying not to pay attention to any of
5 the news. By what the police officers and the attorneys
6 have all told me, just don't pay attention to any of that.
7 But I have heard rumors, and I did see a clipping of him
8 with some homeless people downtown.

9 Q Were you aware he had interests in those
10 particular issues, homeless issues?

11 A Yeah. That was not out of the ordinary for my
12 brother. He, you know, especially if it was a veteran, he
13 took great pride in helping them.

14 Q So it was a topic he had discussed with you in the
15 past?

16 A Yes. There's that, and then they mentioned
17 something they were -- I guess one of the gentlemen said
18 they were worried, because he was giving his things away.
19 That's not out of the ordinary. If he saw somebody that
20 needed a pair of shoes, he would take his shoes off and give
21 them to them, especially if it was a veteran. If he saw
22 somebody he felt was in need, he would help them to his best
23 ability.

24 Q Okay. So he's a very generous, giving person.

25 A That's the way my parents raised us.

1 Q So the fact that, if, in fact, he was giving
2 things away, that would not be out of the ordinary for him?

3 A That would not surprise me. At his funeral, I had
4 a good friend we hadn't seen him in many years, who brought
5 me a guitar he had given him. I didn't know he had even
6 given that guitar away, it's a very special guitar. And he
7 had given it to him just as a sign of thank you. That just
8 astonished -- like music was a big thing for him. And his
9 equipment, it was a big thing to give something like that
10 away.

11 Q Right. Do you know when he did that?

12 A Years ago, when he got out of the military.

13 Q Okay. And, so, nothing out of the ordinary about
14 his behavior during your conversation on the phone that
15 evening?

16 A No, not at all. There's was -- like I said, if I
17 had an inkling, I would have driven two blocks away. I
18 would not have just said, "Meet me at my sister's." I would
19 have gotten to him, if I had an inkling, if his voice was
20 trembling or if he didn't want to talk to me or seemed
21 confused or annoyed. He sounded fine. Like I said, it's
22 the way he says hello to me, "Hey, Diego," it's very calm,
23 comforting, and I will never hear it again.

24 Q You had mentioned in your interview with the
25 police, that there are times where you feel your brother is

1 perhaps misunderstood by others, that he acts in an abnormal
2 way, that maybe other people misinterpret or consider him to
3 be aggressive, when that's not his intention?

4 A Uh-huh.

5 Q Can you describe for us what -- kind of give us a
6 description of what you're talking about?

7 A You know, if you're trying -- or if you're asleep
8 and you wake up, and you feel like you're wide awake, but
9 you can't move, you can't turn your head, you can't say
10 anything? I'm sure many people have had dreams like that,
11 where you can't move or do anything. You just lay there,
12 and your body won't move. That's kind of the way -- what he
13 went through over there in Iraq and the things he
14 experienced, there's no way unless you have been there, no
15 way you can even try to comprehend.

16 And so, with that being said, my brother, when he
17 would try to warn people, and, of course, people not knowing
18 who he is or understand he's a sick veteran that was in Iraq
19 or anything, they would take that as, you know, people, if
20 they don't understand something, they don't know something,
21 they fear it. So that's what I mean by he could cause
22 uncomfot. He would try -- he wouldn't know any other way
23 than just to say, "Be careful, be careful, be careful."
24 That's what he would say is, be careful. And some people
25 would take that as, are you telling me as a threat? Are you

1 telling me to be careful? It's not that. But, if that
2 answers your question.

3 Q It does, yeah. So when you say you don't -- I
4 guess -- the one thing I don't understand is whether you
5 considered your brother to have any kind of mental illness,
6 because you say he's been diagnosed, you described him kind
7 of as a sick vet, but then you say he didn't seem like he
8 had a mental illness.

9 A Let me explain that. Uhm, my brother is not the
10 only person that people have diagnosed with mental illness
11 that I have had the privilege of knowing. I know many
12 people. When the war ended and everything happened, and
13 they started having troubles with sick veterans, they had to
14 come up with something. And to call them PTSD veteran or a
15 posttraumatic stress or sick veteran, or the military, they
16 call them sick dogs, the other guys call them sick dogs or
17 sick pups. They -- I'm sorry, my mind is going everywhere.
18 What was I saying?

19 Q That's okay. I was asking you to describe if you
20 considered your brother to have a mental illness or --

21 A The posttraumatic stress syndrome, PTSD, it was to
22 the point where, if you heard about a sick veteran or a PTSD
23 veteran, it's like, oh, I see it in people's eyes, oh, one
24 of them. What a lot of people don't realize, that's a very
25 broad term, PTSD. Anybody that watched 9/11 on T.V. and saw

1 those poor lives, they have PTSD. So it's a very broad
2 term. And then to throw the word veteran in there. So it
3 was almost for the paper pushers and everything. It was
4 just -- this person has PTSD, they have a mental illness.

5 But as for me thinking my brother has a mental
6 illness, absolutely not. Because he, you know, he
7 experienced some horrible things. And as for there being
8 any sort of help for these men, not just my brother, but
9 many, many men and women, for them to get any sort of help,
10 there is none. There is no help. It's not like I can go
11 say my brother has laryngitis, give him medication, it's a
12 very open term.

13 Q Okay. Do you feel like he sought help and was not
14 successful, or there were no resources available to him?

15 A Of course. Many people, not only did he seek
16 help, he sought to give help. He tried to help many people.

17 Q And I believe you also mentioned he had been
18 diagnosed with schizophrenia?

19 A The doctors, that's part of the PTSD. When I
20 asked them what is PTSD, they throw a whole bunch of other
21 symptoms at you. Schizophrenia is another symptom.

22 Q Okay. Did you know him to be depressed or
23 suicidal?

24 A I knew my brother. Everybody has a depressed day.
25 A bad day, run out of money in your bank account and you

1 can't go to the baseball game this weekend. But as for
2 suicidal, absolutely not. That's one of the one things I
3 prided myself on with my brother, is no, my brother, never.
4 Uhm, he may have low points, but for actually wanting to
5 commit suicide, no. No.

6 Q Okay.

7 A My brother, no.

8 Q He never told you he attempted to commit suicide?

9 A He never told me he attempted to commit suicide,
10 no.

11 Q And had you known him to be assaultive or
12 aggressive with other people?

13 A Aggressive?

14 Q Yes.

15 A Towards other people?

16 Q Sure.

17 A No.

18 Q All right. Does anyone have any questions for Mr.
19 Cisneros?

20 GRAND JUROR: Yes, a couple. I'm really
21 sorry for your loss.

22 THE WITNESS: Thank you.

23 GRAND JUROR: And I really appreciate the
24 concept of a big umbrella for the term PTSD, it
25 involves lots and lots of different symptoms and lots

1 and lots of different reactions. I hope you can help
2 me understand what feels to me like a contradiction
3 between, you're saying one moment describing him as
4 sick, which, fine, and another moment describing him
5 as seeking help, but not getting any. Another moment
6 describing what is really true, there's lots of
7 veterans coming back who need a lot of help, and they
8 don't get the help. It sounds to me like you're
9 saying he needed help, he was sick, and it was not
10 available. And I just don't see any difference
11 between that and a mental illness. Tell me how you
12 see a difference.

13 THE WITNESS: Sick and a mental illness?

14 GRAND JUROR: Uh-huh.

15 THE WITNESS: For me, a mental illness is
16 somebody that grew up having problems, they expressed,
17 you know, or they seeked help in the past. The
18 family, maybe as a child got them help. Where my
19 brother, the first time he started having any sorts of
20 problems with anything, is when he got back from the
21 military. And that was just -- call it to adjusting
22 to civilian life, if you want, but that, itself, is
23 kind of baloney in my book. That's what I mean by
24 mental health. I don't believe my brother -- I know
25 for a fact my brother was not born with a mental

1 illness. He did not grow up with a mental illness.

2 GRAND JUROR: So in your frame of reference,
3 it has to be something they are born with, starts at a
4 very early age?

5 THE WITNESS: Sure. Like I said, I'm not an
6 expert. But if my brother is all of a sudden somebody
7 that is mentally ill, it's new news to me. It's new
8 news to me. Like I said before, like everybody else,
9 he would have his good days and his bad days.

10 BY MS. SNOWDEN:

11 Q Did he ever say things to you that didn't really
12 make sense?

13 A Everybody says things to me that don't make really
14 any sense. But what do you mean?

15 Q Well, things that are not logical. We may have a
16 conversation, for example, and you might not understand
17 exactly what I'm asking, and ask for clarification and vice
18 versa, right, and that just happens: Miscommunications.
19 But what I'm talking about is --

20 A Sure.

21 Q -- did you ever hear him acting paranoid or
22 talking about the government being after him, or saying
23 things like he felt people were following him or things that
24 just didn't make logical sense to you?

25 A No. He wouldn't express any feelings like that to

1 me. Sometimes I would see him fidgety or on edge, I would
2 ask him what is going on, how are you feeling. You can just
3 tell there's something on their mind.

4 Uhm, as for him being paranoid, I think that was
5 something that a lot of soldiers dealt with that have been
6 in any kind of combat situation. I think paranoia is very --
7 I mean, when he came back in the city that we lived in, they
8 threw a party for him, they lit off fireworks. I remember
9 when they were letting off fireworks, he was looking at
10 them, but the whole time he was nervous. It's paranoia. I
11 think anybody that had to fight for their life could be
12 paranoid.

13 Q Oh, sure. I'm wondering, was he -- did he ever
14 talk to you about his suspicions of the government or FBI or
15 the president, things of that nature?

16 A He wouldn't say anything specifically about
17 anybody. There was one point where he told me he got a
18 letter from Obama. I thought that was suspicious. But then
19 when I saw the letter, it was a letter from Obama to the
20 veterans, thanking them. So he did get a letter. I
21 thought, why would my brother get a letter from the
22 president. But he did get a letter from the president, and
23 it was -- I'm not exactly sure what it was for, he did get
24 one.

25 Q Okay. Anyone else have further questions? Thank

1 you for being here today. I appreciate your cooperation. I
2 know this is a terribly difficult time for your family, and
3 I'm very sorry.

4 A That's okay.

5 Q Is there anything else you want us to know about
6 your brother or you think that would be helpful for this
7 grand jury to consider?

8 A I just, you know, I'm not a professional. But I
9 just buried my brother yesterday. I'm still in the same
10 clothes I wore. And I have now had to step up as the man in
11 the family to take care of the rest of my family, so my
12 hands are full. But from my little research trying to
13 prepare myself for this today, and looking around, talking
14 to people, there -- I am at a loss for words about how this
15 is being handled.

16 Uhm, first of all, I have seen one news report,
17 and I immediately shut that one off, but about the Michele --
18 I don't know her last name, but the one that shot my
19 brother. I don't know who did what, but she was involved.
20 Apparently, they have video of her punching a man in the
21 face, and she was indicted on fourth degree assault. For
22 me, I don't feel safe knowing that those are the type of
23 people protecting me. I want to put that out there.

24 Then, as for the investigation, I don't know. I
25 am praying every day this is going to be done correctly. I

1 understand that a lot of people need to get back to their
2 lives and move on. But this was my brother's life. And I
3 expect and I hope that things will be handled accordingly
4 and correctly. Because as far as I understand, he has not
5 gotten -- there has not been a toxicology report. Or at
6 least that I have been told about, none of the examinations
7 or anything or the actual investigation is done. But I'm
8 here a day after I buried my brother.

9 So I just -- there's many things as to the
10 situation that, I, myself, have a lot of questions as to
11 what happened to my brother. Because in all these years, he
12 was two minutes away from me, all I had to do was to get to
13 him and he's fine. When he's with me, he's fine. I take
14 him to the hospital, we get help, we do anything we need to,
15 and I'm there for my brother. This circumstance was not
16 correct. There's -- I'm sorry, but for lack of a better
17 term, something fishy. There's something that is not making
18 sense to me.

19 There is 20, 30 minutes there that I was out of
20 contact with him, and now he's gone. And now I can't do
21 anything about it, and this will forever haunt me. I
22 understand that, you know, the police and the attorneys, you
23 guys want to get things done quickly and while everything is
24 fresh in the mind. But for me, I understand speed is a
25 necessity, but at the same time, I don't want this just

1 brushed under the rug. This is my brother's life, and he
2 was by no means a bad person. He is by no means a bad
3 person.

4 Q No one is saying he was a bad person. I
5 appreciate your concerns and I can appreciate the questions
6 you have. And as I told you before, I'm happy to sit with
7 you and answer a lot of those questions for you. I just
8 can't do that prior to having you come in and testify about
9 what you know, because I don't want anything I might tell
10 you to color your testimony.

11 And the same is true for the other witnesses as
12 well. And so one of the reasons why it's important to have
13 folks come in, within reason, as soon as possible, you know,
14 it's been more than two weeks, but I understand that's a
15 very short amount of time. But as you say, we want people's
16 memories to be as fresh as possible. And I also need to be
17 able to talk to you about the information I have.

18 A By all means.

19 Q And I want to do that. But we need to wait until
20 after this process is done or after your testimony is done,
21 and I definitely will sit with you and answer any questions
22 you have.

23 A This is another thing I want to add. I don't know
24 the exact times, but I arrived, I believe, at the MLK police
25 station at about 9:30. My brother died at about 10:30. And

1 they kept me and questioned me until 2:00 or 3:00 in the
2 morning, which is fine -- well, it's not fine, that they
3 didn't tell me my brother passed away until 3:00, when they
4 knew at 10:30, and they sat there and they drilled me.

5 And I'm telling you the exact same things. I have
6 nothing to hide. It's just a lot of things that I don't
7 understand what happened. I don't know why they happened,
8 why they couldn't tell me, I'm sorry, he's deceased, instead
9 of making me sit there and just get sick in my stomach.
10 Then I have to go notify my entire family that my brother is
11 dead. It's not as if -- there has to be some kind of other
12 protocol as for how they handled these situations. They
13 would not tell me anything until about 3:00, and then they
14 told me he was dead. And that, to me, is unacceptable to
15 keep me there. They could have told me at 10:30, and I
16 still would have answered every single question the same
17 exact way I did. There was no reason for them to keep me
18 there like that.

19 So, but, once again, I have no hate for anybody.
20 I don't hate anybody. I understand that there's lots of
21 people that have questions. And that's what we're all
22 trying to figure out. But as for any kind of hate or bad
23 feelings towards anybody, there's no more room for that,
24 there's just not.

25 Q Okay. Well, again, thank you for coming. You

1 have my card. We can talk later or tomorrow. And, you
2 know, I'm willing to meet with you in person or on the
3 phone, whatever you feel most comfortable with and answer
4 your questions.

5 A As of tomorrow, I have two weeks off work, I have
6 to get back.

7 Q Whenever is convenient, you tell me.

8 A I have a lot of work to get back to.

9 Q Okay. Sure. Any other questions before Mr.
10 Cisneros leaves? All right.

11 SANTIAGO CISNEROS, JUNIOR,
12 called as a witness in behalf of the
13 State, being first
14 duly sworn, was examined and testified as follows:

15 EXAMINATION

16 BY MS. SNOWDEN:

17 Q Tell us your full name.

18 A Santiago Cisneros, Junior.

19 Q And Mr. Cisneros, Santiago Cisneros was your son;
20 is that correct?

21 A That's correct.

22 Q The third of five children; is that also correct?

23 A Yes, I have -- well, I had five, yes.

24 Q Okay.

25 A Two girls and three boys.

1 Q And he was your oldest boy?

2 A Yes. He was my oldest boy.

3 Q And you live here in the Portland area?

4 A Yes, I do.

5 Q Okay. And tell me about your relationship with
6 your son; were you close?

7 A Yes, we were very close. Yes. He grew up in
8 Idaho Falls, and he went to -- graduated from high school
9 there in 1999. In about 2005 he joined the military.

10 Q And were you also in the military at one point?

11 A Yes. I was in the Army also, I served in Vietnam.

12 Q Okay. And were you aware that your son was in the
13 Portland area the weekend of March 5th? Was he coming to
14 visit you?

15 A The weekend of March 5th, uhm --

16 Q Well, it was Tuesday, early Tuesday morning.

17 A No, I was not aware he was in the area. But that
18 was not unusual, because he normally called me if he had
19 time to come. Most of the time he would visit me on his way
20 back to Seattle, just stop by, just visit or we go out, have
21 dinner or lunch, or whatever.

22 Q When was the last time you spoke to your son?

23 A It was probably maybe about -- this is an
24 approximate date, maybe a couple of weeks before this
25 incident. He came over to pick up my oldest daughter and

1 her boyfriend. He had to go to renew his visa, because he's
2 from Ireland and he needed to renew it. But he had to go to
3 Seattle to do it.

4 Q Your son needed to renew his visa, or your
5 daughter's boyfriend?

6 A No, my daughter's boyfriend. So Ago came over and
7 picked them up, took them to Seattle so they can take care
8 of business over there. While he was there, he came over
9 and visited me, we talked for a little while, then he left.

10 Q Okay. Uhm, I understand that he may have left you
11 a letter or a note prior to his death?

12 A Yes. Uhm, that was on Sunday, I came home -- I
13 left the house about, I would say about 9:00 in the morning.
14 I didn't come home until maybe about sometime between 3:00
15 and 4:00 the same day, on Sunday, that would be the 3rd, I
16 believe, Sunday the 3rd. And I noticed -- yeah, I noticed a
17 note on top of my computer, a lap top. I picked it up and I
18 read it, it was from him. And so I knew that he was in
19 town. And I do have a copy of -- not the copy, but the
20 original.

21 Q Okay. Could you read it to us?

22 A Yes. It says, "I will see you soon, we will talk
23 and laugh. Love, Ago." That was it.

24 Q Okay.

25 A So, I thought, he's in town. Well, maybe he's

1 going to come over and see me on his way to Seattle. So I
2 didn't think anything of it that day. I didn't think
3 anything of it.

4 Q And so did he have a key to your place or was it
5 unusual that he would have been there?

6 A No, he has a key. He had access to my apartment.

7 Q Did you get some other kind of letter from someone
8 else or from him that was upsetting?

9 A No. No.

10 Q No?

11 A I don't recall any other.

12 Q Was there some reason when your son, Diego, spoke
13 to the police, he talked about you getting an upsetting
14 letter, and that you were not answering your phone. Do you
15 know what that is about?

16 A No, I don't.

17 Q Okay. So there was never a time that you were not
18 answering your phone or --

19 A What happened, my minutes on my phone run out.

20 Q Your batteries?

21 A No, minutes.

22 Q Minutes? I'm sorry.

23 A So I have -- no longer could answer the phone.

24 But -- and that went on until about the 9th of the month of
25 March, when my minutes were renewed. But I don't know what

1 he had in mind. Maybe there's something there I can't
2 remember right now. I can't think of anything. I have not
3 received anything else other than this note that he left me.

4 Q Okay. How did you learn that something had
5 happened or that your son was injured or had been killed?

6 A Well, that happened on Tuesday morning, I was
7 home, and my -- well, my son, Diego, and my two daughters
8 walked in the door. They knocked on the door, they walk in,
9 and as soon as I saw them, and I saw tears in their eyes, I
10 knew there was something very wrong.

11 They sat down, one of my daughters told me what
12 had happened. And we -- of course, it was a very emotional
13 moment. We cried and all this. Then I started asking
14 questions about what happened, how did it happen, where did
15 it happen? And the only thing they could tell me was that
16 it had happened at the parking lot at Lloyd Center. That's
17 what they said. But they said details, they didn't know
18 what really happened.

19 Q Okay.

20 A So, that was the first time I found out.

21 Q Okay. Uhm, so, you had not spoken to your son in
22 a couple of weeks. The last time you spoke to him, was he
23 acting normally? Was he in good spirits?

24 A Yeah. He was normally, you know, very -- when he
25 was with the family, he acted very normal, yeah.

1 Q Were you aware that he had had some issues with
2 PTSD or other mental illness after he returned from Iraq?

3 A Yes.

4 Q What can you tell us about that?

5 A Well, uhm, he stayed with us for a little while in
6 Idaho Falls where we lived, and then he moved to California.
7 He got a job delivering oxygen to elderly people who were
8 sick. And he would keep in touch with me, and call me once
9 in a while, tell me about the job. One day he called me up
10 and I was talking to him, he didn't sound very rational. I
11 asked -- I begin to ask him questions as to, "Are you on
12 your way home? Are you going back to work or what are you
13 doing?" And he says, "Well, I'm going back to work." And
14 then later on he says, well, actually, he says, "I'm going
15 to the hospital." And I said, "The hospital?" I said, "Are
16 you sick physically, or are you sick emotionally?" He said,
17 "Well, I think both."

18 And we kept talking on the phone. And then he
19 says, "I'm over here at the parking lot of the hospital.
20 I'm going to go in." I asked him, "Which hospital are you
21 in -- are you going to?" He said, "Kaiser Hospital." And I
22 says, "When you come out, give me a call, let me know what
23 they said." So, uhm, he did not return my call, and I got
24 worried. And I didn't know -- I called him up, I was not
25 getting any answer.

1 But I remembered he had a friend he met through
2 the internet that lived there in Petaluma, California. And
3 I called him up and I told him that Ago had gone in the
4 hospital, and I didn't know what had happened. He went to
5 check, and later on he called and said that they had put him
6 in a wheel chair -- he went to the hospital. Apparently he
7 became emotionally disturbed. They wanted to put him in a
8 wheel chair and take him some place. I don't know what the
9 hospital was planning. But I says, "Well, they need to know
10 that he is a veteran." And I says, you know, he may be
11 having the -- what do you call it, when you start thinking
12 about --

13 Q Flash backs?

14 A Flash backs or something. I didn't know what else
15 to say. He was eventually taken from there to Palo Alto,
16 California, and was in the hospital there for about six
17 months, the doctors were examining him. And finally they
18 released him, and they said that they diagnosed him with
19 PTSD. But they gave him some medication that supposedly was
20 going to be helping him.

21 So, he was taking the medication and it seemed to
22 be working, he was doing okay. But it did happen at least
23 once a year, we were having an episode like that, but always
24 he ended up back in the hospital. They will fine tune the
25 medication and all that.

1 One time -- he used to get his medication in the
2 mail from the VA. One time, he not get it, and he didn't do
3 anything about it. And he had another episode, because he
4 was without medication. And, uhm, so we called the
5 hospital, we told them that they needed to get him his
6 medication right away, because he was having problems. He
7 didn't seem to be able to function without his medication.
8 But, that was our introduction to PTSD.

9 Q Do you know what kind of medication he was taking?

10 A No. There were several pills he was taking. He
11 would have to take several pills.

12 Q Do you know if he had been taking them, to your
13 knowledge, recently or around the time of his death?

14 A Yeah, he had been taking them, because he was
15 doing very well. We had gone over a year -- when he was
16 living in Seattle, uhm, he got a job over there, he was
17 taking classes at school. Uhm, he would call us or come and
18 visit us once in a while. We were very encouraged because
19 it seemed like he had recovered completely, but he still had
20 to be on the medication.

21 Q Right. Sure.

22 A But he was taking his medication regularly. He
23 had a schedule that he set up, and, you know, so he can have
24 a systematic way of knowing in the morning, the first thing
25 he had to do was take his medication before he did anything

1 else. So we were very encouraged, he was doing very well.

2 Q Were you aware of whether or not he had ever been
3 severely depressed or had attempted to commit suicide?

4 A He had been depressed, uhm, for some time. There
5 were many things that disturbed him. He used to talk about
6 the situation with a lot of people, especially here in
7 Portland. He used to see people, homeless people sleeping
8 under the bridges, things like that. And he used to get
9 depressed about that, and, you know, I let him go ahead and
10 talk. And I said, well, "You know, there's not -- not much
11 we can do about it. It's just a problem, it's a lot bigger
12 than you and I can solve." But he still talked about it,
13 and I knew that that disturbed him. But other than that,
14 you know --

15 Q Were you aware of whether or not previously in the
16 past, not on this occasion, but that he had ever tried to
17 take his own life?

18 A Well, I heard that he had, but I'm not really sure
19 that he -- I have no proof that he did, you know, other than
20 he had tried.

21 Q Did he tell you that?

22 A No, he did not tell me that. Uhm, I think it
23 might have been one of his sisters that talked to him.

24 Q Okay. Well, does anyone else have any questions
25 for Mr. Cisneros? I'm very sorry for the loss of your son.

1 A Thank you.

2 MICHELE BOER,

3 called as a witness in behalf of the

4 State, being first

5 duly sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MS. SNOWDEN:

8 Q Okay. One moment. All right. Can you begin by
9 telling us your first and last name?

10 A Michele Boer.

11 Q And will you spell it for us?

12 A M-I-C-H-E-L-E B-O-E-R.

13 Q How are you employed?

14 A Portland Police Bureau.

15 Q Michele, I understand you were employed and on
16 duty as a Portland police officer late, the evening of
17 Monday, March 4th; is that correct?

18 A Yes, I was.

19 Q And what precinct do you work out of, and what
20 were you doing late that evening?

21 A North precinct, patrol.

22 Q What were you doing at around 10:30 or so at night
23 that evening?

24 A I had just cleared with a call, a welfare check,
25 and myself along with another officer, Brad Kula, were going

1 to 7th and Lloyd to a parking garage, second floor, to meet
2 and talk about calls, and just kind of debrief our day.

3 Q Is that a location you had been to before?

4 A Yes.

5 Q Tell us how you had been there, why -- how did you
6 pick that spot?

7 A This parking garage is located in the district
8 that I normally work, so if everybody is busy and tied up on
9 calls, I don't like to drive around a lot, in case somebody
10 needs cover or another hot call comes out. So I usually go
11 up there, check my emails, write reports, it's a nice and
12 quiet area for blocks in each direction. It's just a
13 business area, there's no houses, there's not a lot of foot
14 traffic. It's a place I feel comfortable and -- yeah.

15 Q Okay. So how did you communicate with Officer
16 Kula that you were going to be there?

17 A On the welfare check, he was dispatched as my
18 cover car.

19 Q All right. So you guys sort of agreed you would
20 go there?

21 A Uh-huh.

22 Q And so then what happened? Who got there first?

23 A He was following behind me, uhm, he pulled in
24 about the same time.

25 Q Okay. And this parking garage, you go up to the

1 top level?

2 A Yes.

3 Q It's an open air garage?

4 A Yes.

5 Q Okay. What happened when you got up to the top
6 level?

7 A Can I draw --

8 Q Sure, you can draw there, or on this dry erase
9 board behind you.

10 A These are stairs. There's a ramp, you go up right
11 here, a ramp you go down here. I think there's another
12 stairs here, and there's one light pole about right there.
13 I pull in and position my car roughly like this, facing this
14 way. He pulls in, this is what we call car to car. We
15 don't have to get out, we can stay in the car, roll down our
16 windows and talk about stuff. Uhm, we were up there for
17 less than a minute, and a car comes and positions his
18 vehicle like this (indicating).

19 Q Were there any other cars that you remember being
20 up there?

21 A No other cars were in the entire lot.

22 Q Okay. And you were not in a parking spot, I'm
23 assuming?

24 A We were not in parking spots. So this seemed
25 unusual to us, because he positioned his car facing us. He

1 was not pulling into a parking spot. Uhm, and so we just
2 kind of wondered what is going on. Uhm --

3 Q Could you see who was in the car?

4 A I had shined my spotlight on him probably five
5 seconds after he got there. Uhm, and I could see him, I
6 could see that he was talking on the phone. I could make
7 out his entire face. And then within less than five seconds
8 of the spotlight being on him, he got out of the car, and
9 quickly walked to his trunk.

10 Uhm, Brad and I had no communications at that
11 point, because everything happened so quickly, which is why
12 we didn't get on the air either. I was not planning on
13 getting out and stopping the subject at that point in time,
14 because I had no reason to. I just was wondering, I was
15 just curious as to what was going on.

16 So Brad then drove here, and positioned his car
17 roughly like that. And I drove my car, and positioned it
18 like this. And my reason being for positioning my car
19 there, is because from where we were back here, and when he
20 went back behind his trunk, and he popped his trunk, we
21 could not see him at all. I so wanted to get visual of him
22 to see what he was doing, because I could tell he was
23 rifling through his trunk. As I started driving around this
24 way, I could see him (indicating).

25 Uhm, once I position my vehicle, before I could

1 even put it in park, he comes up with a shotgun, and, uhm, I
2 get out of my car, and he turns towards me. He racks the
3 shotgun, and he fires it. He's holding it up at his
4 shoulder and he's looking at me, we're making eye contact.
5 I run back here (indicating).

6 Q About how far away were you from him at that time,
7 would you estimate?

8 A Maybe twenty feet or so.

9 Q And was the shotgun -- did it appear to be aimed
10 at you?

11 A He had it up like this, looking at me
12 (indicating). Uhm, and, I mean, my whole focus at that
13 point was on him. I would have to turn my head back to look
14 at Brad, but from what I could remember where he parked,
15 because he got here, and then I moved my car. With his
16 trunk being up, and him being anywhere in this area, I
17 didn't think Brad would be able to see him.

18 Uhm, the reason why I moved back here, is to give
19 myself more distance, and allow myself more cover. Uhm,
20 then he walked this way a little bit, and he charged at me,
21 he ran across this way, around my car. And I ended up being
22 right here (indicating). The only thing I could think about
23 is dropping to my knees. And I was looking under the car to
24 see if I could see his feet, and, uhm, I didn't see them.

25 And when I turned around on my hands and knees, he

1 was right like two or three feet from me, the gun was
2 pointing at my face. The only thing I could think of when I
3 was on my knees, is that I was going to die. And, uhm, I
4 just wanted to try to get away. And something happened at
5 that point, where he didn't shoot me. I don't know what
6 happened, if Brad was able to fire and hit him, or if he had
7 a double feed, which means his gun jammed. So the only
8 thing I was thinking of is to try to get away from the
9 threat.

10 And so I then crawled to over here on my hands and
11 knees. And during this whole time, it was just gunshots
12 going off, and gun battle. I didn't know if Brad was okay.
13 I didn't know if he had been shot. I didn't know what was
14 going on. And then I made it to here, and I stood up, and
15 his trunk was opened. And I saw a long gun case empty, uhm,
16 and music was really loud.

17 Uhm, and I remember standing up, and during this
18 whole time, I was wondering -- because I fired my weapon
19 back here, what I can recall two times at him. While I was
20 firing, it was hard for me to stand up to look through my
21 sights, because he was firing at me. And so I never lined
22 my sights up. I would shoot towards him and I would duck
23 down under the car, and when I came up again, I would try to
24 shoot him.

25 I don't know what -- how many shots Brad was

1 firing or how many shots he was firing, but it was just a
2 gun battle the whole time. And I kept thinking, "Why isn't
3 this guy falling to the ground? Why? He just won't stop
4 attacking us." And so once I was over here, he still was
5 standing, he still had the gun. And I don't remember seeing
6 him fall to the ground ever.

7 I just -- it's kind of a blackout from here to
8 here (indicating). My memory is a little foggy. But I
9 remember getting to here and firing two rounds. And then I
10 remember seeing him on the ground, still moving, the gun was
11 out of his hands. I saw blood on the ground, he continued
12 to move. And we just held fire, and held our position.
13 Brad was over here somewhere, until cover arrived. And once
14 cover arrived, we were both pulled out, and they escorted me
15 down the ramp. And I didn't have much -- I didn't help out
16 or do anything else at that point.

17 Q Okay. So, I know this all happened very, very
18 fast, and that it's difficult to process when, you know,
19 this is a very unexpected thing. But, to the extent you
20 can, and if you can't remember sequencing, whatever, that's
21 fine. But, uhm, it sounds like you remember very clearly
22 him pointing the shotgun at you the first time?

23 A Yes.

24 Q Do you remember if you were still sitting in your
25 car, or if you were standing?

1 A I was sitting in my car.

2 Q You were sitting. Okay.

3 A Because I hadn't had time to stop, put my car in
4 park. And I looked over, I saw him bent over in his trunk,
5 and then he came up with it, and I just hustled to get out
6 of the car.

7 Q Okay. So after that, did you hear him shooting
8 additional times or do you remember?

9 A He fired at me once there. I don't know if I
10 vocalized anything at that point in time. My whole audio of
11 this whole incident is a little bit blurry. And then he
12 fired at me again when I was at the trunk of my car, and
13 that's when I exchanged rounds back at him. And once he
14 started advancing on me, is when I just dropped down to the
15 ground.

16 Q So going back to what you have drawn here, sort of
17 at the right, off the corner of his right, rear bumper, it
18 sounds like this is approximately where he was when he shot
19 in your direction the first time?

20 A Yes.

21 Q Could you see where he was when you heard him
22 shoot again, when you returned fire from back here behind
23 your driver's side corner of your car?

24 A He was still right here, but right after he
25 started -- I mean, it was a quick walk-run, the whole time

1 he had his gun up on his shoulder (indicating).

2 Q Okay. Was it after that, that you were trying to
3 look for his feet underneath the car?

4 A Yeah. As soon as I saw him running towards the
5 back of my car, I dropped to my knees to see if I could see
6 where he was at. And I knew Brad was out in this direction,
7 so if he was trying to fire at him, I didn't want to get
8 struck by Brad. We were kind of now at a crossfire with
9 both of us being over here, and Brad firing this way. So my
10 instinct was just to drop down to my knees.

11 Q Okay. Do you have any recollection of how many
12 times he fired his gun at you or at all?

13 A No.

14 Q Okay. So other than the two distinct times you
15 remember, you don't know. You described a gun battle --

16 A The full time.

17 Q Was it your sense that he was firing multiple
18 times?

19 A Yes. From the second he pulled up to the parking
20 garage, it was like he had a plan, and he knew what he was
21 doing. He parked right in front of us, he quickly got out,
22 he went to his trunk, he pulled out the gun, he racked it.
23 And it was just like he was attacking us, and he wanted us
24 dead. And it was clear to me, because he chased me around,
25 and by his actions and what he was doing, it -- I mean, I

1 can't explain it in any other different way.

2 Q So when you looked up and you saw the gun pointed
3 in your face, about how far away was the gun from your face
4 at that time?

5 A Three feet, maybe.

6 Q Okay. And did you see -- were you just focused on
7 the gun or did you see his face?

8 A I saw his face, I saw his stance, I saw his whole
9 body, I saw the barrel of the gun. And that's when my mind
10 just started, like it was almost like a Rolodex, and I
11 started thinking of my family, and thinking that this was
12 it. But I still wanted to try to escape, because at that
13 point I lost cover. I didn't -- I couldn't hide behind
14 anything, he was right there. And so I just wanted to try
15 to get away and try to gain distance, and I don't know what
16 happened at that point.

17 Q Okay. And so do you remember -- because at this
18 point, you must be behind your open door?

19 A Yes.

20 Q Do remember going around your door?

21 A No.

22 Q Okay. Do you remember seeing him get shot?

23 A No.

24 Q When you were that close to him?

25 A No.

1 Q Okay. You don't know why at that time you weren't
2 shot?

3 A No.

4 Q Okay. Could he have shot you, assuming --

5 A Yes.

6 Q Okay. You were close enough?

7 A Yes.

8 Q Where was your gun at that point?

9 A Right after the incident, I had a couple of
10 scratches on my knuckles and my hand -- only on this hand.
11 I can't imagine I would have holstered it, so I'm pretty
12 sure I had it in my hand and I was on my hands and knees at
13 that point, and I was holding it in my hand.

14 Q Okay. But on the ground?

15 A Yeah.

16 Q So you went over, crawled over, got over to his
17 car at some point to avoid the crossfire. And then you shot
18 at him from that location?

19 A Behind his car?

20 Q Yes.

21 A Yes.

22 Q Do you know if you hit him?

23 A No.

24 Q Okay,

25 A The only thing I was thinking the entire time,

1 because it was -- I mean, bullets were flying. I didn't
2 hear if they were striking anything, all I heard was the gun
3 shot. And, uhm, it just seemed like it played out for a
4 really long time. I'm sure the whole incident probably
5 lasted less than 30 seconds. But I'm a pretty good shot,
6 and I know Brad is, and I didn't know if he was wearing a
7 bullet proof vest, I just -- I didn't understand why he was
8 not falling to the ground.

9 Q Okay. Okay. Uhm, I want to play a section of --
10 there's a portion of right after the fact where a police car
11 has video tape on after they arrive. Does anyone have any
12 questions for Officer Boer while I'm putting this on?

13 GRAND JUROR: Yeah, I do. So he's using a
14 shotgun when he shoots at you multiple times, but he
15 misses? You're a lucky person. I mean, if he was
16 using live ammo, you're a lucky person. Don't they --
17 don't they go wide?

18 THE WITNESS: Uh-huh. They do. But that's
19 why I was behind my car the whole time.

20 GRAND JUROR: Yeah. Wow.

21 GRAND JUROR: Did your vehicle sustain any of
22 the shotgun --

23 THE WITNESS: Uhm, I have no clue. They
24 brought me down on the first floor. I have been
25 informed it has, though.

1 BY MS. SNOWDEN:

2 Q So, we have got a couple of photos of your knees
3 here showing some bruising. Do you know if that's -- do you
4 know what that's from?

5 A Crawling on my knees from my car to his car.

6 Q Okay. This is one of the police cars that
7 responded, this is a video dash-cam, video from one of the
8 officers who responded. The first part of it is him
9 responding, so I will skip to the place where he arrives and
10 then it's somewhat brief. But it's the first interaction
11 with Officer Boer.

12 You mentioned recalling firing -- correct me if
13 I'm wrong, my memory is that you shot at him -- you recall
14 shooting at him twice from behind or near his vehicle?

15 A And two times from behind my vehicle.

16 Q So your memory -- you have a memory of shooting at
17 him a total of four times?

18 A Yes.

19 Q Okay. Do you know how many times or how many
20 rounds were actually fired from your gun?

21 A I was told today four.

22 Q Okay.

23 (The video was played for the grand jurors.)

24 MS. SNOWDEN: We'll show another angle in a
25 minute.

1 BY MS. SNOWDEN:

2 Q I'm going to play a different angle where you can
3 actually see, it will be this upper righthand quadrant,
4 shows Officer Boer. I'm going to skip forward, this is just
5 him arriving at the scene.

6 (The video was played for the grand jurors.)

7 BY MS. SNOWDEN:

8 Q Do you remember that?

9 A No.

10 Q You don't remember the officers coming up to you?

11 A I remember the officers coming up to me and
12 somebody had tapped me on the back. And at that point, I
13 was out of the game, I did what I needed to do until the
14 threat stopped being a threat. I kept my position, cover
15 arrived and it was like I saw a blank screen. I felt like I
16 couldn't breathe. My gun started shaking all over the
17 place. So they took my gun, and that's when I guess they
18 did that. I don't remember who got me. I don't remember
19 who walked me down the ramp. I don't remember standing
20 right there at all. I just remember feeling like I couldn't
21 breathe.

22 Q Okay. Uhm, do you remember or do you have a
23 memory of calling in for cover while this incident happened?

24 A I remember saying something at some point, I
25 couldn't tell you when, that we needed more cops to respond.

1 Uhm, and then I remember again getting on and saying that
2 our guns were facing towards the south. Uhm, I remember
3 hearing Brad saying, "Shots fired, shots fired." I remember
4 him yelling at the suspect to drop his weapon. But other
5 than that, I don't remember anything.

6 Q And when you were calling in, was that after you
7 were already out of the car or hiding behind the back of the
8 car?

9 A Yes.

10 Q All right. Uhm, other questions for Officer Boer?

11 GRAND JUROR: Was he still alive at this
12 point?

13 THE WITNESS: He was still moving.

14 MS. SNOWDEN: Anything else?

15 GRAND JUROR: Does moving mean arms and legs
16 or --

17 THE WITNESS: He was on the ground. But,
18 yeah, he would not stop moving, and that's when you
19 heard Brad even continue to yell once cover even got
20 there. He just wouldn't stop moving. He wasn't
21 following my commands, any instructions the entire
22 time we were there.

23 GRAND JUROR: Did he just die later from
24 blood loss?

25 THE WITNESS: I have no clue, nobody informed

1 me of that.

2 GRAND JUROR: So continuing means trying to
3 go from one place to another place, is that --

4 THE WITNESS: Once he was on the ground and
5 we both saw blood and his gun was out of his hands,
6 that's when we stopped firing and held our position.
7 But he was still kind of moving around sitting up and
8 stuff. I don't remember clearly exactly, but all I
9 know is, the gun was not in his hands at that point.

10 GRAND JUROR: Did he ever say anything to
11 you?

12 THE WITNESS: Not that I recall, nothing.

13 MS. SNOWDEN: Well, I'm glad you weren't
14 hurt.

15 THE WITNESS: Thank you.

16 MS. SNOWDEN: That must have been terrifying.
17 Anything else? Okay. Thank you for coming.

18 THE WITNESS: Thank you.

19

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25

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

5 BY MS. SNOWDEN:

6 Q Tell us your full first and last name?

7 A My name is Bradly Kula, K-U-L-A.

8 Q And you are a Portland police officer?

9 A Yes, I am.

10 Q And, uhm, we heard from -- as you saw, we heard
11 from Officer Boer. If you can tell us about your memory of
12 late in the evening of Monday, March 4th, around 10:30,
13 10:45 p.m. when you ended up at the top of a parking garage
14 at Northeast 7th and Lloyd, what were you doing immediately
15 before that, and what caused you to go to that location?

16 A Uhm, Officer Boer and I had talked about going
17 there earlier in the evening to -- we go car to car,
18 sitting, talk, uhm, kind of put our cars front to back, side
19 to side so the driver's side doors are next to each other,
20 so we can talk. We go up there to that location to do
21 reports, check email. I had an overtime slip I had to fill
22 out, kind of admin stuff and to catch up with each other.

23 Q Do other officers also use that location for that
24 purpose?

25 A Yes, they do.

1 Q Okay.

2 A It's kind of a common meeting area. Uhm, so we
3 had just cleared a call, it was a welfare check, and, we had
4 cleared the call and it was probably around MLK and Failing,
5 I want to say, in that area. And she was like, "Well, do
6 you want to go to 7th and Lloyd now?" "Yeah, we'll go up
7 there, I'll follow you." So we drove over to 7th and Lloyd,
8 uhm, drove into the parking structure. She was in front of
9 me. Uhm, we drove up to the top of the parking structure,
10 the ramp, uhm, she had gone in and turned around. And then
11 I was just starting to pull in next to her. Uhm, you know,
12 we go there because it's kind of an area we can go and we
13 can kind of watch everything that happens in front of us,
14 and no one can really get behind us.

15 So, we pulled in there, and, uhm, just as I was
16 pulling up next to Michele, she said, you know, she says
17 "Hey, someone just pulled in behind us or behind you," it
18 was in front of her. And I had -- I mean, I was still
19 putting my car into park when she said that to me. And so,
20 I looked at the car in my rear view mirror, and she is like,
21 "What's he doing?" And I don't know. Uhm, I don't know
22 what he's doing, but he's doing something in the car and I
23 can't tell what it is he's doing. He's not parked in a
24 parking spot, he's just in the middle of the parking lot. I
25 mean, it's 10:45-ish at night, there's no one parked

1 downstairs, there's no one parked upstairs, he's not in a
2 parking spot. He's not there to park.

3 Q Do you recall seeing that vehicle prior to pulling
4 up into the top of the parking garage?

5 A No.

6 Q You don't recall in your rear view mirror seeing
7 some headlights following you up the ramp or anything like
8 that?

9 A No, I did not.

10 Q Okay.

11 A Uhm, so he's doing something in the car and I
12 couldn't tell what he was doing. And I started to get a
13 little concerned about what he was doing up there, why he
14 followed us up there, because there's really no reason for
15 him to be up there with us. Uhm, so, I said, "Hey, uhm,
16 turn on your lights, turn on your -- we have the take-down
17 lights on the light bars, because we're both in fully marked
18 police cars. The light bar on top in the middle has two
19 bright, we call them take-down lights and a spotlight, like,
20 "Turn on your lights so we can see what he's doing." I'm
21 going to come around so I'm also facing him, uhm, so that I
22 can get my lights on him as well and we'll contact him.

23 And so, I start, you know, I get my car in drive.
24 I start coming around, and I just do a little half circle so
25 I'm facing the car as well. And, you know, I have my lights

1 on. I put on my take-down lights, which are down here, and
2 I got my spotlight on. And I get out of the car, and
3 Michele had from where she was sitting, she had pulled up
4 closer to his car. And I -- so, I get out of my car, and I
5 can't see Michele, and I see him by the back of his car.
6 One of the last things I remember seeing is I think he hit
7 the trunk release of his car. I saw the trunk pop and then
8 he started to get out, that's when I was doing my half
9 circle around, uhm, so I get out of my car --

10 Q So you're driving -- your memory is you're driving
11 as his trunk is popping up?

12 A I think so.

13 Q Okay.

14 A I remember seeing the trunk pop.

15 Q Right.

16 A It didn't pop all the way open, you know. If you
17 hit the button, the trunk just kind of pops up. So, uhm,
18 I'm stopped and I get out of my car, and I got my lights all
19 set up and I -- so Michele pulled up, I can't see Michele.
20 I see --

21 Q Can you see her vehicle?

22 A Yes.

23 Q Okay.

24 A But I can see him behind his car, I believe. And
25 I -- at that point I heard, uhm, it was really, really a

1 horrible scream, it was like a primal, guttural scream of
2 fear. And I didn't know where it was coming from. And --

3 Q Where did it sound like it was coming from?

4 A It sounded like it was coming from the other ramp.

5 Q Like the down ramp?

6 A Yes, the down ramp.

7 Q Okay.

8 A Because we came up one ramp, and there's the down
9 ramp. And it sounded like it was coming from over there.
10 And at first, I didn't know where it was coming from, I
11 couldn't see Michele. It didn't register that that was
12 Michele screaming. I didn't know where it was coming from.
13 I kind of took a couple of steps back, I thought maybe
14 somebody was coming up the ramp. Well, I guess it was
15 Michele on the other side of her car screaming, and it was
16 bouncing off the ramp back at me.

17 So, I had taken a couple of steps back to try and,
18 you know, get a better angle to see if somebody was coming
19 up that ramp. And that's when I saw him holding the gun, it
20 was -- I thought it was a rifle, he's holding it up kind of
21 like that, so I can see him holding the gun and the barrel
22 (indicating). And as I said, I think I had taken a couple
23 of steps back to try to get a better angle to see down the
24 ramp, and I'm like, you know, "Hey, what are you doing?"

25 Q Are you in your vehicle?

1 A No, I'm out of the car. I'm out of the car.

2 "Hey, what are you doing? Stop, put the gun down, stop.

3 What are you doing?" And I realize it's Michele screaming
4 about him having a gun. Uhm --

5 Q So it's sort of taking a second to register --

6 A Yes.

7 Q -- what is happening?

8 A Yes. I don't know what is -- I don't know why
9 he's there, you know. I saw him go to the back of the car,
10 but then I see the gun. Michele is still screaming.

11 So, uhm, I'm like, "Hey, what are you doing?
12 Stop, put down the gun." Giving him commands in a real loud
13 voice. "Hey, stop." So he turns towards me with the gun,
14 and starts bringing the gun up at me. And I'm like, oh,
15 God, he has got a rifle, he's going to -- if he shoots me
16 with the rifle, you know, I'm done, because our bulletproof
17 vests won't stop rifle rounds. They only work against
18 handgun rounds for the most part, if we're lucky.

19 Q Sorry to interrupt you. Do you remember if -- at
20 this point, you have heard Officer Boer screaming. Do you
21 remember if he shot the gun or if you heard a gunshot?

22 A Not yet, I had not heard anything.

23 Q Okay.

24 A As he's bringing the gun down towards me, he's
25 starting -- he sees me, I'm standing there, I'm kind of next

1 to my car. He sees me, he starts bringing the gun towards
2 me. Uhm, I stop, look at him, I'm like, oh, he's going to
3 shoot me. I jump behind my car, the trunk of my car,
4 because I'm towards the back, I was able to just jump behind
5 my car. And as I'm jumping or as I'm getting behind the
6 car, I hear the gun go off. And it's very loud, it's -- I'm
7 like, he just shot at me.

8 You know, as a police officer, I have heard
9 gunshots before. And that one was extremely loud. And all
10 I could think of was he just shot -- he was leveling his gun
11 at me, he was able to get behind cover, he shot at me. So,
12 uhm, I could still hear Michele screaming, so I come around
13 my car, around the back of it, to the right side of my car.

14 Q So the passenger side?

15 A Yes, to the passenger side. I kind of -- first, I
16 jump -- I kind of got to my feet, I scrambled, around
17 staying low behind the car, and came around, towards the
18 front of the car. Uhm, I could still see he's got the gun,
19 he's holding it. And it looks to me like he's looking for
20 Michele on the other side of her car. So, he's got the gun
21 out and he's hunting for Michele. I can hear her screaming,
22 because he's closer. He's closer -- I would imagine he's
23 pretty close to her.

24 And I had come around the car and gotten -- I went
25 flat, prone, lying on my stomach. Uhm, I'm close to the

1 car, I'm using the car as cover. But I'm also lying down on
2 the ground, because, you know, I'm a big guy, and I have to
3 try and make myself as small a target as I can. He's
4 already shot at me once, so I'm down on the ground kind of
5 trying to make myself as small as I can. I have got cover,
6 but it's also -- I'm screaming at him, "Stop, put down the
7 gun, put down the gun." And he's still got the gun out and
8 he's looking for Michele. All I can think of is if he gets
9 a shot off at Michele with that rifle, she's going to die.

10 And so I'm still screaming at him, "Hey, stop,
11 stop, stop, stop what you're doing." But he's actively
12 hunting her with a rifle. He's looking to try to get a shot
13 off at Michele. So, you know, the only --

14 Q What was he doing that made you feel like he was
15 looking for her?

16 A Because he's looking around the car, he's kind of
17 trying to look over the car. So I think Michele is on the
18 other side of the car, he's looking over, he has the gun up
19 so if he sees her he can just kind of go like that with the
20 rifle (indicating).

21 Q Okay. So can you see Michele at this point?

22 A I cannot see Michele.

23 Q So you assume she's on the other side of the car
24 by virtue of what he's doing and looking?

25 A Yes. Yes. I can't see her, and I'm assuming

1 she's on the other side of the car.

2 Q And you can hear screaming coming from the area?

3 A Yes. And, so, in my head I'm thinking, he's
4 already shot at me, he tried to kill me with the gun, I
5 heard it, I'm positive he shot at me, because I saw it
6 coming up, I heard the shot go off, it was super loud. I
7 dove behind the car, came around, and now he's trying to get
8 a shot at Michele. And I am screaming at him, "Stop, stop,
9 stop, drop the gun," and he's not listening to me at all.

10 So, I've got to stop him from shooting Michele, so
11 I started shooting at him. I was down, lying on the ground,
12 you know, in a prone position. And, you know, my biggest
13 thing is I've got to stop him before he gets a shot off at
14 Michele. Because if he shoots Michele with that rifle,
15 she's going to die.

16 Uhm, so, I started shooting him, and I'm shooting,
17 we're trained the center mass of him. And as I'm shooting
18 him, it doesn't seem like anything is happening, he's not
19 stopping. He's still actively hunting for her, and he has
20 got the gun looking for a target. And I'm shooting at him
21 and it doesn't -- like, am I hitting him at all even, is
22 what I'm thinking in my head. If I'm hitting him, it's not
23 doing anything to him at all.

24 If I am -- if I'm hitting him, it's not doing
25 anything, you know. I don't think I'm missing, I don't

1 think so, but nothing is happening. And so, he's -- as I'm
2 shooting at him, he realizes it, I think, so he starts
3 turning, starts looking for me with the gun. I think he's
4 expecting me to be back behind the car, I come around. And
5 so he starts looking for me with the gun. And I never
6 stopped shooting, because the whole time, he's not stopped.
7 He's not, you know, for lack of better reference, it's not
8 like in the movies where you get shot, they fly back,
9 nothing is happening.

10 Q Is he firing his gun?

11 A I didn't hear him fire at this time, but at this
12 time he's still looking with the gun to try and find me now,
13 I believe. So, as I'm shooting him, he kind of walks --
14 starts walking in front of where Michele's car is. And as
15 he starts to cross in front of Michele's car, uhm, he still
16 is moving. And at that point, you know, we're trained to
17 really watch your backdrop, watch our backdrop, what is
18 beyond our target. And also to be very careful of what we
19 call crossfire, so we don't hit other police officers or
20 any, you know, civilians that might be around. I know
21 there's not any citizens around up there. My biggest
22 concern is Michele, not to hit her, but also where my
23 bullets might go if I did miss him.

24 Uhm, the biggest thing was, though, I had to stop
25 him, because he's trying to -- he tried to kill me, now he

1 was trying to kill Michele.

2 So as he starts crossing in front of the police
3 car --

4 Q By the front, you mean like the hood?

5 A Well, basically he starts coming this way
6 (indicating).

7 Q Okay.

8 A I'm assuming this is my car?

9 Q Yes.

10 A Yes. So he starts walking more towards that way.

11 Uhm --

12 Q Had he been kind of at the front of the car?

13 A He was -- as far as I could tell, he was more like
14 right in this area first, and then started moving that way,
15 because behind here is another brick building, and that was
16 my back drop when we started.

17 Q Uh-huh.

18 A So he starts moving that way, and the thing is
19 he's not falling to the ground. He's still moving, he's
20 still completely under his own power, and he's still got the
21 gun. And, uhm, by the time he got to the front of where
22 Michele's car was, he is still under his own control. He
23 lays down under his own power. It's not like he flopped on
24 the ground, he still is totally -- as far as I can tell,
25 he's still under his own power. At that point, the only

1 reason I know somehow Michele or I hit him, is because his
2 leg is bleeding. And that's all I can see, but he's still
3 got the shotgun. I found out when he put it down in front
4 of me, I realized it was a shotgun. I thought it was a
5 rifle.

6 He walks over, lays down on the ground. At this
7 point I'm thinking he's -- okay, he's giving up. He holds
8 the shotgun still with one hand and lowers himself on the
9 ground and lays down on his side. And he just kind of puts
10 the gun out in front of him like this (indicating), so he's
11 lying on his right side in front of my police car, but his
12 body is facing me. I can see him, his body, and he kind of
13 puts the shotgun down. But it's right -- I mean, it's like
14 that. It's not even arm's length away, it's still right
15 here.

16 And, you know, I'm still yelling at him, "Hey,
17 stop." At this point I had gotten up, I had stood up. Uhm,
18 and I had to -- I was still covering him, because to me, he
19 had not reacted to anything that I -- me shooting at him.
20 To me, it was like he walked over there, laid down and gave
21 up. But I can still see him moving. I can still see him
22 breathing. To me, he's still a very real threat, because
23 the gun is right there. He can -- he's still moving his
24 arms. At any second, it can change again, and he can grab
25 that gun and start shooting again. Because as I said, I

1 can't tell other than his leg bleeding, I can't tell how bad
2 he's injured.

3 So, I'm covering him, I get on the radio, you
4 know, "625, shots fired, shots fired. We're at 7th and
5 Lombard." I knew that everybody would know --

6 Q 7th and Lloyd?

7 A I'm sorry, 7th and Lloyd, I got my L's messed up.
8 "We're at 7th and Lloyd, we're on top of the parking
9 structure." I knew that everyone knew that's a meeting
10 spot. So, I kept covering him with my gun, and I hear
11 people coming, I hear medical coming. Uhm, I'm covering
12 him, but I'm still -- to me, he's given up. He's not down
13 because he's injured. And I still think he can reach out
14 and grab the gun and start shooting at us again. So I'm
15 covering him and people are starting to come, like, hey,
16 he's still a big threat, you know. He's still a threat.
17 Don't just walk up to him, please, everybody watch him
18 because he's still alive. That gun is right there in front
19 of him, he can still shoot at us.

20 And so -- and, uhm, when my sergeant, Sergeant
21 McDaniel came up, he's like, "Okay, we got him covered, you
22 know, if he moves, we can take care of it. He's not --
23 you're going to get out of here now. You're going to walk
24 downstairs. He can't hurt you. We got him covered." I'm
25 like, "Don't let him move, please, because he has still got

1 that gun right there, he can still shoot at you guys. Don't
2 come into this thinking it's over, because it's not. He's
3 still alive, he's still moving, he can still get that gun."

4 And, I mean, afterwards, that was my biggest
5 concern, was he just -- I can see Michele come around
6 screaming, I'm screaming at Michele, "Are you okay? Are you
7 okay? Are you okay?" And she is extremely upset, you know.
8 And I'm like, you know, "If you're okay, we're going to be
9 all right." You know, and it's hitting me what happened,
10 because it was so fast. So, I'm just looking at her, I got
11 a split attention, like are you okay? And I can see she's
12 very upset. She's on the radio too, we're both giving
13 everybody that's coming in, "Hey, our guns are pointed this
14 way, come in from behind us," you know. Just all of the
15 things we're trained to do, to come, you know. I know
16 medical is coming for him. Michele is -- Michele said she's
17 okay, so I don't have to broadcast either one of us are hit.
18 So then they grab me and walk me downstairs.

19 Q So do you have a memory of how many times you shot
20 at him?

21 A I know how many times I shot at him.

22 Q Okay.

23 A I shot 18 rounds, because that's how many rounds
24 were in my gun. And I had to -- when I stood up, I had to
25 reload because I was out.

1 Q Okay. And do you remember hearing or could you
2 distinguish hearing Michele shooting?

3 A I don't remember hearing gunshots. I think maybe
4 one towards the end that might have been Michele.

5 Q Uh-huh.

6 A But, as I said, the whole reason, you know, I shot
7 all my rounds at him, is because he was still -- once he
8 started to give up, I was empty.

9 Q Sure.

10 A But the whole time I'm shooting him, nothing is
11 happening. I can't tell if it's having any effect at all.

12 Q Do you have a specific memory of hearing his gun
13 fire more than just the one time that you described?

14 A The one time is the one I heard. The one time I
15 know he shot, was the first time at me. After that I don't
16 remember.

17 Q You don't remember?

18 A I don't remember hearing any.

19 Q Okay. Okay. Some of these are 911 calls relating
20 that gunshots had been fired, so I'm trying to skip to the
21 track that has the dispatch -- that has the police officers,
22 you can hear parts of -- well, everything that was recorded,
23 you can hear. The very beginning you will hear Officer
24 Boer, she sort of sounds like she turns on the mic sort of
25 mid-transmission, and at the end of it you will hear what I

1 think is a gunshot. So I might need to play it a couple of
2 times, because it goes by pretty quickly.

3 FEMALE: "We need cars 7th and Lloyd.

4 Somebody is shooting at us!

5 DISPATCHER: 274 your location?

6 FEMALE: (Inaudible).

7 DISPATCHER: (Inaudible).

8 MALE: Where is she?

9 DISPATCHER: I'm mapping her now, stand by."

10 MS. SNOWDEN: This audio is not very good,
11 let me back up again.

12 FEMALE: "We need cars 7th and Lloyd.

13 Somebody is shooting at us!

14 DISPATCHER: 274 your location?

15 MALE: Where is she?

16 DISPATCHER: I'm mapping her now, stand by."

17 MS. SNOWDEN: Did you hear what she said?

18 GRAND JUROR: Somebody is shooting at us."

19 MS. SNOWDEN: Can you hear the shot after
20 that? No. Okay.

21 DISPATCHER: "Go to 6th and Irving, 65 is
22 that way.

23 MALE: Shots fired! Shots fired on top of
24 Lloyd -- 7th and Lloyd, 7th and Lloyd, shots fired!
25 Got one down!

1 DISPATCHER: Copy. Shots fired, we have
2 non-emergency off the air.

3 MALE: 608 en route. We need a safe route
4 in.

5 DISPATCHER: You have a safe route in. We
6 have medical staging.

7 MALE: 674 advise again.

8 FEMALE: Okay, we need more cars here right
9 now!

10 MALE: The north ramp of 7th and Lloyd, the
11 parking structure on top.

12 DISPATCHER: The north ramp, 7th and Lloyd,
13 parking structure on top.

14 FEMALE: Guns facing southbound.

15 DISPATCHER: Guns facing southbound.

16 MALE: Parking structure is at the northwest
17 corner of 7th and Lloyd.

18 DISPATCHER: Northwest corner 7th and Lloyd.

19 MALE: (Inaudible).

20 DISPATCHER: (Inaudible).

21 DISPATCHER: 3608? 3608 go ahead.

22 MALE: 3608 we got plenty of cops here right
23 now. Everyone else can slow down. We got one guy
24 down, we're giving him commands."

25 BY MS. SNOWDEN:

1 Q That's about it. I wanted to show you where that
2 matched up with the last video that we saw with whoever
3 arrived there on the scene.

4 So, uhm, okay. Uhm, you sustained some cuts to
5 your knee and pants, I remember, maybe a hand.

6 A Yes.

7 Q Let's see if I can find the photograph of that.
8 Uhm, do you remember how that occurred or do you know?

9 A Uhm, well, my knees was from diving behind the
10 car, I mean, when he was shooting at me.

11 Q Here we go. Right there. Okay. Looks like your
12 pant leg got torn?

13 A Yeah. The other one got ripped up, the other one
14 got skinned as well, both of them.

15 Q Okay. Uhm, all right. Other questions for
16 Officer Kula? All right. Well, again, glad that you were
17 uninjured, you and Officer Boer. Must have been a pretty
18 traumatic and terrifying situation.

19 A Absolutely.

20 Q Okay. Anything else that you can think of that I
21 have failed to ask you or we didn't cover?

22 A No, I think we covered everything.

23 Q Thank you.

24

25

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

5 EXAMINATION

6 BY MS. SNOWDEN:

7 Q All right. Please tell us your first and last
8 name.

9 A John Birkinbine.

10 Q Will you spell that for us?

11 A J-O-H-N B-I-R-K-I-N-B-I-N-E.

12 Q And you are a sergeant with the Portland Police
13 Bureau; is that correct?

14 A Correct.

15 Q All right. Please tell us about your involvement
16 in the officer involved shooting that occurred late in the
17 evening on March 4th of 2013, in the area of Northeast 7th
18 and Lloyd.

19 A I was working patrol. I was parked relatively
20 close to the area, about 14th and Northeast Halsey, when the
21 first transmission came out. Sounded like a female voice.
22 And she was -- the voice was -- the transmission was almost
23 unintelligible, sounded like they were in a fight, sounded
24 like they were in definite distress.

25 And so, believing it was Officer Boer, since she

1 was the only female on the shift that I could think of that
2 was working, I started heading towards the direction where I
3 last knew where she was. Over the next few seconds,
4 information came out over the radio that they were in the
5 area of Northeast 7th and Lloyd. So I went that way,
6 started asking for information on the air as the responding
7 supervisor. And then arrived as the first cover officer,
8 and the first supervisor on the scene on the top structure --
9 top floor of the parking structure.

10 Q When you got up there, you were the first car to
11 actually get to the same -- on top there, to your knowledge?

12 A Right. Well, no, I was. Officer Boer was there
13 and Officer Kula was there, and I was next.

14 Q Okay. And what did you see when you got up on
15 top?

16 A The scene was relatively static when I got there.
17 I saw police cars were split, one was parked to the south
18 side of the parking lot, one was parked to the east side.
19 There was a black BMW, which looked like a civilian car
20 parked a little bit in between them. I saw Officer Kula
21 down at the car towards the east, and he had his handgun out
22 and he was pointing at a subject who was down on the ground,
23 laying next to the police car parked to the south. And then
24 Officer Boer was standing behind the black BMW, also
25 pointing her gun to the south, and laying next to the

1 subject who was down, was a shotgun.

2 Q Okay. And what were they both doing or saying?
3 What was your initial interaction?

4 A My initial interaction?

5 Q With them, or what do you recall happening when
6 you observed them?

7 A Officer Kula -- I evaluated the scene before I
8 made contact with either one of them. Officer Kula was
9 focused, giving commands. Officer Boer was focused on the
10 subject who was down. And, uhm, my first impression after
11 looking at it was that this had been an ambush.

12 Q What did you do? Who did you make contact with?

13 A First thing I did, I went up to Officer Boer,
14 contacted her and stayed with her, and I waited for -- I
15 knew other cover officers were coming. So I waited for
16 Officer Blazer to -- or I waited for the next cover officer,
17 who happened to be Officer Blazer. He took up a position on
18 the right of me. He took cover on the subject who was down.
19 Then I had Officer Boer -- I pulled her back out of the
20 scene, and had her -- removed her, and had her sit in the
21 driver's seat of my police car.

22 As officers came, I started giving direction to
23 the other officers who were coming up on what I needed from
24 them.

25 Q Were you the officer that took her firearm away

1 from her -- Officer Boer?

2 A I didn't take it away from her. I had it her lay
3 it on the trunk of the car.

4 Q Okay. Why is that?

5 A She was overwhelmed by the events that had
6 happened. And she was -- her physiological reaction, which
7 is not abnormal to this kind of an event, was she was
8 shaking profoundly. And she was -- I was worried about her
9 continuing to be engaged with the subject. I was worried
10 about her ability to respond if he moved, or if she needed
11 to continue the fight that she had just been in.

12 And she was shaking so profoundly, that when I
13 asked her to holster, she couldn't holster her weapon.
14 Because she had just been involved in this horrendous
15 incident, and she had just used that handgun to save her
16 life. And the idea of putting it away, perhaps was -- she
17 just was not ready to do that yet. And so, I'm just
18 guessing. She didn't tell me that, that's how it felt,
19 that's what it looked like. So, I just had her lay her gun
20 down on the trunk.

21 Q What happened next, that you recall?

22 A Uhm, with her or with the whole scene?

23 Q The whole scene.

24 A What happened next was, she -- or I had --
25 officers started to arrive. I asked Sergeant McDaniel to

1 form up a contact team to go and take the subject into
2 custody, who was down. I could see him bleeding out onto
3 the pavement. And so I directed him to go up, take him into
4 custody, so he could get medical attention as soon as
5 possible.

6 Q Do you recall or could you see whether or not he
7 was moving, the subject was moving?

8 A He was moving.

9 Q Okay.

10 A The other thing I did, I directed someone to go
11 down to Officer Kula, to go get him, bring him away from
12 where he was at. When officers are involved in a shooting,
13 one of the things that we do, we try to remove them as soon
14 as reasonably possible, to replace them with officers who
15 have not just been involved in a shooting. That's for their
16 protection and safety, and they have just been involved in a
17 life changing event. So we want to be able to make sure
18 they are okay. And then there were a myriad of other things
19 that were happening.

20 Q Okay. So a contact team is formed. Tell the
21 grand jurors what that is, what the plan was.

22 A A contact team is simply a team to either take
23 someone into custody, or, uhm, go confirm that someone is --
24 or go up and contact somebody for some reason. It's a team
25 of anywhere from, generally, three to upwards to either five

1 or six officers.

2 Uhm, and in a lot of situations, we'll assign a
3 sergeant to go with them, to lead that team specifically,
4 even though there's another sergeant who may be in charge of
5 the whole situation. And they are -- they'll assign
6 themselves each specific duties. One of them may be a less
7 lethal cover. One of them may be a lethal cover. You have
8 to have officers who are assigned to be the guys that
9 actually put their hands on the person, to take them into
10 custody. And then you'll have, in this case, somebody who
11 is carrying a shield out front.

12 Q And did Sergeant McDaniel handle that portion, or
13 were you coordinating that?

14 A Yes. No, I gave that assignment to him, he
15 handled all of that.

16 Q What was -- what did you do, then, at that point?
17 What is the focus of your attention?

18 A Once he is taken into custody?

19 Q Well, from the point that other -- you say other
20 officers are arriving. You now have gotten both of the
21 officers involved, kind of out of the scene. What is going
22 on at this point? Are you observing the contact team?

23 A I was not so much observing the contact team. We
24 had a lot of police officers arriving, coming up the ramp
25 behind us. I was giving out directions to start setting up

1 crime scene tape, and start preserving the scene. And I was
2 making a notification to a lieutenant who arrived on scene,
3 letting him know what we were doing and the information I
4 had, so that he could make notifications up our chain of
5 command. I was having a conversation with different
6 officers about doing different things.

7 Q I know medical was called for very quickly. Do
8 you recall, was that you or someone else?

9 A I didn't call for medical. I know they were there
10 quickly.

11 Q Uhm, all right. Anything else that I have
12 overlooked? Anything else for the sergeant? Okay. Thanks
13 for coming in.

14 JACK BLAZER,
15 called as a witness in behalf of the
16 State, being first
17 duly sworn, was examined and testified as follows:

18 EXAMINATION

19 BY MS. SNOWDEN:

20 Q Please tell us your first and last name.

21 A Jack Blazer.

22 Q Will you spell that for us?

23 A Sure. J-A-C-K B-L-A-Z-E-R.

24 Q And you are a Portland police officer?

25 A I am.

1 Q All right. Uhm, I understand that you are one of
2 the first responders to an officer involved shooting that
3 occurred at about 10:45 p.m. on Monday, March 4th?

4 A I was.

5 Q Tell us about that, where were you at the time the
6 call came in?

7 A Myself and Sergeant Birkinbine were sitting on the
8 Dollar Tree ramp at 14th and Northeast Halsey, having a
9 conversation.

10 Q Were you in separate cars?

11 A We were.

12 Q Were you car to car?

13 A Car to car.

14 Q Okay. And so, I presume, then, you followed him
15 to the location?

16 A Actually, I left first. Sergeant Birkinbine was
17 facing up the ramp, and I was facing down. And originally
18 we didn't know where Officer Boer and Officer Kula were.
19 And I had just went on a call with Officer Boer, and was
20 cleared from that call by Officer Kula, and that call was at
21 Tillamook and MLK. Initially, I thought that was where they
22 were, so I immediately began to head there. When I got to
23 about 9th and Broadway, that was when Officer Kula got on
24 the radio and told us where they were. And so I started
25 heading there, and it just so happened that Sergeant

1 Birkinbine and I got to the garage at the same time.

2 Q Are you familiar with the parking garage?

3 A It's my district for six years.

4 Q Okay. So tell us, then, what you recall when you
5 got to the top of the parking garage?

6 A When we came up to the garage, I was behind
7 Sergeant Birkinbine. As the ramp is -- you have to come
8 around the corner as you come up on to the parking area.
9 And when we came around the corner, Sergeant Birkinbine went
10 to the left, I went to the right of a -- there was a black
11 BMW parked. And I saw Officer Boer standing behind the BMW.
12 And I could see a police officer off to the right of that
13 car. And Sergeant Birkinbine went to the left, so I went to
14 the right.

15 As I came over to the right, I could see a subject
16 laying on the ground in front of a police car, and that was
17 where Officer Boer was pointing her gun at. And I could see
18 that the subject had a -- there was a shotgun on the ground
19 in front of the subject. Uhm, I kind of -- all kind of at
20 the same time, but I put my car in park, I grabbed -- I hit
21 the lock on my shotgun, grabbed my shotgun, came out of my
22 car, racked the slide, and headed towards Officer Boer.

23 Q I'm sorry, I'm interrupting you. I'm trying to,
24 if I can, put this up here. Thank you.

25 A We came up the ramp like this, and I parked right

1 about here, and Sergeant Birkinbine parked right about here
2 (indicating). And if I remember -- well, there were bullet
3 casings under the front of my car that I noticed later.

4 Uhm, I got -- Officer Boer was standing right about here
5 where the taillight is on that car. Uhm, the subject was
6 over here, the shotgun was a lot closer, it was basically
7 right laying on the ground in front of him.

8 Q Within arm's reach?

9 A Yeah. I got out, grabbed my shotgun, racked the
10 slide, put a round in there, ran over to where Michele was.
11 I positioned myself in front of Michele, but still behind
12 the car, and drew down on the subject. And, uhm, I held him --
13 well, pointed my shotgun at him. Sorry.

14 Uhm, when I went by Michele, I told her that we
15 were here, and that it was going to be okay. And I
16 continued to point my shotgun at the suspect. Uhm, my focus
17 was on him. I knew there were things going on behind me. I
18 could hear people talking, but I was mainly focused on him.
19 Uhm, he moved several times while he was laying there. His
20 arms moved out, kind of towards the shotgun, but never
21 extended far enough to reach the shotgun.

22 Uhm, whenever he moved, I yelled at him that if he
23 moved towards the shotgun, I was going to shoot him.
24 Several other, you know, everybody was coming. Uhm, I could
25 hear Sergeant Birkinbine talking to Michele, trying to kind

1 of disengage her from the situation. And I knew Brad was
2 there, I knew Officer Kula was there, but I didn't know
3 where he was initially. Uhm, for a split second, I thought
4 maybe he was in this car, because I couldn't see him, and I
5 had not heard him. I had been there long enough in my mind
6 that I should have heard where he was.

7 Uhm, I yelled to Sergeant Birkinbine, "Where is
8 Brad? Where's Brad?" And that was when I found out or that
9 was when it became apparent that Brad was over in this car
10 back here. He was back on this side down about here
11 (indicating).

12 Sergeant Birkinbine was driving a Tahoe. And when
13 he parked here, I couldn't even see this car when I came up.
14 So initially, I didn't know where that was. I didn't really
15 pay attention to anything down there. I continued to stay
16 here, cover the suspect, until a custody team was
17 established.

18 There were some other cars that were here that had
19 come up, and there were more cars back here. And when the
20 custody team came up and approached him, I -- once they got
21 down range of me, then I, you know, put my gun down, as they
22 went and took him into custody.

23 Q And do you recall hearing Officer Kula yelling
24 commands?

25 A Yeah. There were several people yelling. Uhm,

1 because of where Brad was -- Officer Kula was, I'm -- and
2 from where I was, the shotgun was laying this way, and I
3 would -- in my mind, I'm sure that it looked to Officer Kula
4 like the shotgun was a lot closer to the subject than from
5 where it was, where I could tell, just based on the angle.
6 Uhm, whenever he moved, I know Brad yelled at him several
7 times. I yelled at him several times. He continued to move
8 off and on. There were other officers over here that had
9 come in later, that also gave commands to him. I was the
10 closest, and I had the best view of what was going on. And
11 I think I gave the most commands, but I couldn't say that
12 for sure.

13 Q Okay. Were you there when the custody team got
14 over to the suspect?

15 A Yes.

16 Q Could you see that they then moved the gun away
17 from him?

18 A Yeah. What happened was, when they got there,
19 they went up there with a ballistic shield. And they put
20 the ballistic shield on top of the suspect, and pinned him
21 to the ground. Someone moved the shotgun away. And then
22 they moved the shield, and grabbed his hands and handcuffed
23 him. So the shotgun had -- was moved out of the way,
24 because of how they had to get to him. That's the dangerous
25 thing.

1 Q Right. And then you subsequently indicated with
2 some crayon or chalk or something, some of the casings that
3 were on the ground?

4 A Yeah. We were not -- we were not sure what -- in
5 the interests of preserving evidence and all that stuff, the
6 casings that were right around the front of my car, I began
7 to circle them. You can't see them a lot of times, it's
8 dark. You know, you want to try to find -- you don't want
9 to destroy any kind of evidence. I started to circle them
10 around there, because that's usually the easiest way.
11 Sometimes we put cards out to mark them. But if the wind
12 blows or something like that, then it can move them. I
13 carry a yellow crayon in my car, and you can write, circle
14 stuff, or whatever. I started to do that.

15 Then shortly after that, they had everybody come
16 back out. We basically -- we had -- they had roped off from
17 here down, I think, to the end of -- I'm not sure exactly
18 where it went. But it went here, and I think it went to
19 Sergeant Birkinbine's car and then back. They wanted
20 everybody out of that area, so they backed us all out. I
21 think I probably circled maybe three or four, I couldn't
22 remember off the top of my head.

23 Q Okay. Questions?

24 GRAND JUROR: When they handcuffed him, was
25 his hands behind him or in front at that point?

1 THE WITNESS: When they --

2 GRAND JUROR: When they took the shield off
3 and they handcuffed him back like this, was he laying
4 on his side or stomach or what?

5 THE WITNESS: He was laying on his side,
6 initially, and when he was moving, like the shotgun
7 was here, he was kind of moving like this. He was on
8 like his back to his side, if that makes sense, not
9 flat on his back, but not completely turned over,
10 either. I'm sure they cuffed him behind his back,
11 because that's our standard procedure. We never cuff
12 anybody in the front. I was not close enough, there
13 were so many people, that I didn't get to see that
14 part of it. Uhm, I think they probably -- I don't
15 know, they probably went up with four or five -- maybe
16 four or five people, I don't know.

17 BY MS. SNOWDEN:

18 Q We have other officers that approached. So we can
19 ask them. Any other questions? Okay. Thank you for
20 coming.

21

22

23

24

25

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

5 EXAMINATION

6 BY MS. SNOWDEN:

7 Q Please tell us your first and last name.

8 A My name is Joel Ockunzzi, and it's
9 O-C-K-U-N-Z-Z-I.

10 Q All right. And you are a Portland police officer?

11 A I am.

12 Q And, uhm, I understand you responded to a call of
13 shots fired late in the evening of March 4th of 2013?

14 A I did.

15 Q And what time did that call come out?

16 A Approximately 10:30, 10:40.

17 Q And tell us about what happened when you arrived
18 there at that location?

19 A When we arrived, I was in a partner car. My
20 partner and I had parked on the lower level of the parking
21 garage. We ran up the ramp, that way we were not driving
22 into something. We ran up the ramp. As soon as we crested
23 the ramp, I could hear Officer Boer shouting that, "He had
24 been chasing us with a shotgun." The ramp that we ran up is
25 on the north side. So then we went south, and I could see

1 there was a black BMW that had two officers at the trunk of
2 it, and they were looking to the south.

3 And then I could see to the east, there was
4 another patrol car that had its take-down lights, it was
5 facing to the west. And then even further south of the BMW,
6 there was another patrol car that was also facing to the
7 west. I went up to the BMW at the back of the patrol car
8 that was in the southwest quadrant of the parking garage,
9 there was the patrol car and a man lying at -- behind the
10 trunk of the car. He was lying on his right side, and there
11 was a shotgun that was just beyond his reach, I would say by
12 a couple of inches of his hand. And I believed it was a
13 shotgun because of the barrel length of it. It had a very
14 long barrel, like a sporting shotgun. And I had also saw
15 red shot shell holes on the ground, like spent shot shell
16 holes.

17 And so the officers were challenging him, just
18 telling him not to move, not to go for the gun, that he may
19 be shot. Then there was -- I could hear a little bit of
20 talk of guys behind us. It was kind of hard to hear,
21 because there was a lot of rap music that was loud coming
22 from inside of the BMW.

23 And, so, fairly quickly, as we were challenging
24 him, we had a custody team that broke off from the car that
25 still had two people, as a lethal long cover on him that

1 went with the custody team, and we had a shield bearer, and
2 a rifle and a couple of officers to go hands-on. And we
3 kind of swung up, so we weren't in their line of fire, and
4 then kind of made almost like a wide C, you would call it,
5 and then came down using the car also a little bit, the
6 patrol car that he was sitting behind to our right flank.
7 And then the shield bearer pinned him to the ground, and I
8 grabbed his waist, while some other officers pulled, we got
9 the shotgun away from him, and then pulled his arms out. So
10 there was no access to the shotgun that was just beyond his
11 hand.

12 And then we rolled him over onto his stomach, so
13 we could bring his arms back to cuff him. As we did that, I
14 pulled his lower body around. And then he -- was checking
15 to make sure there was not a firearm in his waistband. A
16 lot of times it's common for people to have multiple weapons
17 on them. So we put him in handcuffs, then put him in what
18 we call the post-shooting position, which is on their side
19 so they can breathe. You try and pull their knees up a
20 little bit, it kind of gives the best access for an airway.

21 At that point, the sergeant had had everyone
22 except for myself and Officer Fritz, leave the area. And
23 fairly quickly, the medics arrived, and we then uncuffed
24 him. As we had already patted him down and did not find any
25 weapons, they then cut his clothing off and checked him, and

1 wanted to load him up onto the gurney, and we did that.

2 Uhm, so --

3 Q And did he -- do you recall, did he appear to be
4 alive or deceased, or could you tell?

5 A I believe he was still alive, there was some
6 gurgling. I could see that his eyes were rolled back in his
7 head, but not completely. I could still see some of his
8 pupil. He had -- you couldn't see -- when they cut his
9 shirt off, you could not see any bullet holes or anything on
10 his chest or back that I saw. And they were kind of
11 commenting, AMR was commenting a little bit, trying to check
12 for that. There was a heavy amount of blood coming from
13 kind of the pelvic girdle and his right thigh, I remember.
14 And it also looked like there was a round that may have
15 impacted somewhere around his head.

16 But when I picked him up, though, I could
17 definitely tell his right leg -- I believed his femur was
18 broken. Because it was twisted and very difficult to pick
19 him up, because there was some plasticity of the skin, I
20 guess, was basically what the structure was. There wasn't a
21 lot of rigidity in the body. So I figured that it was -- he
22 was not responding to anything. So he was still alive it
23 seemed, but very close to death.

24 MS. SNOWDEN: Okay. Questions? All right.

25 Thank you, very much.

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

5 EXAMINATION

6 BY MS. SNOWDEN:

7 Q All right. Please tell us your first and last
8 name.

9 A Craig Gervais.

10 Q And if you could spell it for us?

11 A Last is G-E-R-V-A-I-S.

12 Q You're a Portland police officer?

13 A That's correct.

14 Q I understand that you were employed and on duty on
15 March 4th, 2013, at about 10:45, when you responded to an
16 officer involved shooting?

17 A That's correct.

18 Q Are you familiar with that area and that parking
19 lot?

20 A I am.

21 Q How are you familiar with that?

22 A Officer Kula and sometimes Officer Boer, we would
23 meet up there during some down time.

24 Q So you had been there --

25 A Several times.

1 Q Okay. How did you -- where were you when you
2 heard about the call?

3 A 7th and Southeast Morrison.

4 Q Tell us about what you observed when you arrived
5 there on scene.

6 A When I got there, there was some confusion at the
7 bottom of the ramp. I could hear Officer Kula directing
8 folks arriving to up the ramp. I knew what he meant. I
9 knew he was there, so I went up to the north side ramp
10 that's on the first level, it's only two levels. Uhm, as I
11 turned the corner, I saw two patrol cars and another unknown
12 make vehicle in the middle of the parking ramp or structure.
13 And one patrol car had its two lights on, the spotlight and
14 the take-down lights, which are extremely bright. I
15 couldn't tell what officer car that was.

16 I I could see another patrol car to my left. I
17 could hear Michele crying. And so I exited my patrol car, I
18 heard her crying, then went over there to render assistance
19 over there. I could hear Officer Kula at that time. Now I
20 knew where he was, off to my left. I still couldn't see
21 him, but I could hear him.

22 Q What was he saying or doing?

23 A He was telling the downed subject, "Don't move."
24 Other officers were arriving basically simultaneously at the
25 time. And he was basically saying, "There's a gun near him,

1 he's still moving." And it was apparent he was still
2 moving, and that's all I could see at that point.

3 Q Okay. And were you part of the take-down team?

4 A I was not.

5 Q And did you have any other -- what did you do
6 after that? What was your role?

7 A Uhm, after Officer Kula was escorted down to the
8 second level, after I stayed up there for maybe another
9 minute or two, I went down where he was.

10 Q Okay. So were you assisting him after the fact?

11 A Yes. Yes.

12 Q What was his demeanor like?

13 A State of shock, disbelief. We all were.

14 Q Okay. All right.

15 MS. SNOWDEN: Questions? Thank you for
16 coming.

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

5 EXAMINATION

6 BY MS. SNOWDEN:

7 Q All right. Tell us your first and last name.

8 A First name is Ney, N-E-Y, last name is
9 Phothivongsa, P-H-O-T-H-I-V-O-N-G-S-A.

10 Q Thank you, Officer Phothivongsa. I know that you
11 responded to an officer involved shooting on March 4th,
12 2013, about 10:45 p.m.; is that correct?

13 A Yes, I did.

14 Q And I have observed and so has the grand jury now,
15 some video from your patrol car. Can you tell the grand
16 jurors what the MAV video system is?

17 A The MAV video system, we just started it
18 approximately July of 2012. It basically records audio and
19 video footage of incidences that we're involved in.
20 Primarily all calls we go to, whoever drives that car.
21 There's self triggers that can turn the car on, like if it
22 gets in a wreck, it automatically turns it on, but it goes
23 back and records like a minute prior to what happened.
24 Lights and sirens will turn it on. Speed, if I go over a
25 certain amount of speed, it turns it on automatically. And,

1 of course, we turn it on ourselves on every call.

2 Q So your video was videotaping your response to the
3 scene; is that correct?

4 A Correct.

5 Q Okay. And so, what happened, and what did you do --
6 what do you recall happening when you got there on scene?

7 A Uhm, I drove up, and obviously, there were
8 officers that were already there. So, I just got out,
9 walked to where the main team of officers were. And Officer
10 Michele Boer was seated in the sergeant's car. And I just
11 assisted.

12 Q Okay. And Sergeant Birkinbine assigned you to
13 assist her?

14 A Sergeant Edgecomb.

15 Q Oh, Edgecomb did. Okay.

16 A I actually asked -- it was obvious to me she was
17 involved. She was crying and pretty hysterical. And the
18 suspect was not in custody yet, and this is still a tense
19 moment. And we had enough officers to deal with that, so I
20 escorted her out.

21 Q What did she say to you?

22 A I didn't ask her any questions. She was just
23 hysterical, scared, I mean, it just happened. Uhm, she was
24 crying and yelling. She stated as we were walking out, you
25 could hear it on the video as well, her exact words were,

1 "He was chasing me with a shotgun."

2 Q And do you recall Officer Kula making any
3 statements?

4 A Yes. As I approached there, I could hear him
5 yelling and screaming, and it's also on the video as well.
6 Word for word, he stated, "The fucking gun is right there.
7 Don't let that fucker move." Uhm, and his next statement
8 was, "Don't even fucking move, fuck." And, "He's still got
9 his gun out." Obviously, I knew he was involved right after
10 that. And he was by himself, still over to our far left.

11 Q So from the time you arrived, did you see any
12 officers or hear any gunshots while you were present?

13 A No.

14 Q Okay. All right. Questions for this officer?
15 All right. Thanks for coming.

16 A Thanks.

17 CHRISTOPHER KENAGY,
18 called as a witness in behalf of the
19 State, being first
20 duly sworn, was examined and testified as follows:

21 EXAMINATION

22 BY MS. SNOWDEN:

23 Q Please tell us your first and last name.

24 A My name is Chris Kenagy.

25 Q And can you spell Kenagy for us?

1 A K-E-N-A-G-Y.

2 Q Okay. And how are you employed?

3 A Portland police officer, sergeant.

4 Q And I understand that you had some role in
5 securing Officer Boer's gun following this event?

6 A I did.

7 Q Tell us what that was.

8 A When I arrived on scene, I was approached by
9 Officer Garrison, another officer who had picked up Officer
10 Boer's gun off of a patrol car right there on the scene,
11 secured it in his pocket with the magazine and the rounds.
12 And when I got there, he gave it to me. And I secured it in
13 the trunk of my vehicle until I released it to Detective
14 Sponhauer.

15 Q Did you deliver it to Officer -- or, I'm sorry, to
16 Detective Sponhauer in the same condition you received it
17 in?

18 A I did.

19 Q Okay. And that's really the only reason I've
20 called him, so it's not very -- any other questions for this
21 officer -- sergeant? No, okay.

22

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

5 EXAMINATION

6 BY MS. SNOWDEN:

7 Q Please tell us your first and last name.

8 A Jeffrey McDaniel.

9 Q And will you spell that for us?

10 A J-E-F-F-R-E-Y M-C-D-A-N-I-E-L.

11 Q You're a sergeant with the Portland Police Bureau?

12 A Yes, ma'am.

13 Q Please tell us about your role in the officer
14 involved shooting that occurred March 4th, 2013, about 11:45
15 p.m.

16 A 10:45.

17 Q I'm sorry, 10:45 p.m. thank you.

18 A When I heard the radio calls come out, I started
19 heading from -- I was at north precinct in my car. So I
20 went down Martin Luther King. When I arrived, I saw the
21 black BMW parked, I saw the suspect down by the trunk of
22 Officer Boer's patrol car, the shotgun laying near him.
23 Sergeant Birkinbine was already there. And he told me to
24 assemble a custody team to go up and take the person into
25 custody.

1 As I started to assemble the team, I heard Officer
2 Kula yelling at the guy to not move. I knew Officer Kula
3 was involved. I saw him down by his patrol car, and I knew
4 we needed to remove him from the scene, because we had other
5 people there to take over now, as per our protocols. So I
6 went down and tapped him on the arm and said, "Okay, Brad,
7 you're okay. You can holster up now." And he turned and he
8 looked at me, and he said -- you want me to say it?

9 Q Yep.

10 A He said, "He fucking ambushed us. He fucking shot
11 right at me." I said, "Okay." He was still on target with
12 the guy. I said, "It's okay, Brad, we got him now. I got a
13 whole bunch of cops back there. We're okay. Go ahead and
14 holster up." He started holstering up, he put his gun away.
15 I'm like, "Okay, I got to get you out." I had to kind of
16 had to pull him a little bit, because he was still radar
17 locked on the guy.

18 I got him walked out, got him down the ramp. I
19 saw Officer Boer sitting there and saw the person -- Pat
20 Johnson, who is her usual partner, come up the ramp. So I
21 wanted her to be with him, because I knew she would be
22 comfortable with him. I sent them down to the bottom deck
23 of the parking garage. They would be separate from
24 everything. I told the officers, obviously, we had to keep
25 them separate, all that kind of stuff.

1 I went back to assemble my custody team. I had
2 Officer Bowen who is from Beaverton police, Officer
3 Westmeister who is West Linn. They were a transit car that
4 was in the area, and so they came by to help. Officer
5 Snitley, who was our lethal cover for that, he's a member of
6 our SERT team, who has a little bit of additional training,
7 and Officer Jim Fritz. And we did the approach. Officer
8 Bowen was on the shield. We had the shield put together.
9 We did our approach straight across the parking lot to the
10 south, to the front of Officer Boer's car, then went down
11 the length of the passenger side of her car towards the
12 suspect.

13 When we got close, Officer Bowen put the shield on
14 him, rolled him onto his back, laid on top of the shield to
15 pin him there, until Officer Fritz and Officer Westmeister
16 could get a hold of his hands. Once they got a hold of his
17 hands, I told Officer Bowen, okay, lift the shield so they
18 can roll him. He lifted the shield, they rolled him over
19 onto his stomach. Put him in handcuffs. One of them did a
20 quick pat-down on him. I told him, okay, you need to roll
21 him up on his side, post-shooting position. We have been
22 taught through our training, put them in the post-shooting
23 position, that way they don't asphyxiate.

24 As soon as we put him in that position, I hadn't
25 at that point during our approach -- when I originally got

1 there, I had seen him breathing and moving. During our
2 approach, I hadn't seen him breathe or move to that point.
3 Once we got him rolled back up onto his side, he took like
4 an agonal breath. As soon as I saw that, the medics were
5 coming around the corner with their gurney. I told them,
6 "Hey, we need to get the handcuffs off so as soon as they
7 can get here they can start treating him."

8 As they rolled up, Officer Fritz goes, "I don't
9 know if he's been searched." So it must have been Officer
10 Westmeister who searched him the first time. I said, "Okay,
11 search him again. Then get the handcuffs off." I handed
12 Officer Fritz my handcuff key, and he removed the handcuffs
13 right as the medics were getting there. They came up, cut
14 his clothing off, asked us where he had been hit. We said,
15 we really don't know, we just got up to the guy. We don't
16 know where he has been hit. When they got the shirt off, I
17 did see one strike like up in this area here, but it was
18 obvious that he was hit in the legs, because there was a lot
19 of blood coming out of his legs.

20 They put him on the gurney, they took him away. I
21 told the guys that were on my custody team, "Okay, this is --
22 we're in the crime scene, now we need to move back away from
23 this area here," and to be careful where they were stepping.
24 Because at this point, when we were going in and dealing
25 with him originally, we're trying to get our tasks done.

1 Now that we're done with that, we're trying not to disturb
2 the evidence. So we had them retreat to back behind where
3 we were stringing up tape for the crime scene area, and then
4 we hung out and waited for detectives to do their thing.

5 Q Okay. Any questions of Sergeant McDaniel? Thank
6 you.

7 MARK SPONHAUER,
8 called as a witness in behalf of the
9 State, being first
10 duly sworn, was examined and testified as follows:

11 DIRECT-EXAMINATION

12 BY MS. SNOWDEN:

13 Q At one one point, these reports were all
14 organized. Tell us your first and last name.

15 A Mark Sponhauer, S-P-O-N-H-A-U-E-R.

16 Q And you are a detective with the Portland Police
17 Bureau?

18 A Correct.

19 Q And, specifically, uhm, what's your role as a
20 detective with the Portland Police Bureau?

21 A Currently assigned to the homicide detail.

22 Q And does that responsibility include investigating
23 officer involved shootings, as well?

24 A Yes.

25 Q Please tell us what your role was in the officer

1 involved shooting from March 4th, 2013, at Northeast 7th and
2 Lloyd, the top of the parking structure there.

3 A I was assigned to the crime scene detail. And
4 specifically, my responsibility was to produce a word
5 picture, which is a document that supports photographs and
6 video that is taken at the scene.

7 Q And if you can just sort of go through for us a
8 general description, we do have a photograph up above you.
9 But maybe in conjunction with that, you can describe and
10 note relevant evidence for us.

11 A So you have probably been told north is facing
12 this way. And in this printout, this is a crime scene
13 diagram that was produced. Uhm, and on here you will see
14 the dark colored BMW, and then the two patrol cars, this one
15 and this one (indicating).

16 Q And we'll have Detective Beniga walk through what
17 each of these numbers represent. But if you can explain for
18 us notable, you know, weather conditions, positioning of the
19 cars, et cetera.

20 A Okay.

21 Q So, uhm, the weather conditions that day, uhm,
22 according to the historical weather report, it was about 45
23 degrees, there was some passing clouds and a periodic wind
24 of about 13 miles per hour.

25 The location was well lit. You can see all these

1 lights here on these towers, they were all working except
2 this one, which is a single light here. And what you also
3 can barely pick up is on the outside of these -- this
4 building, and then a building right here, it's another stair
5 case, and another building at this corner, and then an
6 elevator that is about here (indicating). They also had
7 sodium lights on that produced quite a bit of light.

8 In addition, there are street lamps that don't
9 show up very well here. But they are placed about here and
10 about here. And those are elevated above this lot. This
11 lot has about approximately a five foot drop from this end,
12 the west end, down to the east end. So it goes down hill
13 about five feet or so. So those lights also shined up on
14 the pavement. And the pavement was either painted or
15 stained a light reflective material. It actually had a
16 little bit of sparkles in it. So it reflected light pretty
17 well. So the lighting conditions were very good.

18 As you can see, this is the up ramp from the third
19 floor, and the down ramp is on this side over here. Uhm,
20 this patrol car, its head lamps were off, its take-down
21 lights were on, which is these lights on the light bar, and
22 the spotlight was on. The spotlight was shining directly
23 into the BMW. And the driver's window was down, and the car
24 was idling in park. It had a rifle that was locked in its
25 armory rack in the center of the car.

1 This vehicle, uhm, was idling in drive too. And
2 the only reason it stayed in place was because of the
3 elevation gain, so it was pointing up hill. And later that
4 morning when I reached in and turned the ignition off, I
5 didn't realize it was not in park, so it actually rolled
6 back a few inches before I got it stopped. That's why I
7 know it was held in place. So the parking brake was not on.
8 Its window was also down. Its spotlight was on, the
9 spotlight was shining to the back area of this car, not in
10 the car, but to the back of it. And the right, rear
11 passenger window was down, maybe about three inches.

12 Q So all three of these vehicles, the driver's side
13 doors are open. Is that the condition that you found them
14 in?

15 A Uhm, when I arrived, I saw this door was closed.

16 Q Okay.

17 A So, I don't know if somebody had, you know, closed
18 it or bumped against it or whatever. When I saw it, it was
19 already closed. I just document, you know, what I see when
20 I get there. And ideally, officers leave the scene as soon
21 as they can once the thing is secured, and then they tape it
22 off, secure it, so no access, so it stays as pristine as
23 possible, given weather conditions.

24 The BMW, it was not running. Its parking lights
25 were on. Uhm, there was what looked like potentially an

1 iPhone, an Apple iPhone, looked very similar to that, was on
2 the center console of the car. It looked like the cord was
3 plugged into a power outlet in the car.

4 Uhm, and then you're going to have Detective
5 Beniga get into the different casings that were spread
6 around the location. But there were some live 9 millimeter
7 rounds and several spent casings around this car area, and
8 on this side of this car. And then there was some red
9 shotgun shells, both spent and unspent between these cars.

10 Q Okay. Any questions for Detective Sponhauer? All
11 right. Thank you, very much.

12 RICO BENIGA

13 called as a witness in behalf of the
14 State, being first

15 duly sworn, was examined and testified as follows:

16 DIRECT-EXAMINATION

17 BY MS. SNOWDEN:

18 Q All right. Please tell us your first and last
19 name.

20 A First name is Rico, R-I-C-O, Beniga, B-E-N-I-G-A.

21 Q And you're a homicide detective with the Portland
22 Police Bureau?

23 A Yes.

24 Q Please describe what your role was in the
25 investigation of an officer involved shooting at about 10:45

1 p.m. on Monday, March 4th, 2013.

2 A I was assigned as a primary investigator in this
3 particular incident. My investigating partner was Detective
4 Molly Dahl.

5 Q In the course of being the primary investigator,
6 presumably, you've gathered and read all of the reports of
7 other officers?

8 A Yes.

9 Q Including interviews with relevant witnesses, uhm,
10 Diego Cisneros, interviews that were conducted of other
11 officers about their observations, as well?

12 A Yes.

13 Q You have delivered to me in addition to all of
14 those reports, two large diagrams and one large photograph;
15 is that correct?

16 A Yes.

17 Q Okay. First of all, since this is up, can you
18 tell the grand jury what this is, this photograph, the whole
19 thing?

20 A This is a panoramic view prepared by our forensic
21 evidence personnel, showing an overview of the vehicles, and
22 you can see the placarded evidence items.

23 Q And how is this created?

24 A It's -- I don't know all the specifics, it's
25 called a GigaPan camera. It takes a series of photographs,

1 and it interlaces them. And what you do is -- what you end
2 up with is a panoramic view of the scene.

3 Q And then I already did that other side, if we can
4 put this up. Does it reach? Okay. Tell the grand jury
5 what this is?

6 A This is a scene diagram we've labeled macro-view.
7 It just encompasses the entire top deck area. And these
8 circles here, these dark circles, represent the placarded
9 items of evidence.

10 Q And then lastly, put this up, what is this?

11 A This is a diagram we've labeled micro-view, it's
12 just a closer view of the more immediate scene between the
13 cars. All these numbers represent the placarded evidence
14 items.

15 Q And specifically, with respect to rounds fired,
16 can you tell the grand jury generally, what sort of evidence
17 was collected at the scene suggestive of a shooting?

18 A I'll refer to what was determined to be Officer
19 Kula's car. The majority of the placarded items are 18 --
20 we counted 18 spent 9 millimeter casings.

21 Q When you arrived there on scene, uhm, was there
22 actually an empty magazine on the ground as well?

23 A That's correct. There's empty magazine -- placard
24 number 16 was an empty 9 millimeter magazine.

25 Q That magazine contains or holds how many rounds?

1 A 17 rounds.

2 Q And do you know from speaking with Officer Kula,
3 how many rounds were in the gun total?

4 A Eighteen.

5 Q How is it that there were 18 rounds in the gun
6 when the magazine holds 17?

7 A What happens, typically, is when you take a full
8 magazine of 17, you put it into the well of the gun and pull
9 the slide back. When the slide goes forward, it strips the
10 top round, puts it into the chamber of the gun, charging the
11 gun. Officers then will take the magazine out, and top off
12 the magazine. Then you have 17 in the magazine and the
13 round that was placed into the chamber.

14 Q For a total of 18 rounds?

15 A For a total of 18 rounds.

16 Q And what about Officer Boer's gun?

17 A We determined when we did a weapons count, she had
18 discharged seven rounds, which we later determined was
19 different. But we found four spent 9 millimeter casings of
20 hers, number 29, placard 29, placard 39, placards 46 and 47.

21 Q So, point out again for me where these are?

22 A 29 is --

23 Q Right.

24 A Correct.

25 Q And then 39?

1 A 39.

2 Q Okay. There we go.

3 A 46 and 47.

4 Q Okay. And there were four spent rounds, but were
5 there then three live rounds?

6 A That's correct. There were three unfired 9
7 millimeter rounds. We determined those to be 48, 50 and 41.

8 Q Okay. And, uhm, what about shotgun casings?

9 A We found three fired shotgun, 12 gauge shotgun
10 shells. And those are 27, which was actually inside of the
11 gun -- inside of the shotgun, in the chamber of the gun. It
12 had not been ejected. 49, just to the rear of the BMW, 44,
13 and 51.

14 Q And any live ammunition?

15 A We found one live 12 gauge shotgun shell, and that
16 was placard 45.

17 Q And that was on the ground?

18 A Correct.

19 Q How many rounds, tell us about what kind of
20 shotgun this was, how many rounds it held?

21 A It's a Benelli pump action shotgun. I believe the
22 maximum is five, but I know there are extenders. I don't
23 recall if this one had one. But in this case, we found the
24 four -- we found five really, four of them spent, and one
25 live.

1 Q So was there any additional live ammunition still
2 unfired in Mr. Cisneros's gun?

3 A No.

4 Q Did you check the area to see if there might be
5 any surveillance video that could show the events unfolding?

6 A We did. Just to the west is the Metro building.
7 On top of that, we observed a surveillance camera. We
8 checked with Metro personnel and determined it was not
9 pointed towards the garage area.

10 Q And what about strike marks, anywhere at the scene
11 to indicate that either of the officers' guns struck
12 anything or that Mr. Cisneros' gun struck anything?

13 A On the previous diagram, the macro-view, which is
14 placard 56, that was the east most perimeter of the top deck
15 of the garage. We believe we found a strike consistent with
16 pellet strikes along the small wall, and on the metal --
17 vertical metal post that held the wire cables.

18 In addition to that, placard L, the front right
19 rim of the car, had a cluster of what I believe was pellet
20 impacts.

21 Q Any other pellet impacts that you could find?

22 A No.

23 Q So, just the far end beyond Officer Kula's vehicle
24 and then the front of Officer Boer's patrol car?

25 A Correct.

1 Q And what about bullet strikes?

2 A We found bullet strikes in the BMW, and multiple
3 bullet strikes in what was Officer Boer's car.

4 Q And on what side or what area of Officer Boer's
5 car were there bullet strikes?

6 A It would be the passenger side, and they are
7 labeled here with letters, placards E, F, M, G and again, L.

8 Q Okay. And other than L, were they all smaller --
9 were they consistent with having been fired essentially from
10 Officer Kula's firearm, given his positioning?

11 A They were. And let me backtrack, L was not a 9
12 millimeter round, it was a shotgun strike that we referred
13 to earlier.

14 Q What area of the BMW had strikes?

15 A They're labeled A and B here, they are both on the
16 door. A was on the -- A was the handle of the door, and B
17 was on the frame of the door.

18 Q Okay.

19 A Front door.

20 Q A, and then what is -- what is C and D there?
21 What do those indicate?

22 A Additional strikes, as well. I believe C was on
23 the left rear passenger door, and D was on the left rear
24 tire. It caused the left rear tire to partially flatten.

25 Q And did both officers have the same type of gun?

1 A Yes.

2 Q So no bullet strikes on the -- I guess what would
3 be the south side of either of those vehicles?

4 A That's correct.

5 Q Okay.

6 GRAND JUROR: What's H and N?

7 THE WITNESS: More bullet strikes.

8 BY MS. SNOWDEN:

9 Q In the trunk area of the car?

10 A Correct.

11 Q Okay. And the trajectory of those strikes to the
12 extent that you could tell, did they all appear to be mostly
13 consistent with what would have been Officer Kula's vantage
14 point?

15 A That's our belief, yes.

16 Q Okay. You also attended the autopsy of Mr.
17 Cisneros; is that correct?

18 A Yes.

19 Q And there was -- I will pass it around -- a report
20 generated by Dr. Christopher Young. Have you had an
21 opportunity to review that yet?

22 A I have not.

23 Q Okay. Can you summarize for the grand jurors the
24 wounds that Mr. Cisneros suffered? And then I will also
25 pass around a copy of this certified report.

1 A Dr. Young determined that Mr. Cisneros was struck
2 nine times. One of the nine that he described, wound number
3 nine, was just a grazing round. He was hit in various parts
4 of his body, mostly on his legs, uhm, and one was in the
5 chin area.

6 Q And the one injury to the chin area perforated
7 part of his jugular vein; is that correct?

8 A That's correct.

9 Q Then, let's see, there was a gun shot wound to the
10 left hip, uhm, the left upper thigh, the right thigh, the
11 right thigh near the knee, the right leg, right thigh, and
12 then near the Achilles tendon on the right leg.

13 A That's correct.

14 Q And then there's the graze wound that you
15 referenced on the left torso; is that correct?

16 A Yes.

17 Q Okay. And then some abrasions on his face and his
18 hand -- or right elbow, maybe hand and elbow; is that
19 correct?

20 A That's correct.

21 Q Okay. I'll pass that around. You can review that
22 later. Uhm, okay. The cause of death was determined to be
23 what?

24 A Gun shot wounds.

25 Q Okay. I think that's all of the questions I have

1 for Detective Beniga. Does anyone else have questions for
2 Detective Beniga?

3 Oh, one other thing that occurred to me. You
4 became aware that it was reported that, in fact, Mr.
5 Cisneros may have been on the phone with his mother close in
6 time to this event; is that correct?

7 A Yes.

8 Q Okay. And as of this point, have you had the
9 opportunity to speak directly with Mr. Cisneros' mother?

10 A I have not.

11 Q Okay.

12 A I've made repeated requests for an interview, but
13 that has not occurred.

14 Q Okay.

15 MS. SNOWDEN: Any other questions for
16 Detective Beniga? All right. Thanks for coming.

17 We have also opened some medical records from
18 Emanuel Hospital. I will pass around medical records
19 for Mr. Cisneros, documenting his treatment at Emanuel
20 Hospital, which would have been late in the evening of
21 the 4th or early morning of the 5th.

22

23 (Whereupon, Grand Jury adjourned at 4:50
24 p.m.)

25

1 STATE OF OREGON)
) ss.
2 County of Multnomah)

3 I, JULIE L. BOURGEOIS, an Official Court Reporter
4 for the Multnomah County Circuit Court, hereby certify that
5 I reported in stenotype the foregoing testimony and
6 proceedings had in the aforementioned case; that thereafter
7 my notes were reduced to typewriting under my direction, and
8 that the foregoing transcript, consisting of 117 pages, is a
9 true and correct transcript of said oral proceedings.

10 Witness my hand in Portland, Oregon, this 22nd day
11 of March, 2013.

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15 JULIE L. BOURGEOIS
 Official Court Reporter
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