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

-----x	
STATE OF OREGON,	:
	:
	:
Plaintiff	:
	:
v.	:
	:
JOHN BARTLETT, BRIAN WHEELER,	:
ADI RAMIC	:
	:
Defendant	:
-----x	

No. 2469270-1,-2,-3

GRAND JURY A
PROCEEDINGS
Case No. 42

Conducted by:
Colin Benson, Brian Davison, Deputy District Attorney
DA Case No. 2469270-1, 2469270-2, 2469270-3

Transcribed by: Pamela C. Jacobson

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

GENERAL INDEX

		PAGE
1		
2		
3	<u>April 29, 2024 Proceedings</u>	
4	Case Called	3
5	Examination of Keisha Runcie	4
6	Grand Juror's Question(s)	17
7	Examination of Holly Eyler	19
8	Grand Juror's Question(s)	28
9	Examination of Phillip Nugyen	31
10	Examination of Deana Diaz	52
11	Examination of Christina Parsons	89
12	Examination of Tricia Mitchell	113
13	Examination of Max Klemm	122
14	Examination of Melody Brown	122
15	Examination of Eliza Lewis	133
16	Grand Juror's Question(s)	159
17	Examination of Taylor Woods	162
18	Grand Juror's Question(s)	205
19	Examination of Gabe Hertzler	209
20	Grand Juror's Question(s)	244
21	Examination of Mychal Costanzo	248
22	Grand Juror's Question(s)	273
23	Examination of Thomas Snitily	279
24		
25		

P R O C E E D I N G S

April 29, 2024

(9:16 a.m.)

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

MR. DAVIDSON: Okay. All right. So we are on the record in Grand Jury A. This was Case Number --

UNIDENTIFIED SPEAKER: Forty-two.

MR. DAVIDSON: -- 42. Okay. And we are here in three cases. They are DA Case Number 2469270-1, which relates to John Bartlett, -2, which relates to Brian Wheeler, and -3, which relates to Adi Ramic.

My name is Brian Davidson. My last name is spelled D-a-v-i-d-s-o-n. Here with me is --

MR. BENSON: Colin Benson. My last name is spelled B-e-n-s-on.

MR. DAVIDSON: Okay. And we are starting with our first witness in what will be a multi-day presentation to the Grand Jury. And I think the name of our first witness is --

MR. BENSON: Ms. Keisha Runcie.

MR. DAVIDSON: We'll bring Ms. Runcie in.

MR. BENSON: First question will be to have her pronounce her name for us.

MR. DAVIDSON: Ms. Runcie? Okay. Ms. Runcie.

1 Okay, Ms. Runcie, we're going to have you stand right there
2 next to that chair.

3 MS. RUNCIE: (Indiscernible)?

4 MR. DAVIDSON: Yeah, absolutely. And if you
5 wouldn't mind turning your phone off, that would be great.

6 MS. RUNCIE: Yes, yes. It's off.
7 (Indiscernible).

8 MR. DAVIDSON: Appreciate it. Okay. You stand
9 right over there, right next to the chair. Raise your right
10 hand and you'll be sworn in.

11 KEISHA RUNCIE
12 was thereupon called as a witness; and, having been first
13 duly sworn, was examined and testified as follows:

14 MR. DAVIDSON: Go ahead and have a seat. And if
15 you could state and spell your full name for us, please.

16 THE WITNESS: Yes. Keisha, K-e-i-s-h-a, last name
17 Runcie, R-u-n-c-i-e.

18 DIRECT EXAMINATION

19 BY MR. BENSON:

20 Q Runcie?

21 A Yes.

22 Q Is that right?

23 A Yes.

24 Q Okay, Ms. Runcie.

25 A Hi.

1 Q Thank you. I wasn't sure I wasn't sure I was
2 pronouncing that right. My name is Colin Benson. And tell
3 us a little something about yourself. Where do you work?

4 A I work at Target. I am an asset protection
5 specialist. I am undercover security for Target, mainly for
6 external theft.

7 Q Okay. I was actually going to ask that. So, part
8 of your job is -- sometimes you're referred to as loss
9 prevention officer. Is that right?

10 A Yes, yes. That's what it basically means, yeah.
11 Loss prevention officer, yeah.

12 Q Okay. And --

13 A But we have a different name for that.

14 Q So, what do you do as, in your role at Target?

15 A My main role is to basically try to lower the
16 theft percentage, so I focus mainly on external theft,
17 undercover, following people, by camera or by person, and
18 then apprehending them once they don't pay for stuff.

19 Q Apprehending them?

20 A Yes.

21 Q Okay. So, sort of like an arrest. Is that right?

22 A I don't personally do the hands-on --

23 Q Okay.

24 A -- part. We have a third-party security for that.

25 Q Okay. And you referred to following people with

1 the video. Can you describe kind of how that works?

2 A Yes. I basically have a camera setup on my desk.
3 Whenever I see someone coming to whatever aisle it is, or I
4 have a PTZ, where it's a pan-tilt zoom, so I could kind of
5 move around the cameras, and kind of zoom in, zoom out. So
6 we have different kind of cameras. We have cameras set up
7 on aisles.

8 Q Okay.

9 A And yeah, basically it's just surveillance, and
10 kind of watch through that.

11 Q Okay. And then, I'm going to refer to, sort of
12 specifically, December 27th, 2023. You were working in that
13 position --

14 A Yes.

15 Q -- that you just described?

16 A Yes.

17 Q And that was at Target?

18 A Yes.

19 Q And where, what Target was it?

20 A Mall 205.

21 Q Mall 205? That's --

22 A Yes.

23 Q -- in Multnomah County. Is that right?

24 A Yes.

25 Q Okay. So, just to set the scene then, these

1 cameras, it sounds like from your desk, you can follow
2 people --

3 A Yes.

4 Q -- around the store with these cameras.

5 A Yes.

6 Q Is that basically it? And with the cameras, are
7 you able to identify, sort of electronically, like an
8 individual you're following?

9 A Yes.

10 Q Tell us about that.

11 A Yeah. So, like I said before, with the pan-tilt
12 zoom cameras, those actually, I can move it with my hand.
13 So if they're going that way, I could kind of move it that
14 way, could zoom, and I could zoom out whenever I want to.

15 Q Is there a way that you could put a little yellow
16 square around an individual?

17 A No.

18 Q Oh. So if I saw a video of the outside of Target,
19 and I saw bits of like people with little squares around
20 them, would you know what that -- does that sound familiar
21 to you?

22 A Me personally, I do not know that. No.

23 Q Okay. All right. In fact, you sort of use these
24 cameras to your job as to sort of follow --

25 A Yes.

1 Q -- shoplifters. Is that right, sort of thing?

2 A Yes. Every day.

3 Q Okay. So, let's go back to the 27th. It sounds
4 like you were working in the store.

5 A Yes.

6 Q And I'm tempted to just ask you what happened.

7 A Okay, sure. I was on cameras, and I saw an
8 individual walk in to the store. The reason why I knew of
9 the individual was prior, maybe about a few months, I don't
10 the exact date, he was a subject for a armed robbery that
11 happened at the Powell Target. We were notified immediately
12 about the incident. We knew his name.

13 Q By who were you notified?

14 A Our field investigator for Target.

15 Q Okay, so the Target Corporation has --

16 A Yes.

17 Q Okay, notified you?

18 A Yeah.

19 Q All right.

20 A So, we knew the subject of what happened at
21 Powell, and he was armed, known to be armed. So we were
22 notified immediately to, for like a BOLO, basically not to
23 approach the person. So when he came in, I immediately
24 knew. I --

25 Q Now how did you identify him?

1 A I just knew his face. And I --

2 Q So, you'd seen him before. Is that right?

3 A I only knew him from the picture that I got for
4 him, from the field investigator.

5 Q Who submitted a photograph of this person?

6 A Yes.

7 Q Okay. Any --

8 A So he had a picture printed out. We had a flyer
9 in our office, for a BOLO, so make sure that we do not
10 approach that person.

11 Q Okay. And I'm tempted to ask sort of how certain
12 you were that it was the same person. Was there anything
13 distinctive about the way he looked?

14 A Yes. He had a tattoo on, I don't know which part
15 of the face, but he had a tattoo on his forehead that kind
16 of led down to his face.

17 Q Okay.

18 A Yes.

19 Q All right.

20 A So, I talked to my manager. I was like, I'm
21 pretty sure it's him. And she took out the flyer, and we
22 immediately knew, with the tattoo on his face, that it was
23 him.

24 Q Okay. And who is your supervisor?

25 A Holly, my manager, Holly Eyler.

1 Q That'd be Eyler?

2 A Yes, uh-huh.

3 Q Is that right, how you say it?

4 A Uh-huh.

5 Q Okay. All right. So you saw this individual walk
6 in?

7 A Yes.

8 Q Just, could you describe that for us? And you're
9 watching on video. Is that right?

10 A Yes. I saw him on video, because we have a camera
11 that's facing the entrance. I saw him walk in, grab the
12 cart, and he had his hand in his pocket the entire time.

13 Q Okay. What pocket?

14 A Like his jacket pocket. I don't remember which
15 arm -- hand, but he had his hand in the pocket, and
16 throughout the entire time.

17 Q Okay. And could you describe then what happened?

18 A Yes. So he came in the store. We immediately
19 knew who he was, so we were asked not to approach, so we did
20 not approach. I was on the camera the entire time he was in
21 the store, and outside. While I was on camera, watching
22 him, he was selecting some merchandise in the store, some
23 clothes, some knife set that's pretty expensive. While I
24 was on the camera and watching the subject, my manager was
25 on the phone with her higher ups, and then eventually called

1 911 about the subject that was in the store.

2 Q Okay. So, what happened after that?

3 A After that, he grabbed some merchandise in the
4 cart, bypassed it, did not pay. He continued to walk out.
5 He turned --

6 Q Out of the store? Sorry.

7 A Yes, out of the store.

8 Q Okay.

9 A He walked out of -- yeah, sorry. You were saying?

10 Q I was going to say, are you still watching him --

11 A Yes.

12 Q -- at this point, on the video?

13 A I am -- I watched, since when he got in to the
14 entire time, so I was still on cameras.

15 Q Okay. Like what did it look like, like when he
16 leaves the store? He just sort of walked out. Is that
17 right? Did he --

18 A He was kind of approaching the front lanes, kind
19 of like kind of looking around. I am assuming he was
20 probably looking for security. At that point, we made sure
21 all security presence were off the floor. We had people all
22 in the office, so we don't spook him.

23 Q Okay. All right. What happened next?

24 A He kind of looked around, and he walked out the
25 main entrance, because we have two. He walked out of the

1 store, with the cart. He turned a left towards Home --
2 not, sorry, Home Depot, T-Mobile, MAX area. I don't know
3 what street that is. I'm sorry about that. But he
4 continued to walk towards T-Mobile, kind of outside of our
5 parking lot, as he continued to walk with the cart, and the
6 merchandise in the cart. I saw a few police cars kind of
7 not really surrounding him directly, but kind of around.

8 And then, the camera was on him, so I didn't
9 really see exactly what happened, but I kind of saw him
10 ditch the cart and started running towards T-Mobile.

11 Q Okay. I'm going to back up a little bit. This is
12 a silly question. Did he pay for the items that were in the
13 cart?

14 A No, he did not.

15 Q Okay. So he left the store with the items in the
16 cart?

17 A Yes.

18 Q And then -- okay, so we'll go back to where you
19 left off. You described, and correct me if I'm wrong here,
20 police cars sort of converging. Would that be a good word?

21 A I guess so, yeah. Because it wasn't close to him,
22 but it seemed like they were kind of like surrounding him in
23 the, like the area.

24 Q Okay.

25 A Yeah.

1 Q And then he ran towards T-Mobile. What happened
2 then?

3 A Yes. He ran towards T-Mobile, and I see a, I
4 don't remember how many police it was, but police started
5 chasing them as he was running towards T-Mobile, MAX area.

6 Q Did you mean to say them? Did you mean, police
7 were chasing him, or --

8 A Him, sorry.

9 Q -- was there more than --

10 A Sorry.

11 Q Okay.

12 A We have to say -- we can't say him, him on our
13 reports, so him, yes.

14 Q Okay.

15 A Yes.

16 Q But it was a single individual that they were
17 chasing?

18 A Yes, the subject, yes.

19 Q Okay. What happened then?

20 A And then he was kind of in the corner of T-Mobile,
21 so I didn't exactly see him, but I saw the police, a few
22 more cars kind of parked around that area. I see a few more
23 police coming out of the car. They are trying to approach
24 him. And then, oh camera, I saw that the police were kind
25 of ducking, and kind of running away from that area. And

1 then I saw the guns drawn from the police.

2 Q Okay. See anything after that?

3 A No.

4 Q How come? Because he -- the video ended, or --

5 A I was still on live, but a few incident, I saw the
6 guns drawn. I can't really see anything from that, but guns
7 were drawn. And then, that was it.

8 Q Okay. Okay. Now, so there was an event, and
9 then, did you have a chance to talk to some police officers
10 after that?

11 A Yes.

12 Q At what time? Or how long later?

13 A I can't recall exactly, but I'd say 30 to an hour.

14 Q Okay. And this video -- I'm, sort of cut to the
15 chase, it sound like you answered their questions. Is that
16 right?

17 A Yes.

18 Q You gave --

19 A I answered their questions to my ability of what I
20 saw from, live.

21 Q Sure. And then, this video, was it -- did you
22 make a recording of the video?

23 A Yes. I saved all the videos that I have of him
24 live, from when he entered the store to when he ran, and had
25 the encounter with the police. I saved it and then gave it

1 to the police.

2 Q Turned it over to the police?

3 A Yes.

4 Q Okay. So, okay.

5 MR. BENSON: I don't know. Anything else?

6 MR. DAVIDSON: Yeah, just real quickly. And maybe
7 I missed it, because I was taking some notes.

8 BY MR. DAVIDSON:

9 Q But when you were notified about this individual,
10 and you received, I guess you call it a BOLO?

11 A Yeah, we just said BOLO, just be on the lookout.

12 Q For those of us who don't know what a BOLO is --

13 A Oh, sorry. Be on the lookout, is --

14 Q Yeah.

15 A -- what it stands for, basically not to approach,
16 be aware of the subject.

17 Q Okay. And what kind of information does the BOLO
18 contain?

19 A For him, specifically, it contained that he was
20 armed, known to have a weapon, known to draw a weapon for
21 any security individuals. So we were told not to approach
22 him, and basically just don't apprehend him because it's
23 not -- it's for safety reasons.

24 Q Okay. And when you say weapon, did it -- as far
25 as this prior incident that occurred at another Target,

1 where he pulled a weapon in the middle of stealing
2 merchandise, who did he brandish the weapon against?

3 A The loss prevention, so he's the same equivalent
4 to what I do.

5 Q Okay. And was the nature of the weapon detailed
6 in the BOLO you'd just received?

7 A It was a gun.

8 Q So, in this prior incident with this other Target,
9 he pulled a gun, in an attempt to do something similar to
10 what he was doing at your store. He is attempting to
11 shoplift?

12 A Correct.

13 Q When they attempted to stop him --

14 A Correct.

15 Q -- he pulled a gun on the loss prevention officer?

16 A Yes.

17 Q Okay. And maybe I missed this part, but did --
18 was the person identified by name?

19 A Yes.

20 Q And what was the name, do you recall?

21 A Tyrone Johnson.

22 Q Tylone Johnson was the name that was on the BOLO?

23 A Yes.

24 Q Okay. And did it include a photograph as well?

25 A Yes.

1 Q Okay. So this is all the information you had --

2 A Yes.

3 Q -- when you observed him in your store?

4 A Yes. We had his name, the picture of him on the
5 flyer, as well as his height, and yeah, what he looked like.

6 Q Okay, great.

7 MR. DAVIDSON: Yeah, I think that's all I got.

8 MR. BENSON: Yeah, I think so. Does the Grand
9 Jury have any questions for this witness?

10 GRAND JUROR: Sure. And you said that the police
11 confronted him in the parking lot when he was trying to run
12 towards T-Mobile. Did he ever make it into the store with
13 his --

14 THE WITNESS: He was not in the store. It was
15 outside. Everything happened outside.

16 MR. DAVIDSON: That actually reminds me of another
17 question I have.

18 BY MR. DAVIDSON:

19 Q The reason you weren't able -- at the time that
20 you saw the police kind of, you described them kind of
21 backing away, was the camera angle you had, were you
22 actually able to see Mr. Johnson at that point?

23 A No.

24 Q And do you know, why was that, exactly?

25 A From the angle that I had, we had the camera, he

1 was right on the side of the T-Mobile. So from my angle,
2 it was like this. So he was right here. So I was not able
3 to see Johnson, personally.

4 Q So your vision of him was obscured by the fact
5 that he was --

6 A Yes.

7 Q -- on the other side of the building?

8 A Yeah. So from my camera angle, all I saw was the
9 police, and the cars.

10 Q Okay.

11 MR. DAVIDSON: Anybody else? No?

12 MR. BENSON: No.

13 MR. DAVIDSON: Okay.

14 MR. BENSON: All right.

15 MR. DAVIDSON: Ms. Runcie, I think you're all
16 finished.

17 THE WITNESS: Okay, cool.

18 MR. DAVIDSON: All right. Can you step back, and
19 we'll --

20 THE WITNESS: Yes.

21 MR. DAVIDSON: -- get our next witness in here.

22 THE WITNESS: Yes.

23 MR. DAVIDSON: Okay.

24 MR. BENSON: Yeah.

25 MR. DAVIDSON: Holly Eyler.

1 MR. BENSON: Yeah.

2 THE WITNESS: Thank you.

3 MR. DAVIDSON: Thank you so much for coming in.
4 (Witness excused.)

5 MR. DAVIDSON: Go ahead and stand right there.
6 And if you raise your right hand, they will swear you in.

7 HOLLY EYLER

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

10 DIRECT EXAMINATION

11 BY MR. DAVIDSON:

12 Q Yeah, have a seat. And then, when you get settled
13 in, tell us your full name and spell your last name.

14 A Okay. My name is Holly Eyler, E-y-l-e-r.

15 Q Okay. Ms. Eyler, what do you do for a living?

16 A I am the executive team led of assets protection
17 at the Mall 205 Target store, which is a fancy name for a
18 security manager.

19 Q And Ms. Runcie, how are you related to her,
20 professionally then?

21 A She works underneath me. She's one of my
22 undercovers on my team.

23 Q Undercovers, okay. So, I'm going to take you
24 back -- she answered a fair number of questions for us. So
25 I'm going to take you back to December 27th, of 2023. Where

1 were you, on that day?

2 A I was at work, in the assets protection office.

3 Q And that is the Mall 205 Target. Is that right?

4 A Correct.

5 Q Okay. So, we'll cut to the chase then. So what
6 happened?

7 A So I was in the assets protection office, with
8 Keisha, who was maintaining surveillance on the video
9 surveillance system, when she said hey, this looks like the
10 subject involved in the previous incident at the Powell
11 location, involved in the robbery situation. I looked over
12 immediately, confirmed that it was the same subject, due to
13 the hair color and the tattoo, so I notified my boss, who is
14 the assets protection business partner.

15 Q Tell us about the hair color. What was it about
16 the hair color that was distinctive?

17 A It was that it was dyed blond on top, same hair as
18 the Powell incident. It was in braids, and dyed blond.

19 Q Okay. Just to be real clear, silly question, you
20 weren't at the Powell location during that?

21 A No.

22 Q So what you -- it sounds like you received some
23 sort of a communication from that --

24 A Correct.

25 Q -- store, that described an incident, and

1 described, I guess physically, this person. Is that how
2 it went?

3 A Correct. We both, through our, Target's reporting
4 system, but we also had received a BOLO from Portland
5 Police, involving the subject. And so we were able to see
6 their pictures through our reporting system, and then the
7 BOLO from Portland Police.

8 Q Okay. So that's something I missed. So there was
9 a BOLO from Target and also Portland Police, or --

10 A Correct, uh-huh. Yeah, so Target has its internal
11 reporting system and a way to share pictures and information
12 of an incident that takes place at their location, so all
13 the nearby stores can be aware. So we had been made aware
14 through our own reporting and communication as a BOLO
15 through Portland Police.

16 Q Okay. And what did the BOLO from the Portland
17 Police contain, what kind of information?

18 A It had a picture of the subjects' mug shot and
19 then their name and date of birth.

20 Q Okay.

21 A And then a small synopsis of the incident that
22 took place at the Powell location.

23 Q Okay. Just -- I don't mean to split hairs, but
24 was that description reasonably consistent with the
25 information received from the other Target store?

1 A With the exception of the hair being dyed blond.
2 The picture from the Portland Police did not have blond
3 hair, but in the Powell location, which was more recent, had
4 blond hair.

5 Q Okay. All right. So I'll take you back, then.
6 So, you were -- I forgot if you testified to this, but Ms.
7 Runcie notified you that this individual was in the store.
8 Is that what happened?

9 A Yes. We were both in the office at the same time,
10 when she was monitoring on the surveillance system and saw
11 the subject come in.

12 Q Okay. Sounds, from the testimony, that she
13 continued to monitor him. What did you do?

14 A I -- once I confirmed and saw, on the surveillance
15 system, I called my boss, and then notified her of the
16 subject, and kind of refreshed her on who he was. And at
17 that point, she had informed us that we should pull all
18 security teams to the office and notify Portland Police of
19 the subject being in our store.

20 Q Okay. Is that what you did?

21 A Yes.

22 Q So you gave the order to have the security team
23 pull back?

24 A Uh-huh.

25 Q And you called the Portland Police?

1 A Correct.

2 Q Okay. What happened then?

3 A At that time, Keisha maintained live surveillance
4 of the subject as they made their way through the store,
5 selecting merchandise. I was on and off the phone with my
6 boss, and then notifying Portland Police. And then an
7 officer called me a few moments later to confirm where the
8 subject was in the store, and kind of notifying as the
9 subject made their way through the store and was up at the
10 front. And we notified them that when the subject, who was
11 bypassing the lanes with the exposed, unpaid-for
12 merchandise, he had his hand in his pocket as he was exiting
13 the store.

14 Q Why was that significant, that he had his hand in
15 his pocket?

16 A Because at the previous location that had taken
17 place, at the Powell location, he had exited with a firearm
18 in his hand as he pushed the cart out.

19 Q Okay. It sounds -- so that was -- based on the
20 information provided from Target and the information from
21 the Portland Police, did his behavior in the Target on
22 December 27 of 2023, was that consistent with your
23 understanding of what he had done at the Powell Store?

24 A As far as accumulating unpaid-for merchandise in
25 the cart and then pushing it out of the store, yes.

1 Q Okay. To be clear, you didn't see a firearm?

2 A No.

3 Q On him. Okay. But the hand in the pocket was
4 distinctive to you. So, and I need to kind of drill on this
5 a little bit, the pocket, describe the pocket that his hand
6 was in.

7 A It was kind of just like a front hoodie pocket.
8 So, he had one hand tucked inside.

9 Q Okay. Was he wearing a jacket as well?

10 A It was kind of like a thin material, like
11 windbreaker type jacket, yes.

12 Q Okay. But his hands were in the hoodie? Your --

13 A Yeah.

14 Q Okay. All right.

15 A In the hoodie pocket.

16 Q I can't remember where we left off. You called
17 the Portland Police?

18 A Yes.

19 Q And what happened then?

20 A So, the subject exited with the hand in the
21 pocket, which we relayed to Portland Police. The subject
22 exited the store, and took a left toward 96 and these other
23 small businesses nearby. And he had gotten to like an
24 intersection of the businesses and our store location, when
25 he had turned slightly and saw a dark SUV coming up to him.

1 And at that point, he released hold of the shopping cart
2 and took off running towards 96 and the bus stop there,
3 which was in front of those small businesses. And we saw
4 him, on camera, trip and fall over, like the sidewalk, that
5 kind of goes down the small hill next to the bus stop and
6 the sidewalk.

7 Q Okay. The SUV, anything distinctive about the SUV
8 that approached him?

9 A It just, it approached him, and from his reaction,
10 he must have realized who they were, that it was Portland
11 Police.

12 Q Could you tell who they were?

13 A No. Just with our camera placement, we were more
14 closely zoomed in on him. And then when we zoomed out and
15 saw the activity, we realized that there multiple cars that
16 were approaching.

17 Q Okay. So he runs and he trips, and it's around,
18 did you describe a T-Mobile? Is that what you just said?

19 A He goes past the, yes, the T-Mobile, and then
20 there's a sidewalk there, which he tripped down, and then
21 there's kind of a little slope until you reach the sidewalk.

22 Q Okay. What happened then?

23 A At that part, our third-party security had gone
24 outside when the subject had taken off running. And they
25 relayed to us, via radio, that they had heard gunshots. We

1 didn't necessarily see anything other than a police
2 officer who had been about to approach the subject when he
3 had fallen, suddenly was backing away from the subject.

4 Q Okay.

5 A That's all we could see.

6 Q Okay. Sounds like you couldn't really see what
7 happened, the activity over that --

8 A No.

9 Q -- past the T-Mobile store.

10 A No.

11 Q Okay. Then the last -- I'm going to sort of
12 conclude by saying, by asking, this video, were you -- did
13 you -- it sounds like this video was turned over to the
14 Portland Police. Is that right?

15 A Correct, correct.

16 Q Did you take a role in that?

17 A Keisha took a role in providing the video and her
18 report. I was responsible for writing the fatality and
19 dropping the same video in my report, so.

20 Q Why fatality? What do you mean?

21 A Once we had learned that the subject was involved
22 in the officer-related shooting, Target required that we
23 report a fatality, due to the fact that it --

24 Q Okay.

25 A -- was our information that led to this incident

1 occurring.

2 Q Okay. And this is -- do you end up talking to the
3 Portland Police about this incident?

4 A Yes.

5 Q About your side? Okay.

6 A Yes. Some detectives came a short while later.

7 Q Okay.

8 MR. DAVIDSON: I think I'm done. Anything on
9 this?

10 BY MR. BENSON:

11 Q Ms. Eyler, you said that at some point when you
12 confirmed who this individual was, that it was the same
13 individual, Tyrone Johnson?

14 A Yes.

15 Q From the earlier robbery at Target, that you
16 pulled your security team back to the security office.

17 A Yes.

18 Q Why did you do that?

19 A We wanted to make sure that the subject in no way
20 felt threatened, or was being observed, and so that we did
21 not prompt any type of incident to occur within the store
22 as -- similarly, as it had taken place at Powell.

23 Q Okay. You didn't want to, I guess, initiate an
24 armed encounter with a potentially armed and dangerous
25 person --

1 A Correct.

2 Q -- in your store?

3 A Correct.

4 Q Lots of civilian shoppers around?

5 A Absolutely.

6 Q And I'm assuming the Target loss prevention team
7 isn't trained to take armed subjects into custody safely?

8 A Correct. Once we're made aware that a subject has
9 a weapon, like is in possession or has previously utilized a
10 weapon, we are not to be on the floor physically observing
11 the subject at all.

12 Q Okay. Because again, that's really not your job?

13 A Correct.

14 Q Right. You're not police officers.

15 A No.

16 Q You haven't been trained in the techniques
17 utilized when dealing with someone who's presenting with a
18 deadly weapon?

19 A Correct.

20 MR. BENSON: I think that was the only question I
21 had.

22 MR. DAVIDSON: Anybody else?

23 GRAND JUROR: Yeah. How many shots do you
24 remember hearing?

25 THE WITNESS: I didn't hear any. Our third-party

1 security did. They did not relay how many, though.

2 GRAND JUROR: Gotcha.

3 BY MR. BENSON:

4 Q That thread actually initiates another -- we've
5 heard the term, third-party security a couple of times now.
6 Can you describe what that is, and how it differs
7 potentially from what your role is?

8 A For certain high-risk locations such as ours,
9 Target will contract a third-party security company who will
10 be posted throughout the store from open to close, in order
11 to respond to safety and security incidents. Security
12 incidents being other crimes that take place aside from
13 theft. So, it could be anywhere from, you know, bike theft
14 to assault and sexual misconduct, those type of things.

15 Q Okay. And your loss prevention team, you and Ms.
16 Runcie, you're what we refer to as undercover, or plain
17 clothes, right? And so you're not supposed to be spotted
18 necessarily by people who might be shoplifting?

19 A Correct.

20 Q What about the third-party security folks?

21 A They are in uniform with tactical gear, and
22 stationed for the most part up at the front of the store.
23 We have two entrances, so we contract two guards from open
24 to close, and one is at each of the doors. And then they
25 sometimes do periodic patrols of the interior and exterior

1 of the store.

2 Q Okay. So they're more of an obvious security
3 presence?

4 A Yes.

5 Q They marked with -- they're wearing tactical
6 uniforms?

7 A Yes.

8 Q Are they armed?

9 A Yes.

10 Q With guns?

11 A Yes.

12 Q Okay. All right. But were they part of that
13 drawback, as well?

14 A Yes, uh-huh.

15 Q Okay. Because again, I guess you're trying to
16 avoid forcing some --

17 A Yeah.

18 Q -- armed confrontation in your store with your
19 customers?

20 A Yes. We also didn't know if the subject was with
21 other folks who may have been outside, and observing
22 activity. So we wanted to just make it very clear that
23 there was no intention of making an apprehension, or that
24 there was any type of activity going on.

25 Q Plus you knew the police were on the way, right?

1 A Yes.

2 Q Okay. And that's really their job?

3 A Absolutely.

4 Q Got it.

5 MR. BENSON: Anybody else have any questions? No?
6 Brian?

7 MR. DAVIDSON: I'm good. Thank you.

8 THE WITNESS: Awesome.

9 MR. BENSON: All right. Now let me step out, and
10 thanks very much. You're free to go. Can we go off the
11 record for a moment?

12 You're free to go.

13 (Witness excused.)

14 (Whereupon, the above-entitled matter went off the
15 record at 9:42 a.m. and resumed at 9:45 a.m.)

16 MR. DAVIDSON: Okay. We are back on the record in
17 the various cases all entitled, or all DA Case Number
18 2469270-1, -2 and -3. All right. Our next witness is Mr.
19 Phillip Nguyen. Would you go ahead and raise your right hand
20 and be sworn in, please?

21 PHILLIP NGUYEN

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

24 DIRECT EXAMINATION

25 BY MR. DAVIDSON:

1 Q Go ahead and have a seat. And if you could
2 state and spell your full name for us, please.

3 A Okay. My name is Phillip Phuong Nguyen. First
4 name is P-h-i-l-l-i-p. Middle name is Phuong, P-h-u-o-n-g,
5 last name is Nguyen, N-g-u-y-e-n.

6 Q All right. Thanks for joining us, Mr. Nguyen.

7 A No problem at all.

8 Q Can you tell us a little bit about how you're
9 employed?

10 A So, I work at T-Mobile. The location's, in
11 specific, is at the Mall 205 location. I am a mobile expert
12 there, so my job entails selling phones, selling new phone
13 numbers to customers who may want, you know, needs a new
14 phone number, needs a new phone, that sort of thing.

15 Q Okay. And how long have you been employed at T-
16 Mobile?

17 A Now, currently it's been about, I want to say, a
18 year and a half. But at the time of the incident, it was
19 about a year.

20 Q And have you always been at the Mall 205 location?

21 A I have not, actually. My first location was a
22 little bit up the way, at the Gateway location, but the
23 location closed down in the last February, so way, way
24 before.

25 Q Okay, great. Well again, you know why we're here.

1 We're here to talk about this incident that occurred
2 outside of your store back on December 27th of 2023. You
3 recall?

4 A I do recall.

5 Q Okay. So, I'll have you spin around and look at
6 the big screen there. We pulled up a overhead view of the
7 Mall 205 area. Can you kind of orient us? What are we
8 looking at here?

9 A So, here's the, like an overhead shot, right. The
10 north side of Target would be where the entrance would be,
11 so --

12 Q Yeah. You can go up there and point if you need
13 to.

14 A Okay.

15 Q Yeah.

16 A So, right here would be the parking lot. The main
17 entrances to Target would be right here. DMV entrance is
18 behind the Target. My store location is right here.
19 Entrance is also facing north, on the side right along 96th
20 Avenue, right here.

21 Q Okay, great. And so, the north side of that
22 basically like of almost like strip mall area is where the
23 T-Mobile is?

24 A Uh, like correct, yes.

25 Q And how many, how much of that north side does

1 your store occupy? Is it like on three sides, or are
2 there --

3 A So, we occupy -- there's three different stores
4 here, that occupy this little area. There is a salon, there
5 is a fix-it store, like a home repair store, and also
6 there's our T-Mobile, so we occupy about 30 percent, I want
7 to say, like 35 percent.

8 Q Okay. And you have a glass frontage, I guess
9 would it be on the north and west side of that part of the
10 building?

11 A Uh-huh. That's correct, yes.

12 Q Okay. And is it kind of what we might expect, a
13 lot of just kind of big glass windows and things?

14 A Uh-huh, yes.

15 Q Okay.

16 A Yes.

17 Q All right.

18 A We have more, like windows on the front, north
19 side than on the west side. We only have two on the west
20 side.

21 Q Okay, got it. I'm going to just actually zoom in
22 here a skosh, since this is what we're going to be talking
23 about. Okay. And, you know, during your testimony, feel
24 free to jump up and reference this map, and -- as you
25 describe things that are going on. So, what time did you

1 start work that day, do you recall?

2 A Let me try to recall. It was definitely around
3 12:30, because I usually do work at 12:30, so that's not
4 changed, in the past year.

5 Q Okay.

6 A So, definitely after noon, was when I got there.

7 Q All right. And assuming it was just kind of a
8 normal day --

9 A Uh-huh.

10 Q -- as far as things went, until it turned not
11 normal?

12 A Definitely a normal day.

13 Q Yeah.

14 A I think it was right after Christmas, so --

15 Q Okay.

16 A -- very normal day.

17 Q Yeah. How many folks were in the store, do you
18 remember? Right around when this happened.

19 A Including customers?

20 Q And I'm not looking for an exact number,
21 obviously, but just kind of, was it busy, less busy, normal,
22 less than normal?

23 A Little busy, not too busy, around like ten
24 individuals, including employees in there, around that time.

25 Q Okay. And when things started happening, like

1 what were you doing at the time?

2 A So, in the store, right, when we're not helping
3 customers, we're always up at the front, you know, waiting
4 for whoever is next to come in, so we can, you know, greet
5 them, and like introduce ourselves, ask what they're looking
6 for. At the time, all my other coworkers were busy in the
7 store, so I was the only one at the front, and had a
8 customer come in on a wheelchair. And right after I let him
9 in to the store, I was right by the very front of our front
10 doors.

11 Q Can you kind of point, maybe there to where you
12 were standing, approximately?

13 A Like right there, inside the store.

14 Q Okay.

15 A Like if the store goes back all the way like this,
16 to here, right there, by the front doors is where I was at.

17 Q Got it.

18 A Maybe like a few feet from it. But yeah, he came
19 in to the store. I was greeting him, just asking him how
20 his day was going, you know, asking him what brought him
21 inside. And we were there for like a solid minute or two,
22 before all of a sudden we started hearing the sirens, and
23 everything started going down.

24 Q Okay. And approximately what of the time of the
25 day is this, do you recall? And again, I'm not looking for

1 any exact, but --

2 A It was definitely midday, like around, I want to
3 say 3, 4 p.m.

4 Q Okay. What was the lighting situation like
5 outside, at that point, do you recall?

6 A So, definitely not dark. It was like a, it was a
7 cloudy day, but it was definitely bright. It was bold
8 enough to see like from here all the way to like across, and
9 like able to see most thing.

10 Q Okay. So, you were speaking to the customer in
11 the wheelchair, and please just continue.

12 A So, I was speaking to the customer in the
13 wheelchair, asking, you know, the normal questions. All of
14 a sudden, we heard sirens. And what I saw first were, you
15 know, the police sirens and like the lights and everything,
16 coming from the Target side, sort of, you know. It is Mall
17 205, so we do hear sirens quite often. I do like to look
18 outside, just to see what's going on.

19 But this time, there was, you know, not an
20 ambulance driving by, not a police car just driving by, it
21 was actually in the parking lot. And it seemed like they
22 were coming towards, like our side. When that started
23 happening, I saw an individual running from, I want to say
24 about here, along this sidewalk here.

25 Q Here, I'm going to move this down for you a little

1 bit --

2 A Yeah, thank you.

3 Q -- so you can -- there you go.

4 A But, so I first saw the police cars coming from
5 this direction here, from this parking lot, and from this
6 way --

7 Q And you, do you remember, were they marked, or
8 unmarked, or were they --

9 A They were marked, yes.

10 Q They were marked police cars, with sirens and
11 lights?

12 A Uh-huh, yes.

13 Q Okay.

14 A The individual was running east to west, in front
15 of my store. I first saw him -- I saw the sirens first, and
16 the police cars first, and then I saw him running, along
17 this side. At this point -- I just saw him running, so I
18 just kept watching. He ran through the sidewalk. He
19 decided to run this way, in front of the cars, so our cars
20 that we usually parked, there were customers' cars, and kind
21 of crossing --

22 Q And do you -- before you -- before you do, like
23 what was the general description of this person, or could
24 you even really tell?

25 A I could tell, like a decent bit. He was taller in

1 nature, definitely not like short or anything, I would
2 want to say like 5'10", 5'9" potentially, like same height
3 as me. Like, distance made it kind of hard to gauge. But
4 he was dressed, I don't know if I would want to say casual
5 clothes, but like a hoodie, like a zip-up hoodie, I think,
6 jeans, and I couldn't see his shoes. I think he had a
7 beanie on. I'm not quite sure.

8 Q Okay.

9 A But he was more, I think -- I could tell his race
10 too, but he was, I think, white. So, that's what I first
11 noticed, just with the lighting and everything. And that's
12 the description I got. But I saw him running along. He
13 crossed right in front of our cars, and --

14 Q I'm sorry to keep interrupting you, but like, was
15 it like -- you say running, was it like a casual jog or was
16 he like full on?

17 A It wasn't like a full-on sprint like you see in
18 like a 100-meter dash, but it was like about 70 percent of
19 the say there. Like, he was trying to leave, and
20 essentially trying to get away.

21 Q Got it.

22 A Yeah. And I also saw like the police cars like,
23 following him at that -- you know, like more and more police
24 cars started pulling up, like -- because as he was running
25 this way, there was a police car that pulled up from north

1 south on 96th Avenue. The police car that was in the
2 parking lot was pulling up towards and to this way. The
3 police car that was coming on from Target was also, you
4 know, coming along this way as well, from east to west.

5 On 96th Avenue, right here, I know it's kind of
6 hard to tell, but there is like a railing, like a black
7 railing, that kind of blocks this entire area, that's kind
8 of, acts there as like a rampway, for those who --

9 Q Here, let's -- let me do this. I don't know how
10 we did any of this before technology, but I want to drop
11 this guy -- oops. Oops, I think I misdraw -- I think I
12 miss-dropped him. Hold on.

13 A Okay.

14 Q I think we should be over here. Oops. Am I going
15 the right direction? No, I am not.

16 A Oh, there you were on it.

17 Q Oh here we go. All right. Come on, work with me.
18 This is going to be -- so this was obviously December. This
19 image is a Google image. Obviously the trees are in full
20 flower and bloom, and leaves.

21 MR. BENSON: It was taken in October of 2023, so a
22 couple of months before.

23 BY MR. DAVIDSON:

24 Q Yeah, so this is a little -- wouldn't have
25 necessarily been exactly like it was that night, because of

1 course -- trying to get a good vantage for you here.

2 These trees would not have been in the way.

3 A I think this is good.

4 Q Okay.

5 A But, so this is my store, and this location. I
6 was right behind these front doors right here. I saw this
7 person cut across this little patch of dirt, from the cars,
8 like I mentioned. And due to this railing here, he decided
9 to jump over it, from what I saw, around probably this
10 location here, because he didn't cut across here. He kind
11 of ran along here, because he saw the railing, I'm assuming.

12 When he was about here, I'm not sure if he was
13 trying to jump the railing or trying to jump this little
14 ledge here, but he jumped, and we saw him like fall, and
15 trip and fall. It wasn't like a successful jump. When he
16 jumped and fell, he fell directly behind, near this box
17 right here, this little electrical power box.

18 Q Let me see if I can get you a better angle. There
19 we go.

20 A So yeah, this electrical power box, right here. I
21 still have a view of this from my store. So, when I saw him
22 trip and fall, like there was more police cars coming along
23 96th Avenue, the parking lot, and this little electrical
24 like (indiscernible), you could use to get into Target. But
25 he tripped and fell. And when I saw him trip and fell, I

1 saw him get back up, but it wasn't like a get up and
2 continue running. I saw him kind of like half get up and
3 pull out a weapon. And --

4 Q Okay. So, yeah. I got to stop you, because this
5 is obviously very important. You said weapon, right. That
6 could mean a lot of things.

7 A It was a handgun.

8 Q It was handgun?

9 A Yes.

10 Q Okay. Were you -- are you very certain about
11 that?

12 A Yes, very certain.

13 Q Okay. And can you describe it?

14 A It seemed more like a full-sized Glock, like 9
15 millimeter. It definitely wasn't like a revolver or
16 anything, wasn't shiny. It was black in color. It was kind
17 of hard to tell from a distance, but it definitely looked to
18 me like a, sort of like a Glock.

19 Q So like a black semiautomatic pistol?

20 A Yeah, exactly.

21 Q Okay. What happened? So you -- is that the first
22 time you saw a gun in his possession?

23 A Yes, yes.

24 Q Okay. So, please continue what happened next.

25 A So, at this point, the police were already very

1 near. So, the car, the police car that was on 96th Avenue
2 pulled up already, and they stopped in the middle of 96th
3 Avenue. Some officers got out. There was multiple police
4 officers, from multiple police cars that got out of their
5 cars and were converging on this guy. That's when he also
6 pulled out the gun on him, on them. When I saw the gun,
7 even though -- so, at T-Mobile, at this location, we have
8 bullet-proof glass, but --

9 Q Can I ask you a question about that? I read that
10 in the report. I found that to be interesting. Has that
11 always been the case?

12 A No, I don't think so. The story, from what I
13 heard, was that we had a, like a regional manager come by
14 one time, and they noticed like our glass was broken. And
15 they just decided to replace the entire store with some
16 bullet-proof glass.

17 Q Oh, okay.

18 A Just because like not every -- I don't think many
19 stores has to have that.

20 Q Okay. But your store, actually, the glass is
21 actually bullet-proof glass?

22 A Yes. It's like very, very thick, like glass
23 that's meant to like -- for that kind of thing.

24 Q Okay.

25 A Meant for bullets. But when I saw him pull out

1 the weapon, and I saw the kind of police like, converging
2 on him, I think they had -- I looked for a second or two
3 longer before I like, I kind of like, understood that things
4 were going down. So I yelled to everybody in the store, you
5 know, I was like, get down, get down, get down, because I
6 still don't want to take any chances, you know, especially
7 with my employees and our coworkers and like customer in the
8 store.

9 Q You didn't want to trust that the bullet-proof
10 glass was going to --

11 A I mean, you never put your faith in anything of
12 that nature.

13 Q Sure, sure, sure.

14 A Like, but like that's what I've been hearing, but
15 that's not something that I want to put -- I didn't want to
16 put, personally. But so I yelled, get down, get down,
17 everybody. And the first two get downs, nobody in my store
18 got down, but by the third get down, by how loud I was
19 yelling, everybody kind of got down to the floor. At
20 this -- so I dove down behind, we have like tables inside T-
21 Mobile that are like, further in, that are like, you can't
22 really see with, by the windows.

23 I dove down, but my customer in front of the
24 wheelchair, or in the wheelchair was still in the front of
25 the store. My mistake. But, so he was, he's in like a, not

1 like a normal wheelchair, where you can move it, but it's
2 like more the mobility like wheelchair, where it has a
3 control and everything like that. And then he was still in
4 the same location, so like five seconds had gone by before I
5 realized, like five, ten seconds before I realized he was
6 still in the chair.

7 So, he was like, asking if I could help him, and I
8 said yes. So I got back up to like kind of help him down
9 from his wheelchair to pull him down. And as I was walking
10 like, kind of like hunched over but like getting back over
11 to him, I looked back in the direction to see what was going
12 down, and I still see this person with his gun, behind this
13 little electrical box. He was in a -- using the box as
14 cover, definitely, like not standing up or anything. He
15 was, I want to say on his knees, but like definitely in like
16 a kind of like a stance where he's, you know, huddled down,
17 using the top of that box as like a prop to hold his hand,
18 arms up, with the gun.

19 I also saw the police converging on him with like
20 rifles and everything from like, down this sidewalk here,
21 and then also from 96th Avenue, which was the main angle I
22 think they were taking. And then, after -- I looked away,
23 because I was pulling down my customer. Once I had pulled
24 down my customer to the floor with us, like I heard just, I
25 think, I want to say five or six shots go off.

1 And then, we stayed down for another few minutes
2 there, just to make sure everything was okay. And then when
3 we got back up, the police were moving up towards him, like
4 behind like one of those shields that they have, with
5 multiple officers behind. And that's basically my
6 recollection of the main event.

7 Q Okay. And you've described in amazing detail,
8 which I'm sure -- what you observed, and I'm assuming this
9 is not the kind of thing you see every day, so it's probably
10 pretty well etched in your memory. Well, when you said he
11 was basically kind of crouching down, using the boxes as
12 hard cover, I guess, and using the top of the box as a
13 platform to steady his aim -- is that, was that your
14 perception?

15 A Uh-huh, yes.

16 Q Who was he pointing the gun in the direction of,
17 at that point?

18 A At the police officers that were coming from,
19 against 96th. Can I -- can we go back to like the aerial
20 view?

21 Q Sure. Yeah, let me just -- oh yeah. Sorry.
22 That's how advanced I am. I didn't know, just hit the X.
23 Okay.

24 A Okay, so --

25 Q Where would you like to be?

1 A A little bit up more.

2 Q Oh, you mean back out?

3 A No, no, no. (Indiscernible) the zoom, the zoom is
4 fine.

5 Q Okay.

6 A But like, get the other parking lot in view.
7 Yeah, perfect.

8 Q Okay.

9 A So, this is roughly where that electrical box is.
10 When he was still running, there was a police car that came
11 from this direction, and down 96th Avenue, and they stopped
12 around this location here, and like, kind of like, sort of
13 right in front of him, right here. But he was pointing his
14 like gun in their direction, from when they got of their
15 car.

16 Q Okay.

17 A Because the police officers, at that point, I
18 think were still using like the doors of the car as like
19 cover, to ask him, you know, to stop, because I think they
20 also realized that he was holding, like a gun.

21 Q Did you ever hear the officers say anything?

22 A It was kind of hard to tell, just because the
23 sirens were very loud, so --

24 Q Okay.

25 A I think I did hear him say like, put down the

1 weapon, or something like that, but I might, may be
2 misremembering. I'm not sure.

3 Q Okay. Got it. And then, how many shots did you
4 hear, do you think?

5 A Five or six.

6 Q And was it rapid succession?

7 A Yes, sir. It was.

8 Q Okay. Was there ever any, a gap, and then more
9 shots?

10 A Like a gap of maybe like very, like not even a
11 second, probably like, like half a second.

12 Q Okay.

13 A Because like, they were very quick and very quick
14 succession.

15 Q Okay, got it. Okay. And then, how much time
16 elapsed before you saw the officers kind of approaching him,
17 as you described, with the shield?

18 A Probably like, like two minutes or so, like one,
19 like -- it was very quick.

20 Q Okay.

21 A Because by the time we heard the shots go off,
22 like -- and we heard nothing else, like me and my coworkers
23 decided to get back up to check it out, and that's when we
24 already saw the officers like moving down towards him, so it
25 could have been like three minutes, maximum.

1 Q Okay. And I think at some point you looked back
2 out at him after the original shooting, and you saw him
3 laying on the ground?

4 A Yes. From my view of the store, I did see him
5 laying on the ground. Yes.

6 Q Okay. And what -- could you still see the gun,
7 kind of near his person?

8 A No, not from my location, no.

9 Q Oh, you could not? Okay.

10 A Yeah.

11 Q All right.

12 A There was like, the shrubbery was kind of covering
13 it. It's like also like, on an embankment, little mini
14 hill.

15 Q Okay. Yeah, I guess, if we go back to where we
16 were, there is a bit of a, I guess, southeast 96th does kind
17 of downgrade a little bit from --

18 A Exactly, yeah.

19 Q -- the parking lot. Okay, got it.

20 A So, he was laying on the sidewalk, so I could see
21 his upper torso, and his arms, from where he was.

22 Q Okay. But there's no doubt in your mind at all
23 that he basically was pointing a firearm at the police?

24 A Yes. No doubt in my mind.

25 Q Okay. All right. Was your building struck by any

1 gunfire?

2 A No, it was not.

3 Q Okay. And we -- I think there is some video
4 surveillance systems at your location, correct?

5 A Uh-huh, that is correct.

6 Q And was that -- as far as you know, was that video
7 supplied to the police?

8 A No, I don't think so, because for the surveillance
9 cameras outside, because T-Mobile just rents the location
10 from the property owner, we don't have access to those.

11 Q Oh, okay.

12 A We only have access to like our own inside
13 cameras, and they only point inside the store. They don't
14 capture anything outside.

15 Q Got it. But, so if the police did, had obtained
16 footage from inside your store, that may have been done
17 without your -- you wouldn't necessarily have been involved
18 in that, I guess?

19 A Yeah, no. That's all my --

20 Q That's outside of your area of responsibility?

21 A -- unit manager, yes.

22 MR. DAVIDSON: Okay, great. Okay, well I believe
23 those are all the questions I have for Mr. Nguyen. Colin?

24 MR. BENSON: I was just going to identify the
25 exhibit, Mr. -- so, we've been using --

1 MR. DAVIDSON: Oh yeah.

2 MR. BENSON: -- what this has been referring to
3 Google Maps image from above, and also the street view image
4 from Street View. Publication date is October 2023 for
5 Street View, and it's time stamped 2024 Google, at the
6 bottom, just so people who listen to this later will know
7 that we've been reviewing Google Maps.

8 MR. DAVIDSON: All right. Thank you for doing
9 that. That's actually a good point. All right, any
10 questions from our grand jurors? No? Okay. All right.

11 All right, Mr. Nguyen, you are all done. We can
12 go ahead and go off the record.

13 (Witness excused.)

14 (Whereupon, the above-entitled matter went off the
15 record at 10:06 a.m. and resumed at 10:18 a.m.)

16 MR. DAVIDSON: Okay. We are back on the record in
17 the case we previously mentioned, Case 2469270-1, 2 and 3.
18 And I keep neglecting to write down what our grand jury --
19 47?

20 MULTIPLE SPEAKERS: Forty-two.

21 MR. DAVIDSON: Forty-two. Our Grand Jury 42. All
22 right, we are ready to call our next witness. Go ahead and
23 raise your right hand, and they'll swear you in.

24 DEANA DIAZ

25 was thereupon called as a witness; and, having been first

1 duly sworn, was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. DAVIDSON:

4 Q Okay, go ahead and have a seat. And if you can
5 state and spell your full name for us.

6 A Deana Diaz, D-e-a-n-a, D-i-a-z.

7 Q Thanks for coming, Ms. Diaz.

8 A Thank you.

9 Q And you and I had a conversation outside a little
10 bit, and you're a --

11 A Yeah.

12 Q -- little bit nervous. Is that fair to say?

13 A Yeah.

14 Q Okay.

15 A Yes.

16 Q Well, as I mentioned, if you, at any point, need a
17 break, or a tissue, or a glass of water, just let us know.
18 We're happy to help you out, okay?

19 A All right.

20 Q Okay. So I think you know why we're here. We're
21 here to talk about this thing that happened back on the 27th
22 of December of last year.

23 A Yes.

24 Q It's my understanding that you were present in the
25 parking lot at Mall 205 when this incident occurred. Is

1 that right?

2 A I wasn't in the parking lot. I was on the road.

3 Q You were on the road? Okay.

4 A I was on 96th.

5 Q Got it, okay. Well, we -- what so you just
6 happened to be driving by? What was going on?

7 A Oh, well I had a cold, and I was going to Target,
8 and at -- I was going to Target to get a prescription. And
9 there's a four-way stop at 96th, and there was an officer --
10 well, I came up to it, and I made a left.

11 Q So, Ms. Diaz, I'm going to interrupt you. I'll
12 let you know that we do have a Google Maps image of there,
13 of Mall 205, and --

14 A Yeah, okay. So --

15 Q -- I don't know how familiar you are with it, but
16 I can kind of adjust this, to help you kind of illustrate it
17 for us, if you like.

18 A If you can back up a little bit, because I was
19 coming up from Division.

20 Q Okay, so here's 96th, over here, right?

21 A Yeah.

22 Q There's Main.

23 A So --

24 Q You further south?

25 A Come back down this way. I was coming up from

1 like the -- by -- I'm not very good at this.

2 Q Here, let me back out a little bit.

3 A Yeah. So, I --

4 Q There's Mall 205 up there.

5 A Yeah. There's Mall 205. I was down by Main
6 Street.

7 Q Okay.

8 A And I think that's where the four-way stop is, but
9 I came up to the four-way stop, and I think it's on -- or I
10 came from 92nd, and then I came to a four-way stop, and I
11 took a left. Yeah, I took a left, sorry. And behind me,
12 there was an -- as I took the left, there was an officer
13 that put his lights on, and came through the stop as well.

14 Q Okay. Were you coming from the north or from the
15 south?

16 A I was coming from the south.

17 Q The south, okay.

18 A The south, yeah. And the -- he was kind of
19 like --

20 Q Was he in a marked car?

21 A He was in a marked car. And he was kind of like
22 doing weird stuff, you know, because he had his lights on,
23 and then he didn't. And he was like, going and stopping,
24 and going and stopping. And I was on my phone with my
25 daughter, because -- on my speaker, with my daughter,

1 because when we drive, we talk to each other. And I told
2 her, I don't know what's going on with this officer. He's
3 like, doing weird stuff. And she said, mom, just pass him.
4 And I said, I'm not passing him. Your dad almost got a
5 ticket from -- because my husband, one time, did not go
6 around an officer, and he got pulled over and told, you need
7 to, you know, give us leeway, if you can.

8 And so I was just kind of like giving him his
9 space, and that. And he, all of a sudden he just, he
10 stopped. But -- can you give me the -- oh here.

11 Q So here's Main, and you're going this way, right?

12 A There's Main, and we're going this way. And he's
13 just kind of like, like dawdling. And then, at the -- he --
14 this is the Target, the driveway entrance.

15 Q Okay, that -- so if you'll see the --

16 A Wait, no. It's not that one.

17 Q Yeah.

18 A It was the one up there. So he's just kind of --

19 Q I can pull this stop right here.

20 A He's just kind of dawdling. And like he stopped,
21 about right here, and I'm right behind him. I mean I'm
22 probably, it's, you know, like that much behind him, in, you
23 know, people time order.

24 MR. BENSON: How many car lengths behind him?

25 THE WITNESS: I would say I was about two --

1 MR. BENSON: Two car lengths?

2 THE WITNESS: I was about two car lengths behind
3 him. But I could see the parking lot, you know. And so,
4 all of a sudden, the parking lot lit up like -- I said, it
5 looks like a bunch of roaches. And I didn't mean that
6 offensively. And she's like, what do you mean? I said,
7 there are police cars coming from everywhere. I said, this
8 has to be a movie or something.

9 And all of a sudden the officer I was following
10 pulled in, and reversed really quickly, and came back out,
11 and almost like, hit the front of my car. But then he
12 swerved, and he stopped, like right behind my car, but like
13 blocking, you know. And there was a red car behind me. And
14 it all -- it just like, everything happened so fast. Cars
15 were coming, police cars were coming from everywhere.

16 And an unmarked car, a burgundy unmarked car
17 stopped in front of me, and he was like, angled right at my
18 car. There's nowhere I could have gone. He was right in
19 front of me. And this guy, I don't remember his name.
20 Somebody told me it, the suspect. He came --

21 BY MR. DAVIDSON:

22 Q Well, you didn't know at the time, who it was.

23 A I didn't know his name.

24 Q Right.

25 A He came -- I didn't know if he had come, at the

1 time I didn't know if he had come from the car behind me.
2 I didn't know where he came from. All of a sudden I saw him
3 stand up, and the officer from the burgundy car got out, and
4 he's talking. He's talking to him. And he --

5 Q Who's talking to who?

6 A The officer is talking to the suspect, I guess.

7 Q All right. Okay.

8 A And he is -- and the suspect is standing up,
9 because I don't know if he fell. I don't know if he was
10 getting out of a car. All of a sudden I just saw him stand
11 up. And my daughter, the whole time, is saying mom, get out
12 of there, get out of there, get down, get down. And I'm
13 like, oh my God, he's got a gun.

14 Q When you're saying he, who are you referring to?

15 A The suspect.

16 Q Okay.

17 A And he's pointing it at the officer in front of
18 me. And he was unmarked from head to toe, you know, didn't
19 have officer clothing on, a uniform on.

20 Q Oh, okay. Was he in an unmarked vehicle?

21 A He was in an unmarked vehicle.

22 Q Did it have lights and sirens going? Do you
23 recall?

24 A In the front, it had the -- it had them on the
25 front.

1 Q Okay.

2 A It didn't -- the whole car was, it was burgundy.

3 Q It's like an unmarked vehicle?

4 A It was an unmarked vehicle, and he had, he didn't
5 have a uniform on.

6 Q But there was lights going on, on the front of his
7 vehicle?

8 A There was lights on the, like the fenders.

9 Q Okay. And it wasn't the only police vehicle that
10 was there?

11 A Oh no.

12 Q Yeah, okay.

13 A No.

14 Q Okay.

15 A There --

16 Q So you saw this person stand, I guess stand up, I
17 guess, with a gun in his hand?

18 A Yeah. He was like -- you know, I -- for me, it
19 was -- you know, because there was like so much going on,
20 you know, all of a sudden I just saw him -- it was like,
21 almost like he had dropped something and picked it up and
22 started standing up. That's the visual I had of him. And
23 he's standing up, and the officer in front of him -- because
24 he did identify himself. And again, I don't know his name
25 either. I just know the --

1 Q Well how did he identify himself?

2 A He told him his name.

3 Q The officer told --

4 A Yeah, he -- or no he didn't. He said -- what did
5 he say? He didn't. Actually, he had his badge on, and he
6 said, put it down, it's not worth it, you know, come on,
7 buddy, put it down. And then, next thing you hear, it's --
8 you know, you hear the fire, the guns, shooting.

9 Q Okay. When you heard the shots, did you know who
10 was shooting?

11 A No.

12 Q Okay. All right.

13 A I mean, I -- the weird thing is, is I hear the --
14 for me, it's like I hear three bullets, like when the
15 detectives are asking me, I hear three shots. You know, and
16 I think there was probably more than that, is what somebody
17 told me, because I don't watch the news. I don't -- you
18 know, it's not my thing. I worked in healthcare for a long
19 time, and I saw a lot of different things, and so I just
20 don't do it.

21 Q Sure.

22 A And, but for me, I still, at times when I'm
23 sleeping, I can still hear three shots, you know. And
24 it's -- or I hear the casings, you know, dropping, dink,
25 dink, dink.

1 Q Okay. How far were you from -- well let me ask
2 you, how many officers did you see with firearms out, at the
3 time the shots were fired? If you recall.

4 A Honestly, I only see one.

5 Q One. Is -- was it the one right in front of you?

6 A And I was (indiscernible) right -- no. That's not
7 true. I see -- because there is one right in front of me,
8 and there is one over by the passenger side of the unmarked
9 car. And that's it.

10 Q Okay.

11 A That's all I seen.

12 Q And you said that you believed that the officer
13 said something to the effect of, put the gun down, buddy,
14 it's not worth it, something like that?

15 A Yeah. He said, put it down, put it down --

16 Q Okay, and --

17 A -- it's not worth it. And then they did try and
18 revive him.

19 Q Okay. Well we'll get there. When you heard that,
20 did the, what you're referring to as the suspect, did he put
21 his gun down at that point? Or not, no?

22 A No, he raised it higher.

23 Q Okay.

24 A You know, because it's like you're -- it's like a
25 movie, like you're watching, you know, like you're watching

1 a movie. You're watching to see what happens next, you
2 know. And he just raised it higher, you know.

3 Q And the gun that the, you're referring to as the
4 suspect had, can you describe it?

5 A You know, I am not very good at guns. I just know
6 that it was black, and it wasn't the biggest gun in the
7 world.

8 Q Okay. It was like a pistol?

9 A Yes, I believe so.

10 Q Okay. Do you know the difference between a
11 semiautomatic pistol and a revolver? And if you don't,
12 that's fine. I'm not trying to --

13 A I really --

14 Q Okay.

15 A I really don't. I mean --

16 Q Yeah, that's fine.

17 A -- if you show me a picture, I could probably
18 point it out, but other than that --

19 Q Okay.

20 A -- I can't tell you the difference.

21 Q Got it. And so where were you looking at the
22 moment the shots were fired, do you recall?

23 A Well, when -- I don't remember.

24 Q Okay.

25 A All I know is that, you know, I saw the suspect

1 like, raise the gun higher. And it wasn't a big gun. You
2 know, I mean, like the officer had a bigger gun than the
3 suspect.

4 Q Yeah.

5 A And for some reason -- yeah, I heard the shooting
6 start, and I looked towards the officer.

7 Q Okay. You remember being -- you left the scene,
8 eventually.

9 A I did. I did.

10 Q And then eventually came back when you realized
11 the police probably would want to hear what you had to say,
12 right?

13 A Yeah.

14 Q Okay. You remember talking to the detectives?

15 A Yes.

16 Q Okay. Do you remember telling them that the
17 subject would have shot the officer if the officers had not
18 fired first?

19 A He intended to.

20 Q You --

21 A Oh yeah. He intended to shoot somebody that day.

22 Q Okay.

23 A You could see it. Like, when he stood up, right
24 before the officer shot, he intended to shoot somebody.

25 Q And you're just inferring that from his stance,

1 and --

2 A By his stance, the look in his eyes. You know,
3 it's like -- like I said, it's like a movie, you know. All
4 of a sudden you see him, the -- just the way he stood,
5 because all of a sudden he put both hands and --

6 Q Yeah. They call that -- I think they call that a
7 shooter stance. Basically, is that what you're describing?

8 A Yes.

9 Q Okay.

10 A Yeah.

11 Q Yeah.

12 A That's -- yeah.

13 Q Would you actually mind -- he was standing at the
14 time?

15 A Yes.

16 Q Would you mind standing and just kind of
17 replicating what you observed him doing?

18 A He was like -- I have a real bad back.

19 Q Oh, I'm sorry, yeah. They said you can't --

20 A But he stood, and he -- I mean, he was just like
21 that.

22 Q Kind of crouched?

23 A Yeah. Like he really seemed like he intended to
24 hurt somebody that day.

25 Q Okay. All right. So you would -- so, shots and

1 you are, I guess, assessing what has happened. What do
2 you do at that point?

3 A I'm freaking out. You know, I'm just going, oh my
4 God, oh my God, oh my God.

5 Q And you're still on the phone with your daughter?

6 A Yes. Yeah, I was still on my -- I was still on
7 the phone with my daughter for another, probably 15 minutes,
8 because all of a sudden a younger officer in like, uniform,
9 starts clearing cars out. And he slams his hand on the top
10 of the, my car and he's like go, go, go. And I went. And
11 I'm assuming the car behind me went too. I don't know. I
12 didn't look, at that point. I'm just like going, oh my God,
13 oh my God. I mean --

14 Q Yeah.

15 A I said that probably for about ten more minutes.
16 I just drove up the road and went to 7-Eleven, and sat there
17 and cried.

18 Q Oh wow, I'm so sorry.

19 A You know, I mean, because it was just like, I
20 cannot believe what just happened.

21 Q And I guess, like how close was -- the individual
22 you described as the suspect, how close was he to your
23 vehicle, do you think?

24 A If this was the back of my car, right here, he was
25 about like this from my car.

1 Q Okay.

2 A And he was like here, to my car, and where this
3 gentleman is right here, if he stands up, that's where the
4 officer was. I have a small car. That's where the officer,
5 he was angled like this in front of me, diagonally. And I
6 mean, he's like kind of got the same crouch as --

7 Q So, did this basically take place over the,
8 basically over the top?

9 A Over my car.

10 Q Over the top of your vehicle?

11 A Over the top of my car.

12 Q Yeah, okay.

13 A Yeah.

14 Q Yeah? And you just described the distance, and
15 for the record, I would estimate that as 12 feet, maybe.

16 MR. BENSON: Yeah, I'm 5, let's say 5'10". And
17 when you were standing, how many of my lengths would it be
18 between where I'm standing now and where you're depicting
19 the shooter was?

20 THE WITNESS: When you say lengths, what do you
21 mean? Oh, like if you --

22 MR. BENSON: Well, like if I like -- does it look
23 like I would -- it's about twice my length, maybe about 10
24 feet?

25 THE WITNESS: I would say at least --

1 MR. BENSON: Twelve feet?

2 THE WITNESS: I would say about 12 feet, yeah.

3 MR. BENSON: Twelve feet?

4 MR. DAVIDSON: Okay.

5 THE WITNESS: Yeah.

6 BY MR. DAVIDSON:

7 Q All right, so very close.

8 A Yeah, it was pretty close.

9 Q You'd mentioned that you observed them attempt to
10 render aid to the individual?

11 A They did. They did.

12 Q What can you tell us what you saw? This is, I'm
13 assuming, before you left the scene, you saw this.

14 A Well, yeah because it was still -- you know, the
15 cars were still in front, and so they shot, you know, they
16 shot him. And then he was -- he reached again for his gun.

17 Q Did he go down and then reach, or --

18 A He went down, and on the ground, he -- and I'm
19 assuming he reached for his gun. I didn't see this, but the
20 officer that was in front of me, he said, don't do it,
21 buddy, it's not worth it, again.

22 Q Oh, he said it again?

23 A You know, after he was shot. And then one of the
24 officers that was behind us, he said, he's gone. Or they
25 said -- they started calling out for aid. You know, they

1 started running towards him, you know, and -- I got to
2 stop, sit down.

3 Q Sure.

4 A So --

5 Q Yeah, and if you need a moment, again, yeah we can
6 certainly do that.

7 A So, the -- you know, the officer shot him. And
8 then they started kind of slowly moving in. And then, as
9 far as I understand from just hearing, the officer that was
10 in front of me from the unmarked car, he said, don't do it,
11 don't do it, buddy, put it down. That's what he said. And
12 then he called out, come on, let's start, let's get aid, or
13 you know, and they started trying to render aid, and then
14 they said, he's gone. And that's when cars started moving,
15 and the younger officer started tapping my car to go, and I
16 left.

17 Q Do you know if you got your vehicle struck by
18 gunfire?

19 A I think that the detectives looked, but I don't
20 think so.

21 Q You haven't observed anything?

22 A No.

23 Q Okay.

24 A No.

25 Q So you left the scene, you went to 7-Eleven?

1 A I did.

2 Q You were having an emotional and understandable
3 reaction?

4 A Very, yes. Yes.

5 Q But at some point you decided, I guess, you should
6 go back to the scene?

7 A You know, I -- about two hours later, I was taking
8 my grandson home, the little monkey that's in there, and
9 he -- and I looked at him, and we're, we had to go past, you
10 know, near it. And I thought, you know, how would I feel if
11 somebody knew something and they didn't stop and say hey,
12 you know, I was like, right there.

13 Q Yeah.

14 A And I said, well Havey (ph.), should we stop? And
15 he said, nana, which is, you know. And so, so I stopped,
16 and I -- the officer that was guarding the yellow line, I
17 told him, you know, what I -- I said, I was in the front car
18 of that when the shooting took place. And I said, can I
19 just leave my name and number and have somebody call me?
20 And he said, well just pull through the gate, the tape here,
21 and let me call somebody really quick.

22 Well really quick, in police time, is not really
23 quick. So, it was -- you know, somebody, the detectives
24 came down about 20, 30 minutes later. Havey fell asleep in
25 the car, and --

1 Q Oh yeah.

2 A -- you know, which he was okay with, because he
3 was tired. And about two hours later, it felt like two
4 hours but it probably wasn't, but --

5 Q So you gave a statement?

6 A I did.

7 Q Kind of similar to what you just told us, to the
8 detective --

9 A Yeah.

10 Q -- at the scene? Okay.

11 A Yeah.

12 Q All right. I think those are most of my
13 questions.

14 MR. DAVIDSON: Colin, do you --

15 BY MR. BENSON:

16 Q I just want to clarify something, just a couple of
17 things. I'm going to -- I'm not going to ask you to stand
18 up again, because you said you had a bad back. But when you
19 were standing up, you were asked a series of questions about
20 what you saw, what you described as the suspect doing. And
21 you described that at some point, you saw that he had a
22 firearm?

23 A Yes.

24 Q Right? When you first saw the firearm, where was
25 it positioned?

1 A He had it like in one hand, like --

2 Q Okay.

3 A Like, you know, like he was thinking.

4 Q Okay. And what his body, at that point? Was

5 he --

6 A He's --

7 Q What was your understanding there?

8 A He was like, you know, crouching almost, like --

9 Q Okay.

10 A -- like this.

11 Q Okay. Careful of your back.

12 A Like that.

13 Q But yeah.

14 A And then, the officers were, you know, kind of
15 talking to him, and then I don't know why, he just stood up,
16 and --

17 Q Okay.

18 A -- all hell broke loose.

19 Q So he stood up, in what you described as -- I'm
20 going to pantomime myself, right. It sounds like he stood
21 up, he had both of his hands together, outstretched in front
22 of him?

23 A Yeah, he -- then he -- like first he was like kind
24 of crouching.

25 Q Okay.

1 A You know.

2 Q Okay.

3 A Yeah. And then, and he had it in one hand.

4 Q In one hand?

5 A And then, they're -- you know, they're trying to
6 talk to him, you know, come on buddy, we can --

7 Q Okay.

8 A You know. And --

9 Q It's not worth it, that's what you said.

10 A It's not worth it.

11 Q Okay.

12 A You know. And then, I don't know what set him
13 off, but then all of a sudden he just stood up, and --

14 Q He stood up?

15 A -- both hands --

16 Q Out? Here's what I saw you do, and I just want to
17 ask you to follow up quickly is, you were describing it, so
18 he stands up, and then I think you said the police officer
19 said something, and then your knees bent a little bit.

20 A He --

21 Q Do you remember him, seeing that, seeing what he
22 did?

23 A Yes. He kind of had -- he -- I don't know why,
24 but he was like, like he took a step.

25 Q Arms out.

1 A Arms out.

2 Q And then his knees bent just a little bit.

3 A Yeah, like he took a step.

4 Q Okay.

5 A Yeah.

6 Q And when you just took a step, are you suggesting
7 the suspect might have took a step, sort of towards the
8 police?

9 A Yes.

10 Q Okay.

11 A Yes.

12 Q That's what I was getting at, because --

13 A Yes.

14 Q -- when you're bending your knees, what I thought,
15 what it seemed to me, when you did that, just bent them just
16 a little bit, that he's effectively bracing himself to fire.
17 Is that the perception you had?

18 A Yes.

19 Q Is that what it looked like to you?

20 A Yes.

21 Q Okay.

22 A Yes.

23 Q Just wanted to --

24 A Does that make sense? I mean, it's just like he
25 went from like this, to all of a sudden like this.

1 Q So, the recording can't pick that up.

2 A I'm sorry. It's not --

3 Q I don't think it can do that. So, he was, he had
4 his -- the way you pantomimed it, just correct me if I'm
5 wrong, he has a pistol in one hand, and he's point it sort
6 of down to the ground?

7 A Yes.

8 Q At that point, the officers are -- and it sounds
9 like he's crouched quite a bit?

10 A Yes.

11 Q The officers say something to him.

12 A Yes.

13 Q And then, I guess what I'm asking is, right after
14 the police officer said something, is that when he stood up,
15 brought his hands up in front of him, pointing the gun at
16 the cops, and then kind of bent his knees a little bit, or
17 took a step --

18 A Yes.

19 Q -- as if to brace himself?

20 A Yes.

21 Q Okay. I don't want to put words in your mouth --

22 A No, no, no. That's --

23 Q Okay.

24 A This -- I'm not -- you know, I am not very good
25 at -- I'm a real, I'm an introvert.

1 Q Okay.

2 A And so, being in public and speaking is not my
3 forte.

4 Q Okay.

5 A But yes, that's exactly what it was, you know.
6 And that's what it meant, like he literally -- it was -- it
7 made me think that he was either going to -- he was going to
8 hurt somebody, or he was going to not go home that day.

9 Q Okay.

10 A That's the intention. He had a very intent look
11 on his face. And he looked like he literally wanted to hurt
12 somebody. He was angry. He had a very angry look on his
13 face, when the officer was talking to him like, you know,
14 this is all fixable. And that's when he stood up, and he,
15 you know, he braced himself, and like took the step. So,
16 you know, he really intended to either hurt somebody or be
17 hurt that day.

18 MR. BENSON: That's all for me.

19 MR. DAVIDSON: Okay. Questions from the Grand
20 Jury? Yeah?

21 GRAND JUROR: The suspect, you said he was behind
22 your car?

23 THE WITNESS: Yes.

24 GRAND JUROR: Okay. And were you looking through,
25 like a rear view mirror? How did you see, you know,

1 where -- how he was positioned?

2 THE WITNESS: I was -- at first, I was looking
3 through my rear view mirror. And then I was kind of like
4 turning back and, you know, back and forth, because I
5 honestly, at first, thought that it was like, they were
6 recording a movie, like it was a movie in Portland, because
7 I don't watch TV. You know, and so I thought that, you know
8 how, sometimes they do movies? I thought that that's what
9 it was. So I was like, oh, what is this? You know, and I
10 even think I said that to my daughter.

11 GRAND JUROR: Thank you.

12 THE WITNESS: So, yeah.

13 MR. DAVIDSON: Anybody else?

14 GRAND JUROR: I have one.

15 MR. DAVIDSON: Yeah.

16 GRAND JUROR: Was he on the street behind your
17 car, or on the sidewalk, or is he, there some lane area
18 there?

19 THE WITNESS: He was -- at first, he was on the, I
20 thought that he was on the street, you know.

21 MR. DAVIDSON: Deana, you can also -- I don't know
22 if you -- this will be helpful --

23 GRAND JUROR: You can use the map.

24 MR. DAVIDSON: You can also use this overhead map,
25 if you feel comfortable with it, to kind of pointing where

1 folks were. And if you don't, I'm not trying to get you
2 to do something you're not comfortable with.

3 THE WITNESS: I am not real, I'm not real
4 comfortable with it, because --

5 MR. DAVIDSON: Okay.

6 THE WITNESS: -- I was just telling somebody
7 yesterday, don't show me one of those aerial maps. I'm
8 terrible, but --

9 MR. DAVIDSON: Okay. That's fine.

10 GRAND JUROR: What street were you, Sobee (ph.)?

11 GRAND JUROR: What if there was the Street View?

12 THE WITNESS: We were -- so, sorry, I'm terrible.

13 BY MR. DAVIDSON:

14 Q So that's 96th.

15 A So this is 96th.

16 Q Correct.

17 A And where we were, were literally between the --
18 do you know, can you help me, maybe?

19 Q Sure.

20 A Okay. So, there's where the -- this is -- is this
21 right here the parking lot, that you turn in?

22 Q So, to my extreme right is the Target store.

23 A Okay.

24 Q If you're moving to the left a little bit, it's
25 the T-Mobile store. And then, continuing, there's Southeast

1 96th.

2 A Yeah, so here's Southeast 96th.

3 Q Okay.

4 A So, there's a spot where I think we need to go up
5 a little bit, because we literally were between the parking
6 lot entrance -- no, the other way, please. We need to go
7 south.

8 Q Okay.

9 A A little bit further. Because there's like a
10 bridge, and there's a spot, a little further, right here.
11 This right here. So, like all this space, and we were in
12 between the --

13 Q Okay. So somewhere in here?

14 A Yeah.

15 Q Okay.

16 A And so, I wasn't sure if he had literally come
17 from this spot, in here, or if he had got -- because there
18 was a red car right behind me, or if he had, you know, come
19 from this area. Because this, over here, a lot of homeless
20 tenant here. So, I was like kind of confused, because it
21 was like, did he come from here? Well no. Did he -- hold
22 on, I got to readjust.

23 Q And Deana, just to let you know, if you don't know
24 the answers, it's perfectly okay --

25 A Do you know what? I --

1 Q It's perfectly okay to say you don't know.

2 A I really -- I don't -- I really don't, a hundred
3 percent, because I was thinking, like this over here is
4 like, always a homeless. This is where I'm getting, I'm --
5 is a homeless place. So, I thought that, because up here is
6 where he, where I saw him first, at that --

7 BY MR. BENSON:

8 Q So you saw -- would it fair to say, at -- on
9 96th --

10 A On 96th.

11 Q At the southern end of the small building --

12 A Of the small building.

13 Q -- between T-Mobile and Golf Tag.

14 A Yes.

15 Q And there's a sidewalk which runs next to it,
16 that's where you first saw --

17 A That's where I saw him first.

18 Q Okay.

19 A Yes.

20 Q And where -- you said it --

21 A And --

22 Q Which way?

23 A He was headed south.

24 Q Well, this would be north.

25 A Or no, north. Sorry.

1 Q Okay.

2 A I'm so --

3 Q No, no. You're doing great.

4 A I'm terrible at this. But he was headed north.

5 But the thing is, at one point, he went down, like in the
6 street. And that's why I wasn't sure, like what he was
7 doing.

8 MR. DAVIDSON: Sure.

9 THE WITNESS: You know, I wasn't sure if like,
10 like I said, if it was a movie or what.

11 BY MR. DAVIDSON:

12 Q Well again, you know, Deana, I don't want you
13 to -- if you don't --

14 A But --

15 Q If you're not confident about this stuff, I don't
16 want to push you into making an answer.

17 A No, but then that's when he -- it's like he went
18 down, and he came back up. And that's when he was like,
19 like this. And that's when it all --

20 Q Okay.

21 A -- kind of went down.

22 Q This started out with a question, I think, over
23 there.

24 A I'm sorry.

25 MR. DAVIDSON: I'm sorry. Did we -- did you --

1 what did we --

2 GRAND JUROR: I was just wondering --

3 MR. DAVIDSON: Yeah.

4 GRAND JUROR: In relation to the back of your car,
5 which you said was about here, if he was in the street or on
6 the sidewalk, or --

7 THE WITNESS: It was like -- when I first saw him,
8 he was on the sidewalk. And it's like he took a step,
9 one -- like he put his foot on the street and came back up.

10 GRAND JUROR: Okay. Okay, thank you.

11 THE WITNESS: So --

12 MR. DAVIDSON: Yeah. Any --

13 THE WITNESS: I was very confusing, I know.

14 MR. DAVIDSON: Yeah. It was a chaotic event.

15 GRAND JUROR: I guess I just wonder if the Street
16 View would be better.

17 MR. DAVIDSON: I can show it to her, if you like.
18 Do you want me to show it to her?

19 GRAND JUROR: Yeah, if that would help her
20 identify this issue.

21 MR. DAVIDSON: Well, the only issue is, I don't
22 know exactly where to put it. Let's see. All right.

23 THE WITNESS: That is much better.

24 BY MR. DAVIDSON:

25 Q So this is 96th, that's looking southbound.

1 A Yes.

2 Q Like for example --

3 A Yes.

4 Q -- we can do this. You would have headed
5 northbound on 96th, right?

6 A Yes.

7 Q So you'd have been going up this way.

8 A Stop.

9 Q Oh, okay.

10 A Back up just a little bit.

11 Q Okay, got to do -- you got to turn around.

12 A Okay, so -- okay, turn around.

13 Q Hold on.

14 A All right.

15 Q It doesn't want to cooperate.

16 A Okay.

17 Q So this the bridge you're referring to?

18 A Yeah, that's the bridge I was referring to.

19 Q Okay.

20 A We had just passed -- we were between the two
21 entrances, because -- so go a little further.

22 Q This direction?

23 A No, go south. Or go north, north please.

24 Q Okay.

25 A We had just passed a bus stop, and we were, we had

1 gone just a little bit further. And a little bit further.
2 Can you go to the right, please? Not too far, just --
3 you're too far. Come back, sorry, left. Now just go a
4 little tiny bit further.

5 Q I do my best.

6 A I know you are. I know you --

7 Q I'm just starting to --

8 A I'm a terrible person.

9 Q No, no.

10 A So --

11 Q You are not a terrible person.

12 A Like, I was like right about here.

13 Q Okay.

14 A And then --

15 Q Down here?

16 A Right about -- I don't even mean to

17 (indiscernible) --

18 Q Okay.

19 A Right about there. And then, there was a red car
20 behind me, and that's why I was confused, because it's like,
21 I was --

22 Q So were you right about here?

23 A Yeah. That's perfect.

24 Q Oh, great.

25 A Yeah. So that is how the first police car -- I

1 mean, he was ahead of me, and all of a sudden he turned in
2 on me. Or not on me, but he turned in, and backed up, and
3 came forward. And then he like swerved, and he was like
4 blocking between the two red cars, which is ironic, because
5 they were both red. But then the unmarked car came, and he
6 was right in front of me.

7 And then the suspect, he -- I didn't know where he
8 came from. All of a sudden I just saw him -- and this is
9 where it was like he -- I -- he took a step. And then, like
10 he took a step off the curb, and then he came back up, and
11 he was kind of like crouched. And that's when he, you know,
12 the officer was talking to him. And then --

13 Q So whereabouts -- in this image, whereabouts do
14 you recall the suspect, as you refer to him as, be in?

15 A Right in here.

16 Q Okay.

17 A Yeah.

18 Q Okay. Thank you.

19 A So, I -- because, you know, the tree obviously
20 wasn't as bloomy as it is now, but he kind of blended in, at
21 first.

22 Q Okay.

23 A You know. But, yeah.

24 MR. DAVIDSON: Okay. All right. Any other
25 questions for -- yeah. No? Okay. Deana, you are all

1 finished. Okay. All right.

2 THE WITNESS: Thank you.

3 MR. DAVIDSON: We'll slide you out here, and we'll
4 get our next witness in here.

5 (Witness excused.)

6 MR. DAVIDSON: You did great. Thank you.

7 Okay, ready? Okay. Go ahead and stand right next
8 to that chair over there. And if you'll raise your right
9 hand, we'll swear you in.

10 MS. PARSONS: Anyone in particular?

11 CHRISTINA PARSONS

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

14 DIRECT EXAMINATION

15 BY MR. DAVIDSON:

16 Q Go ahead and have a seat. And when you are
17 settled there, if you could state and spell your full name
18 for us, please.

19 A Christina Parsons, C-h-r-i-s-t-i-n-a, P-a-r-s-o-n-
20 s.

21 Q All right, thanks for joining us. I think you
22 know why we're here. You actually weren't present.

23 A No.

24 Q But my understanding is that you were on the phone
25 with your mother, who is Deana Diaz?

1 A Yes.

2 Q When this incident occurred on the 27th of
3 December of last year at the Mall 205.

4 A Yes.

5 Q Right? Can you just walk us through your
6 recollection of what occurred?

7 A Well, my mom called me. She was going to the
8 Target at Mall 205, to pick up her prescriptions. She got
9 on to 96th, I think that's the street right there. And she
10 said that there was a cop car in front of her, driving kind
11 of strangely, kind of slowly and kind of getting to the
12 side, but then getting back on, like where the line is, kind
13 of swerving a little. And she said, this guy is acting
14 really weird. I said, okay well, just stay back so, you
15 know, if he takes off, you know, you're not in the way.

16 And then she said, he just pulled over. And I
17 said, all right, well if his lights aren't on, see if you
18 can go around him safely, and go around him. And then his
19 lights turned on --

20 Q And is your mother kind of --

21 A -- from what she said. Yeah.

22 Q -- relating these things to you?

23 A She told me, his lights turned on. I said okay
24 well, just stop then. And then she says, I don't know what
25 to do. And I said, well just wait there until, you know,

1 you can either go around or, you know, he turns his lights
2 off. And then she said that there was a cop coming towards
3 her. And I said what? And she said, he's got a gun. I
4 said, who are you talking about? She said, there's a guy
5 behind me, I think he came out of the red car. And I said,
6 what? She said, this guy has a gun. This cop has a gun.
7 What do I do? I said, put it in park and put your head
8 down, you know, get as small as you can.

9 And then I hear, bang, bang, bang, bang. And she
10 says, oh my God, he shot him. I said, what? She said, the
11 cop just shot the guy behind me. And I said, oh my God.
12 She said, the cop is waving me forward. I said -- she said,
13 what do I do? I said go, just go, get somewhere safe. And
14 then she takes off. She said she stopped at, I think it was
15 a gas station, to kind of collect herself, and she said, I
16 don't know where that guy came from, but he was just there.
17 He had a gun. I don't know what happened.

18 I said, okay well, I don't think you're going to
19 get your prescriptions, so just go home. So, you know, and
20 she went home. And then when she tried to go and get her
21 prescriptions later before the CVS closed, because I think
22 they close at like 7 or something, she was met by a
23 detective, because they'd recognized her car, I guess. And
24 they said oh, we're looking, we've been looking for you.
25 And --

1 Q And is this all what your mom told you later,
2 about --

3 A Yeah.

4 Q -- that part? Okay, got it. And my understanding
5 is that maybe your son was in the car with your mom at that
6 point?

7 A At that point, yeah.

8 Q Yeah, thank you.

9 A He -- they went, I think they went to the
10 Starbucks on 102nd, and someone stayed in the car with my
11 son, because he was asleep in his car seat. And yeah.

12 Q Yeah.

13 A And she got into the car with a detective.

14 Q Okay.

15 A For their interview.

16 Q So they interviewed your mom, obviously, and
17 then --

18 A Yes.

19 Q -- your mom presumably told them that she was on
20 the phone with you --

21 A Yes.

22 Q -- when this happened. And then, and you were
23 also interviewed by the detectives. Is that right?

24 A Yes. Over the phone.

25 Q Over the phone, okay. And the detective wrote in

1 his report that, "Parsons said that she heard
2 approximately four shots."

3 A Yes.

4 Q Did that sound right? "Parson said that Diaz told
5 her," and Diaz is your mom?

6 A Uh-huh.

7 Q "Told her, quote, they shot him, he had a gun,
8 they shot him, unquote." Is that accurate?

9 A Yes.

10 Q Okay, got it.

11 MR. DAVIDSON: Okay, Colin?

12 MR. BENSON: No, nothing. Thanks.

13 MR. DAVIDSON: Anybody else? Any questions for
14 Ms. Parsons? No? Okay, all right. That was it, Ms.
15 Parsons. You are all done.

16 THE WITNESS: All right.

17 MR. DAVIDSON: That was easy, right? Okay.

18 THE WITNESS: Well, thank you.

19 MR. DAVIDSON: Yeah. I'll get your things. Slid
20 out, and we will deal with our next witness, so.

21 MR. BENSON: Yeah. I'll get (indiscernible).

22 MR. DAVIDSON: I'll get out of your wave.

23 (Witness excused.)

24 FOREPERSON: Where (indiscernible)?

25 MR. BENSON: I'd be happy to -- if you want to run

1 it.

2 MR. DAVIDSON: Yeah. Either way.

3 (Indiscernible).

4 MR. BENSON: It doesn't really matter.

5 MR. DAVIDSON: Okay.

6 (Multiple conversations.)

7 MR. BENSON: I think you've got the -- we've got
8 the chair of honor for you.

9 MS. MITCHELL: Okay, thank you.

10 MR. BENSON: And before we start, let's let Brian
11 get back, before we move on, but what are you reading?

12 MS. MITCHELL: Oh, it's just of the, like --

13 MR. BENSON: Flat Lake (indiscernible)?

14 MS. MITCHELL: Yeah. It's a local author.

15 MR. BENSON: Okay.

16 MR. DAVIDSON: I think we're short someone. Yeah,
17 there we go.

18 MR. BENSON: Go ahead and do your honors.

19 THE FOREPERSON: If you could raise your right
20 hand.

21 MR. BENSON:

22 TRICIA MITCHELL

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

25 DIRECT EXAMINATION

FREE STATE REPORTING, INC.
Court Reporting Transcription
D.C. Area 301-261-1902
Balt. & Annap. 410-974-0947
AAERT Member No. 18511641

1 BY MR. BENSON:

2 Q Now, if you could state your full name, spell your
3 last name for the record.

4 A Okay, Tricia Anne Mitchell. My last name is M-i-
5 t-c-h-e-l-l.

6 Q Okay, Ms. Mitchell, I want to draw your attention
7 to this, we have this magical Google Maps overlay.

8 A Okay.

9 Q We have Street View. We can look on top. If at
10 any time you think that might be helpful, just let me know.

11 A Okay.

12 MR. DAVIDSON: Should I go back to the overhead
13 view?

14 MR. BENSON: Probably a good idea, yeah.

15 MR. DAVIDSON: Yeah.

16 BY MR. BENSON:

17 Q We're -- what I'm -- I'm here. Does that look
18 familiar to you?

19 A Yes.

20 Q Okay.

21 A Yes.

22 Q Well, we're going to talk about that.

23 A Okay.

24 Q Back in December 27th of 2023, what were you doing
25 that day?

1 A I was shopping at Target, with my son.

2 Q Okay. With your son?

3 A Yes.

4 Q What's your son's name?

5 A Samuel Mitchell.

6 Q Sam. That's if you call him Sam?

7 A Sam, yes.

8 Q Sam, okay.

9 A Sam.

10 Q So you and Sam went to Target. So, you remember
11 what, about what time of day that was?

12 A It was like 3:30-ish. I don't know. It was like
13 around that time frame.

14 Q Okay.

15 A I can't -- I haven't looked at the time in a
16 while, so it's around there, in the afternoon.

17 Q That's okay. It wasn't late at night, it wasn't
18 early --

19 A No, no.

20 Q It's like after lunch sometime?

21 A After noon-ish, yeah, sometime.

22 Q Got it. So you go to Target. What are you going
23 to Target for, just general shopping, or --

24 A Yeah. My son likes to -- he's kind of addicted to
25 Target. We go there a lot, just to walk around sometimes.

1 Q Sure.

2 A And shop, and buy stuff we don't need, yeah.

3 Q Did you sort of live in the area then somewhere?

4 A We're about 2 miles away from Target, yeah.

5 Q Okay. So, you were in Target. Anything unusual
6 about your experience at Target that day?

7 A It was pretty typical. Yeah, I mean there's
8 always like, interesting people in Target, so --

9 Q Did you see anybody interesting in Target on that
10 day?

11 A Well, the guy that ended up getting up shot.

12 Q Okay.

13 A We did see him a few times, throughout the store,
14 like our paths were crossing.

15 Q Okay.

16 A And I just, I noticed he seemed a little like,
17 whatever, sketchy, I guess is the term I would use.

18 Q Okay.

19 A But I don't, I didn't -- like I didn't think
20 anything about it.

21 Q Okay.

22 A But we were on the escalator at the same time, and
23 a few time -- you know, like just around. I just like am
24 always aware when I'm at Target, because there tends to be
25 lots of different types of people.

1 Q Okay, sure.

2 A And so you kind of have to like, be safe, wherever
3 you are.

4 Q Now this particular individual who attracted your
5 attention, and you described him as the person who ended up
6 dying on that day, right?

7 A Yeah.

8 Q Okay. So, was there anything about his behavior,
9 or the way he looked, that drew your attention to him,
10 specifically?

11 A I think, like he -- we've seen a lot of people
12 shoplift at the store, just like literally take stuff, or
13 put it in a cart or whatever. And he just kind of like had
14 the, that kind of vibe. I mean, I don't want to like say,
15 because I don't really know. You know, like I don't want to
16 like --

17 Q Sure.

18 A -- judge somebody just by looking at them, but he
19 just seemed kind of like out of it a little bit, or kind
20 of --

21 Q And that's actually what I'm getting at. Do you
22 remember talking to the police later on about what you saw
23 of this individual in Target?

24 A Yeah.

25 Q Do you remember describing the individual as

1 walking around sort of aimlessly?

2 A It did seem kind of like -- because like I said,
3 we cross paths with them a lot, because we usually, when we
4 go there, we walk all over. We start upstairs, and we walk
5 around, then we walk around downstairs. And I know we
6 noticed him like probably three times at least, like just
7 happened to be in the same -- and he didn't really have
8 anything, like with him. Like, it didn't seem like he was
9 like shopping. He was just kind of wandering around, so.

10 Q Okay.

11 A But I mean, I do that too, so --

12 Q Well, that's the point. So, because we're going
13 to be talking later on, you saw him on the outside of the
14 store.

15 A Right, yes.

16 Q Is that right?

17 A Yes.

18 Q And you saw, is -- okay, well we're going to get
19 to that. But it's like right now, something about the way
20 he was walking around the store attracted your attention.
21 It sounds to me like what you're saying is you suspected
22 that he might be shoplifting.

23 A The thought crossed my mind.

24 Q Okay.

25 A It crosses my mind with quite a few people,

1 sometimes.

2 Q Okay.

3 A At that Target, just because there are like often
4 houseless people, or people who like --

5 Q Sure.

6 A -- kind of look like twitch, you know, like maybe
7 they're on drugs or something. So it just like, I just am
8 aware of who's around.

9 Q Not to dwell on this, but did you -- so like do
10 you remember telling the cops that what drew your attention
11 to him was he was walking aimlessly, and he had his hood, a
12 hood and headphones on?

13 A He did, at -- yeah. I do remember. I think --

14 Q Okay.

15 A -- I noticed that more at outside, but I'm --

16 Q Okay, okay.

17 A Yeah.

18 Q Well let's, we'll move on then. So --

19 A Okay.

20 Q -- you noticed him, and you were with your son.
21 You were shopping?

22 A Right.

23 Q Okay. Other than just sort of noticing this
24 individual, did anything else sort of distinctive happen
25 while you were shopping?

1 A No.

2 Q How long were you in the store?

3 A I'm going to guess like 20, 30 minutes.

4 Q Okay.

5 A Around there.

6 Q Did you see this individual leave?

7 A I didn't see him leave the store. I saw him
8 outside of the store.

9 Q Okay.

10 A Just because I -- we left. I didn't see him
11 physically leave the store, but he ended up in the same spot
12 of the parking lot that we were in.

13 Q Okay. Now here's going to be a weird question.
14 How do you know it was the same person? What was it about
15 his, you seeing him that --

16 A With his clothing and everything, and my son is
17 like really good at recognizing people.

18 Q Okay.

19 A And so he, I'm sure he said like oh, that's that
20 guy that we kind of saw in there.

21 Q So you had a conversation with your son about it?
22 Okay.

23 A Yeah.

24 Q Anything distinctive about his physical
25 characteristics? Hair, tattoo, his clothing, anything like

1 that, you recall?

2 A Just kind of like his skinny jeans, sweatshirt --

3 Q Okay.

4 A Hood on, like -- yeah.

5 Q All right.

6 A I'm not the best person to ask about.

7 Q That's all right. That's not -- I'm just trying
8 to flush out the details, but --

9 A Yeah, yeah.

10 Q -- we can move on. You've done great. So you
11 leave the store at some point, and then you see him again?

12 A Yes.

13 Q Is that right?

14 A Yes.

15 Q And where were you, when you saw him again?

16 A So, I can show you, up here.

17 Q Sure.

18 A So like we usually park --

19 MR. DAVIDSON: And if you need it zoomed in or
20 out, just let me know.

21 THE WITNESS: Okay. Yeah. We usually park over
22 here, so we go out that exit.

23 BY MR. BENSON:

24 Q Would you describe that as the parking lot just
25 north of Starbuck -- or of Target?

1 A Yes, yes.

2 Q Starbucks is my favorite store ever, so --

3 A I know, right?

4 Q Okay. So you, were you parked in that northern
5 lot?

6 A Yes. And then, but we didn't see him until we
7 were trying to leave.

8 Q Okay, so --

9 A Out here.

10 Q So, you left the parking lot that's north of the
11 Target store?

12 A Yeah, we usually park like right around here.

13 Q Okay, so the inside?

14 A So, we came out --

15 Q Or, (indiscernible)?

16 A Yeah.

17 Q So, I mean, so you -- I don't want to skip ahead,
18 that's the thing, so --

19 A That's fine.

20 Q So you came out to the road that runs like I
21 guess --

22 A Across the front of the store.

23 Q Parallel to the front of the store --

24 A Right.

25 Q Towards 96th?

1 A Correct.

2 Q Okay. So what kind of a car are you driving?

3 A I have a blue CRV.

4 Q Okay.

5 A 2013. I saw my car in the news, when they were
6 showing the footage of the camera of him running. And then
7 like, you could see like the cars. I was like where that
8 car is.

9 Q Did you know the CRV stands for compact runabout
10 vehicle?

11 A No.

12 Q That's a fun fact.

13 A Okay.

14 Q So, you were driving towards east, Southeast 96th?

15 A I was.

16 Q And you saw him. Describe what you saw.

17 A Okay. So we were like, probably right around
18 here, and he's like --

19 Q So you're still in front of Target?

20 A Still in front of Target, around these speedbump
21 area, I'm not sure. And he was like pulling a shopping
22 cart, at that time, like right along there, in front of
23 where I need to drive. And I didn't feel comfortable going
24 around him, so we just kind of like, we're following him in
25 the car while he's dragging this cart that was full of loose

1 stuff.

2 Q Was anything in a shopping bag?

3 A No.

4 Q Okay.

5 A And it was, it looked like just a bunch of stuff,
6 like I didn't really -- junk, like not anything like
7 expensive, like a TV or anything. I've seen that too, but
8 no.

9 Q Before we move on, I want to just, just want to
10 pin something. Do you remember describing to the police
11 that you thought, oh maybe he wasn't shoplifting, because
12 he's walking so casually?

13 A I did say, yeah, because we were behind him, and
14 my son and I were -- my son's almost 15, and we were like,
15 oh that's that guy that we saw, and like look at -- and I
16 said to my son, oh look at all the stuff in his cart, he
17 must have taken that, because there's no bags. But then we
18 were like, why is he going so slow? Usually the people who
19 shoplift out of Target, they're bolting out with the stuff,
20 you know.

21 Q Okay.

22 A So he was like pulling the cart while like it was
23 no big deal.

24 Q Okay.

25 A And so we were just behind him, like stalled,

1 because I didn't know where he was going, and I didn't
2 want to go around him, because he looked like maybe he was
3 going to turn down here, but he -- so --

4 Q Turn south?

5 A Yeah, like kind of down this road, maybe, like
6 because he was kind of in the middle, off to the right. But
7 anyway, I didn't feel like because there was traffic coming
8 the other way that I could go around him, so we just kind of
9 followed him. That wasn't for very long because then the
10 police showed up. So then, then there was like sirens and I
11 was like waiting, because usually the Target security guys
12 will come after people, but I didn't see that. So that's
13 why we were like, what is he doing? Why is he just walking?
14 Anyway, but then the cop cars showed up, and there was a cop
15 car that came from this direction.

16 Q From the east side, west --

17 A And went around my car. So I stopped, because I,
18 you know, you stop for cops, whatever. So then they go
19 around me. And then I kind of see the guy, then he runs.
20 Like as soon as the cops show up, he bolts, and he ran along
21 here.

22 Q So, along here, so there's a sidewalk more for the
23 T-Mobile store.

24 A Right.

25 Q Is that what you mean?

1 A Right. Yeah, he was like running. I know, I
2 think he started going into the parking lot here.

3 Q Okay.

4 A I'm not sure, exactly. He ran this way.

5 Q So he ran west, generally?

6 A Yeah.

7 Q And you're not sure if he ran on the sidewalk
8 that's just north of T-Mobile or in the driveway?

9 A Right, because I'm kind of driving here, and he's
10 kind of running to the side of my view, and I'm kind of
11 trying to slowly inch towards the exit, because I want to
12 go. And so, he's like running. And then I notice there's
13 like cop cars over here.

14 Q Cop cars on 96th?

15 A Yes. And they all pull up. There's one like
16 towards the corner, one like there, and I think I saw like
17 three cop cars --

18 Q Okay.

19 A -- come up. I'm not sure if it was two or three.

20 Q Just to kind of nail this down, so just, this is
21 sort of west of the T-Mobile store, but right around where
22 Highway, or Southeast 96th turns into the parking lot for
23 Target, et cetera?

24 A Right.

25 Q Right, just over at the T-Mobile store. So,

1 you're saying there's police cars on 96th at this point,
2 or still in this --

3 A The guy came around me, and then there were cops
4 here. I'm sure he pulled over there too.

5 Q Cops on 96th?

6 A So like on that corner, there was a guy, and
7 then -- yeah.

8 Q Okay. What happened then?

9 A Then, I'm watching -- I'm like sitting probably
10 there, and I'm watching him run, and I see the cops are like
11 blocking like his path, sort of. And so, then he goes in
12 this area, and he falls, like he tripped over the curb.
13 There's like a, I think there's like a little wall there,
14 sort of, that --

15 MR. DAVIDSON: Do you want me to switch to the --

16 MR. BENSON: Yes. Overhead, okay. Okay.

17 MR. DAVIDSON: Oh, sorry.

18 MR. BENSON: Oh, you went right to Starbucks.

19 MR. DAVIDSON: Yeah, sorry.

20 MR. BENSON: (Indiscernible).

21 MR. DAVIDSON: I got minimal space in here. Let's
22 see if I can go --

23 BY MR. BENSON:

24 Q So this is the view from 96th towards Luxe Tan and
25 the Target, Mall 205 entrance?

1 A Right.

2 Q Okay.

3 A Yes.

4 Q Okay. So, where did he --

5 A So, he was like running this way. I'm not sure
6 exact, like my depth, I'm not sure, because I was like over
7 here, but I had a clear line of sight down this, down here.
8 He ran, I believe it was kind of through the thing, and then
9 he tripped somewhere over here. I'm not sure how far he
10 was, if he was here or here, but he tripped and fell. And I
11 was like narrating it to my son, like oh my God, he just
12 fell down. And then he got up, and he pulled a gun.

13 Q Okay.

14 A And that, and then I said, oh my God, he pulled --
15 he has a gun. And I knew there were police, like here. And
16 as soon as he pulled the gun, I was at the exit, and we took
17 off up the street to get away, because I said to my son,
18 like, he pulled a gun, he's going to get shot, and I don't
19 want to see that, and we need to get away. So we got away.
20 And as we were driving up, just a few seconds, we heard the
21 gunshots.

22 Q Okay. So I want to just pick out a couple of
23 things there. When you say he's in this general area, by
24 the sidewalk, he pulled a gun, did -- can you describe what
25 that looked like?

1 A It looked like he fell, and as he was getting
2 up, I don't know where he pulled the gun from, but what I
3 saw was him get up and hold the gun out, and the police were
4 in front of him.

5 Q So you're gesturing him holding the gun out from
6 his body --

7 A Yes.

8 Q Level, up with his eyes or his face?

9 A Yes. That's -- yes.

10 Q That's what you saw?

11 A Uh-huh.

12 Q Anything -- it sounds like you kind of got out of
13 there --

14 A I did, yeah.

15 Q -- pretty darn quick. Did you see any of the
16 police nearby? How did they respond?

17 A They were getting out of their cars and kind of
18 like standing behind their doors, sort of, but the ones on
19 the corner here, the first car that was there, I did see --
20 before he pulled the gun, I noticed they were reaching for,
21 it looked like their tasers.

22 Q Okay.

23 A And I just noticed it was, it didn't look like a
24 gun. It looked like a taser.

25 Q Okay.

1 A I don't know what the -- I know, like --

2 Q Most police tasers are yellow, but --

3 A It was like that. It wasn't like -- and so, then
4 as soon as he pulled the gun, I was like, oh they're going
5 to -- I just, I thought, like he -- they're going to shoot
6 him.

7 Q Okay. And so what did you do?

8 A So I turned right, and went north, up the street.

9 Q On 96th?

10 A On 96th, to get up to the start, and just get out
11 of there.

12 Q Anything, did you hear anything, see anything?

13 A I just heard the pop, pop, pop, pop, like --

14 Q As you were driving away?

15 A As I was -- as we were driving away, we heard the
16 gunshots, and --

17 Q Just, I have more questions, though. After you
18 said he pulled the gun, did you hear anything from the
19 police, see anything? You saw police up sort of in the Mall
20 205 parking lot, apparently pulling tasers, is what you --

21 A They were like on, I would say they're more on
22 96th.

23 Q Okay.

24 A They were in the street, but towards the corner
25 and along here.

1 Q Okay. And were the police cars along 96th, at
2 that point?

3 A Yeah. Like I said, I mean, I thought there were
4 at least three --

5 Q Okay.

6 A -- that were along here, but I --

7 Q Did you see then how they responded?

8 A I did not.

9 Q No?

10 A I only saw the ones closest to me.

11 Q Got it.

12 A Because at the point of like seeing the police, I
13 thought, oh the guy's going to -- like at first we were kind
14 of watching it, because I'm like, he's running, he's going
15 to get arrested. I wasn't thinking there was going to be a
16 gun. And so, as soon as I saw him pull the gun, I was like,
17 I don't want my son to see this, and I don't want to be
18 around gunfire going back and forth, so we just left.

19 Q Okay.

20 A And hearing it, hearing the gunshots was like
21 enough to scare my kid.

22 Q Sure.

23 A And so, we were pretty close, yeah.

24 Q And you spoke to the police about this event?

25 A I did.

1 Q And you described -- how did you describe it?
2 Similar to what you just testified?

3 A Yes, I believe so. Yes.

4 Q Did you talk to anyone else about this?

5 A I did talk to the news.

6 Q Okay. Do you remember what news, or what --

7 A KATU.

8 Q KATU, and did you describe -- how did you describe
9 this event to the news?

10 A Similar.

11 Q Okay.

12 A To this.

13 Q Did you talk to the news before or after you spoke
14 to the police?

15 A Well, I called the police first. I called them
16 pretty much like the day, or the day after that, and I left
17 a message. And no one called me back, for like a couple of
18 days. And so, then I was seeing news stories about the
19 incident, and a lot of them were saying like, he was running
20 to the MAX, and they shot him in the back.

21 And so, that was like bothering me, because that's
22 not what I -- I mean, I didn't see him actually get shot, so
23 I don't -- but I did not see police -- like, they were in
24 front of him, so they weren't chasing him. They didn't
25 tackle him. Like none of -- like, from what I saw, all that

1 beforehand, I saw him pull a gun, and no one was saying
2 that. So, I did contact the --

3 Q No one was saying it in the media?

4 A No one was saying that in the media. And I was --
5 you know, like I just wanted the truth to be out there, like
6 what I saw, because I was right there.

7 Q Sure.

8 A And so, then they came and interviewed me. And I
9 gave my statement to them. And then the police called,
10 after that. They saw me on the news. And I said, you know,
11 I did try to call you first. I tried to go to you first.
12 And then they took my statement.

13 Q Well really what I was trying to answered, like
14 this idea that you responded to what media reports you'd
15 read early, I mean, is it fair to say you were inspired to
16 sort of correct the record? Is that --

17 A Yeah. I was just getting -- I understand that
18 like, police can overstep their boundaries. Do you know
19 what I mean? And so, like I started to see this feeling of
20 like, this could pick up in the news, that like another, you
21 know, like shooting of the police killing somebody,
22 unjustified, you know. And I'm not saying I know all the
23 whole story, I did see at least that the guy pulled the gun
24 on them, at first. That's what I saw.

25 And so I just wanted that out there like that. It

1 wasn't just, he wasn't unarmed, and he wasn't running.
2 Like, he had fallen, and he was stationed, when it happened.

3 MR. BENSON: Okay. That's it for me.

4 BY MR. DAVIDSON:

5 Q Thanks for coming this morning, Ms. Mitchell.
6 Appreciate it.

7 A Yeah.

8 Q So, just to take a step back, when you saw him go
9 down, and then you saw him pop up, and when he popped up, he
10 had the gun in his hand, right? Would you -- and I mean,
11 you did this a little bit, but would you mind kind of just
12 standing up for us and again demonstrating what it is you
13 saw exactly, as far as, you know, what he did? Like, was it
14 one hand, two hand, was he braced, was he -- what did you --
15 what do you recall seeing?

16 A That's a -- what I -- when he stood up, it just
17 appeared to me like he was like this.

18 Q So when you say that --

19 A But I'm not a hundred percent sure. He could have
20 been like this, he could have been like this. I don't know.

21 Q Okay. So it may have been one hand, but you've
22 got your arm extended.

23 A He had his arm extended, and it was up, pointing
24 out, because I remember I was like surprised, because I'd
25 never seen anything like, I mean, you know, I've watched a

1 lot of crime stuff. But I'd never seen somebody like
2 point the gun like that, at police.

3 Q So, and that was my other question. You mentioned
4 that he pointed the gun, but was it pointed at the police
5 officers?

6 A Well they were like right at there, so yeah, it
7 was. There was like multiple police, standing.

8 Q Okay. Now, I'm going to refer you back to kind
9 of -- let me, I'm going to see if we can manipulate, not
10 manipulate but just adjust this a little bit. So you're
11 basically here?

12 A Right.

13 Q Okay.

14 A In the right-hand lane.

15 Q Okay.

16 A There.

17 Q And you're looking to the south, right?

18 A Uh-huh.

19 Q And where approximately was he kind of positioned,
20 to your recollection, when you saw him pop up?

21 A That's --

22 Q You -- and the last question, because you also
23 mentioned a metal utility box.

24 A Yeah.

25 Q Is it this guy right here?

1 A Yeah. I mean, it could have been -- I don't --
2 I'm feeling like my memory is a little fuzzy on that part.

3 Q Okay.

4 A I know, because originally I thought, like he was
5 more like here. But then, I'm not really sure, because I do
6 feel like I remember there being something that he was kind
7 of behind. And that's where I mentioned the utility box.

8 Q Okay.

9 A But I'm not a hundred percent sure on that.

10 Q Okay. And where were the police officers
11 positioned, basically?

12 A So their car is parked like this.

13 Q Okay.

14 A Here. And they were getting out, (indiscernible).

15 Q So the distance between him, when he popped up and
16 pointed the guns at them would have been from here basically
17 to -- and they were here?

18 A Yeah.

19 Q Okay. So, pretty close quarters?

20 A Close, and -- yeah, it was close.

21 Q Yeah, okay. Okay, great. I think those are all
22 the questions that I had.

23 So, questions from the Grand Jury? Anything else,
24 Colin?

25 MR. BENSON: No. That's all for me.

1 MR. DAVIDSON: Okay. All right. Ms. Mitchell,
2 I think you're done.

3 THE WITNESS: Okay.

4 MR. DAVIDSON: Yeah.

5 THE WITNESS: Thank you.

6 GRAND JUROR: Thank you.

7 (Witness excused.)

8 MR. DAVIDSON: May I have our next witness in?

9 MR. BENSON: Here you go.

10 MR. KLEMM: All right.

11 MR. DAVIDSON: Go ahead and remain standing right
12 there, and raise your right hand, and they'll swear you in,
13 over there.

14 MR. KLEMM: This way?

15 MR. BENSON: That way.

16 MAX KLEMM

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

19 DIRECT EXAMINATION

20 MELODY BROWN

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

23 DIRECT EXAMINATION

24 BY MR. BENSON:

25 Q Have a seat, sir.

1 A Thank you.

2 Q And tell us your full name, and spell your last
3 name.

4 A Max Christian Florence Klemm.

5 Q Okay.

6 A K-l-e-m-m, like Mike.

7 Q All right. And so, on December 27th, 2023, where
8 were you -- actually, where are you employed?

9 A I work at Golftec at Mall 205.

10 Q Okay.

11 A So, it is off the frontage road, it was at 92nd or
12 96th, faces the interstate. I am next door to Luxe Tan, and
13 that's two doors down from the T-Mobile on the corner.

14 Q Okay, so right behind you is an imaginal map we
15 got from Google. They gave it to us. And it looks like
16 there's a, it says, "Golftec Southeast Portland."

17 A That's correct.

18 Q Is that where you work? Okay.

19 A Yeah.

20 Q And I'm going to take you back to December 27th,
21 2023. Any guesses as to why I'm going to bring you back to
22 that date?

23 A Yeah, I know. The shooting out in front of the --
24 well, not in front of the store, just on the street, on
25 96th.

1 Q Okay. So, what is your earliest recollection
2 of that incident?

3 A When you say earliest, just what I remember?

4 Q Yeah.

5 A I basically was in the front of the shop, at our
6 desk, in the entrance facing west, doing some paperwork, and
7 I heard gunshots. Looked up, and I had a view of a police
8 officer shooting sort of south down 96th.

9 Q Okay.

10 A And -- yeah.

11 Q Okay. So you're in the Golftec Southeast Portland
12 store. The entrance, though, is in to the east side. Is
13 that what --

14 A No. Our entrance is on this side right here.

15 Q So the west side?

16 A Basically, right where this tree here is.

17 Q Okay. So it actually faces 96th. Is that right?

18 A Correct.

19 Q I suppose there's a window?

20 A Yes. There's a big window pane in the front.
21 It's like one kind of pillar that blocks the view, but it's
22 all windows.

23 Q Okay. And you saw a police officer out there?

24 A Yes.

25 Q Tell us -- but it sound like what drew your

1 attention was the sound of gunfire?

2 A Correct.

3 Q Okay. So, I'm going to -- stop me if I'm wrong.
4 You look up, and look out the window and see a police
5 officer. What do you see, specifically?

6 A So, basically I looked up, and there was a row of
7 police vehicles that I hadn't noticed, because I was looking
8 down at my laptop and doing my computer stuff and paperwork.
9 And then I looked to what would be north, west, and saw a
10 police officer standing on what looked like he was in the
11 street or on the sidewalk, on 96th, roughly here-ish.

12 Q Okay.

13 A Shooting south. And I guess I saw him, I want to
14 say two or three shots. And then that was done, no more
15 shooting.

16 Q How many police officers did you see?

17 A I only saw one shooting, and then I ran up to the
18 window, because we have some pillars on the outside of the
19 building, that blocked vision. All I saw was a police
20 officer. And I ran up to see what was going on, because
21 well, that's kind of what you do, and I noticed that all of
22 the police officers were moving. There were multiples at
23 this point, that I saw. They were all moving to the other
24 side of the street, behind vehicles, pointing at the shop,
25 at which point I ran over and grabbed the one person who was

1 one of our clients who was practicing in a bay, and told
2 him to move to the back of the shop, and --

3 Q Practicing golf?

4 A Yes.

5 Q Okay.

6 A Yeah, yeah. We have golf practice, and lessons.

7 Q Okay.

8 A And he was just in there doing a practice session.

9 And I got him to move to the back of the shop, and one of
10 our other employees was in the back office already. And
11 then, when I got them back there, then I realized I actually
12 should just probably close the door, or lock the door, so I
13 kind of ran up front to lock the door, and then run back.

14 And by that point, there was no more shooting. I
15 think when I got back to the front, I saw everyone
16 approaching a spot in the street. There were shields.
17 There was just a bunch of officers just kind of surrounding
18 an area.

19 Q Okay.

20 A And then we stayed in the back for a couple more
21 minutes at that point. When we came back to make sure
22 everything was okay, they were starting to wrap off the
23 area. I had to contact a bunch of people who were trying to
24 come in at that point, but all the roads were blocked off.
25 So, they were just -- yeah. It was kind of figuring out

1 what was going to happen next.

2 Q Okay.

3 A And --

4 Q So, you saw -- I'm just going to sort of
5 summarize. Tell me if I'm wrong. You saw a single police
6 officer, you didn't see a bunch of police cars on 96th?

7 A After I looked up, there were -- looking out, I
8 would have say there were maybe six or seven of them from
9 about here up to there.

10 Q Okay.

11 A This side of the road.

12 Q Six or seven police cars?

13 A Six or seven, yeah. It's been a while.

14 Q Yeah, sure.

15 A I would say that would be my estimate right now.

16 Q Okay. So, I guess what I'm getting at, did you
17 see many, several other police officers but only one
18 actually shooting?

19 A Yes. I saw multiple police officers. When I
20 looked up, all I saw was one officer shooting. And then
21 when I got close to the window, that's when I saw a lot more
22 officers. Everyone was --

23 Q Okay.

24 A The cars, they were all over here behind -- and
25 there are multiple pillars.

1 Q Yeah.

2 A I have a picture I can share, that shows kind of
3 the view I had, because I took a --

4 Q Did you give that to the --

5 A I think I shared one, because some officers came
6 up and talked to us, and I'm pretty sure I shared --

7 Q I don't recall seeing that, but --

8 A I can share that, if you like.

9 Q Well, do you have it with you?

10 A Yeah.

11 Q Oh, okay.

12 A Yeah.

13 Q Oh yeah, I forgot phones.

14 A All right, let me see, date. January, December.

15 Q Did you watch the Masters?

16 A Of course. I had my own Masters party at the
17 shop. I was there all Sunday. All right. All right, let
18 me see. I have a couple.

19 Q These are photographs you gave to the police?

20 A Yes. I sent by, via email, I believe.

21 Q Okay.

22 A And I'm just getting together some picture -- I
23 have another one from the front of the shop, just to
24 illustrate what my view looked like.

25 Q Yeah, if you just see one, just to illustrate it,

1 I don't think it's (indiscernible).

2 A I think I have a better one that'll just show -- I
3 just took a bunch just to see what was going on. Yeah, I
4 guess that -- yeah, that could work. All right. So, I can
5 pass it around, if you'd like to see.

6 MR. DAVIDSON: Hey, why don't you just walk, maybe
7 walk around and show it.

8 MR. BENSON: Yeah, that --

9 MR. DAVIDSON: Yeah.

10 THE WITNESS: Okay. So, I'm up at the window. My
11 desk is further back, but then we have these pillars on the
12 outside of the building. And I had a view right to here,
13 which is where I saw the police officer shooting that way.
14 And whatever was being shot at was behind this pillar, so I
15 don't actually see what was being shot at.

16 BY MR. BENSON:

17 Q Why don't you pass the --

18 A So my view was there, and this is where the police
19 officer was. And you can see there's a row of police cars.
20 I have other pictures that show like more, but what I viewed
21 was him, that way.

22 Q Great, thank you. Thanks.

23 GRAND JUROR: Got it. Thank you.

24 BY MR. BENSON:

25 Q And Mr. Klemm, thanks. Thanks for showing

1 everybody. Just to wrap it up, sometimes when people
2 say, you know, shooting, they mean, you know, pointing a
3 firearm, that you heard gunshots, and you described the
4 officer shooting. What does that mean?

5 A So, I heard gunshots. I looked up, and I saw an
6 officer in firing stance, pointing a gun away from, at
7 something, and I'm pretty sure I saw the last two shots.

8 Q Okay. So like, just to like pull back on the
9 firearm?

10 A No, I didn't see that, but I saw, I guess, puff of
11 smoke, or whatever you call the --

12 Q Okay. Okay, so you saw him actually discharge --

13 A Yeah, I saw him actually discharging.

14 Q Yeah, yeah. Okay. That's all I have, thank you.

15 MR. BENSON: Do you have anything?

16 MR. DAVIDSON: I don't.

17 MR. BENSON: Anybody have anything?

18 GRAND JUROR: No, sir.

19 MR. BENSON: Well, Mr. Klemm, we'll let you get
20 back to your golf shop then.

21 THE WITNESS: Sounds good.

22 MR. DAVIDSON: Thank you very much.

23 MR. BENSON: And thank you.

24 THE WITNESS: Thank you all.

25 GRAND JUROR: Thank you.

1 MR. BENSON: I guess I'll stay. Thank you, Mr.
2 Klemm. We certainly thank you very much. (Indiscernible).

3 (Witness excused.)

4 MR. DAVIDSON: Hi there. If you want to stand
5 right there next to that chair. Remain standing for a
6 second. And then if you'll raise your right hand, they will
7 swear you in.

8 MR. DAVIDSON: Okay. Go ahead and have a seat.

9 MELODY BROWN

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

12 DIRECT EXAMINATION

13 BY MR. BENSON

14 Q Have a seat, and tell us your full name and spell
15 your last name.

16 A Melody Brown, B-r-o-w-n.

17 Q Ms. Brown, earlier when we were talking, you said
18 you're a little nervous?

19 A Uh-huh.

20 Q Are you still nervous?

21 A A little bit.

22 Q Okay. Well let me know if you get overwhelmed.
23 (Indiscernible), and we can take a break too. But I think
24 my questions are going to be kind of short.

25 A Okay.

1 Q December 27th, 2023, were you -- you were at
2 work. Is that right?

3 A Uh-huh.

4 Q And where do you work at?

5 A L&M Hair Studio.

6 Q Okay. The Hair Studio, and what do you do there?

7 A I'm a hair stylist.

8 Q A hair stylist, is that right? Okay. And this
9 is -- you own the store. Is that right?

10 A I do.

11 Q Okay, congratulations. That's awesome.

12 A Thank you.

13 Q So, what we have behind you is a map. I wonder if
14 you could point to your hair studio, L&M on the map. This
15 is the golf store, right here. There's T-Mobile.

16 A Oh, here's Target this way, okay.

17 Q Yeah. Target's over here.

18 A Okay, so --

19 Q If you don't remember, that's fine.

20 A Oh, it's all turned around.

21 Q Yeah.

22 FOREPERSON: You might pull out a bit.

23 MR. BENSON: What we'll do is we're going to show
24 you --

25 MR. DAVIDSON: Here's all Mall 205

1 (indiscernible).

2 MR. BENSON: Yeah.

3 MR. DAVIDSON: 96th Avenue is right here.

4 THE WITNESS: Oh, I see us right here, look right
5 here, over here.

6 BY MR. BENSON:

7 Q You're down in this building, right?

8 A Yeah.

9 Q Okay. And --

10 A Oh no, there I am, up there.

11 Q Oh no, right here, right next door to the T-Mobile
12 store.

13 A Yeah.

14 Q Okay. L&M Hair Studio, what does the --

15 A One door away, but yeah, basically.

16 Q Okay. What does L&M stand for?

17 A So Melody.

18 Q Yeah.

19 A And then the L was my friend, Laterra (ph.). She
20 was going to go in business with me, but she got cold feet,
21 so. I don't want to change the name.

22 Q Okay. So, let's take it back to December 27th.
23 Kind of, it was a dramatic day. And so, what were you
24 doing?

25 A I was doing my client's hair.

1 Q You were doing somebody's hair, right?

2 A Uh-huh.

3 Q And so she was sitting in the chair, and you were
4 working behind her, doing her hair. There was two chairs
5 there, in your studio, salon?

6 A Yes.

7 Q Is that right?

8 A Yes.

9 Q Right. Was there someone else in the other chair?

10 A No, my sister wasn't there.

11 Q Okay. And so who else was in the, in your office
12 at the time, or your salon?

13 A It was another hair stylist, but hers is in the
14 back. And there was a couple clients in there.

15 Q Okay. So, what happened?

16 A For me?

17 Q Yeah.

18 A Okay.

19 Q Yeah, if you could.

20 A So, I was just doing my client's hair. And then I
21 saw like this man, like running. And we see stuff like that
22 all the time at the shop, so we were just being nosy. And
23 so, I was like, oh my gosh, you all see that guy running?
24 And then, I was -- because all of my side is all window. So
25 I was -- I saw him, like running like from Target, and then

1 I saw a officer open up his door, and like pull out his
2 gun. And then I was like, oh this is serious.

3 And so I'm like, was like telling the girls in the
4 shop, like that this man has a gun, like he pulled out a
5 gun. And then we like walked to the door, to like see what
6 was going on, or like what was going to happen. And then
7 that's when we heard like the gunshots.

8 Q Okay. Now I'm going to walk you through that a
9 little bit carefully. So you saw somebody running by, but
10 you see this kind of thing, you said frequently.

11 A Yeah, because --

12 Q What do you mean by this kind of thing?

13 A A lot of people running because they was stealing.

14 Q Stealing from like Target or somewhere?

15 A Uh-huh.

16 Q Okay. So is that what drew your attention, the
17 running?

18 A Yeah.

19 Q Could you describe what you saw? Like, what did
20 he look like? What did this person look like?

21 A Well I know what he look like now, but what I
22 thought, in the beginning, I thought he was like a white
23 male with a red beard.

24 Q Okay. All right, could happen.

25 A Yeah.

1 Q And when -- and he was running. Was he running
2 fast?

3 A Yeah, he was running pretty fast.

4 Q Okay. But I guess that what I mean is he wasn't
5 just jogging. He was running. He was running sort of --

6 A Yeah, he was like running, yeah.

7 Q Okay. And then, so that caught your attention.
8 Did you see him carrying anything? Where was his hands at
9 the time?

10 A I feel like his hands was like, I want to say it
11 was like this.

12 Q Okay.

13 A Yeah.

14 Q You're -- when you -- looks like hands in like a
15 hoodie pocket?

16 A Yeah.

17 Q Is that what you're saying? But you also
18 testified he was running pretty fast.

19 A He was.

20 Q So, often when people run, they run with their
21 hands kind of the sides. Was it -- so, just to be clear,
22 when he was running, and you noticed it was his -- were his
23 hands in the pocket, or were they out?

24 A I think they was in the pocket, because I remember
25 me thinking afterwards, like maybe he was like holding food

1 or something, like had food or something.

2 Q Okay. Okay.

3 A Yeah.

4 Q He ran by, and then in which direction was he
5 running?

6 A He was running this way.

7 Q So, from east to west, he was running towards
8 96th?

9 A Yes.

10 Q Okay. And then you testified the next thing you
11 saw was somebody with -- you testified with a gun. Is that
12 what you said?

13 A I saw the officer pull out his gun.

14 Q Okay. And where was the officer when he pulled
15 out his gun?

16 A Kind of like in the middle-ish of like where that
17 car is right here.

18 Q Okay, so you're depicting to the north of L&M Hair
19 Studio on the road that goes into the Mall 205 parking lot?

20 A Uh-huh.

21 Q You said you saw a police officer in that area,
22 and he pulled a gun out. Was he standing, in the car?

23 A He was standing. Yeah, he got out his car, and
24 the car door was open.

25 Q Okay.

1 A And then he was over the car.

2 Q Oh, he was pointing the gun?

3 A Yeah.

4 Q Okay. And in which direction was he pointing?

5 A This way, like towards the guy running.

6 Q Towards the guy running, 96th?

7 A Uh-huh.

8 Q And then what happened?

9 A Well the guy was running, and he got back in his
10 car, because obviously he couldn't shoot him. So he got
11 back in his car, and then he drove to the new block, like
12 sped it into the corner.

13 Q Okay. What happened then?

14 A Well, I -- first, I don't know, like for probably
15 a couple of seconds I was like getting the girls. They're
16 like yelling. And I just ran to the door. And I can't
17 really see this way --

18 Q Yeah.

19 A -- too much, so I just heard the gunshots.

20 Q Okay.

21 A After that.

22 Q Now, how did you respond when you heard the
23 gunshots?

24 A I was yelling.

25 Q You were yelling? What were you yelling? Do you

1 remember?

2 A I was like, oh my God, oh my God, like they're
3 shooting him, oh my God.

4 Q Okay.

5 A Yeah.

6 Q You had a client. What did your client do?

7 A My client, I think she was like trying to go to
8 the back. She was scared. She wasn't trying to go to the
9 door.

10 Q But I ask you that because you made this video.
11 There's a -- is that right, you made a video?

12 A I gave them the video, of the inside of my shop.

13 Q Who did you give the video to? I mean, not
14 specifically, but to a police officer or to (indiscernible)?

15 A Yeah, yeah. Yeah, yeah, police officer.

16 Q Okay, police officer. And the video was shot from
17 inside the store.

18 A Right.

19 Q And how was the video produced, like what
20 mechanism?

21 A We have Ring.

22 Q A Ring camera?

23 A Ring camera.

24 Q Did you make videos yourself, with your phone?

25 A Yeah, but it was like way out there. It wasn't

1 nothing --

2 Q Okay.

3 A -- like during. It was -- yeah, I didn't have my
4 phone out during that time.

5 Q Okay. But after --

6 A Yeah.

7 Q You made some videos with your phone, so a shop
8 video on your phone?

9 A Yeah.

10 Q And then, did it depict anything of interest?

11 A No.

12 Q Okay.

13 A No.

14 Q Now, the big question I have, and I know the
15 answer, so it's going to be quick, but did you see -- you
16 heard gunshots, did you see this individual who had been
17 running? Did you see him during the gunshots? Did you see
18 who fired the gunshots?

19 MR. DAVIDSON: I'm sorry, we need you to answer
20 out loud.

21 THE WITNESS: Oh sorry, no. No.

22 MR. DAVIDSON: Yeah, it's because we're recording
23 all of this, so yeah.

24 THE WITNESS: I'm sorry, no.

25 BY MR. BENSON:

1 Q Okay. I had forgotten. You didn't really see
2 any of that, but you did hear the gunshots?

3 A Yes.

4 Q And would it be fair to say it was, for you and
5 the people in your store, it was a big moment?

6 A It was.

7 Q It was dramatic? Okay.

8 A Yeah.

9 Q That's, I think, all I have. My colleague here,
10 Brian might have some questions.

11 MR. DAVIDSON: Actually, I'm going to speak,
12 sorry.

13 THE WITNESS: Oh.

14 MR. DAVIDSON: I actually don't. I don't have any
15 questions.

16 THE WITNESS: Okay.

17 MR. DAVIDSON: Does anybody from the Grand Jury
18 have any questions?

19 MR. BENSON: All right.

20 THE WITNESS: Okay.

21 MR. BENSON: Ms. Brown, thank you. You're free to
22 go.

23 THE WITNESS: Okay.

24 MR. BENSON: Thank you for being so patient.

25 THE WITNESS: No problem.

1 (Witness excused.)

2 MR. DAVIDSON: That's your last witness, I think,
3 yeah.

4 MR. BENSON: I think so, yeah. Here you go.

5 MR. DAVIDSON: Okay, we can go ahead and go off
6 the record.

7 (Whereupon, the above-entitled matter went off the
8 record at 11:35 a.m. and resumed at 1:35 a.m.)

9 MR. DAVIDSON: We are back on the record in
10 today's matter, which is DA Case Number 2469270-1, 2 and 3,
11 in Grand Jury A, Case 42. I think I have that correct, 42
12 yes. All right, we are, as I said, back on the record. We
13 are calling our first witness of the afternoon, and that is
14 Eliza Johnson -- Lewis, sorry. Eliza Lewis, apologies.

15 Eliza, will you please raise your right hand and
16 be sworn? Okay.

17 I'm sorry, was that a yes?

18 THE WITNESS: Yes.

19 MR. DAVIDSON: Okay, we're having some trouble
20 with the microphone on that end.

21 ELIZA LEWIS

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

24 DIRECT EXAMINATION

25 BY MR. DAVIDSON

1 Q All right, Eliza, thank you for joining us
2 today. I appreciate that we've had some difficulties. I
3 appreciate your persistence in hanging with us. So Eliza, I
4 think you know why we're here. We here looking into this
5 incident that occurred at the Mall 205 on December 27th of
6 2023, involving a friend of yours, Mr. Johnson, Tyrone
7 Johnson, II, specifically. Are you -- in fact, were you
8 acquainted with Mr. Johnson?

9 A Me and him was just really good friends.

10 Q Okay. And how long had you -- when did you first
11 meet Mr. Johnson?

12 A I met Tyrone in the middle of October of 2023.

13 Q Okay. So, at the time this all occurred, you'd
14 known him for two months or so?

15 A Yeah.

16 Q Is that a yes? I'm sorry, we're -- the
17 microphone's cutting out.

18 A Yes, sir.

19 Q All right, thank you. And how did you first meet
20 him? Was he a friend of a friend, or how did you get to
21 know him?

22 A It was a friend of a friend. When me and my ex-
23 boyfriend were together, he ended up meeting Tyrone up at
24 the park, you know, just to hang out, you know, and just, I
25 don't know, like they were just (indiscernible) at the park,

1 and they just started hanging out. And then later that
2 day, my boyfriend at the time ended up coming to get me, and
3 he was with Mr. Johnson at the time.

4 Q Okay. And you refer to your boyfriend, is that
5 Malik Jackson (ph.)?

6 A Yes.

7 Q Okay. Thank you. All right, well let's just go
8 ahead and then talk about what occurred that day. My
9 understanding from some of the police reports I've read is
10 that you were with Tyrone and Malik at some point earlier in
11 the day. Like when did the three of you first get together
12 that day?

13 A I want to say it was early afternoon, I want to
14 say about like 12, like 11:30, 12-ish. We all ended up
15 hanging out. Tyrone currently left some of his belongings
16 at another gentleman's house named Arthur. We ended up
17 going to Arthur's house, to go and get his, Tyrone's
18 belongings. Tyrone approached -- sorry, excuse me. Tyrone
19 approached Arthur and said, you know, hey, I know this guy,
20 I've had some missing clothes, you know, what's going on
21 with that, I just need my stuff back.

22 And him and Arthur ended up getting into like just
23 like a slight, like little argument, nothing too crazy. It
24 was nothing, no physical, just you know, an argument, just
25 back and forth. And I told Tyrone, you know what, just

1 leave it alone, let's just leave. And he was like okay,
2 so we ended up leaving. Before all of that happened, Tyrone
3 ended up telling Arthur, since you want to take my stuff,
4 I'm going to take some of your belongings.

5 And so Tyrone ended up taking a couple of things
6 of Arthur's. We ended up leaving from there, and we ended
7 up going to Target.

8 Q Okay, I'm going to --

9 A And Tyrone said that he --

10 Q Yeah, sorry. Eliza, hold on. I want to just kind
11 of jump in and ask some follow-up questions about that first
12 part, okay. Is that all right? So, Arthur, I'm assuming
13 that's Arthur Sims (ph.). Is that the Arthur we're talking
14 about? You have to answer --

15 A Yes, sir.

16 Q -- out loud, because we're recording. Thank you.
17 That's a yes, I think I heard. And is his, was his
18 residence, or I guess it's an apartment, was it 411
19 Northeast MLK Boulevard, Apartment 602? Was that the unit
20 you went to?

21 A Yes.

22 Q Okay. That's Arthur's place.

23 A Yes.

24 Q And had you met Arthur before? Were you familiar
25 with him?

1 A Arthur, no. He was a friend through Louie
2 Jackson (ph.).

3 Q Okay. So you had never met him before that day?
4 No.

5 A No.

6 Q Okay, got it. All right. So as I think you might
7 be aware -- so let me step back. You said that, sorry,
8 Tyrone ended up taking some of Arthur's possessions. Is
9 that right?

10 A Yes.

11 Q And what specifically did he take?

12 A I know he took Arthur's Nintendo Switch. He ended
13 up taking Arthur's tablet, and I want to say there was
14 something else, but I'm not 100 percent positive. But I
15 know it was the Nintendo Switch and Arthur's tablet --

16 Q Okay.

17 A -- that he ended up taking.

18 Q And was Arthur in agreement that that was going to
19 occur, or was Tyrone taking those things from Arthur against
20 Arthur's will?

21 A He was taking Arthur's stuff as he was telling
22 Arthur, I'm taking your stuff since you took my stuff and
23 you're not willing to give me my belongings back.

24 Q Okay.

25 A And so he ended up taking his stuff and we left

1 from Arthur's house.

2 Q I guess the question I'm asking is, Arthur was not
3 in agreement with Tyrone taking these valuable items from
4 Arthur, correct?

5 A No.

6 Q Yeah. He did -- Arthur did not want his stuff
7 taken by Tyrone. Is that accurate?

8 A Correct.

9 Q Okay. You are also aware, I think, at this point,
10 that Arthur ended up shortly thereafter, calling -- well
11 actually, during this, Arthur actually called the police to
12 report that he was being robbed at gunpoint by Tyrone. Are
13 you aware of that?

14 A No.

15 Q You were not?

16 A I was standing right there the whole entire time.
17 Tyrone never had, he never pulled out possession of a
18 firearm.

19 Q I'm sorry, who didn't?

20 A Tyrone, he never ended up pulling out a firearm on
21 Arthur.

22 Q Okay. But you're aware that Arthur called the
23 police to report this incident and reported to police that
24 Tyrone, in the course of taking the property you just
25 described, threatened Arthur with a gun. You're aware that

1 that report was made by Arthur Sims?

2 A That, I did not know about the whole report, like
3 I said, but Arthur did end up reaching out to me and telling
4 me that he was calling the police and saying how Tyrone took
5 stuff out of his possession.

6 Q Okay. So, you're saying that you never saw Tyrone
7 pull a gun, or threaten to pull a gun against Arthur Sims
8 during that interaction?

9 A No.

10 Q Okay. Were you in the same room with the two of
11 them the entire time?

12 A Yes.

13 Q Okay. Now, it is true that you knew that Tyrone
14 was armed with a gun that day, correct?

15 A Correct.

16 Q Okay. How did you become aware that Tyrone was I
17 possession of a gun on the 27th of December of last year?

18 A When Tyrone was with me on our way to Target --
19 not on our way to Target, sorry, my apologies. When we were
20 on our way to Arthur, after we left Arthur's house, he was
21 sitting in my car, and he told me that he had to go drop
22 something off at his mom's house. And I said, what do you
23 need to drop off? Because, you know, I don't have a whole
24 lot of gas, I don't get paid for another couple of days, so
25 what are you trying to drop off at your mother's house?

1 And he said, I'm in possession of a firearm.
2 And that's when me and Tyrone had a conversation. I was
3 like, is it legalized, do you have paperwork? Because you
4 riding around in my car, possession of firearms, I can get
5 in serious trouble for that. So, we're going to have to
6 figure something out. He was like no, it's not legalized.
7 And that's when I told Tyrone that you need to drop that --
8 you need to drop it off at your mom's house. You cannot be
9 riding around with that in my car.

10 Q Okay. I apologize.

11 A So, I didn't know he was in possession of a
12 firearm, until we started -- till he told me that he needed
13 to go to his mom's house and drop it off.

14 Q Okay. So, is it logical to conclude then, that at
15 the time Tyrone was taking the property of Arthur Sims that
16 he had the firearm on him at that time?

17 A That, I have no idea. I did not see no possession
18 of firearms of any kind of him when we went out to Arthur's
19 unit. I don't know if he left the firearm in my vehicle, or
20 any of that. But I did not see possession of firearm when
21 we entered Arthur's unit.

22 Q Okay. So is it -- where did you pick Tyrone up
23 at?

24 A He was with Malik when they ended up coming to get
25 me from a friend's house.

1 Q Okay. And what vehicle were they driving?

2 A They -- Malik had my car.

3 Q Okay. So you get in the car, you go from where
4 you were to, directly to Arthur Sims' place, correct?

5 A Correct.

6 Q Okay. And then you leave Arthur Sims' place, and
7 I guess you're going to go to Target, correct?

8 A Yes.

9 Q All right. You didn't make any other stops?

10 A No.

11 Q Okay. So, at the time you -- I guess, Mr. -- it
12 would appear from that, that Mr. Johnson had armed himself
13 with a firearm prior to going to Arthur Sims' location,
14 correct?

15 A Yes. Well we went to Arthur's, and then we ended
16 up going to -- my apologies. We went from Arthur's house.
17 We went straight to his mom's house, and that's when, after
18 we left his mom's house, that's when we ended up making a
19 bearing to Target, because Tyrone said that he wanted to do
20 some shopping, because he had some clothes that he wanted to
21 buy. And that's when everything just happened. So, when --

22 Q Yeah.

23 A I'm sorry. When Tyrone was going in to Target --

24 Q Well, let's take a step back.

25 A -- to make some purchases --

1 Q Hold on, we'll get there. But my -- I guess
2 what I'm trying to determine is when, at what point did
3 Tyrone Johnson have a firearm? And I guess he would have
4 had the firearm, by what you described was your kind of
5 stops and such, prior to the two of you going into Arthur
6 Sims' home, correct?

7 A Correct.

8 Q So you didn't make any other stops, right? You
9 didn't, he didn't pick the gun up --

10 A After we left.

11 Q He didn't pick the gun up after you left Arthur
12 Sims' location, right?

13 A No.

14 Q Okay. All right. So you -- did you end up going
15 to his mother's house, Tyrone's mother's house?

16 A Yes.

17 Q All right. And why were you going there?

18 A He said he needed to go to his mom's house to drop
19 some stuff off.

20 Q Just stuff? Oh, because of the stuff he had taken
21 from Arthur Sims?

22 A That, I have no idea. He just said, I just got to
23 go to my mom's and drop some stuff off. I don't think that
24 it was the belongings of Arthur's, because when we ended up
25 getting to Target, he started pulling the table out of his

1 backpack. And I said, is that Arthur's tablet? And he
2 said yes. And then that's when I was like no, you got to
3 figure something out, because that -- and mind you, Arthur
4 was already messaging me, saying that there was a tracker on
5 the tablet.

6 And I did end up -- I guess Tyrone did end up
7 seeing that message. And so, we were about to get out the
8 car for him to go into Target, because me and Malik were
9 going inside when we were going to Starbucks.

10 Q Okay. So, did you ever see the gun while you were
11 in the car with Tyrone?

12 A Yes, he did show me.

13 Q Okay. And where did he produce it from? What --
14 was it on his body somewhere?

15 A Oh, he grabbed it from under his leg.

16 Q Under his leg?

17 A Yes.

18 Q Okay.

19 A So I don't know if he had it under the seat and
20 reached for it, whatever, but I seen his hand go under his
21 leg and grab it, and show me.

22 Q Okay. Well, so where were you sitting in the
23 vehicle?

24 A I was in the back seat.

25 Q And was -- I'm assuming Malik was driving?

1 A Yes.

2 Q And Tyrone would have been in the front passenger
3 seat?

4 A Correct.

5 Q Okay. Can you describe the gun? What did it look
6 like?

7 A He had it in the, what's it called? Not like a
8 case, but I couldn't really like see the whole thing, but I
9 knew that he said that it was a revolver. So he just like,
10 when he had it in his hand, there was like a kind of like a
11 case over it. So I didn't actually see it, but he, all he
12 said was that it's a revolver, and why don't you like, due
13 to stuff that I've seen in my past lifetime, just firearms
14 just, it's just not -- I don't want to see it.

15 Q Okay.

16 A So when he told me, he was like, I have -- like,
17 this is what I got to drop off at my mom's, it's a revolver
18 and some other stuff.

19 Q Okay. But you didn't actually see the gun?

20 A No.

21 Q Okay. All right. So was it your assumption that
22 he had dropped the gun off at his mom's?

23 A That's what he was saying.

24 Q Okay. All right. So after he stopped at his
25 mom's, did you see the gun at all after he came back out of

1 his mom's?

2 A No.

3 Q No. Okay, all right. So you're going to Target.
4 You drive to Target, and what's the plan as you arrive at
5 Target?

6 A Me and Malik were going to Target to get some
7 Starbucks. And Tyrone said that he wanted to go and look at
8 some clothes.

9 Q Okay. So, what happened? Did you drop -- do you
10 park, and did everyone go in together? What happened?

11 A Yes. We ended up parking. We all went in
12 together. We walked around for a little bit, and then I was
13 like, well I don't really want to like walk around too much,
14 because two years ago I got in a car accident, so my
15 shoulder blade is like dislocated. So, I couldn't walk
16 around a whole lot, so I told Tyrone that when you're done
17 shopping, then just let me know, and we'll be outside. And
18 me and Malik ended up going to Starbucks to get some coffee.
19 And me and Malik left out of Target, and Tyrone was still in
20 there.

21 And as me and Malik got in the vehicle, not even
22 five minutes later, that's when we just seen the winter
23 (ph.) police and SWAT team start flying in the Target
24 parking lot.

25 Q Okay.

1 A Or not SWATs, undercover. My apologies. Cops
2 and undercovers.

3 Q Okay. How did you know they were undercover cops?

4 A It's (indiscernible), it was like a dark blue SUV
5 and they had their (indiscernible).

6 Q Okay, got it. So when you started seeing, I
7 guess, police cars kind of descending on the parking lot,
8 what were you thinking, and what'd you guys do?

9 A Me and Malik were sitting there, and I was kind of
10 stumped for a second. I was like, why is all these cops
11 coming? I was like no, tell Tyrone just to stop shopping,
12 just stop what you're doing and leave everything behind, and
13 just exit out the store, and just, you know, phone and tell
14 him to come on. We're going to get out of this area. I
15 don't know what they're here for. He's -- and Malik ended
16 up trying to call Tyrone, and Tyrone wasn't answering.

17 And tried to call him like at least like five or
18 six times, back to back. And Tyrone wasn't answering. And
19 I was like, okay well, I don't want to sit here, because you
20 know all the police, they're coming, they're flying in, so I
21 don't know what's going on. And they -- if, you know,
22 somebody's in the store doing something they're not supposed
23 to be doing and they start shooting, you know, you can't
24 control bullets. You know, once bullets start flying,
25 there's no stopping. So, I told Malik, I said, I want to

1 go. So we ended up -- so Malik turned on the car.

2 Q Well hold on. Let me ask you --

3 A He had gone for --

4 Q Let me ask you a question, Eliza. Let me jump in
5 here. So, I mean, why would you think that someone was
6 going to start shooting in Target just because police
7 officers are arriving in the parking lot?

8 A Because it was just like anything could have
9 happened. It was just a whole bunch of police just coming
10 in, just flying down the street. It was at least like 20-
11 plus cops. So just seeing something like that, at first I
12 was all like, what is that, like why is everybody -- you
13 know, it's Mall 205. You know, Target -- it's just Mall
14 205, the area is just crazy in generalizing, so. I'm always
15 seeing something on the news about a shooting, a stabbing or
16 something's always going on by Mall 205. So I didn't know
17 what it was.

18 Q Okay.

19 A So I said no. I said, tell Tyrone just to come
20 on, and we were going to leave. And we ended up --

21 Q Well, hold on. I got another -- I do want to hear
22 the rest of this, but I had some other questions I want to
23 ask. So, you basically had dropped Tyrone off. He said he
24 wanted to do some shopping. What do you need to -- do you
25 have something going on there?

1 THE WITNESS: Yeah, Maliya (ph.).

2 I'm so sorry, Mr. --

3 MR. DAVIDSON: That's all right.

4 THE WITNESS: Baby, you need to go -- okay. Go
5 back out there to grandma. Hey, I'll be there in just a
6 moment. (Indiscernible). Give me just a moment, okay.

7 I'm so sorry.

8 MR. DAVIDSON: Oh no. That's -- thank you for,
9 you know, obviously if you need to tend to your child, do
10 so. Are we good to continue?

11 THE WITNESS: (Indiscernible), good.

12 BY MR. DAVIDSON:

13 Q Yeah, thanks. So you've got Tyrone, who you know
14 is armed with a gun, or at least was, at some point that
15 day. And he's going to go in and go shopping. So, did you
16 know actually that Tyrone was going into the store to
17 basically steal stuff?

18 A No, because when we left his mom's house, Tyrone
19 did -- the only thing that Tyrone did have in his hand is
20 money that his mom gave to him.

21 Q Some money? Okay. All right. So it's --

22 A Yes.

23 Q It's your testimony that you had no idea that
24 Tyrone was going in to the Target to basically shoplift?

25 A No.

1 Q Okay. So these car --

2 A He said he wanted to go look at some clothes.

3 Q Okay. So, these cop cars start descending, you
4 decide it's time to leave. What do you guys do?

5 A Me and Malik end up driving, like towards like the
6 front, because I was like, you know, well let's see if we
7 see Tyrone. We ended up driving slowly by the front. We
8 didn't see him. So, after when we were about to pull off,
9 just like not even a couple of minutes later, that's when we
10 heard a whole bunch of gunshots. And literally, right when
11 we were about to pull out, something told me, like turn
12 around. And as soon as I turned around, that's when I seen
13 Tyrone body drop. And I just left.

14 Q Okay. So where was Tyrone when you saw his body
15 drop?

16 A It was on the side of Target, in like, closer by
17 like the street, on like the MAX side. So like in the
18 parking lot, but like closer by the MAX.

19 Q Okay. And did you -- I guess you just saw -- you
20 heard shots, and then you saw his body drop? Is that what
21 you're --

22 A Yes.

23 Q Okay. And did you see who shot him, or what was
24 going on when his, when you saw his body drop?

25 A The police shot him.

1 Q How do you know?

2 A My vision was -- after I heard the gunshots, and
3 like after I literally seen his body just drop, I knew it
4 was the police. But like identifying which officer it was,
5 my vision, it was just, it was a little blurry at that
6 point, like my mind was just, it was just racing too hard.

7 Q Okay. At the time you saw Tyrone's body drop, did
8 you see that he himself was pointing a gun at the police?

9 A I'm so sorry. I'm trying. It's just --

10 Q Oh yeah, take your time. That's -- it's really
11 okay.

12 (Witness talks with child Maliya.)

13 MR. DAVIDSON: Probably not something you want
14 your 5-year-old --

15 MALIYA: Hi.

16 MR. DAVIDSON: Hi. Hi.

17 MALIYA: Hi.

18 MR. DAVIDSON: That's a first. I got to be
19 honest.

20 THE WITNESS: I'm so sorry, Mr. --

21 MR. DAVIDSON: Oh, that's fine. We'll try to wrap
22 this up. You have a lot going on. I appreciate you taking
23 some time for us.

24 I actually had a witness, in one case, remotely
25 testify from their boat in the middle of the Columbia River

1 once, and make me seasick, so I (indiscernible) like this
2 number.

3 GRAND JUROR: Yeah.

4 MR. DAVIDSON: Why don't we go off the record for
5 a second?

6 (Whereupon, the above-entitled matter went off the
7 record at 1:55 p.m. and resumed at 1:56 p.m.)

8 BY MR. DAVIDSON:

9 Q Thank you again. I appreciate it. We'll try to
10 wrap this up. I'm sorry. So my question to you, before we
11 took our short break was, did you see a gun, did you see
12 Tyrone with a gun in his hand, pointing that gun at the
13 police when you looked back and saw his body drop?

14 A No.

15 Q So, you -- are you saying you couldn't tell, or
16 you were looking at his hands and there was no gun in it?

17 A As soon as I literally just looked over, that's
18 when I just see his body just drop.

19 Q Again, so I guess my --

20 A I didn't see him -- I didn't see no gun in his
21 hand.

22 Q All right. So are you saying that he did not have
23 a gun?

24 A No. Not that I know of.

25 Q Okay. All right, so Ms. Lewis, you remember that

1 you ended up -- Detective Corona, who's there with you,
2 or not there with you, but is at your location, you ended up
3 speaking to him about this earlier this month, right?

4 A Sure.

5 Q Okay. I'm just going to read you what Detective
6 Corona wrote about what you said happened in relation to
7 this incident. So just bear with me for a second. "Eliza
8 Lewis said she saw a lot of police cars flying into the lot,
9 and initially said they stayed in the same spot, waiting for
10 Tyrone Johnson. Eliza Lewis said they waited for Tyrone
11 Johnson for five to ten minutes, and he never showed up.
12 Eliza Lewis said she heard a couple of shots, and they then
13 started to drive out of the parking lot.

14 "Eliza Lewis said the sounds of the gunshots
15 prompted them to start the car and drive off. Eliza Lewis
16 said they ended up at the driveway near the Verizon and
17 other stores. Eliza Lewis said she heard an additional five
18 to ten shots from this driveway, which was one to the north
19 of the main driveway where the incident occurred. Eliza
20 Lewis said she saw Tyrone Johnson running, and saw officers
21 shoot him as he ran.

22 "Eliza Lewis said she saw a body drop. Eliza
23 Lewis said she saw Tyrone Johnson slump forward, spin around
24 and drop. Eliza Lewis estimated she was about a block and a
25 half from the shooting. Eliza Lewis said she didn't see

1 Tyrone Johnson point a gun at the police. Eliza Lewis
2 estimated that the time between the first two shots and the
3 second volley of shots was 30 to 40 seconds.

4 "Eliza Lewis said immediately after the shooting,
5 she and Malik Jackson drove south, past the shooting scene,
6 and police cars, and past the MAX platform." So that is
7 what you told Detective Corona about what happened when he
8 interviewed you, I think, back on the 10th of April. So
9 that doesn't really line up with what you just told us. You
10 didn't really describe two volleys of shots, I don't recall.
11 And so can you kind of explain to me why there's a
12 discrepancy between the account you gave to Detective Corona
13 and the account you just gave us now?

14 A When me an Malik were sitting there, that's when
15 we heard the gunshots. And then we ended up pulling on -- I
16 ended up pulling up five, (indiscernible) just seeing
17 Tyrone. We didn't see him. When we started pulling off a
18 little bit further out, like we were about to like, you
19 know, go towards the end of the driveway, that's when I seen
20 Tyrone. Malik, not probably me, see -- we seen Tyrone
21 running, and then that's when we literally just seen the
22 gunshots. And I then seen his body drop, to the left.

23 Q Okay. Where were you parked when you heard the
24 first volley of gunshots?

25 A We were -- so like we were sitting right here, and

1 then Target was -- so we were like sitting right across
2 from Target, just kind of like diagonal.

3 Q So kind of in front of Target?

4 A Yeah.

5 Q Okay. So then you start to leave, and then you
6 see Tyrone running. And then you hear a second volley of
7 shots 30 to 40 seconds after the first set of shots. And
8 that's when you see Tyrone fall. Is that correct?

9 A Yes.

10 Q Okay. I think when you just told us the story the
11 first time, just now, under oath, I don't remember hearing
12 about two sets of shots.

13 A That was one part that I did forget to mention. I
14 heard gunshots before we pulled off. And then after we
15 heard the gunshots, that's what made me pull off and went
16 towards the front, to look for Tyrone. And then we see
17 Tyrone running. And that's when we heard more gunshots, and
18 then I seen Tyrone body drop. And we left.

19 Q Okay. So, I don't know if Detective Corona talked
20 to you about this, but there was a lot of surveillance video
21 in that parking lot. I mean there's many stores. There's
22 Home Depot, Target, Verizon, AT&T. There's a tanning place,
23 a salon, a fix-it shop, there's all kinds of video in that
24 Mall 205. And Detective Corona reviewed it all, because
25 that's part of a thorough investigation. And he observed

1 your vehicle, one driven by Malik, leaving the area about
2 two minutes before the actual shooting occurred.

3 A Because that's when we heard gunshots and that's
4 when we see his body drop. So --

5 Q So, can you explain to me how Detective Corona
6 could observe the vehicle that you're in leaving the area
7 two minutes before the shooting occurred, and then how is
8 that consistent with your ability to witness everything that
9 you had just explained?

10 A Me and Detective Corona, we didn't really get too
11 much into detail about their surveillance cameras.

12 Q Okay. Well, I'm going to -- it's what I'm saying,
13 though. I mean, Detective Corona has reviewed the video and
14 observed the vehicle you were -- Eliza? Are you there?

15 MR. BENSON: Let the record reflect we've lost
16 feed. The image is now blank, with her name, but does not
17 appear to be a response.

18 MR. DAVIDSON: We'll, let's go off the record for
19 a moment, while we try to figure out where we are.

20 (Whereupon, the above-entitled matter went off the
21 record at 2:02 p.m. and resumed at 2:07 p.m.)

22 THE WITNESS: My son Arthur's like, oh my God, I
23 think your laptop just died. I was like, I don't want him to
24 think I hung up in his face. I probably --

25 MR. DAVIDSON: That's all right. Look, you

1 wouldn't be the first person to hang up on me. So, you'll
2 be okay.

3 All right, we're back on the record, same matter
4 after resolving our technical issue.

5 BY MR. DAVIDSON:

6 Q So I think the last question I had asked you,
7 Eliza is, so again, Detective Corona has observed, you know,
8 the video surveillance of the parking lot, tracked the
9 movement of the car that you're in with Malik. And then he
10 observes it, he believes, leaving the area at two minutes
11 before the shooting occurs, which if true, would make your
12 observation of the moment when Malik -- or when Tyrone was
13 shot basically impossible. So I'm just asking if you have an
14 explanation for that.

15 A That, I -- when we were sitting there, we
16 literally heard the gunshots. Like, are you -- was he -- was
17 Detective Corona able to like share like the audio that day,
18 or was it just like you would know if there was just the
19 surveillance that he seen?

20 Q I think it was --

21 A Because if they're able to listen to the audio,
22 you can definitely hear the gunshots way before I can get out
23 of that parking lot.

24 Q I think it was primarily from observations of the
25 video. I don't know if it was based on audio. I will tell

1 you also that Detective Corona also interviewed Malik over
2 the phone. And Malik told a similar story that you have told
3 us. And then when Detective Corona confronted Malik with the
4 fact that he had observed them in the video leaving the
5 parking lot two minutes before the shooting, Malik actually
6 admitted that he actually hadn't seen the shooting. So, I
7 don't know. How would you explain that?

8 A That, I'm trying to figure it out, because me and
9 Malik -- Malik, as soon as I had turned around and I seen it,
10 that's when Malik also turned around for a slight second,
11 because he was driving. He turned around for a slight
12 second. And he literally just started crying. Malik was
13 like, they shot my brother, they shot my brother. So that's
14 why I'm trying to figure out why he's telling you guys a
15 different answer, when he's the one that started crying and
16 said, they just shot my brother.

17 Because he considered Tyrone his brother because,
18 you know, they were good friends and always hung out and
19 stuff. So, he was the one that literally said, they shot my
20 brother. And I was like, there's no way, there's no way that
21 they shot my brother. And then he was just -- yeah.

22 Q Yeah. I'll read you from Detective Corona's
23 report, his interview with Malik. And it says, "I told Malik
24 Jackson that I had watched a lot of video from the parking
25 lot, and I saw their vehicle drive around, and then appear to

1 leave the area before the shooting. Malik Jackson then
2 admitted he didn't actually witness the shooting, quote,
3 yeah, I'm not saying that I actually seen my brother
4 physically gunned down, unquote.

5 "I confirmed with Malik Jackson that he didn't
6 witness the shooting. Quote, no, I most definitely didn't,
7 unquote. Malik Jackson claimed the last time he saw Tyrone
8 Johnson was when he came out of the store." So that was what
9 Malik told Detective Corona, which would seem to be pretty
10 inconsistent with what you have told us today. I mean, do
11 you have an explanation for that?

12 A That is a good question. I have no idea. I don't
13 know why me and his answers is two different answers. But
14 literally, Malik was the one that looked me in my face, as he
15 was crying, and he said, they just shot my brother, they just
16 shot my brother. That's exactly his words, they just shot my
17 brother.

18 Q Okay.

19 A So that's why I'm not understanding why he's
20 sitting there telling you like that he actually didn't see
21 the shooting, when he's the one that told me, they just shot
22 my brother.

23 Q Okay. So, did you actually see the shooting, or
24 were you just relying on what Malik told you he saw at the
25 time?

1 A I heard the gunshots. We literally were about
2 to pull out. Then that's when I literally see Tyrone's body
3 hit the spin. So that's why I'm trying to sit here and
4 figure out why Malik's saying he didn't see the shooting, and
5 he's the one that literally sat there and said, they just
6 shot my brother.

7 Q Okay. And where exactly was Tyrone standing when
8 you observed him fall to the ground?

9 A It was literally right on the side, not too far
10 from the shooting.

11 Q Okay. All right. I think those are all, pretty
12 much all the questions I have, Eliza, but I think my coworker
13 here might have some questions, and the Grand Jury might have
14 some questions, so I'll turn first to Colin. No, no
15 questions from Colin. Okay. Let me turn to the Grand Jury.

16 MR. DAVIDSON: Does anybody in the Grand Jury have
17 any questions for Eliza? Yes.

18 GRAND JUROR: I have down that you turned
19 southbound on 96th Avenue when you were leaving, when you
20 were leaving the parking lot. Is that correct?

21 THE WITNESS: Could you speak up just a little
22 bit? The volume on this is just a little low.

23 MR. DAVIDSON: I think I can repeat the question
24 for you without a microphone. The question was, the
25 recollection of the Grand Juror was that you said, when you

1 were leaving the parking lot, you turned southbound on
2 96th Avenue.

3 THE WITNESS: Yes.

4 MR. DAVIDSON: So when you left the scene, you
5 turned southbound on 96th Avenue?

6 THE WITNESS: As I can remember it, yes.

7 GRAND JUROR: And there was no police presence
8 blocking the street at the time?

9 MR. DAVIDSON: The question is, was there a police
10 presence blocking the street at the time?

11 THE WITNESS: Yes. When me and Malik were at,
12 exiting out of the parking lot, the police were still flying
13 down the street, pulling in the driveway. The parking lot
14 was covered in police, and we see the cops just going down
15 the street, trying to get into parking. So, it kind of took
16 us a little longer to get out of the parking lot, due to all
17 the police coming our way.

18 MR. DAVIDSON: So, when you turned southbound on
19 96th from the parking lot, did you drive right by Malik's
20 body? Or I'm sorry, with Tyrone's body?

21 THE WITNESS: As soon as we pulled off, I
22 literally just laid back in my seat, and my mind was just
23 racing. Like, after the gunshots, after this thing, it was
24 a lot.

25 MR. DAVIDSON: Okay. Any additional questions?

1 Thanks.

2 GRAND JUROR: So did the gunshots happen before
3 you pulled out, or after you pulled out of the parking lot?

4 THE WITNESS: Before. We --

5 GRAND JUROR: Before?

6 THE WITNESS: We heard, I heard the gunshots
7 before we pulled out, before we ended up at the end of the
8 parking lot. That's what made me tell Malik, just go, after
9 we heard the gunshots.

10 MR. DAVIDSON: Any additional questions for Eliza?
11 Doesn't look like it.

12 Colin, again no?

13 MR. BENSON: No, thank you. I do not.

14 MR. DAVIDSON: All right. Great. Again, thanks
15 Eliza. I appreciate it. I know you got your hands full
16 right there, and I appreciate you taking a little time for
17 us. We're all wrapped up, so we'll hang up, and you can just
18 go and let Detective Corona know that you're all done.

19 THE WITNESS: All right, thank you so much for you
20 guys' time. I appreciate it.

21 MR. DAVIDSON: Thank you. All right, bye-bye.

22 (Witness excused.)

23 MR. DAVIDSON: Okay. Do we want to just --
24 who's --

25 MR. BENSON: Woods?

1 MR. DAVIDSON: Yeah. Do you want to -- is that
2 yours?

3 MR. BENSON: Yeah.

4 MR. DAVIDSON: Okay.

5 MR. BENSON: (Indiscernible) know that?

6 MR. DAVIDSON: Yeah. We're just going to roll
7 right into our next witness then, okay.

8 MR. BENSON: And then we can bring up that map.

9 MR. DAVIDSON: Yeah, will do.

10 MR. BENSON: Okay. I'll get Tyler.

11 MR. DAVIDSON: Okay. Go ahead and raise your
12 right hand and be sworn in.

13 TAYLOR WOODS

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

16 DIRECT EXAMINATION

17 BY MR. BENSON:

18 Q Have a seat, and tell us your full name, and spell
19 your last name.

20 A It's Taylor Woods, W-o-o-d-s.

21 Q Okay. And what do you do for a living, sir?

22 A I'm a police officer, Portland Police Bureau.

23 Q How long have you been with the Portland Police?

24 A About 6-1/2 years.

25 Q What kind of experience do you have prior to --

1 what did you do before you were with Portland?

2 A All sorts of stuff. I worked maintenance for a
3 while. I worked in a prison in Idaho, as a correctional
4 officer for a while.

5 Q Okay. So with respect to being a police officer
6 in the City of Portland, State of Oregon, what kind of
7 training do you have?

8 A We have the basic academy down in Salem, outside
9 of Salem, of 16 weeks. And then Portland has an additional
10 training program, the advanced academy, that's another ten
11 weeks. And services throughout the year. Then I'm assigned
12 to the Focused Intervention Team. We have additional
13 training for that, and ongoing training for that as well.

14 Q Okay. So, when you talked about the basic academy
15 in Salem, are you referring to the Department of Public
16 Safety, Standards and Training?

17 A Yes.

18 Q Okay, DPSST?

19 A Yes.

20 Q And they're also your credentialing agency, right?
21 They give you -- that you're certified through them?

22 A Yes.

23 Q What is your number?

24 A 57787.

25 Q Okay. And then, what is the FIT team, the Focused

1 Intervention Team?

2 A The Focused Intervention Team has existed in
3 Portland for about two years. It's a team of 12 officers
4 that investigate shootings, in conjunction with the Enhanced
5 Community Safety Team, which is, which our detectives, we
6 are officers, we are patrol-based, meaning we're driving
7 around in police cars throughout the city, responding to
8 shootings, and then looking for, you know, suspect vehicles,
9 or suspects in shootings.

10 Q Okay. And you said you received specialized
11 training for that?

12 A Yes.

13 Q So let's walk back. Your first exposure to
14 training in the State of Oregon was with DPSST. What kind
15 of things did you learn at DPSST?

16 A You learn the law. That's a good start.

17 Q Okay.

18 A You learn things like how to drive a police car.
19 We do a lot of scenario-based training, case law, a variety
20 of topics, for 16 weeks.

21 Q What about things like investigations?

22 A There's, I think there's some investigative
23 knowledge there, but it's, it is a basic training, so it's,
24 you don't get real deep into investigations.

25 Q Okay. But then you had some more training, it

1 sounds like, with the City of Portland, when you joined
2 the Portland Police?

3 A Correct.

4 Q Describe what that training entailed.

5 A A lot of that is kind of how the City of Portland
6 and the Portland Police Bureau does things, which kind of
7 honing in on things differently than -- you know, the state
8 academy is very broad. Portland has a lot of their own
9 policies, procedures, things that we do in Portland, and
10 that covers most of those. And it's a lot of, I guess, in
11 furtherance of training so, you know, more driving, more,
12 you know, scenario-based things, mental health training,
13 things like that.

14 Q What's mental health training?

15 A Mental health training is the, it's a crisis
16 intervention training, just responding to people that are
17 going through crisis situations.

18 Q Okay. And then lastly, there is the focused
19 intervention piece, and you said you received even more
20 specialized training when you became a member of that team.

21 A Sure.

22 Q What did that entail?

23 A It's a lot of classroom training, for one, a lot
24 of speakers from the community, particularly the African
25 American community in Portland, which hasn't always had, or

1 not even always, really has had a pretty negative
2 relationship with the City of Portland, specifically the
3 Portland Police Bureau. So a lot of hearing from community
4 members about their perspective, learning kind of historical
5 knowledge on gangs and gang shootings in the City of
6 Portland.

7 Q Okay. So, let me take you -- I might come back to
8 some of this training a little bit, but let's --

9 A Okay.

10 Q -- move forward a little bit. December 27th,
11 2023, during the day, what were you doing?

12 A I was working as a police officer for FIT, the
13 folks I mentioned to you.

14 Q Okay. So right around noon, what were you doing?
15 Just sort of driving the police car, doing the FIT training,
16 FIT team stuff?

17 A Let's see, what day of the week -- do you know
18 what day of the week that was?

19 Q Well, let's just -- there was an event that took
20 place on December 27th --

21 A Sure.

22 Q -- that you were involved in, so.

23 A Yeah.

24 Q So what I'm going to try to do is sort of lead up
25 to that. But it sounds like you were working, you're on

1 patrol.

2 A Yeah.

3 Q Engaged in a Focused Intervention Team --

4 A Right.

5 Q -- activity, okay. So at some point, did you
6 respond to Mall 205?

7 A Yes.

8 Q And what led up to that? Why did you respond?

9 A So we were kind of working out in Portland. We
10 were technically in Northeast Portland at that point, near
11 like 82nd and Sandy, 82nd and Glisan area. I was listening
12 to the dispatch radio channel, which was for East Precinct.
13 I heard -- just kind of driving around, I heard the call
14 come out about what was going on in the Mall 205. There was
15 a report of a theft.

16 I recognized a name that was given in that as a
17 person that I had knowledge of, that was wanted in
18 relationship to some other --

19 Q Okay. So I'll stop you there. So --

20 A Sure.

21 Q You're out doing your FIT stuff, and then you
22 receive, like I guess over the police radio --

23 A Yes.

24 Q -- notification that there had been a theft. Is
25 that what you're saying?

1 A It was a theft in progress.

2 Q A theft in progress?

3 A Yeah, right.

4 Q And did it say where?

5 A Yes. It was at the Target at Mall 205.

6 Q Okay. And so, but you're all in some other part
7 of the city at this point?

8 A Correct.

9 Q Were you asked to respond?

10 A No.

11 Q Okay. So, the second thing you said is that you
12 had some knowledge of the individual who was identified.

13 A Yes.

14 Q Is that what you said?

15 A Yes.

16 Q What I want to get at is, how did you know who
17 they were talking about, when they made the report about the
18 theft?

19 A I believe they said a name at some point, or
20 described this person. And I had my person hold the call,
21 and kind of look through it.

22 Q Okay. And who did they identify was doing the
23 theft?

24 A Tyrone Johnson.

25 Q Okay. And then you also testified earlier that

1 you had some knowledge of Mr. Johnson.

2 A Correct.

3 Q What do you mean by that?

4 A Mr. Johnson had been the subject of, or suspect in
5 a previous shooting, that I recall that I responded to, a
6 few months before, maybe within like, within six months, I
7 believe, when I was on call. As part of being on FIT, we're
8 on call on the weekends, for shootings.

9 Q Okay. Now as a part of that, did you interact
10 with Mr. Johnson or anything? Like, how did you --

11 A No.

12 Q Okay. So the name came up during, pending that,
13 during that investigation?

14 A Yes, correct.

15 Q Okay. Was there any other reason why the name was
16 important to you?

17 A Yes. So, we use an internal system. It's called
18 Dragnet, for disseminating like information of suspects of
19 crimes. Mr. Johnson had also been featured in a Dragnet
20 posting at some point, in the couple of months leading up to
21 this, being a suspect in a robbery at a different Target
22 location, I believe downtown. I'm not sure which Target, I
23 think it's like Galleria Target, is what it's referred to
24 as.

25 Q Could it have been the Powell Target?

1 A It could have. Yeah. I knew, all I knew was
2 it was in Central Precinct.

3 Q Okay.

4 A Yeah.

5 Q I don't even know where Powell is, so --

6 A Okay.

7 Q -- I'm not sure, yeah. All right. So, was there
8 any other reason why this name rang a bell with you?

9 A A couple of months before this, when working
10 downtown, another officer, thought that they saw Mr. Johnson
11 riding around on a bike. We were unable to locate him at
12 that time, so.

13 Q Okay.

14 A His name had come up a few times.

15 Q Okay. And before we move on, then, just to sort
16 of clarify, at this point, you'd never really spoken to Mr.
17 Johnson?

18 A No.

19 Q Would you have been able to identify him by seeing
20 him, at this point?

21 A Yes.

22 Q How come?

23 A He's a pretty distinct person. He's pretty tall,
24 pretty skinny, but he has a very distinct, sort of like face
25 tattoo.

1 Q Okay. All right. So, you get this call, I
2 guess it came from your dispatcher?

3 A It was the East Precinct dispatcher.

4 Q East Precinct dispatch?

5 A Yes.

6 Q Okay. And then apparently you connected this name
7 with these other incidents?

8 A Correct.

9 Q And so what did you do?

10 A So I relayed that to everybody else on my team,
11 just through our radio that we use to communicate with each
12 other, basically just like hey this, each precinct does this
13 call, this guy's at Mall 205. I think it was right around
14 shift change too, so I knew there wasn't going to be a whole
15 lot of officers there. So, like let's go help them out,
16 which is a pretty normal thing that we do.

17 Q Okay. So you're communicating somehow just with
18 FIT team people?

19 A Correct.

20 Q And who -- there's 12, you said there's 12 people?

21 A If everybody's here, there's 12. Yeah, I don't --

22 Q Okay. So who's available, who's working on the
23 FIT team that day,

24 A I have no idea how many people we had that day.

25 Q Okay.

1 A I know that, let's see, I was working with my
2 partner, Wyatt. I know that Thompson and Lee Yapers (ph.),
3 they were working that day, Adi Ramic, John Bartlett,
4 Michelle Petty.

5 Q Okay. Is -- so John Bartlett, Officer John
6 Bartlett, he was on the FIT team, working that day?

7 A Yes.

8 Q Is that what you're saying? What about Brian
9 Wheeler? Who's that?

10 A Brian Wheeler's a patrol officer with the East
11 Precinct.

12 Q Not with FIT?

13 A No.

14 Q What about Adi Ramic?

15 A Adi Ramic works for FIT.

16 Q Okay. He was working that day?

17 A Yes.

18 Q Okay. So you let just those people that working,
19 the FIT people know that you were aware that Mr. Johnson had
20 been implicated somehow with these three things, this --

21 A Yes.

22 Q -- most recently saw him on bicycle, earlier
23 maybe, a report of a robbery at a Target, and before that,
24 some sort of homicide. Is that what you said?

25 A It was a shooting.

1 Q A shooting?

2 A Yeah. It was not a homicide.

3 Q Okay, not a homicide? All right.

4 A No.

5 Q So, did they respond in any way when you radioed
6 them with that information?

7 A I don't remember specifically what was said, but
8 people understood what I was saying, and that we were going
9 to be heading down there, yes.

10 Q How do you know that they understood that?

11 A Because just whatever they responded on the radio.

12 Q Oh, okay.

13 A Like at --

14 Q They did respond I some way?

15 A Yeah, I just don't know specifically what they
16 said, but I was like hey -- basically it was like, you know,
17 this call -- East Precinct has this call at Target, Tyrone
18 Johnson's there. We know him from these things. Let's go
19 help them out.

20 Q Okay.

21 A Yeah, okay.

22 Q Got it. All right, thank you. So, by the way, is
23 that part of the training you received in FIT team, to sort
24 of update people as you respond?

25 A I don't know if that's specifically from FIT, but

1 that's just being a police officer, is communicating with
2 your teammates.

3 Q Okay. So, covered that then, so then what did you
4 do?

5 A So we started heading towards Mall 205. The
6 caller was -- I don't remember the caller's name. It was --
7 the caller identified themselves as a person who worked loss
8 prevention for the Target. So pretty soon, as I started
9 driving, I got on the phone with that caller, just making
10 sure that this person's even, that Mr. Johnson's still at
11 the store, this was still an event that's happening.

12 Q Okay.

13 A And it was.

14 Q Okay, you confirmed it?

15 A Yes.

16 Q And then, and so, you're actually on your way to
17 Mall 205 at this point?

18 A Yes.

19 Q Anything happen between that moment and when you
20 arrived at 205, of import?

21 A Yeah, so just kind of talking to loss prevention.
22 Basically they stated, you know, they know this person
23 because of previous incidents at Targets in the area. I
24 think they mentioned the robbery previously at a Target.
25 Target loss prevention talks to each other at all the

1 different stores. At one point, she sent me a picture,
2 that I believe she took off of like their surveillance
3 camera system in the store, sent me a picture of the person,
4 just -- and looking at it, I was like yeah, that looks like
5 Tyrone Johnson.

6 She basically described that he was walking
7 around, filling up a cart with kind of random items
8 throughout the store, pretty full cart. And based on
9 previous history, she believe that he was --

10 Q Okay.

11 A -- you know, going to steal. And then, I think I
12 forgot to mention earlier that I was also aware that Mr.
13 Johnson had a parole violation warrant.

14 Q Okay. But -- all right. Okay, so you're
15 responding to Mall 205. And it sounds like you're doing a
16 fair amount of stuff on your way.

17 A Yes.

18 Q So, and then you get to Mall 205.

19 A Uh-huh.

20 Q What happens?

21 A So, as I was on the phone with Mr. Johnson, or
22 sorry, the loss prevention from Target, my partner who I was
23 with that day, Officer Wyatt, he's on the radio
24 communicating the information that I'm getting, that he can
25 hear me receiving, and asking questions. He's putting out

1 that information over the radio to other officers. You
2 know, he's -- I can hear him requesting resources and trying
3 to set up a, you know, containment around the store.

4 So, when I received near Mall 205, I parked north
5 of the Target, over by, I believe it's an Olive Garden
6 that's like directly north.

7 MR. DAVIDSON: And Officer, I'll just let you
8 know, we have the map up here.

9 THE WITNESS: Oh, perfect.

10 MR. DAVIDSON: So feel free to reference that in
11 your testimony. And I can actually zoom in, pan out, we can
12 do Street View, whatever you think it's best to use.

13 BY MR. BENSON:

14 Q Okay. I was actually going to just mention that,
15 but before you do, you were interviewed, at some point, by
16 Portland Police --

17 A Yes.

18 Q -- about this incident. And as part of the
19 interview, did you create a diagram?

20 A Yes, I did.

21 Q I'm going to show something to you right now.

22 A Yeah.

23 Q Does that look like -- there's actually something
24 else that's what's called a private property evidence
25 receipt. It's Number A015899. Could you identify that?

1 A Looks like it's just filled out by Detective
2 Macomber, and it says this is a scene diagram completed
3 during interview with Officer Taylor Woods.

4 Q And then, this week I got it back earlier. Would
5 that be the scene diagram?

6 A Yes.

7 Q Okay. Well, I had a whole series of question
8 about that, and they were going to be really great, but as
9 it turns out, we have this magical Google type display of
10 the area. So, I guess my questions will -- it'll probably
11 be easier for your, just refer to that.

12 A Okay.

13 Q Might show that to the Jury. I don't know. I
14 hadn't made a decision. Okay, so you get to Mall 205.
15 Where do you go? And actually, how did you get there? What
16 road were you on when you got there?

17 A I basically just drove south on 82nd, until --
18 Stark and Washington are one-way in either direction there.
19 I believe Washington is the road that goes eastbound. But I
20 went down 82nd to whatever road goes east right in front of
21 Mall 205.

22 Q Okay.

23 A If you zoom out a little bit, I'd be able to tell
24 you. So it is Washington, yeah. So, Washington's a one-way
25 only eastbound street. So I drove down to 82nd, to

1 Washington here, across 205. I believe I came in the
2 parking lot up here.

3 Q By the Garden -- Olive Garden?

4 A Olive Garden.

5 Q Italian.

6 A And then I ended up parking, you know, up in this
7 parking lot here, so I can see down to the front door of the
8 Target, so it's somewhere up in this parking lot.

9 Q Okay. So just for the record then, you're
10 pointing at the parking lot north of Target, between Target
11 and the, what's called the Olive Garden Italian, apparently
12 restaurant of some sort. You approach in the north end of
13 that parking lot?

14 A Yes.

15 Q Okay. And where did you end up parking? Or
16 actually, what -- no, I'm sorry. That was a silly question.
17 So you approach, you came in the parking lot from the north
18 end, and --

19 A Yes.

20 Q -- where did you go?

21 A Well I was in that lot for, you know, a couple of
22 minutes, talking still with Officer Minuchin (ph.), on
23 scene, making sure, you know, my partner's telling me that
24 we have other officers in the area. They're going to kind
25 of have containment around the store, in case this person

1 runs. That's something that happens a lot when we
2 contact people.

3 Q Sure.

4 A So eventually, loss prevention kind of describes
5 to me that they believe this guy is getting ready to leave
6 the store. He's making his way towards the front of the
7 store, looking around. And she tells me he's past the first
8 set of doors. Okay, yep. He's coming out the second set of
9 doors. And at that point, as she's describing that, I see a
10 person exit, I guess -- I think this Target actually has a
11 couple of doors that the west side of the Target, on the
12 north side of the building, is the main entrance and exit.

13 I can see a person exit who I believe is Mr. Johnson,
14 just based on what she described to me as him wearing, and I
15 saw in the picture. It was a pretty bright, like neon green
16 jacket, I believe, and he had --

17 Q Okay.

18 A -- dyed his hair kind of a blondish, orange color.
19 So I see that person exit. There's a main driveway, just
20 off the northeast corner of the Target, that runs north-
21 south. He came down that. Mr. Johnson exited the store,
22 and began walking --

23 Q Okay.

24 A -- west. Here's about -- somewhere in here is
25 where that entrance is.

1 Q Okay.

2 A I don't know where necessarily it is.

3 Q That's a great point. You're pointing to the west
4 side of the north face of the Target store.

5 A Yes.

6 Q Okay. But we're getting a little ahead of myself
7 too. I'm going to, I want to -- what you're -- where are you
8 when you see Mr. Johnson leave Target, on this map? And you
9 can use your -- that too, if you --

10 A Yeah. So I believe I was still up in this parking
11 lot, somewhere right here.

12 Q Oh, so you're way up by between -- okay, towards
13 Olive Garden then?

14 A Yes.

15 Q And then you see him come out. How -- it seems
16 like a long way. How far is that?

17 A That's not terribly far, maybe 100 yards,
18 something like that.

19 Q Oh, okay.

20 A Yeah.

21 Q So before we move on, he exits, and then like
22 apparently turns left?

23 A Yes, (indiscernible).

24 Q And we'll stop there. And while you're watching
25 him do that, where -- are there any other police officers on

1 the scene?

2 A There were other police officers. I don't know
3 exactly where they were. I knew that we had some police
4 officers. Just from our planning, there were some police
5 officers out on 96th Avenue, here. I don't know where
6 exactly they found themselves.

7 Q Okay. So, you were, you knew that because you
8 were communicating by radio or some cop thing?

9 A Yes.

10 Q Okay. But you couldn't -- you -- is it that you
11 couldn't see any, at this point?

12 A No.

13 Q Okay. And you're stationary, or you're moving?

14 A I began moving when I saw him exit.

15 Q So you headed towards Target. Is that right?

16 A Yes.

17 Q All right. So let's get back to where we left
18 off. So he exits. What does he have with him?

19 A He was pushing a shopping cart, that had, I don't
20 know, a ton of stuff. It would be a very shopping cart, just
21 a bunch of boxes and --

22 Q Okay.

23 A -- presumably merchandise.

24 Q And where did he go?

25 A He started walking west, kind of along the

1 sidewalk or driveway here. As I came down, I made the
2 turn.

3 Q Okay. So you -- all right. Actually, I forgot
4 that part. So you, you're driving down one of these roads,
5 one of these main sort of driver roads --

6 A Yes.

7 Q -- or are you going through the parking lot?

8 A No, through the main driveway.

9 Q Through the -- there's like a road that bisects
10 two different parking lots.

11 A Yeah.

12 Q One is in front of Target. So, he is walking sort
13 of horizontal to the north face of Target. And it sounds
14 like you're making your approach to this road, that's also
15 parallel to the north face of Target. Okay. And what
16 happened?

17 A I started coming up behind Mr. Johnson. You know,
18 as I was looking through this, kind of from the cop
19 perspective, there were -- and it was, I don't know exactly
20 what time, but it was, you know, afternoon, late afternoon.
21 There was a lot of people around. I didn't want to try and
22 contact a suspect around a bunch of other people. It makes
23 things very complicated. So I basically just got behind Mr.
24 Johnson and tried to wait until I had gotten through this
25 parking lot, where there's people crossing the street,

1 there's other cars, stuff like that.

2 So, as we got towards kind of this northwest
3 corner of the parking lot, you know, we're, had passed all
4 the pedestrians that I saw walking around.

5 MR. BENSON: Officer, can I ask to interject?
6 Were you --

7 MR. DAVIDSON: Sure.

8 MR. BENSON: Maybe you said this, were you in a
9 marked or unmarked unit?

10 THE WITNESS: I was in an unmarked car.

11 MR. BENSON: Okay.

12 THE WITNESS: So it's -- if you've seen the
13 Portland Police, like they're basically a Ford Explorer, is
14 what they are. That's what I drive as well, or at the time
15 was driving. It's all black. It doesn't have like any
16 stickers or anything on it. But it has a spotlight, has
17 lights in the grill, and it has lights, I guess the visor
18 area, and kind of the top of the windshield. Most people can
19 identify it as a police vehicle, like pretty recent -- pretty
20 easily. Like if you were driving on the highway and you see
21 one, you're like oh, it's a cop, I better slow down.

22 GRAND JUROR: Why are you looking 1 at me when you
23 say that?

24 BY MR. BENSON:

25 Q Okay. And on that, actually, I was about to get

1 to that, but on that, you (indiscernible) were you in
2 uniform or not in uniform?

3 A I was wearing a full police uniform, belt, badge.

4 Q Okay, so if you looked into your car, you'd see,
5 that guy's either dressed up like a cop or he is a cop?

6 A Yes.

7 Q Okay. And you are a cop?

8 A Yes.

9 Q And we've established it, okay. So what happened?

10 A So I turned on my lights and siren, come up behind
11 Mr. Johnson. Up to this point, he was kind of just walking
12 with the cart, you know, going along his way. Immediately,
13 lights and siren, he looks back at my vehicle, and leaves the
14 cart where it is and takes off running.

15 Q Where does he go?

16 A He runs kind of into this parking lot here, the
17 north side of the T-Mobile, through this parking lot, and out
18 west towards 96th Avenue.

19 Q Okay. What did you do when he started running?

20 A Initially, when he started running I just stayed
21 right here. As I mentioned, that was basically to kind of
22 take a containment spot. Like I said, there's all of these
23 people over here, and less people over here --

24 Q Sure.

25 A -- so if I had to pick a spot to try and interact

1 with this person who's now running, I would like it to be
2 where there's less people running around, kind of
3 complicating things.

4 Q When you say complicating things -- I guess we
5 should probably talk about that. When you say complicating,
6 why do you say -- why is it more complicated towards somebody
7 then there's a lot of other people around there than when
8 there's not?

9 A Well, a few reasons. It's harder to figure out
10 who's who when there's a bunch of people and you have one
11 person running. It can make things difficult if you're going
12 to end up doing a catering track, at some point. There's a
13 lot of other people, a lot of scents confuses the dog. It
14 complicates things. You know, if there's a weapon involved,
15 if it's -- you know, we're always, what if this turns into a
16 shooting? The more people that are there, the more people
17 that can be victims that are just trying to go shop at
18 Target.

19 Q Okay. Now, when you say this stuff, it sounds
20 like you're speaking generally, just --

21 A Yes.

22 Q -- in general when you're confronting.

23 A Yes.

24 Q But was there anything about your decision making
25 that was specific to Mr. Johnson at this point?

1 A No.

2 Q Okay. And so he's running, and left the cart
3 behind. Can you see anything in his hands? Where are his
4 hands at this point, when he's running?

5 A As he was running, I didn't see anything in his
6 hands. When I was behind him, he had, I believe he had both
7 hands kind of on the cart, pushing the cart.

8 Q Is it possible he was pulling the cart?

9 A Yeah, that's possible.

10 Q Okay.

11 A In some way manipulating the cart, actually.

12 Q Okay. I get it.

13 A As he's moving with the cart, I can see both his
14 hands.

15 Q All right.

16 A So pushing, pulling, yeah I'm not sure on that.

17 Q But then when he starts running, his hands are
18 where, that you recall?

19 A I don't recall seeing his hands like go in the
20 pockets or anything like that --

21 Q Okay.

22 A -- as he's running.

23 Q All right, so what happened?

24 A He continues through this lot, just kind of
25 running here. I can see police cars coming down, at least

1 one police car coming down on 96th, south, to the south.
2 I'm still in my car. I believe -- I kind of move up. My
3 intent, at that point, was to, instead of having my
4 containment here, have my containment over here, at another
5 long building. As I'm driving, I see Mr. Johnson trip. I'm
6 not a hundred percent, but I believe he tripped on the curb.

7 Down towards 96th here, it's -- there's a
8 probably, maybe a 4 or 5-foot elevation change, kind of a
9 berm, you know, bark chips and bushes and stuff.

10 Q Sure.

11 A So I believe he tripped on that as he was going
12 over. So, I kind of come up a little more. I'm kind of
13 somewhere right in here. I don't see Mr. Johnson at all for
14 a minute, and then I see him pop up, you know.

15 Q Okay. I stopped it there, just to kind of set the
16 scene here. You've been gesturing a lot. It looked to me
17 like you're gesturing in the parking lot that is specific to
18 the T-Mobile building, not the sort of more general parking
19 lot. Is that what you mean?

20 A So, the T-Mobile parking lot is where Mr. Johnson
21 ran. I stayed in my car on this kind of driveway --

22 Q Sure.

23 A -- that goes all the way through. So yeah, Mr.
24 Johnson's in the T-Mobile cell phone lot, running, and I was
25 in that driveway that goes kind of in front of the Target.

1 Q So where was your vehicle when he tripped?

2 A Somewhere between the Target and kind of the T-
3 Mobile store, somewhere --

4 Q Oh, okay.

5 A -- kind of in this section here.

6 Q Okay. And then, did he -- what happens after he
7 trips? Can you describe it?

8 A So after he trips, I don't see him for a second,
9 and then I see him pop up. I immediately see that he's
10 holding a gun in his hand.

11 Q Pop up, that's a euphemism. What do you mean by
12 pop up?

13 A I can see him now either sitting or standing up.
14 I can see his torso up. Just before that, I couldn't see him
15 at all. Presumably he was --

16 Q Sure.

17 A -- on the ground after falling. So I can begin to
18 see him become vertical in some manner.

19 Q Okay.

20 A I can only see kind of his, about his torso up. I
21 can see him, two hands on a gun, completely like horizontal.
22 It's not up in the air or anything. And I can see him
23 pointing that gun towards where I believe police officers
24 are.

25 Q Okay. So the reason I asked that silly question,

1 I apologize --

2 A Sure.

3 Q -- it was kind of dumb, but he's down a little bit
4 on this berm --

5 A Correct.

6 Q And you can only see his torso, and up.

7 A Yes.

8 Q Like waist and up.

9 A Yes.

10 Q So it's not clear to you that he's standing or
11 he's kneeling or whatever. But it is clear, it sounds like,
12 from your testimony, that he has a firearm in his hands?

13 A Yes.

14 Q Could you demonstrate what you recall, like how he
15 was in position with that firearm?

16 A Yeah. So if -- I guess, if this is -- if my
17 police vehicle is like on that wall, and that's kind of what
18 I'm seeing, I see something like this, like two hands --

19 Q So his arms are outstretched?

20 A Yes.

21 Q Parallel to the ground?

22 A Yes.

23 Q His hands are together?

24 A Yes.

25 Q And then the firearm is in his hands?

1 A Yes.

2 Q Okay.

3 A A pistol.

4 Q Pistol?

5 A Yeah.

6 Q You have some training in firearms with Duke
7 Institute. Is that right?

8 A Yes.

9 Q Are you an enthusiast with guns and know much
10 about firearms?

11 A I wouldn't say I'm an enthusiast with guns. I
12 think I come into contact with a lot of firearms, just
13 through my work.

14 Q Sure. Are you able to identify, like -- like were
15 you close enough to be able to identify his sort of general
16 category of firearm?

17 A Yeah. I did see that it was an all-black pistol,
18 like it was a semiautomatic, not a revolver or anything like
19 that, black. It didn't look to be what I would typically
20 classify as like a full-sized firearm, but not super small,
21 so kind of in that mid-range, like compact.

22 Q Sure. When you say full-sized firearm versus a
23 small firearm -- I do a lot of my practicing in Eastern
24 Oregon and they know exactly what that means.

25 A Sure.

1 Q But for our purposes here, what is a firearm
2 that's not full size? Like how long would the slide, the top
3 of the pistol?

4 A A full-size, you know, like what we carry, we're
5 issued as Portland police officers would be a Glock 17.
6 That'd be classified as like a full-size pistol. The whole
7 top of the slide's probably, I don't know, 5-1/2 to 6 inches.
8 This looked like something just a little bit smaller than
9 that, maybe 3-1/2 to 4-1/2 inches, somewhere in there.

10 Q Okay. So we're not talking about a teeny tiny --
11 we're not talking about a derringer here?

12 A No, not something, you know, this big you could
13 hold, super small, but --

14 Q Sure.

15 A -- not -- that was just what was apparent to me
16 immediately, is this is not a -- it's not the gun I'm
17 carrying, basically,

18 Q Okay. And, but even, it sounds like from your
19 testimony that you close enough to Mr. Johnson with that
20 firearm, you're able to actually have those impressions. Is
21 that accurate?

22 A Yeah. I was --

23 Q You could see it fairly clearly, it seems like.

24 A Yeah, I was probably 30 yards, maybe, something
25 like that, from him at the time.

1 Q Okay. Sorry to interrupt --

2 A Sure.

3 Q -- at that spot, but I had to kind of get all
4 that -- you know.

5 A No, sure.

6 Q So what happened then?

7 A Basically I'm like, oh crap, he just got a gun.
8 Sorry if that's bad language, but that was my thought,
9 like --

10 Q Sure.

11 A -- oh wow, like this is happening. I hear
12 gunshots, pretty quick volley of gunshots, probably just
13 within a couple of seconds, you know, two to three seconds,
14 and then I don't hear it anymore. I probably hear, I thought
15 it was like five or six gunshots. They're just pretty quick.
16 At that point I still have no idea who had shot a gun, if the
17 police had shot, if Mr. Johnson had shot a gun, if both had
18 happened. I come down this kind of corner, kind of go south
19 on 96th. I see two police cars, at least two police cars,
20 see the officer standing out there.

21 Q Had you not been able to see them earlier?

22 A I did see -- so when I -- I did see that a police
23 car was driving by as Mr. Johnson was running. I did see
24 that it was a maroon unmarked car, which are known to be one
25 of the FIT cars. When Mr. Johnson was running, I was

1 watching him. I wasn't looking at --

2 Q Sure.

3 A -- looking for other things, really. So I saw him
4 and then I heard the shots. And as I turned the corner, then
5 I kind of noticed kind of that broader view. I ended up
6 noticing that there's, you know, at least two police cars
7 there, and there's some officers out of them.

8 Q Okay. So, I know I do this too much, but we've
9 moved ahead. We're going to come back a little bit. When --
10 so, you don't remember, or you didn't notice where the police
11 cars were when Mr. Johnson had the firearm, was pointing the
12 firearm?

13 A No. I didn't notice any police cars at all.

14 Q Okay. I mean, it sounds like you were focused on
15 Mr. Johnson with the firearm.

16 A Right.

17 Q Which basically is why you don't recall seeing
18 them before. Is that --

19 A Well, so right as he's moving and running, I see
20 this police car kind of go here, and then I don't see it
21 anymore, the red one. So I -- in my mind, there was a police
22 car right here. But yeah, as he running, I'm not looking at
23 the police car, I'm looking at him.

24 Q Well so, what I'm going to ask you is, based on
25 sort of your recollection, I'm trying to get a sense from

1 your testimony, were you able to determine, based on what
2 you saw, and your knowledge of where the police cars were, et
3 cetera, where Mr. Johnson was pointing the firearm?

4 A So yeah. Once I learned where those police cars
5 were, I was a hundred percent certain that he was pointing a
6 firearm towards police. Before that, I was very sure that he
7 was -- or I felt that he was likely pointing a firearm at
8 police, but I wasn't -- you know, I couldn't say for certain
9 where their police car was.

10 Q Okay, okay. That's what I'm getting at, yeah.
11 Yeah, thank you. So, what did you do then?

12 A Get out of the car. You know, somebody says over
13 the radio, there's shots fired. I have no idea.

14 Q I think you -- did you hear the shots?

15 A I did hear shots.

16 Q Okay.

17 A But, you know, a sergeant back at the precinct
18 doesn't know, so that's -- you know, an initial thing that we
19 would do on a shooting is just put out, there's shots fired.
20 When I get out, I see that Mr. Johnson is down on the ground.
21 I go through, and just start asking hey, is anybody over here
22 hit, like is everybody okay? Nobody says that they're hit.
23 I have them move a little more west, kind of behind my car,
24 to create a little bit of distance. At that point, you know,
25 now we have more cars in front of us that can kind of act as

1 cover if there's more gunshots. People move back. We
2 start going through planning, you know, we could get medical,
3 stage AMR to get a shield. I don't know if you want me to
4 talk about what a shield is.

5 Q Well, yeah.

6 A A shield is pretty much just that. It's a
7 ballistic shield, that adds a little bit more protection.

8 Q While you did your staging, your (indiscernible)
9 staging, you're -- are you calling in medical? Is that what
10 you mean?

11 A Yeah. So, if I ask my dispatch to stage AMR,
12 stage medical, you know, they -- I don't talk directly --

13 Q Sure.

14 A -- to medical, but then our dispatch would ask,
15 and you know, I mean if anybody wants to stage an area, which
16 is, shouldn't be presumably hard, because there's, you know,
17 Portland Adventist Hospital's very close to this. During all
18 this, because now that I see that Mr. Johnson's down, I'm
19 presuming that he had been hit by bullets from the police,
20 now we're moving into, you know, we need to ensure that other
21 people are safe, that we're safe, and now we can get him
22 medical attention. We can do that.

23 Q Okay. So, what I was going to -- so, that's why
24 you stage an incident. But the shield, and it sounds like
25 you -- police officers, perhaps you yourself, I don't know,

1 made an approach to Mr. Johnson with the shield in some
2 way.

3 A We did.

4 Q Is that -- why did you do it that way?

5 A Well, as I saw, or looked at Mr. Johnson again,
6 after kind of making sure people were back, I could see that
7 he's on the ground. I could see that he's bleeding. And I
8 see a firearm, the same pistol that I saw him pointing just
9 right before this, I can see that on the ground. It's right
10 next to, or if not like touching his hand. So it's right
11 there next to him. He still presumably has access to that.
12 So, while I do have responsibility and a desire to get him
13 medical attention, I also don't want to end up getting shot,
14 myself.

15 So, we're trying to come up with a plan of how we
16 can approach him safely, you know, get him away from the
17 firearm and start administering medical care.

18 Q Okay. So that's why you brought the shield in and
19 so forth?

20 A Correct.

21 Q And how did you, the police make their approach?

22 A So we moved off to the north a bit. Came up with
23 a team, which consisted of myself, Officer Costanzo, Officer
24 Snitily and Officer Hertzler. And I know there was a fifth,
25 but I couldn't tell you who it was.

1 Q Okay.

2 A Within that team we had, I believe it was, Officer
3 Snitily was in the front, holding the shield. Behind him was
4 Officer Hertzler, whose designated role was to be, to have a
5 gun out. He's designated as lethal cover, if that becomes a
6 thing that's necessitated. Officer Costanzo and I were
7 behind that. We were just in charge of hands, so we're going
8 to be the ones that ended up going, putting hands-on on Mr.
9 Johnson. And our plan was to go up, grab his arms and move
10 him away from the firearm, but also to the sidewalk, where we
11 could actually do medical aid.

12 As I mentioned, that's a berm, there's bark dust,
13 there's bushes and plants all over the place. It's not an
14 ideal place to be trying to figure out what's going on with
15 somebody and start giving medical help. So we did that. We
16 went up. Officer Costanzo and I both grabbed an arm of Mr.
17 Johnson. We picked him up, moved him out, I don't know, 5 or
18 6 feet, it felt like, out into the flat sidewalk, away from
19 the firearm.

20 At that point, I believe Office Hertzler had some
21 trauma shears, which are essentially just scissors that are
22 designed to cut off clothing. Cuts off a jacket and shirt.

23 Q And why'd you do that?

24 A Just to figure out, basically at this point, where
25 are injuries. It's really hard to see injuries through

1 clothing. So we did that on the torso first. I didn't
2 notice any injuries on the lower extremities, initially. So
3 yeah, cut off the shirt, just start looking for any wounds.
4 As we went up and, you know -- let me back up. As we drag
5 him to the sidewalk, now he's on the sidewalk, he's away from
6 the gun, we feel a lot safer about this. We have medical
7 come in. Excuse me.

8 AMR comes in. They're there very quickly, within
9 I don't know, a minute or so of us telling them that they can
10 come all the way up.

11 Q Okay. And then, at some point they made their
12 approach. You're still trying to figure out where there's
13 injuries, as they're, as AMR is approaching.

14 A Yes.

15 Q Is that right?

16 A Yeah.

17 Q And then, you didn't -- what did you find on the
18 torso? Any injuries?

19 A I did not see any injuries on the torso. I saw
20 other injuries. I don't know if you want me to get into
21 those or not. I'll let you ask that question.

22 Q Yeah, I mean, yeah. You might as well, yeah.

23 A Okay. So yeah, I could see that Mr. Johnson had
24 what appeared to be a bullet wound through his eye.
25 Obviously, I had not received any training on what I can

1 possible do to administer aid in the field to that sort of
2 injury. You know, we had medical come up and make their
3 assessment, because they have --

4 Q Sure, so --

5 A -- you know, more training in that, but --

6 Q And that was what I was getting at. So is like
7 AMR -- like you're assessing whether there's injuries on a
8 patient.

9 A Sure.

10 Q I was a firefighter, so it wasn't on a patient, I
11 guess -- well maybe a patient, yeah.

12 A Yeah.

13 Q And then the AMR is responding.

14 A Yes.

15 Q And that, so you had a brief, you said you had
16 about a minute, it takes for AMR to get there.

17 A Yeah.

18 Q And then, once they're, arrive, what do they do?

19 A It looked to me like they were kind of just
20 looking at him.

21 Q Okay.

22 A I don't know. I'm sure they -- right, they would
23 be able to tell you exactly what they were doing, but --

24 Q Sure.

25 A -- to me it was kind of, they were just kind of

1 assessing him. And they were like, basically they
2 declared that he was deceased, at that point.

3 Q Okay. All right. So what did you do after that?

4 A After that, let's see, I think I put up some crime
5 scene tape at some point. Because basically, for us at this
6 point, like this event is, you know, the action part, or the
7 real police part of this event, for me is more or less over.
8 You know, I didn't observe any other people that had been
9 injured by this, or any other people that I thought were
10 likely to be injured by this.

11 You know, we have some protocols with officer-
12 involved shootings that are more for the sergeants, but
13 basically I need to establish a crime scene, make sure
14 there's not any contamination of this crime scene as much as
15 possible. And then I check in with the sergeant and just ask
16 them, you know, I'm now kind of a witness or slightly
17 involved in this event, so how would you like me to --

18 Q Okay.

19 A -- proceed now.

20 Q That's what I, basically what I'm getting at, is
21 that --

22 A Sure.

23 Q Because -- is it fair to say that because of your
24 sort of involvement leading up to Mr. Johnson's being on the
25 sidewalk, that you were no longer sort of involved in sort of

1 crime scene stuff, other than taping it off and that sort
2 of thing?

3 A Yes.

4 Q Effectively your role is over at that point. Is
5 that right?

6 A Correct.

7 Q Okay. Assumably other police are going to come
8 and sort of process the crime scene, and sort of do that kind
9 of stuff, like you were not going to be --

10 A Correct.

11 Q -- involved in. Okay.

12 A Yeah.

13 Q Okay. That's kind of what I was trying to get at.

14 A Okay.

15 Q I hope -- I didn't want to (indiscernible) anyone.
16 I hope that's a fairly --

17 A No, that is. Yeah. And so I ended up reporting
18 to Sergeant Kerwin, I believe, who assigned me basically a
19 police car to go sit in, with somebody to watch me.

20 Q Okay.

21 A So --

22 Q That's protocol?

23 A Yes.

24 Q Okay.

25 A I guess he also, asked, basically if I was --

1 sorry, I'm hearing some weird (indiscernible). Sorry
2 about that. Basically if I was more of a witness or, you
3 know, I was asked, are you an involved member, basically like
4 did I fire, which I did not. So yeah, I was assigned a car
5 to go sit in, and there I sat.

6 Q Okay. And then, but for a while, and then did
7 somebody come up and talk to you then?

8 A I wasn't interviewed or anything like that until,
9 let's see, I was interviewed at East Precinct, by Detective
10 Macomber, and then another detective who I don't know who it
11 was.

12 Q Okay.

13 A But that was back at East Precinct, probably a
14 couple of hours later, two to three hours later.

15 Q Okay, same day. Well that was it for me.

16 BY MR. BENSON:

17 Q At any -- well, during this whole, I guess the
18 active part of this encounter, were you in your car? You
19 were driving. Is that right?

20 A Yeah.

21 Q Were you in the car the entire time?

22 A I believe so, yeah. The initial interaction, when
23 I came up and put my lights and siren on, I don't know if I
24 got out of my car briefly during that or not, but that was --
25 we weren't having a conversation or anything. So, if I was

1 out of my car, it would have been like a step out the door
2 on the pavement and right back in, so.

3 Q When he took off, that's what you said back then.

4 A Yes, when he was running initially, yeah.

5 Q But during the actual shots fired part of it, you
6 were in your vehicle, driving?

7 A I was in my -- yes. During shots being fired, I
8 was in my vehicle, driving very slowly. I didn't get out of
9 my car until I had turned onto 96th Avenue after I had heard
10 shots fired.

11 Q Okay. At some point, did you draw your own
12 firearm?

13 A I don't believe I did, during this. No.

14 Q Okay. So you -- to the best of your recollection,
15 you were holstered the entire time?

16 A I believe so. I might have -- I mean, there's a
17 potential I could have drawn my weapon at some point, like
18 maybe initially, out of getting out of my car. Yeah, but
19 frankly, there were other cops there. My partner has a
20 rifle. That's a way better option for providing cover. Upon
21 looking on Mr. Johnson pretty initially, I believed he was
22 deceased almost immediately.

23 Q Okay. And on the approach, when you put the team
24 together with the shield, you said you were part of the hands
25 team, I guess?

1 A Yes.

2 Q And so that means you didn't have your sidearm or
3 a less lethal option as you approached?

4 A No. So when we designate those teams, we like
5 them to be very specialized. So you have like basically one
6 job. It makes things very clear for everyone on the team
7 what their role is. So yeah, we had Officer Hertzler, who was
8 designated as being a lethal cover, if needed, so that's his
9 only job. My only job at that time was hands. So my hands
10 are, yeah, free.

11 Q Okay. And so, when you reached Mr. Johnson, the
12 decision was to move him from the gun rather than move the
13 gun from him. Is that right?

14 A That's correct.

15 Q Okay. And was part of that just what you
16 described as it's a difficult setting to try to provide
17 medical attention where he was, because of the berm and
18 everything.

19 A Yeah. So that's part of it. We felt that he was
20 going to have to be moved no matter what, just so we could do
21 an assessment. And then also, whenever possible, try not to
22 touch any evidence, being any guns, knives, whatever, just
23 try and leave as much of the scene intact as possible, and
24 undisturbed. So yeah, we were going to move him anyway. So,
25 there was no reason for us to move the gun.

1 Q Okay. And you used the term -- when you called
2 in for medical, for AMR, for the ambulance to come to respond
3 to the scene, you used the term staging, basically stage --

4 A Sure.

5 Q -- medical, right?

6 A Yeah.

7 Q Can you explain what that means exactly? And, you
8 know, once you explain that, why don't you just have medical
9 just like drive right up to what's going on and do that
10 instead?

11 A Yeah. So staging basically is be ready, be as
12 close as they're comfortable with. So when we say that it's,
13 we declare that this is a safe enough area for them to come
14 into, they're, you know, they're here already. They're not
15 driving from across the city. AMR will not come into an area
16 that has, you know, a person with a gun in it. So they, you
17 know, they'll be in the area, they'll be ready, until I can
18 tell them that it's safe for them to come in.

19 Q Okay. Yeah, thanks. I think those were all the
20 questions I had.

21 MR. DAVIDSON: Anybody else?

22 GRAND JUROR: When you're on the, in the parking
23 lot, on the road right in front of the Target, to the north
24 of it, were there any other police cars with you on that
25 road, or were you the only police car that was coming from

1 that direction?

2 THE WITNESS: I believe I was by myself. There
3 could have been another car maybe behind me, at some
4 distance, but I was the first person, the first car. I don't
5 believe there was any cars, any other cars in the lot.

6 GRAND JUROR: I also have a question about cars.
7 You said there was two police cars on 96th. And I know it
8 was difficult, because you were looking at the suspect or
9 whatever, but were both of those unmarked cars, or --

10 THE WITNESS: No. One of them was a maroon, red,
11 burgundy, somewhere in that range, unmarked car, similar to
12 what I described earlier. That's one of our cars from my
13 unit. The other one was just a, it was a marked, normal
14 Portland Police car that was out there.

15 GRAND JUROR: Okay. Did you notice any other,
16 like the pedestrian traffic between the cars, the police cars
17 that you saw and the suspect?

18 THE WITNESS: Between the cars and the suspect?
19 No. No that -- I mean, it is Mall 205, so there's a lot of
20 pedestrians out, but that kind of area between the T-Mobile
21 where he tripped and where the police cars, there was nobody,
22 no other pedestrians.

23 GRAND JUROR: There was no like oncoming traffic
24 that could have been blocking the view of the other officers?

25 THE WITNESS: I don't think so.

1 GRAND JUROR: Okay, thank you.

2 GRAND JUROR: This is kind of a weird question,
3 and I don't know if you would remember, but right after the
4 shooting, do you know if there were other civilian cars
5 coming out, and making turns? Could any of them have been
6 turning left, going past the scene, or was it all blocked
7 off?

8 THE WITNESS: I don't think anybody successfully
9 made a left, or kind of south turn on any streets from those
10 parking lots. As I recall those, the two police vehicles
11 that were already there were kind of driving, blocking kind
12 of this northern lane. That's where they were, kind of in
13 the turn lane. When I came out, I was back more in that left
14 side, or southbound lane. So I believe, by the time I turned
15 and parked, I believe most of the road was pretty well jammed
16 up with police cars. Nobody would have been able to drive
17 through.

18 GRAND JUROR: And that was within just a few
19 seconds of the shooting (indiscernible)?

20 THE WITNESS: That's correct.

21 GRAND JUROR: Okay, thank you.

22 GRAND JUROR: Just one. Was there any cars
23 blocking the entrance into Target from 96th, or do you --
24 where were you parked? I guess that might be a better
25 question.

1 THE WITNESS: I don't think there were any cars
2 blocking -- you're talking about from 96th coming in to the
3 Target?

4 GRAND JUROR: Yeah, like where that blue car is on
5 that map

6 THE WITNESS: No, I don't believe there were.

7 GRAND JUROR: Okay.

8 THE WITNESS: Yeah, so as I came out I, you know,
9 was on pretty much on the correct side of the road, I think.
10 Driving out, I don't remember any cars driving past me, but
11 there was nobody blocking out there.

12 GRAND JUROR: Okay, thank you.

13 MR. DAVIDSON: Anybody else? No, all right,
14 officer. I think, Colin --

15 MR. BENSON: I think we're done.

16 MR. DAVIDSON: Yeah.

17 THE WITNESS: All right.

18 MR. DAVIDSON: Okay.

19 (Simultaneous speaking.)

20 MR. DAVIDSON: He's free to go.

21 (Witness excused.)

22 MR. DAVIDSON: Do you want to do your second one,
23 or do you want me to do one of mine?

24 MR. BENSON: Either way is fine with me.

25 MR. DAVIDSON: I'll grab Gabe then.

1 MR. BENSON: Okay, cool.

2 MR. DAVIDSON: Oh, do you guys want to take your
3 break, or --

4 FOREMAN: Well, yeah. I mean (indiscernible).

5 MR. DAVIDSON: Yeah. Oh, sure, sure, sure. Let's
6 do that. Yeah, let's take a ten-minute break. Okay.

7 MR. BENSON: All right.

8 MR. DAVIDSON: Sounds good. Thanks a lot.

9 (Chorus of thank yous.)

10 COURT REPORTER: I'm going to go off the record
11 now.

12 MR. DAVIDSON: Yes, please. Thank you.

13 (Whereupon, the above-entitled matter went off the
14 record at 3:06 p.m. and resumed at 3:17 p.m.)

15 MR. DAVIDSON: All right, we are back on the
16 record in three cases entitled -- sorry, DA Case Number
17 2469270-1, -2 and -3. This is Grand Jury A, Grand Jury
18 Number 42. And we are ready to call our next witness.

19 So officer, if you don't mind standing and raising
20 your right hand, you'll be sworn in.

21 GABE HERTZLER

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

24 DIRECT EXAMINATION

25 BY MR. DAVIDSON:

1 Q Okay, go ahead and have a seat. And if you
2 could state and spell your full name.

3 A Yeah, Gabori, G-a-b-o-r-i, and then Hertzler,
4 Hertzler.

5 Q And how are you employed?

6 A I'm a police officer with the City of Portland.

7 Q And how many years of law enforcement experience
8 do you have?

9 A I worked for the City of Portland for just over 20
10 years. Prior to that, I was like a seasonal reserve during
11 college, in Deschutes County, like unarmed seasonal reserve,
12 ready to mountain bike. And then that's it.

13 Q Okay, yeah. And I'm assuming you went to the
14 usual academies?

15 A I went to the Oregon State Police Corps Academy,
16 which is a similar, it was a similar format. It was a
17 DPSST, like certified academy. The way that I got the job
18 in Portland was, it was almost similar to like an ROTC style
19 scholarship, but it helped pay for schooling. With that,
20 you ended up having to (indiscernible) after the academy.
21 And so with that, you did, went into an Oregon State Police
22 Corps Academy, which was like a mirror image of the DPSST
23 Academy, but run through the State of Oregon and I believe
24 the feds.

25 Q Yeah. Sort of like a college scholarship that

1 transitioned into policing sort of, kind of a thing?

2 A Similar, yes.

3 Q Yeah. So what college did you attend?

4 A Western Oregon University.

5 Q And did you obtain your degree?

6 A Yes, I did.]

7 Q And what's your degree in?

8 A Criminal justice and a minor in forensic
9 chemistry.

10 Q Okay. Interesting combination.

11 A Yeah, it -- that's it.

12 Q Yeah. Okay. So, you attended Police Corps
13 Academy, you came to work with the Portland Police Bureau.
14 Did you attend additional training once you were hired up by
15 the bureau?

16 A Yeah, correct. Normally when we get hired from
17 the, at the Police Bureau, we do the basic academy, then we
18 do an advanced academy with the City of Portland which, you
19 know, gets you a bunch of training on the, like the
20 specifics to policing in the city of Portland.

21 Q Okay. And so, what year were you, I guess, on the
22 street here in Portland?

23 A I was hired in 2004, so March 11, 2004, is I was
24 hired.

25 Q Okay. And can you just tell us, kind of walk us

1 through kind of what different assignments you've had
2 since you've been with the Bureau?

3 A Sure. So, when you're first hired with the
4 Bureau, you do a rotation for the first year and a half
5 where you're on probation. So I think during that time, I
6 worked at East Precinct, Southeast Precinct, which was a
7 specific precinct at the time, north. I did a short
8 rotation at the Traffic Division.

9 And then after that, I was assigned to night shift
10 at East, or at Southeast Precinct, which ended up becoming
11 East Precinct when they combined some precincts. After
12 that, I worked there for about five years, doing that, then
13 going to the Transit Police Division, where we worked with,
14 it was kind of a multiagency group that does stuff related
15 to mass transit within the city of Portland, so did about
16 four years of that working both in the city of Portland and
17 also in the city of Gresham, doing stuff with the MAX and
18 mass transit stuff.

19 After that I went to the Training Division, where
20 I was the lead instructor for the Police Bureau's patrol,
21 rifle and less lethal impact munition program. I did that,
22 and ran that program for about, probably a little less than
23 five years. During that time, kind of at the tail end of my
24 time at Transit, or while I was at Transit, I was assigned
25 to a detached position with the Portland Police Bureau

1 Special Emergency Reaction Team. And so that's a
2 detached assignment which I've held from then until now, and
3 that was in 2010, the end of 2010. I did that.

4 Q And just to be --

5 A Yeah.

6 Q -- I guess clear about that, that's called SERT,
7 correct?

8 A Correct.

9 Q But I guess, you know, colloquially, you might
10 know it as like Portland's SWAT team, basically. Is that
11 right?

12 A Yeah, correct. I think the, you know, the names
13 are specific to the cities now that run it. But the job of
14 SERT here in Portland is to respond to a number of things,
15 high-risk warrants, patrol-generated callouts, when they
16 need to have, you know, people called out to assist with
17 some of those calls.

18 Q Okay.

19 A So then, from the, excuse me, from the Training
20 Division, I left that. For a short time, prior to 2020, we
21 had full-time people assigned to SERT through, at the time
22 it was called the Tactical Operations Division, so I worked
23 there until that was dissolved. After that, I went back to
24 North Precinct, and worked afternoon shift for a while.

25 And then my current assignment right now is in --

1 was as of 2022, in -- I think January of 2022, I believe
2 assigned to the Focused Intervention Team, or FIT, as a,
3 what's called -- which is a unit that's assigned through the
4 Specialized Resource Division, where we respond to and
5 assist with response to shootings.

6 There's a couple of different components to that.
7 There's an investigative component, which was a day shift,
8 and then there's an afternoon component, which I'm part of,
9 where we are in a uniformed assignment, responding to
10 shootings, either that are in progress, assist with
11 investigations or, you know, try to do things to get people
12 who are involved in shooting-related crimes into custody.

13 Q Okay, thank you. That was very thorough. So,
14 we're going to discuss something that occurred on December
15 27th, 2023. That afternoon, were you on duty in uniform,
16 displaying a badge?

17 A Correct, I was.

18 Q Can you just describe what uniform you wear? Is
19 it just a full, or is it something special for FIT?

20 A Yeah, no. It's a typical Police Bureau uniform
21 with, you know, like a, you know, dark blue exterior like,
22 you know, a ballistic vest, and it's just a standard uniform
23 that we wear.

24 Q Okay. And were you operating a vehicle?

25 A Yes. We're operating -- the cars that we drive

1 are unmarked, as in like, they're a, the exact same car
2 as you'd see the, I think it's a FIU, which is kind of like
3 the SUV-looking Police Bureau badge ones. It's that, but
4 it's not marked. So it has internal lights. Doesn't have
5 an external light bar. It does have lights, but they're all
6 internal. And, you know, the car, the color of the car I
7 was driving that -- it has like spotlights on it and all
8 that.

9 But the -- and the color of the car that I
10 normally drive is like a, it's like a maroon, like a dark
11 maroon color.

12 Q Okay. And were you operating a one-man car that
13 day or a two-man car?

14 A Normally we work a partner car. I was working a
15 partner car that night, with Officer Snitily.

16 Q Snitily, okay. All right, so again I think, as I
17 had mentioned, and I know you're aware we're going to
18 discuss this incident at Mall 205 that occurred that day.
19 Prior to hearing the call come out, what were you up to, at
20 that point?

21 A At the time, excuse me, we were working in, I
22 believe we were working in North Precinct, in the area of
23 Sandy and 82nd Avenue. The way that we try to work is that
24 we'll find places that are problematic areas for gun-related
25 crimes, and try to focus in that area, to follow up on

1 investigations. We were working in North Precinct.

2 With that, we were communicating on North
3 Precinct's net. We also have like a car-to-car net that we
4 use to talk about hey, what's the plan for, you know, moving
5 on and where are we going to go, or things that we have, so
6 we're not like all talking on the main radio net that -- and
7 so, as we were working this area of town, it was like
8 brought to our attention that East Precinct had a call
9 related to a subject who was wanted in relation to some
10 robberies and possibly a shooting.

11 At that time, one of the things that, for being a
12 member of FIT is also like we can, you know, go and assist
13 with other parts of the city, and help with other parts of
14 the city, and help with other operations or patrol when they
15 need help doing that. And so, you know, based on that, we
16 really had nothing that we were doing at that point in time,
17 so we ended up making a plan to transition over to East
18 Precinct and assist with that call.

19 Q Okay. And the moment that you were receiving this
20 information over the radio, like how far away were you from
21 Mall 205?

22 A As I remember it, we were on the, kind of the,
23 like in the area of 82nd and Sandy, I believe, kind of right
24 in that stretch.

25 Q So not too far?

1 A No, it wasn't really far, no.

2 Q Okay. Like as far as a drive, a normal drive, how
3 long?

4 A Oh, how long? I don't know if it's like five
5 minutes or, you know, five --

6 Q Okay, so five plus?

7 A Yeah, yeah, depending on traffic.

8 Q Okay. All right. So, how many units were going
9 to be heading that direction from FIT?

10 A I do not recall exactly how many people we had who
11 were in that night. I know we had at least, I believe like
12 three or four, I believe. I forget totally exactly how many
13 we had.

14 Q All right. So what, I guess, what's the process
15 you're -- I guess, you all decide you're going over to Mall
16 205 to assist East Precinct in this call. Are you receiving
17 updated information about the call itself, en route?

18 A Yeah. Normally what we do is like, someone will
19 say hey, there's a call going on in East, why don't we
20 transition over to East Precinct's net and help them out.
21 And so then we will talk about that, communicate that to our
22 supervisors who'll be, you know, working, so they know what
23 area we're going to be working. And then we transition to
24 the radio net where the call would be happening.

25 So in this case, it would be happening in East

1 Precinct, so we can get updated information about what is
2 going on while we respond to that. One of the benefits of
3 having, excuse me, working a partner car is we also have
4 like a computer inside our car. We can access some
5 information about the calls that are going on, as well as
6 try to do some, you know, some -- a little bit of research
7 onto whatever's going on while we're responding.

8 Q Okay. So, specific to this call, what information
9 were you receiving en route?

10 A While we, once we switched over, between the
11 communication that was happening between FIT members and
12 East Precinct in pulling up the call, information was that
13 there was a subject that was inside the Mall 205 that was
14 wanted related to a robbery, was also a, I believe a suspect
15 in a shooting, and that they were in there, and that I
16 believe loss prevention was, had seen them in there, had
17 made the initial call that they were in there, and that they
18 were currently inside the store.

19 Q Okay. And were you -- in your particular car,
20 were you driving or were you in the passenger seat?

21 A I was the driver.

22 Q You're the driver. And so that would mean Officer
23 Snitily, Snitily, sorry, was I guess working the mobile data
24 terminal and --

25 A That's correct.

1 Q Is that -- okay. So you're riding, and as
2 you're receiving this information, do you get the name of a
3 suspect en route?

4 A We may have. I do not recall whether or not I
5 knew the name at the time. I knew that the person was
6 wanted. I know there's outstanding -- that they were wanted
7 but not that, I don't know that I was given the name. It
8 would be normal for me to, but I just don't recall,
9 specifically.

10 Q Okay. So I guess that name, when it was given
11 over the air, or when you received it was not, for you
12 anyways, a name that you were familiar with?

13 A Correct.

14 Q Okay. So as you -- you know, to jump forward, you
15 became aware, potentially, that Tyrone Johnson, II was the
16 person who was involved in this call. That is not someone
17 you were familiar with, necessarily, previously?

18 A It didn't ring a bell at the time, as far as a
19 person or that name --

20 Q Okay.

21 A -- registered.

22 Q But you were receiving information from over the
23 air that he was wanted, had a warrant, was wanted for prior
24 robberies, and a shooting?

25 A Correct.

1 Q And was currently apparently in the middle of a
2 shoplift at the Target?

3 A That's correct.

4 Q All right. So as you and the other units -- now,
5 is there a sergeant involved? Is someone kind of taking the
6 lead on this? How does that work?

7 A In this case specifically, we went over to East
8 Precinct's net, and there was just coordination of people
9 getting to the area. So I don't recall whether a sergeant
10 was -- I don't believe a sergeant was coordinating the
11 response to it. But they were on the radio net. The people
12 that were responding to it, I know Officer Woods and Wyatt
13 also assigned to the Focused Intervention Team, were
14 responding there.

15 And we were kind of coordinating like how we want
16 to respond, how we want to arrive on scene, with the goal of
17 obviously safely taking the suspect, or the subject into
18 custody.

19 Q Okay. So when you respond like this, it's not
20 someone like racing lights and sirens and just screeching
21 into the parking lot and it's just a free-for-all. They try
22 to be more tactical about it?

23 A Correct, yeah. The goal would be to, you know,
24 try to get a good plan together, like you have time at this
25 point, when a person's inside the store. If, especially if

1 loss prevention is able to watch them, then we can set up
2 and be in a good position so that when we try to take this
3 person into custody, we have the highest likelihood of being
4 able to safely do so.

5 And so the, you know, the conversations that we
6 had, excuse me, when arriving or in responding to it were,
7 you know, where do we need to be, like where is the subject
8 currently, what do we need to do to try to like set
9 ourselves and position vehicles and officers into a position
10 where when we try to take this person into custody, that we
11 can successfully do that.

12 Q All right. So what was the plan as you arrived
13 there at the scene?

14 A Yeah. The coordination that was going on, on the
15 radio, was between like where we're going to position some
16 of these patrol cars and patrol assets. You know, FIT
17 members are coming in. We have, you know, unmarked, these
18 FIU cars. You know, East Precinct is responding. They have
19 a lot of marked cars.

20 And the conversation was about like how would we
21 want to position the cars prior to the subject exiting this,
22 the store. The doors to the store are on the north side of
23 the building. And there was conversation about if we
24 position some vehicles off to the west, which is believe is
25 on --

1 Q And officer, yeah. You may have noticed --

2 A Yeah, sure.

3 Q -- as you walked in, but there's an overhead view,
4 and again, as we discuss this and you testify, I can
5 obviously pull out, pull in.

6 A Sure.

7 Q We can do Street View as well. So if any of those
8 views will assist you in your testimony, feel free to just
9 let us know.

10 A Yeah, and this is (indiscernible). Yeah so, you
11 know, 96th Avenue is a, you know, main thoroughfare along
12 the west side of this. And so was positioning some vehicles
13 onto the west side, as I recall when Officer Snitily and I
14 were arriving in the area. Vehicles were kind of set up
15 there. And so, as we're arriving, we're trying to figure
16 out where the best spot is for us to position ourselves,
17 where we could be, you know, we could kind of respond when
18 the subject's eventually going to be contacted.

19 I believe there was an officer on the phone with
20 loss prevention to try and get the most updated information
21 possible, which is a benefit, so we're not going through the
22 dispatch center, which does provide like, you know, one
23 extra layer when it comes to getting time of what's going
24 on.

25 And so, the plan eventually was that we had, you

1 know, officers that were on 96th Avenue. I believe
2 Officer Woods and Wyatt, and with another, I believe it was
3 an East Precinct unit, but I'm not a hundred percent sure,
4 was going to end up contacting the subject when they exited
5 the store. And Officer Snitily and I pulled in and tried to
6 position ourselves in an area where we could response to
7 assist both of those.

8 We felt like, at the time, the west side was
9 covered pretty well. There was a plan to end up contacting
10 the subject. And then, so we ended up positioning ourselves
11 kind of up and to the, in the parking lot, kind of on the
12 northwest corner of that, where we felt like we could, you
13 know, drive through the parking lot and, you know, move to a
14 position where we could assist, you know, to the north. We
15 could assist to the west. We could also assist in moving
16 in, taking the subject into custody if need be.

17 Q So, when you arrived in the parking lot, where --
18 can you point to where exactly -- did you park somewhere and
19 just kind of stage?

20 A We could have -- I remember pulling in to the
21 parking lot and then just kind of, you're kind of looking
22 for a good spot. Like you pull in and you're like, oh
23 there's some trees in the way. I can kind of reference like
24 the area where it was. I believe we like pulled in to this
25 north section and ended up finding ourselves kind of in this

1 kind of northern -- I don't see this, all right, but kind
2 of this kind of area of the parking lot like, you know, pull
3 in for a second, kind of like move around, just to get into
4 a good spot where we felt like we'd have good access to the
5 north, to the west, and be assist with the custody if need
6 be.

7 Q Okay. All right. So just explain to us how
8 things unfolded.

9 A Yeah. So, we pulled in to the parking lot. At
10 this point, we're just kind of waiting, getting updates
11 through the loss prevention and through, I believe, Officer
12 Woods and Wyatt, who were going to attempt to contact the
13 subject and take them into custody.

14 The area that we were positioned, I felt like I
15 could see the front doors. And some of the description we
16 were given had to do with a camouflage, and which I took as
17 like a kind of a darker color camouflage at the time. At
18 one point --

19 Q You're referring to what the --

20 A The subject, I'm sorry.

21 Q -- subject was wearing?

22 A Yes, correct.

23 Q Yeah.

24 A And that was kind of what I was thinking that they
25 were wearing. And I heard put out over the radio that the

1 subject had exited the store and was starting to move to
2 the west with a shopping cart. And I remember looking at
3 the front of the store and trying to like see where they
4 were. And it was hard to see.

5 There were some trees and cars that were in the
6 way. And so I had kind of a limited view of where the
7 subject was. So they exited the store and started working
8 to the west. So, we repositioned the car a little bit, and
9 then ended up seeing --

10 Q Before you continue --

11 A Sure.

12 Q Officer, I want to ask you a question before you
13 continue. How many units do you think responded to this
14 call?

15 A I'm going to be estimating just based on like the
16 number of cars I'm seeing as it continues to unfold. I
17 would say there is what, ten to -- like initially, I'd say
18 there was more like eight to ten. Obviously, as the event
19 unfolds, there's a large number, a large police presence
20 there, but I think it was, you know, I would say, you know,
21 eight to ten-ish, maybe.

22 Q Okay. So, you know, one might think, if one
23 didn't, you know, have a background in policing, that that
24 seems like a lot of units for a shoplift. So, can you
25 explain to us why that's an appropriate number of, I guess,

1 law enforcement resources to respond to something like
2 this?

3 A Sure. So, you know, I would -- you know, with a
4 shoplift, you're normally not going to get eight to ten
5 police officers responding to that. Obviously, the shoplift
6 was a component of what was going on in the day but, you
7 know, once information was passed along that the subject was
8 involved in a shooting and related to robberies, that
9 changes things.

10 So, you know, we're responding to a shoplift call,
11 but with the underlying that this is a, you know, person who
12 has committed some violent crimes. And so we want to make
13 sure that we have the adequate resources to take the person
14 safely into custody. So, the more officers we have there,
15 the more ability we have to, you know, set up a perimeter,
16 to deploy different tactics to try to safely work through
17 the call.

18 Q And do you find, in your training and experience,
19 that if you, I guess, demonstrate a significant amount of
20 resources and force, in trying to take someone into custody,
21 that can sometimes dissuade the individual that you're
22 trying to take into custody from running, fighting, becoming
23 violent, just because they're presented with kind of an
24 overwhelming picture in front of them?

25 A Yeah, I would agree with that. Yes.

1 Q Okay. Thank you. So you were about to explain
2 what was about to transpire next.

3 A Yeah. So the -- we heard that the subject was
4 outside of the store. You know, Officer Snitily and I were
5 communicating, trying to figure out, like where they were
6 within the parking, within like, to identify where they
7 were. And I remember seeing the subject ended up, you know,
8 moving westbound, kind of in front of the Target store, kind
9 of ended up them as they're more towards the western side of
10 the store, so the northwest portion of that, walking in
11 front of the store, kind of out into the street, if I
12 remember right, working their way to the west.

13 Q Okay. So what -- did you respond, or did you stay
14 static where you were?

15 A We kind of stayed where we were to orient to where
16 the subject was. And then --

17 Q And can you -- I know where you told us you kind
18 of started out.

19 A Sure.

20 Q Do you -- are you someplace different at this
21 point, as you're seeing him walk to the west?

22 A We're still in the general area. You know, I
23 think at some point I ended up driving the car into this
24 kind of lot, just like one, kind of parking lot closer.

25 Q Okay.

1 A And I believe, when we're -- when they
2 initially moved up to contact the subject, that we were in
3 that lot right there.

4 Q Okay.

5 A So, there was -- it was communicated the plan was
6 to go in and contact the subject. Officer Woods and Wyatt
7 ended up pulling in. I remember, they pulled up. I believe
8 they had activated their, you know, their overhead lights,
9 and pulled up and then ended up, they advised that the
10 subject was starting to run. And we could see the subject
11 start to run to the west.

12 Q Okay. What happened next?

13 A So the subject was running, like in the street
14 area, kind of on the south side. There's this like access
15 street right here that's directly in front of the Target
16 store. Just kind of like running on the southern side of
17 that to the west. I knew there was like police cars that
18 were down here on 96th Avenue with the goal of trying to
19 like have some sort of, you know, area to maybe set up a
20 perimeter or stop the subject from running. And that was,
21 you know, part of the plan to start out with. Officer
22 Snitily and I ended up, or I started driving through the
23 lot, activated the lights on our car.

24 Q Which direction? Can you give us a path of
25 travel?

1 A Sure. I started to drive southbound through
2 the lot. As the subject was moving to the west, I kind of
3 started to navigate, like south and west through the lot,
4 since the subject was moving that direction. You know, we
5 positioned ourselves to the north, to give us, you know, the
6 ability to respond, kind of as needed. And then as the
7 subject was moving to the west, we felt like we could, you
8 know, move a little closer, and be in a position to help.

9 Q And are the other officers calling out over the
10 air, like Woods, for example, was calling out things?

11 A Yeah, I believe so. Like I know there was radio
12 traffic that the subject was running to the west. At this
13 point we could see him running to the west. He ends up
14 getting rid of the shopping cart and then just running.

15 Q Okay. What happened next?

16 A The subject's running, ends up continuing to run.
17 Officers -- I was driving through the -- Officer Snitily and
18 I were driving through the like the, southbound through the
19 lot. The subject ends up -- there's a T-Mobile here, right
20 here, a T-Mobile store. Ends up kind of cutting through
21 that. I can see now, he was almost like a -- it was like a
22 camouflage jacket, but there was like fluorescent to it. So
23 it was like a brighter coat.

24 Kind of cuts through the lot here next to the T-
25 Mobile store. I was driving south and west of the lot.

1 There's a access through here, between the planters. As
2 the subject was running here, towards the officers that were
3 on 96th Avenue, and ends up continuing to run into this kind
4 of like -- it's hard to tell, right here, but there's a
5 little bit of elevation change between where the T-Mobile
6 store is and 96th Avenue.

7 Q Okay. And how was the lighting during all of
8 this?

9 A It was daytime. It was, you know, it's December
10 in Oregon, but it, you know, it was daytime, in full light.

11 Q Okay. What did you observe next?

12 A As the subject was running, he had a coat on, and
13 I remember recalling that like, running with a coat that, it
14 was moving around. He looked to be like trying to control
15 the coat, like here was some, you know, some -- as he was
16 running, he was obvious not -- he was running as if like to
17 get away, like really running, not just like jogging, but
18 running, and obvious attempt to avoid contacting the police
19 officers.

20 And with his coat, there was some like movement in
21 the coat, and he was trying to like kind of control his coat
22 as he was running.

23 Q Are you inferring there was something weighted in
24 his coat, or --

25 A Yeah. At the time, I mean, like I could fast

1 forward and know kind of what I could think now, but it's
2 like, based on that, I just remember like seeing that. You
3 know, a person who's involved in a shooting and, you know,
4 that our job at FIT, when we're trying to intervene, and
5 take into custody people who are involved in shootings is
6 the concern about firearms is there.

7 I mean, there's a, you know, shocking number of
8 firearms that we end up recovering in the city of Portland.
9 And so things like that are things that would stand out.
10 They would be a piece of information. It doesn't
11 necessarily mean that there be a firearm present, but it's
12 something where, as I'm watching this, I'm like, if I was
13 really trying to run, run, I don't know that I would be
14 doing that. So I just remember that standing out in my
15 mind.

16 Q Okay.

17 A The subject, I end up kind of losing visual of the
18 subject as he ends up kind of moving into this kind of
19 plantered area right here. There's a little bit of
20 elevation change. I end up driving through that section,
21 that open section, and pulling just like halfway, if you can
22 see that sidewalk right there, kind of like parked halfway
23 in the sidewalk, halfway in the street, facing west. And
24 I'm looking southbound out my window to see where -- one
25 second.

1 Q I'm going to zoom in here. Let's --

2 A Sure.

3 Q Yeah. Feel free to really kind of --

4 A Yeah.

5 Q -- point out to us where you're at and what's
6 going on.

7 A So, I end up parking -- I'm trying to stand
8 wherever I can see, but end up parking my car as I pull
9 down, pull this lot, through the lot here. And I'm looking
10 to the south out my window, trying to figure out where the
11 subject was at the time. I knew they didn't run northbound.
12 So I pulled out here and was parked about halfway into the
13 intersection right here, facing to the west.

14 Q And as you're looking south on 96th, do you see
15 other units, police units there?

16 A Yeah. There's a, there was like marked patrol
17 cars, Portland marked patrol cars. There's other cars that
18 are kind of coming into the area, in -- like, directly here,
19 where I knew that, as the subject's running, were going to
20 kind of like, they're going to run into that patrol, those
21 patrol cars there. My thought was by moving here to the
22 north, that we would stop access to the north.

23 Q Okay. Now, this seems like a silly question. I'm
24 going to ask it anyways.

25 A Sure.

1 Q What is the goal here?

2 A The goal would be to safely get the subject into
3 custody. I knew that there was, you know, reasons to take
4 them into custody. You know, it would be to take them into
5 custody.

6 Q Sure. Safely, you said, though.

7 A Correct, yeah.

8 Q So, safe for officers?

9 A Correct.

10 Q Safe for him?

11 A For sure.

12 Q Safe for, I guess, I'm assuming there's quite a
13 bit of pedestrian and vehicle traffic?

14 A Correct, there were.

15 Q That was the goal?

16 A Yes.

17 Q Okay. So, you just described parking, looking to
18 the south. You see some other patrol units. What happens
19 next?

20 A So, there is some electrical boxes, like there's a
21 -- in this area here, there's some change in elevation.
22 There's also some electrical boxes and bushes that are
23 there.

24 Q Is -- are you referring to this electrical box
25 that --

1 A You know, I'm going to --

2 Q Or is it too hard to tell from there?

3 A It's hard to tell from there. I think that would
4 be consistent, I just can't say for sure, based on --

5 Q Okay.

6 A -- this picture. But I remember looking south,
7 and ended up trying to find out where he went. And as I was
8 looking out the side window of our patrol vehicle, I end up
9 seeing just a gun, like a handgun, like a black handgun,
10 pointed to the west at, in the location where officers were
11 on 96th.

12 Q Okay. So, I guess, you mentioned the utility box.
13 How is that relevant to what you were seeing?

14 A It was partially obscuring my view. So as, like
15 as I was looking, I couldn't see his full body. I just saw
16 like, I saw the subject disappear into that area. And as I
17 pulled up, I ended up looking to the south. I could see
18 just like part of the coat, which was consistent with what
19 he was wearing. And I just remember seeing the boxes in the
20 view, and seeing like an arm extended out, pointing and a
21 dark-colored firearm in his hand.

22 Q Okay. Well, so what did you do, and what happened
23 next?

24 A I think both Officer Snitily and I like verbalized
25 to each other that he had a gun inside the car. The way

1 that he was positioned behind the box made me think that
2 he was not standing, that he was taking a position of cover
3 behind the box, which was concerning. I knew that I could
4 see what was going on, but I didn't know, you know, I don't
5 know what other people can see. I was absolutely concerned
6 that the subject was about to start shooting at police
7 officers.

8 There were marked patrol cars there. There were
9 police officers that were out in the street. The area's
10 open for traffic. There's a MAX line directly to the west
11 of this. You know, this is a, you know, afternoon in East
12 Precinct at Mall 205, so there were a bunch of people
13 around. So I was absolutely concerned that the subject was
14 going to start firing at police officers.

15 And so my thought was, with not knowing who else
16 could see this, that I may have to intervene, so that I may
17 have to, you know, potentially do something to stop this
18 from happening. So, I start to access a patrol rifle in the
19 car, and with a plan to exit the vehicle. And during that
20 time, I ended up hearing a number of gunshots.

21 Q Okay. But you were not -- your, I guess visual
22 field and focus was not to the south at that moment you
23 heard the shots. You were trying to retrieve your rifle?

24 A Yeah. As I'm looking -- the procedure that we
25 would have, to like retrieve the rifle is, they're locked

1 inside the front portion of the car. There's an
2 electronic lock that releases that. So you just have to hit
3 a button. As I remember, Officer Snitily and I were like
4 verbalizing to each other that the subject had a gun. I hit
5 the button, was grabbing the rifle, and with a plan of
6 exiting the car during this.

7 So there's times where I would have, you know, a
8 view of the subject, but also I'm, you know, multitasking
9 right now, so I'm trying to, you know, organize some of that
10 stuff. So my attention wasn't solely on the subject at that
11 point.

12 Q Okay. So you hear the shots, what happens next?

13 A End up --

14 Q And maybe you could --

15 A Sure.

16 Q Was it, how many shots was it, if you can say.
17 Was there a pause?

18 A There was -- as I recall, there was like a quick
19 series of shots. The number was hard to determine just
20 based on how they -- or how I remember hearing them. But it
21 was like over a short period of time, and a number of shots.
22 And it'd be hard for me to determine exact numbers on that
23 but, you know, over a very brief -- it wasn't like a
24 protracted.

25 It was like, I saw the gun -- saw the subject

1 pointing the gun at the police officers. I heard like a
2 short time frame where there were a number of gunshots that
3 were fired, and then we exited the car.

4 Q Like, well -- and I know time can be funny in
5 these scenarios.

6 A Sure.

7 Q But like what was the time span from first shot to
8 last shot?

9 A Oh, you know, couple of seconds. I recall
10 like -- like you mentioned, time is hard to tell on these.
11 You know, you'll be involved in a situation where a lot of
12 stuff's unfolding in front of you. And so, determining time
13 is sometimes difficult. But I'd say this is a, you know, a
14 short amount of time, over the span of, you know, a couple
15 of seconds that these rounds were fired.

16 Q Okay. And that span of a couple of seconds of
17 shots being fired, is that the only shots fired that you
18 observed?

19 A Yes.

20 Q Okay. And at the time the shots were being fired,
21 did you know who was firing?

22 A I did not.

23 Q Okay. So it could have been the subject, it could
24 have been the police, you're not sure?

25 A Correct.

1 Q All right. So what happened next?

2 A I end up exiting out of our patrol car, Officer
3 Snitily and I end up working our way -- there was a --
4 working our way over to where the cars, the patrol cars on
5 96th Avenue are parked. There's people -- like officers are
6 trying to get behind cars, to get into better positions of
7 cover.

8 At that point, there was no more gunshots. I
9 could not see where the subject was. We worked our way
10 behind the patrol cars where other officers were in a
11 position of cover as well. And then I could look back to
12 the east, at this point, and see that the subject was laying
13 down in the area where I had seen him holding the handgun.

14 Q Okay. Same subject, wearing the same jacket. You
15 recognized him as that individual?

16 A Correct.

17 Q Okay. And did you see a firearm anywhere near
18 him?

19 A Yes. There was a firearm, like a smaller, black
20 firearm in very close proximity.

21 Q Okay. So what is, what's the plan at that point?

22 A So, at that point, our goals are to make sure that
23 the scene is safe, both for, you know, officers, subjects,
24 people in the area. And so, we took like a very short
25 amount of time to make sure that officers were okay, that

1 were behind cover, in a position where we're not in
2 danger. And then we start working through, like -- once we
3 make sure that we're all -- that people in the area are
4 safe, we want to make sure that we can provide, you know,
5 care to a person who's injured as well.

6 So, you know, at this point, I knew that it was
7 a -- there was police officers who were involved in the
8 shooting. I knew the suspect was down. I could see, like
9 looking at him from behind the car, it looked like they had
10 been shot, and that they were injured. I can see the
11 firearm in close proximity. Now, as you can imagine,
12 there's many more police cars that are coming to the area,
13 so supervisors are starting to arrive, and we're working
14 towards a plan of providing medical care and getting the
15 subject into custody.

16 Q Okay. And what does that look like?

17 A So, as I was talking to Officer Snitily, and as
18 the supervisors were arriving, I think based on what we were
19 seeing there, officers were providing commands to the
20 subject, with no response. They were providing additional
21 force warnings, with no response. And then I felt like if
22 we had a ballistic shield, there's a way to, that we safely
23 approach a suspect, take them into custody, with the goal of
24 providing them medical care.

25 Q Just briefly, what is a ballistic shield?

1 A A ballistic shield is, it's like our -- you
2 know, we all wear bulletproof vests, but that has, you know,
3 limitations, that it's a vest, so it doesn't cover your head
4 or torso, arms, et cetera. And so the ballistic shield is
5 something that we carry in mainly supervisor cars, but other
6 cars have that. And it's a -- I can give approximate
7 dimensions like, a 24 by, you know, 32 piece of rigid
8 ballistic material with a view port in it, which is a, like
9 a ballistic glass, that you could use for additional
10 protection to, when you need to, an instance like this,
11 approach a subject who is armed with a firearm.

12 Q Okay. So what did the approach team look like?

13 A So, communicated with the supervisors that were on
14 scene. End up getting access to a ballistic shield.
15 Officer Snitily and I kind of coordinated making sure that
16 we had the tools that we want to go up and contact the
17 subject. And that would be people to take physical control
18 of the subject and place him into custody, someone to hold
19 the ballistic shield as we moved up. And then somebody
20 would have a less lethal tool. In this case it was a less
21 lethal impact munition tool, which would be our 40
22 millimeter impact munition that we could go up and take the
23 subject into custody.

24 This was -- the goal is obviously to provide
25 medical care, and so there's -- you know, there's exigency

1 in doing that. So this was all coordinated quickly, with
2 the goal that we know that we want to provide that medical
3 care. At this time, we felt safe in doing that. We ended
4 up walking a little bit to the north and approaching from
5 the north to where the subject was down with the handgun.

6 I overheard conversations behind us, and I'm not
7 sure exactly who that was. But we're all issued like a
8 Police Bureau phone, that has a camera feature. And so
9 that, you know, I believe a person was going to take
10 pictures as we went up, just with the goal of preserving any
11 evidence prior to us disturbing it.

12 Q Okay. So what happened when you, I guess, arrived
13 where the subject was down?

14 A We moved up to within arm's reach of the subject.
15 I could see the subject, who had been, you know, obviously
16 appeared injured, and I presumed shot as during the gunfire.
17 The firearm that I'd seen him pointing was in close
18 proximity. The officers who were responsible for like
19 taking physical control then grabbed the subject arms and
20 pulled them a little bit towards 96th Avenue to move them
21 away from where the handgun was located, just so we could
22 separate them from the firearm.

23 At that point, we ask for medical to come up. And
24 AMR, the medical units that responded to that were very
25 close. They were -- I don't know if they were on scene. I

1 know they were on scene very shortly after that, because
2 I remember we got into position. We called for an IFAK kit,
3 which is individual first aid, which we carry in all the
4 patrol cars, which has things to deal with, you know,
5 gunshot wounds and like major medical event, like a trauma
6 medical event.

7 So those started being brought out to start
8 providing medical care. And then AMR staff was there very
9 shortly and came up and took over medical care of the
10 subject.

11 Q And do you know, as far as what was the result of
12 the AMR's arrival?

13 A Yeah. I was standing there. They arrived on
14 scene and they started providing medical care. And then
15 they told us that the subject was deceased.

16 Q Okay. Did it appear that he had suffered a
17 gunshot wound to the face?

18 A Yes.

19 Q Okay. And in your experience, not particularly
20 survivable?

21 A You know, I think I have unfortunately seen a
22 large number of people who have been shot, over the course
23 of my time in the Police Bureau, and I would be -- I've
24 definitely seen people who have been shot in the head that
25 were, that ended up surviving. This one, based on our

1 initial contact with them and the area of the gunshot
2 wound, I felt like it was unsurvivable.

3 I was -- I mean, we wanted to provide medical
4 care, just because we are not medical professionals, we're
5 not doctors. Want to provide the best medical care we
6 can -- until we're taken over by a medical professional.
7 But once AMR got there and said that I was -- it seemed
8 consistent with the injuries I was seeing.

9 Q Okay. Do you have a sense of how much time
10 elapsed between the shots fired and when AMR approached?

11 A Once again, time is -- especially with something
12 like this, where a lot's going on, time is difficult to
13 determine. I know we -- I'm only going to be estimating.
14 I'd have to go -- I mean, I know --

15 Q I mean, if you're not confident in your answer,
16 then --

17 A Yeah. I'm not confident.

18 Q -- then don't give one, I guess.

19 A I'd reference like radio CAD calls that were --

20 Q Okay.

21 A -- documented. We were -- we had conversations
22 about this over the radio, which would have been documented,
23 I would assume, through dispatch.

24 Q Okay, thanks. I -- actually, I think those are
25 all the questions I have.

1 MR. BENSON: Nothing from me, thank you.

2 MR. DAVIDSON: Grand Jurors, any questions?

3 GRAND JUROR: This is a little bit weird question,
4 but did you hear anything before the shots, that might have
5 sounded also like gunfire, like a car backfiring or
6 something when you were approaching, like maybe a minute
7 beforehand?

8 THE WITNESS: I do not remember hearing anything.

9 GRAND JUROR: And did you hear any commands to the
10 subject before the shots were fired, or anything that he
11 might have said?

12 THE WITNESS: At the time we were -- I did not
13 hear anything. That being said, like we were in the patrol
14 car, driving, with the windows up. And you know, we're
15 utilizing lights and sirens, so that'd be difficult to hear,
16 but I don't recall hearing anything.

17 GRAND JUROR: Okay. Thank you.

18 THE WITNESS: Sure.

19 GRAND JUROR: During your police training, I guess
20 more of a general question --

21 THE WITNESS: Sure.

22 GRAND JUROR: -- just for what's covered in police
23 training. Is this sort of armed standoff something that is
24 typical of like basic training all officers go through?

25 THE WITNESS: I think we would categorize a

1 standoff as something different than that.

2 GRAND JUROR: Okay.

3 THE WITNESS: I'm going to say like --

4 GRAND JUROR: Yeah.

5 THE WITNESS: -- is our response to this
6 consistent? I think the goal of responding to a person that
7 would be, you know, potentially armed is making sure that,
8 you know, things that we talk about in training would be
9 having numerical superiority, so we have options, making
10 sure we have enough tools there to deal with a call of this
11 nature where, you know, it wouldn't -- it would be not as --
12 if we had, you know, eight police units to bring to the
13 scene to contact a dangerous subject, it would be better to
14 do that than to say just take, you know, Officer Snitily and
15 myself.

16 Because we brings more tools, and more, you know,
17 more options we have. I think, for a person who you think
18 may run, the idea to position vehicles, set up so that you
19 can contain a person from running into other, you know,
20 areas would be something that we would advertise. There'd
21 be times where I'd say you could potentially contact a
22 subject and it'd be fine, that they would leave.

23 But if you were contacting a subject related to a
24 shooting, related to robberies, those are crimes that we
25 have a high degree of governmental interest related to

1 getting those people into custody. The nature of the
2 time of day that this is happening, in occupied stores, this
3 would be consistent with training on how we'd want to end up
4 hopefully safely contacting a subject.

5 GRAND JUROR: Thank you.

6 BY MR. DAVIDSON:

7 Q Kind of a follow-up question along the same lines.

8 A Sure.

9 Q It's part of the training for every single
10 Portland Police Bureau officer, sergeant, all the way up to
11 the command staff, when you are in DPSST and also the
12 Portland academies, I'm assuming they train you in what has
13 been in the past referred to as deadly force encounters. Is
14 that part of the training that all bureau officers get?

15 A Okay. And so there are -- am I correct that there
16 are bureau policies that govern the appropriate use of
17 deadly force. And then there's bureau training that I guess
18 installs the appropriate tactics and responses when
19 confronted with certain situations like being presented with
20 somebody else confronting you with deadly force?

21 A That's correct.

22 Q All right. So you're basically trained about this
23 kind of scenario in the academy?

24 A Correct. Yeah, you know, your use of deadly force
25 and scenarios involving that is something that is, you know,

1 emphasized within our training book, and the basic DPSST
2 academy and at the advanced academy as well as ongoing, you
3 know, in-service and annual training.

4 MR. DAVIDSON: Okay. Any additional questions for
5 Officer Hertzler? No? Okay.

6 Officer Hertzler, I think you're free to go.

7 THE WITNESS: Thank you.

8 MR. DAVIDSON: Thank you much.

9 (Chorus of thank yous.)

10 (Witness excused.)

11 MR. DAVIDSON: Do you want to do --

12 MR. BENSON: Either way. Either one's good, thank
13 you. I'm good.

14 MR. DAVIDSON: Yeah, okay. Yeah. I'll be right
15 back.

16 GRAND JUROR: How many pages are you on?

17 GRAND JUROR: Oh yeah, this is 1.

18 GRAND JUROR: You're on 1?

19 GRAND JUROR: Page 6.

20 GRAND JUROR: I'm on 6.

21 GRAND JUROR: You're on 6?

22 GRAND JUROR: Yeah, but I didn't -- I missed the
23 back of one page, so it's like --

24 COURT REPORTER: We're on the record.

25 GRAND JUROR: Yeah, and we're still on the record,

1 but yeah, taking lots of notes.

2 GRAND JUROR: (Indiscernible).

3 GRAND JUROR: That's pain.

4 MR. DAVIDSON: All right, yeah, you know where to
5 go.

6 MR. COSTANZO: Yeah. Hi folks

7 FOREMAN: Straight into the oath, or --

8 MR. BENSON: Yeah.

9 MR. DAVIDSON: Yeah, while I'm going to -- yeah.

10 FOREMAN: Okay.

11 GRAND JUROR: Yeah, we're good.

12 MYCHAL COSTANZO

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

15 DIRECT EXAMINATION

16 BY MR. DAVIDSON:

17 Q Have a seat, sir, and if you'd tell us your full
18 name and spell your last name.

19 A Yes, it's Mychal Costanzo, M-y-c-h-a-l -- I'll
20 spell my first too, because it's different.

21 Q Yeah.

22 A Last, Costanzo, C-o-s-t-a-n-z-o.

23 Q Okay. What do you do for a living, sir?

24 A I'm a Portland police officer.

25 Q How long have you been a Portland police officer?

1 A It'll be eight years in September.

2 Q And what'd you do before that?

3 A A number of things.

4 Q Okay. Anything law enforcement related?

5 A No.

6 Q Okay. So, what I thought I would do is do things
7 a little backwards. I might talk about your training and
8 experience at the end of my questioning.

9 A Okay.

10 Q But first I kind of want to get into what, like
11 kind of what you were doing on December 27th, 2023.

12 A Okay.

13 Q Do you remember the date?

14 A I do.

15 Q Okay. And how -- do you remember being involved
16 in an incident that took place at Mall 205?

17 A Yes.

18 Q And so, we're going to lead up to that, but what
19 were you doing shortly before that?

20 A I was working my beat.

21 Q Okay.

22 A We call them districts, at the Portland Police
23 Bureau. My district is 980s, it's a South End district.
24 Technically it's Foster to Holgate, 82nd to -- and it jogs
25 to the east, 148th kind of up to Jenny, 162nd.

1 Q Okay. And we heard recently, from another
2 witness about something called a FIT team, or a --

3 A Yes.

4 Q Is that a team that you're involved with, or are
5 you involved with some team? I think you said --

6 A Oh, I am a member of FIT in a detached role.

7 Q Okay. That sounds mysterious then.

8 A It's not. I may sound fancy, it's not. It's just
9 sometimes teams like that need help around certain times of
10 the year.

11 Q Okay.

12 A It's our Focused Intervention Team. It's really
13 our gun violence reduction team, was a former name of it.
14 So in the summer months when those kind of calls increase,
15 our teams can get a little stressed, for lack of a better
16 term.

17 Q Okay.

18 A And they require help of additional officers to --

19 Q So you're working, in a sense, in a support role
20 for the FIT. Is that right?

21 A I do. In that day, I was not.

22 Q Oh you were not?

23 A No.

24 Q Okay. You were working with FIT?

25 A That day I was not working with FIT.

1 Q No, okay, okay, okay. All right.

2 A That day I was working as a patrol officer in a
3 marked patrol car --

4 Q Got it.

5 A -- in my uniform --

6 Q Got it.

7 A -- working my district.

8 Q Working your district?

9 A Yeah.

10 Q Okay.

11 A Good we worked through that.

12 Q That's right. You ended up at Mall 205.

13 A Yes.

14 Q I want to talk about kind of like, you talk about
15 you're on patrol, marked patrol car, all that stuff, and you
16 end up at 205. Why did you end up going to Mall 205?

17 A I was dispatched.

18 Q Okay. And so, were you with anybody in your
19 patrol car?

20 A No.

21 Q You were alone?

22 A I was working in a solo capacity.

23 Q Do you recall roughly what time you arrived at
24 Mall 205?

25 A I do not.

1 Q Okay. What is --

2 A I arrived -- I know when I was dispatched, I was
3 coming from 128th and Harold Street.

4 Q Okay.

5 A So, fairly far away. I was in the heart of my
6 district.

7 Q Okay. I'm not super familiar with how Portland's
8 laid out.

9 A Good.

10 Q But I'm -- okay, but a long way?

11 A Yes.

12 Q Anyway, that sounds good. So you got dispatched.
13 What I'd like to kind of explore though, is a little bit like
14 what your expectations were, arriving at Mall 205. Did
15 dispatch tell you anything about why they wanted you there?

16 A Yes.

17 Q Okay. And like, what was the impression of why
18 you were needed at Mall 205?

19 A Because, well for a very simple, easy answer,
20 because I was one of the available, only available officers
21 to go. Typically, like a car like myself that's so far away
22 wouldn't initially be like the immediate car that gets
23 dispatched to that district. It's a completely separate
24 district, right. But I was dispatched as the immediate cover
25 officer. So typically, like disturbances, calls that require

1 more than one officer, we typically, as a baseline,
2 dispatch two officers to a call, right. And I was dispatched
3 as the second officer, the cover officer to the primary
4 officer, who would take and handle that call, who was much
5 closer than me.

6 Initially the call came out from loss prevention
7 at Target, saying that a known individual was inside, who was
8 wanted for an armed robbery, and had a felony warrant.

9 Q Okay. So that's the thing, I guess, which I'm
10 trying to get at. You're dispatched from a long way away,
11 completely separate district, as the cover officer. You
12 described, I think it's fair to say, your testimony is that
13 was relatively unusual, but there's no one else available.
14 So, you approach Mall 205. But it sounds like that's
15 unusual. So this, did this mean it was significant to you?

16 A What do you mean, it's unusual?

17 Q Well, it sounds like, because you're so far away,
18 you're a different district, that it would not be typical for
19 you to be dispatched to Mall 205, being that you're so far
20 away.

21 A Not -- yeah. I guess, in that sense, no.
22 However, just from my time on, you develop your radio --
23 you're right. At each precinct at least, we're so busy,
24 there's constant radio traffic, traffic radio chatter, and
25 you develop these skills, and one of those things is called

1 the radio ear. And you just develop the sense of having
2 an awareness of your precinct, and what's going on within
3 your precinct. And there's no doubt in mind that whether I
4 was immediately dispatched to that call or not, that then
5 hearing what it was going to be, that typically other
6 officers attached, like fifth, for example --

7 Q Okay.

8 A -- overheard this happening at East, and they all
9 attached and came to help, so.

10 Q Okay. So you made your way to Mall 205 --

11 A Yes.

12 Q And you arrived at -- so you can't remember when
13 you arrived, but you arrived.

14 A Correct.

15 Q Behind you, we've got this very elaborate Google
16 Maps map.

17 A Good.

18 Q And take a minute to get oriented.

19 A Yeah.

20 Q So but like, how did you end up arriving at the
21 Mall 205 area?

22 A From the south. As I mentioned, my district is to
23 the south of all of this. So, as soon as I was dispatched, I
24 stated my journey to the core of the precinct. And I decided
25 to take Division from 122nd, westbound, to 96th, to arrive

1 here to the Target.

2 Q Okay. So you went -- effectively, like looking at
3 this map, you went up 96th and then turned right into the
4 parking lot, the Mall 205 parking lot?

5 A Yes. There's a, I believe this is the apron into
6 the Mall 205 Target parking lot. So yes, I arrived from the
7 south, and then I'd just made my turn into the apron when
8 units simultaneously were contacting Tyrone.

9 Q Okay. Do you know who was in those units?

10 A I know one of them was Officer Wheeler. I know
11 another was a FIT unit, that was Officer Wyatt and Officer
12 Woods.

13 Q Officer -- okay, so Woods was one of those that
14 were approaching the suspect as you --

15 A Correct.

16 Q -- as you witnessed, as you saw. Is that right?

17 A I didn't witness them make contact. I just heard
18 these things being planned over the radio.

19 Q Okay. I thought you turned in to the apron and
20 you could actually see those units along that road,
21 (indiscernible).

22 A No. I know here it looks like it's just a flat
23 grade. It does grade a little. And as I rapped that corner,
24 Tyrone was already fleeing on foot.

25 Q Okay.

1 A So that's what really took my focus, was
2 watching Tyrone flee across the parking lot.

3 Q Okay. That's actually was where I was going to.
4 So he's fleeing, as you described, and then what happened?

5 A That changed things, of course.

6 Q Well you say of course, but like how did it change
7 things for you?

8 A You change your mentality, and how to safely
9 capture the subject, as effectively and safely as possible,
10 right. Those units had made a plan to meet at the north end
11 of the parking lot before making contact and making a plan to
12 do so. And I knew that, because they radioed that over the
13 air. They asked where other units were, that weren't on
14 scene yet. I radioed that I was coming in from the south on
15 96th. And that's when they decided to make their contact
16 with Tyrone.

17 As I rapped the apron, I saw Tyrone running across
18 this parking lot that's adjacent to the apron, and that too
19 is also elevated. And as he's doing this, he's running
20 westbound, toward me, or beside me, I should say. And units
21 that were contacting him radioed that. So I'm seeing it and
22 hearing.

23 Q Okay. So it sounds like you're saying, when you
24 say it changes things, means changes for you where you're
25 going to position yourself?

1 A Correct.

2 Q Okay.

3 A Because now we're being again reactive to Tyrone,
4 his actions. So now that he's fleeing, we need to consider
5 containment. We need to consider distance, time and options,
6 to -- in my head, based on where we're at, there is at -- off
7 of 96th and Main, there's a transit station. So I figured
8 well, Tyrone is probably likely going to run either to the
9 transit station and try to maybe hop on a MAX that's passing
10 by, or typically in my training and experience, he's going to
11 start hitting fences. That's a, I guess a slang or street
12 term for just hopping fences, to try to get out of our sight,
13 and to evade and elude.

14 We will contain him in a perimeter, and it'll be a
15 armed subject in the blocks, and it'll turn into a certain
16 callout, and a block search by SERT.

17 Q Okay. And you're referring to him by his name.
18 Were you familiar with this individual, Mr. Johnson?

19 A Well, I believe his name was in the call notes,
20 and then yes, I did recall him when I saw that name, as there
21 was flyers out for him.

22 Q Okay. And you talked earlier about sort of
23 knowing his background on the way over here.

24 A Correct.

25 Q Okay. So, I've interrupted you too many times.

1 You're coming up here, sort of approaching this apron as
2 you described, you saw him running, what did you do?

3 A I knew I needed to get back out to 96th. I was
4 committed to this apron, just the entry of it, and he was
5 running westbound, here, to myself. So, for me, I wanted to
6 open myself up on 96th so I could get a bigger picture of, or
7 purview of where he may run to. In my head, I knew, like I
8 just mentioned, or at least I was assuming or guessing, based
9 on my training and experience, what I would do, is he was
10 either going to run toward that transit station or he was
11 going to start hitting fences to try to get out of our view.

12 My plan was simply to radio these updates the best
13 that I could, his direction of travel. That way we could set
14 up containment and take it one step at a time.

15 Q Okay. But, so that's what you were sort of
16 anticipating, but what actually happened?

17 A I reversed on the 96th Avenue. I didn't want to
18 reverse any more. As we all know, reversing is a somewhat
19 dangerous driving maneuver, versus just driving straight,
20 right. As soon as I got in, reversed into the north lane of
21 travel, I saw that it was completely open. There was no cars
22 coming northbound. So I was like, well I'm going to drive
23 straight now. So I'm not backing up anymore, because it was
24 kind of chaotic.

25 There was -- as soon as he started running, one

1 police officer, or one police unit, marked patrol car had
2 passed me, and was now out of my view, so as I'm turning, as
3 I'm in reverse, it's like, well I don't want to back into
4 them, we don't need to make this situation any more
5 complicated.

6 So, I positioned my patrol car in drive, and
7 turned into the -- southbound, into the northbound lane of
8 travel. When I did that, I saw Tyrone traverse down this
9 embankment. Like I said that parking lot that he ran through
10 was elevated. And on -- yeah, I can kind of see here the
11 vegetation. That's all like trees and bark dust, and it's a
12 pretty steep hillside.

13 He traversed down that and he just, he fell
14 forward, and tumbled out of my view for a second. This
15 quickly went from being in drive in my patrol car, and with
16 the idea that all right, I'm going to follow him at a
17 distance, and give updates, and get other officers with me,
18 and we'll either try to contact him again, give him commands
19 over the PA, have less lethal options, lethal options, have a
20 contact team, a custody team, et cetera, K-9s, we'll just
21 take this, we'll slow this down.

22 Him doing that tumble went -- caused the gears
23 from going that direction to immediately stopping, putting it
24 in park, because clearly we're going to be at a point where
25 now we're going to contact him here. As soon as I put it in

1 park, Tyrone popped up from behind a position of cover,
2 and I -- it's tough from this aerial view. I think it's this
3 white box here is the electrical, like a electrical or
4 utility box.

5 Q We could put -- we have a view that's from the
6 road.

7 A Okay.

8 Q If it's of help to you.

9 A That could be. Yeah. Right there. So that white
10 electrical, or utility box of some kind, he popped up. He
11 traversed down this, like tumbled, and then popped up behind
12 this utility box. And as he popped up from behind the
13 utility box, he had presented a firearm.

14 Q Okay. And when you said the word presented a
15 firearm, it looks like your arms went out straight.

16 A Yes.

17 Q And your hands are together.

18 A Yes.

19 Q Okay. Is that a pretty typical way to shoot a
20 pistol?

21 A It is if you have training.

22 Q Oh, okay. All right. So what happened?

23 A You want me to touch on that?

24 Q As I said, I may -- I mean, what I was really
25 getting at, I didn't mean to be weird in getting at, is like,

1 you know, there's a lot of ways to hold a gun.

2 A There is.

3 Q You can hold it down.

4 A There is.

5 Q You know --

6 A There is. I thought it was -- I felt it was
7 very -- this was a person that had handled a firearm before,
8 the way that he presented it, coming to his chest, punching
9 it straight out from his chest, his hands together. It was
10 confident. It was like someone who has handled a gun before,
11 fired a gun before, has had some degree of training. So.

12 Q Okay. And like, so where was he pointing it at?

13 A He was pointing it just to the south of me, out
14 toward the street.

15 Q Okay.

16 A So, it wasn't immediately directed toward me, at
17 that point, and we're splitting hairs here, because going
18 from you to you takes a half a second --

19 Q Sure.

20 A -- or a second, right. But I knew I had officers
21 to the south of me, so --

22 Q Okay. That's what I'm getting at.

23 A Okay.

24 Q Did it appear to you that he was pointing it at a
25 specific --

1 A Yes. He was pointing it at police officers.

2 Q He was pointing at police officers, okay. All
3 right. And then what?

4 A I had a moment of needing to make a decision.
5 He -- a term that's used is someone getting the drop on you.
6 In this case, he had gotten the drop on me, where he has his
7 gun out and pointed at officers before I have my gun out,
8 pointed at him, right. There's other training phenomenons
9 where you were taught that your car is a coffin, and that you
10 need to get out of your car in a situation like this, because
11 you're so restricted in mobility within your police car.
12 You're wearing a vest. You have a computer in the middle of
13 your -- in your center console, that's blocking you from
14 being able to get to the passenger side of your seat. While
15 you're contained in that driver's seat, you are an easy
16 sitting target.

17 I'm also a certified rifle operator, and a
18 certified less lethal 40-millimeter launcher operator. I had
19 those tools in my rack. Based on policy, we keep those
20 things without a round in the chamber, so -- I'm taking you
21 through my thought process here, really quick.

22 Q Yeah, thank you.

23 A I considered going to my rifle, however, having to
24 unlock it, get it out, put a round in the chamber and then
25 get on target takes time. He already has his gun out and

1 pointed it as police officers. We don't have that time.
2 I also need to get out of the police car. I didn't like
3 being where I was. I was, as I mentioned to you all, I was
4 facing southbound in this northbound lane of traffic,
5 basically right here. This is a perfect purview for, I
6 recall my police car being, to him.

7 It is a very unnerving feeling, being on the same
8 side of having nothing between you and a person who's
9 indicating that they're going to shoot you, or shoot your
10 coworkers. In my head, I knew I needed to get on the other
11 side of my police vehicle, the passenger side of my police
12 vehicle. I needed more between me and bullets that were
13 going to be coming toward me.

14 So in my head I was like, do I climb over this
15 MDT, and get to my passenger side and just exit out my
16 passenger vehicle, or out the passenger door, and get to that
17 side? Do I hop out and bail around the back of my car,
18 having to turn my back potentially to the threat,
19 momentarily? Do I stand here and fight it out here, with
20 basically no protection? Those are all things that
21 immediately you're processing though your head, or at least I
22 was. And you think it takes -- you think you took five
23 minutes to make that decision, it didn't happen in seconds.

24 Ultimately, oh another option too was, I needed to
25 just drive out of here. I needed to move my police car. I'm

1 just going to accelerate through, and turn it around and
2 get to a better position to encounter him. I'm glad I didn't
3 do that ultimately, because other officers used my vehicle as
4 cover, which would have left them in no man's land, for lack
5 of a better term, if I had moved my vehicle.

6 Ultimately, I chose to get out of my driver's
7 seat, move to the back of my, around the back of my FIU,
8 which is a Ford Explorer. So it's like a mid-sized SUV,
9 middle, small SUV. I am not the biggest gentleman. As you
10 can see, I'm pretty short. And as I made it around the back
11 of my police car, that's when I heard shots being fired.
12 When I made it to the passenger side of my vehicle, I took
13 note that there was a police officer using my engine block
14 and wheel and tire as cover in a kneeling position, with
15 their hands fully extended, and a gun in their hand,
16 presented toward the threat. And at that point, the gunfire
17 had stopped.

18 I joined him at that position for a second, went
19 into my vehicle, was able to get my rifle out --

20 Q From the passenger side, you got it out?

21 A From the passenger side, yeah. Since he had
22 lethal cover, I felt comfortable reaching into my car,
23 getting my rifle, and then having a more superior and
24 accurate lethal means, in case he wanted to continue to
25 shoot. At that point, I was shoulder tapped by Office

1 Hertzler, who I think you all met, who told me he had
2 lethal cover, with his rifle, and so I put mine back in my
3 rack, and we proceeded from there.

4 Q Okay. So, just like frame by frame, you're in the
5 driver's seat. You see Mr. Johnson pulls the pistol. You
6 concluded it was being pointed at police officers, and then
7 you were able to work your way all the way around your car
8 to -- you went around the back of the car --

9 A Correct.

10 Q Okay. That seems like it would have taken -- oh,
11 and it was in the process of you doing that, that you heard
12 the gunshots?

13 A Yes.

14 Q So, is there a way, and there may not be, a way to
15 estimate how much time elapsed between when you saw that
16 first, when you first saw Mr. Johnson with the pistol in his
17 hand, and hearing the gunshots?

18 A I don't know the answer to that. It was quick.

19 Q Would there -- did you hear anything from the
20 officers prior to the shooting?

21 A I didn't.

22 Q Okay. Were your lights and siren on? I should
23 have asked that.

24 A My siren was not on. I believe my lights were on,
25 because I was using those too when I was backing into these

1 lanes of traffic.

2 Q Okay. Were there any other sirens on?

3 A My windows were up, though. So --

4 Q Okay. So it would have been difficult for you to
5 hear. Is that what you're saying?

6 A Correct. And I was fairly focused on the
7 gentleman with the gun pointed at --

8 Q I imagine.

9 A Yeah.

10 Q Yeah. Okay. And then, I think where we left off
11 was, you heard the shots, you were going to take position
12 with your rifle, your colleague said he's got lethal cover,
13 so you put your rifle back. And then what happened?

14 MR. BENSON: Can I ask a question before we
15 continue?

16 THE WITNESS: Yes, sir.

17 MR. BENSON: You came around and you saw there was
18 already an officer taking cover behind your engine block.

19 THE WITNESS: Yeah.

20 MR. BENSON: Do you know who that was?

21 THE WITNESS: Officer Ramic.

22 MR. BENSON: Okay.

23 MR. DAVIDSON: Okay, yeah. Good question.

24 BY MR. DAVIDSON:

25 Q So, what happened then?

1 A Then it becomes a need to render medical aid.
2 At that point, we take a pause, a tactical pause. We
3 basically remained in our position of cover, and called out
4 to Tyrone several times, trying to engage compliance. At
5 that -- from that distance and that point, we weren't sure
6 how -- the condition of his injuries, where he was shot.

7 Q Was it clear that he was injured at that point,
8 from your point of view?

9 A He was down, and not moving. He was laying on his
10 side and not moving. But at that point, the last thing you
11 want to do is rush up there to provide medical aid, right,
12 and they're really still in a mental state of wanting to
13 shoot at us, or shoot it out with us, right. So typically --
14 and gone are those days where you'd do that

15 Typically like, okay we need to get you medical
16 aid. Hey Tyrone -- and that's where I know for a fact that I
17 yelled out, hey Tyrone, we want to get you help. We don't
18 want to hurt you any more. We don't want to use any more
19 force against you. I need you to move away from that
20 firearm, is what those discussions typically look at, or what
21 those challenges announcements typically look like.

22 He wasn't responsive to that. I do recall, the
23 gun was laying next to him, while he was on his right side.
24 And I recall his left arm started casting, like toward his
25 body, but that the gun was in the path of that left arm

1 casting, so that definitely made us pause for a second
2 before creating the contact team to go up and render him aid,
3 just to see what that was about. Was he going for the gun?
4 Is this just some sort of bodily movement, subconscious
5 movement?

6 Once he had made it past the gun and it appeared
7 to us that he wasn't trying to reach for it, we made a
8 contact team plan. We had lethal cover, less lethal cover.
9 We used a shield out of a sergeant's car. I was one of the
10 hands members of that team, along with Officer Woods. We
11 approached from the south, on foot with the shield, until we
12 got close enough where we were able to capture both of his
13 upper limbs, his right arm and his left arm, and move him
14 away from the firearm, and then rendered him the best medical
15 aid that we could.

16 Q Okay. Well we heard some testimony about some of
17 that, so I'm going to skip over that here. But the -- at
18 some point, AMR arrived?

19 A Yes.

20 Q And then --

21 A Almost immediately.

22 Q Okay. They were right there. But then, it sounds
23 like, from earlier testimony, that there was not, that they
24 did not -- at that point, it was over, that he appeared to be
25 deceased.

1 A Yes. There's only so much that we can do.
2 Basically by the time we got all of his clothes cut off -- we
3 were just trying to see where -- if there's any gunshot
4 wounds that we can tend to, when I saw him, it appeared he
5 had been shot in his right eye, so in the head. There wasn't
6 much that we are trained to help with, with that. And so
7 after we cut his clothes off, I don't recall finding any
8 other gunshot wounds that we could help him with.

9 Q Okay.

10 A At that point, that's when AMR arrived, and
11 pronounced him.

12 Q Now, sort of keeping an eye on the time and so
13 forth, your -- so after AMR left, what did you end up doing?
14 Was there anything left for you, specifically, to do?

15 A No. It really does turn into an all hands on deck
16 kind of deal, right. We need to set up our crime scene. So,
17 immediately looking around after that moment, you know, of
18 course you have an officer typically that will stand like by
19 Tyrone, the gun, to make sure nobody interferes with that.
20 You have officers putting crime scene tape up everywhere.
21 You have supervisors arriving and asking your involvement.
22 If you're involved in this, then we need to separate you, and
23 wait to be interviewed by detectives.

24 Q Is that what happened to you?

25 A Correct.

1 Q Yeah, okay. So, it sounds like you were
2 involved a little bit with setting up the crime scene, but at
3 some point the supervisor came over.

4 A I intended to, initially, but I saw those tasks
5 were being done, so I waited for a supervisor to come speak
6 with me. Asked if I was involved. I said I was. And after
7 that I went and sat in a police car by myself with a union
8 representative.

9 Q And then you end up giving an interview. You were
10 interviewed about it later on?

11 A By detectives, yes.

12 Q Okay. So now, I told you I was doing everything
13 backwards. What I'd like to do now is switch over to, just
14 to confuse you, I'd like to do now is talk about your
15 training and experience. So, you are a certified law
16 enforcement officer in the state of Oregon, it sounds like.

17 A Yes.

18 Q And that -- so how many -- tell us about your
19 DPSST, your DPSST training.

20 A Yes. Went to basic academy.

21 Q And how long is that?

22 A Oh, 16 weeks.

23 Q And at basic academy -- what we heard earlier
24 testified you learned how to drive, stuff like that?

25 A Yes.

1 Q Anything relevant to what you did on this scene
2 that you learned at DPSST?

3 A I mean, DPSST, it's kind of in the name, right,
4 that you're going to basic police academy, so everything that
5 I employed on this scene ultimately was derived from
6 training, even at the most basic level, from there.

7 Q Okay. But like communicating, like --

8 A Communication, radio communication, communication
9 amongst your team members, tactics, driving, operating a
10 patrol car, using the sirens, using your lights.

11 Q Well, and actually that's what I was going to get
12 to, because it sounded like you made a fair number of
13 tactical decisions while you were in the car. You decided,
14 for example, not to reach for your rifle right away, or not
15 to reach for your 40-caliber less lethal. Instead, you made
16 a decision, tactically to sort of get out of your car and
17 come around. Are those things you learned at DPSST?

18 A Yes. At DPSST, you learn about cover,
19 concealment, what is concealment, what is actual cover,
20 shooting, moving, communicating.

21 Q It sounds like you have some extra certifications,
22 so for the rifle, you used the rifle, you used the less
23 lethal 40 caliber. So, where did you pick up those
24 certifications?

25 A Within the Police Bureau.

1 Q Within the Police Bureau, so it would be after
2 DPSST. Is that right?

3 A Correct.

4 Q Do you have any other like more specialized
5 training that you might have received after your basic?

6 A That's also typically -- we're unique in the sense
7 that of any agencies, you are, once you are a certified
8 police officer, you are given those things. At other
9 agencies, you'll be immediately issued a rifle. You'll
10 immediately be issued less lethal. Here, those are things
11 you have to earn. And you typically earn them through good
12 decision making, through supervisor recommendations. And
13 then you receive additional training to ultimately possess
14 those things.

15 Like, for the 40-millimeter less lethal launcher,
16 it was a two-day school. For the rifle, for our AR-15, I
17 also just call it air rifle, it's a week long course, with
18 testing at the end, qualifications and scenarios before they
19 sign you off, and allow you to carry that weapons system.
20 I'm also an enhanced crisis intervention team specialist, a
21 member.

22 Q Okay. Tell us about that. What does that mean?

23 A It's basically -- well, it's mental health driven,
24 right. We have a significant amount of mental health issues
25 in our city, whether that's narcotics induced, or whether

1 that's just genuine mental health issues. I went through
2 a week-long course to get my enhanced crisis intervention
3 training. And I have been since, goodness, 2019.

4 Q Okay. And then, literally, I promise you the last
5 thing I'm going to ask you is about the pistol. You also
6 have some certifications related to using the pistol.

7 A Yes.

8 Q Is that something you picked up at DPSST?

9 A We are -- yes. We have a significant amount of
10 firearms training at training. We have a significant amount
11 of firearms training at advanced academy, at the Police
12 Bureau. And we qualify quarterly at the Police Bureau.

13 Q Okay. That training, and so far all of the
14 training that you've described, did that sort of factor in
15 your decision making on that day, when you were in the police
16 car and so forth?

17 A Yes, and just time on, working at --

18 Q Okay, and your experience?

19 A Yes.

20 Q Got it. Okay. That's all I have. Thank you.

21 A Thank you.

22 MR. BENSON: I actually have no questions.

23 GRAND JUROR: I have a question.

24 MR. BENSON: Yeah?

25 GRAND JUROR: Were there any civilians or

1 civilians' vehicles in this same area that you were at?

2 THE WITNESS: I recall seeing a civilian vehicle
3 up in that elevated parking lot, but no civilians. No.

4 GRAND JUROR: Okay. And nothing on 96th?

5 THE WITNESS: No.

6 GRAND JUROR: Anything behind you?

7 THE WITNESS: I wasn't looking behind me. Yeah.

8 GRAND JUROR: Yeah, I didn't figure you probably
9 were -- yeah.

10 THE WITNESS: I don't recall behind me,
11 unfortunately. I will say that ultimately, the way that this
12 was laid out, it offered us, you know, a decent backstop,
13 because of the embankment, so that nobody would be in harm,
14 unnecessarily.

15 GRAND JUROR: Okay.

16 THE WITNESS: Yes?

17 GRAND JUROR: Can you describe again, you said you
18 backed out onto 96th. I think I'm having a hard time
19 understanding why the passenger side was further --

20 THE WITNESS: Okay, yeah.

21 GRAND JUROR: -- than the driver's seat.

22 THE WITNESS: This is a perfect purview. So, the
23 apron is right over here, outside of the TV. I had just
24 turned into the apron. I'm going to stand up. Sorry folks.
25 Is that okay?

1 MR. DAVIDSON: Yeah.

2 THE WITNESS: Okay. I just feel kind of silly.
3 So I had just pulled in to the apron here, when he started
4 running. And we're a little bit further, and this
5 vegetation, obviously wasn't here. But I like this purview,
6 so we're going to keep that instead of trying to move around
7 show up exactly.

8 So, he was running across this elevated parking
9 lot. I backed out onto 96th, which you can see here, and
10 then drove southbound -- this is, we're facing south right
11 now, in the northbound lane of traffic. So I was here. This
12 and like I mentioned earlier, this is almost perfect as far
13 as like, I feel like I was -- my vehicle was here, when he
14 popped up here, with the gun pointed directly westbound
15 towards my coworkers. So --

16 MR. DAVIDSON: So you were not -- sorry to
17 interrupt. You weren't pointed due south. You were pointed
18 kind of south. This is due south, I guess.

19 THE WITNESS: This is -- yeah. Well like, yeah.

20 MR. DAVIDSON: There's more of a south --

21 THE WITNESS: I guess this is southwest.

22 MR. DAVIDSON: Southwest, okay.

23 THE WITNESS: Yes. Yes, splitting hairs, yes,
24 this is a southwesterly direction, before this kind of curves
25 more south. So, being here, and him being here, this was my

1 driver side, so it was a very uncomfortable, scary feeling
2 to be on the same side as him, in no man's land with nothing
3 between him and I. So I decided to retreat behind my vehicle
4 to my passenger side, which would put me a whole vehicle
5 between us before engaging him. Fortunately, everything was
6 handled by the time I made it to that position.

7 GRAND JUROR: Sir, I have one more question about
8 the --

9 THE WITNESS: Yes.

10 GRAND JUROR: -- about cars, and on 96th Avenue.
11 Were there any police officers blocking traffic at the head,
12 or --

13 THE WITNESS: I don't really know the answer to
14 that.

15 GRAND JUROR: Do you have any idea? Okay.

16 THE WITNESS: And I don't -- this happened awfully
17 quick.

18 GRAND JUROR: Yeah, of course. Okay, thanks.

19 GRAND JUROR: One more question.

20 THE WITNESS: Of course.

21 GRAND JUROR: Do your vehicles have like dashboard
22 cameras or anything on them?

23 THE WITNESS: We do not.

24 GRAND JUROR: Was there a vehicle in front of
25 yours, in a unmarked or something like that? You said that

1 he was pointing a gun at other police officers.

2 THE WITNESS: Yes. There was an unmarked FIT unit
3 vehicle. My car was here, it was right over here.

4 GRAND JUROR: Okay.

5 THE WITNESS: And it's unmarked, but it had -- to
6 a degree, we can only do so much. It still has like a
7 spotlight lamp. I think, you know, anybody that looks at
8 these unmarked cars, it's like oh that's probably a police
9 officer. And they were in full uniform, displaying a badge
10 as well.

11 GRAND JUROR: When you mentioned that he was
12 pointing his gun at, you know, your coworkers, where were --
13 are you saying that he was pointing his gun at those, at
14 them?

15 THE WITNESS: Yes.

16 GRAND JUROR: The FIT unit. Where were they at
17 that time? Like were they in their car, were they outside
18 their car in the street, or --

19 THE WITNESS: Well, that and Officer Ramic moved
20 from that vehicle to my vehicle as cover. And that's who I
21 discovered at the passenger side of my engine block.

22 BY MR. DAVIDSON:

23 Q It probably goes without saying, but the vehicles
24 themselves that you operate are not bulletproof.

25 A No.

1 Q And just regular glass, not ballistic glass?

2 A No ballistic glass. We do -- depending on the
3 year of the vehicle, we do have ballistic paneling in the
4 driver side, passenger side doors, but those are only rated
5 to handgun ammunition. And who knows how many rounds those
6 will take. But yeah, otherwise, no ballistic glass. Any
7 over 2015s that we still have, and we have a lot of them
8 still in service, those don't offer any ballistic protection.

9 MR. DAVIDSON: (Indiscernible), yes?

10 GRAND JUROR: Just to clarify, you said none of
11 the Portland police cars have dashcams?

12 THE WITNESS: Correct.

13 GRAND JUROR: Okay. Do any of the officers wear
14 body cams? Is that part of the like, uniform?

15 THE WITNESS: I don't think, at the time of this.
16 We're working on that.

17 GRAND JUROR: Okay.

18 THE WITNESS: Of course. There was a period where
19 FIT and I think Central were part of the pilot program.
20 There's a lot of nuances that go on with outfitting such a
21 large agency and we are a large metro agency, as far as
22 storage goes and all those things. But cameras are going to
23 be fast. I know they ran a pilot program several months ago,
24 but I think this was outside of that window.

25 GRAND JUROR: Okay, thank you.

1 MR. DAVIDSON: Any additional questions? No?
2 Okay. Colin.

3 MR. BENSON: All right. That's all I have. Thank
4 you.

5 THE WITNESS: Thanks for your time, folks.
6 Appreciate it.

7 (Chorus of thank yous.)

8 MR. DAVIDSON: We'll call our last witness for the
9 day, and then we'll be done.

10 MR. BENSON: Okay.

11 MR. DAVIDSON: Sir, come on up. Stand right
12 there.

13 MR. SNITILY: Okay.

14 MR. DAVIDSON: You know the drill.

15 MR. SNITILY: Yeah.

16 THOMAS SNITILY

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

19 DIRECT EXAMINATION

20 BY MR. DAVIDSON:

21 Q Go ahead and have a seat, and if you can state and
22 spell your full name, please.

23 A Thomas Snitily, T-h-o-m-a-s, and then Snitily is
24 S-n-i-t-i-l-y.

25 Q Okay. It's probably abundantly clear from the way

1 that you're dressed, but can you tell us how you're
2 employed?

3 A Yeah, as a Portland police officer.

4 Q All right. And how many years of law enforcement
5 experience do you have?

6 A Almost 22.

7 Q All of that with Portland?

8 A Yes.

9 Q Did you attend college before you engaged in a law
10 enforcement career?

11 A I did, yeah.

12 Q Where'd you go?

13 A Eastern Washington University.

14 Q Okay. And did you obtain a degree?

15 A Yeah, in criminal justice.

16 Q Okay. And did you attend the usual academies here
17 in Oregon, DPSST and the Portland Advanced Academy?

18 A I did, yeah. DPSST done when it was in Monmouth,
19 and then Portland's advanced academy.

20 Q All right. And can you just tell us a little bit
21 about the progress of your law enforcement career? Since
22 you've been with PPB, what kind of assignments have you had?

23 A Yeah, initially when I went through the probation
24 process I transferred through all five precincts, when it
25 was five precincts, during my FTO program. That --

1 Q And what does FTO stand for?

2 A Oh, field training officer when you're on
3 probation.

4 Q Okay. So you have another more experienced police
5 officer with you during your probationary period?

6 A Exactly, yeah. The once that was over, once I was
7 off probation, I went to, at the time it was Northeast
8 Precinct, right at MLK and Killingsworth. I went to night
9 shift there. And I spent about 16, almost 17 years there,
10 on night shift. The precinct turned over to North Precinct.
11 I don't remember what year that was, but during that time in
12 2011, I was assigned as a detached officer for our SERT
13 team, our Special Emergency Reaction team.

14 In about 2018, they created a full-time unit for
15 SERT. So I was part of that for, until summer of 2020, when
16 the funding got cut. Then I went back to North afternoon
17 shift. And the when they created the Focus Intervention
18 Team, I applied for that and was picked up, and that's my
19 current assignment.

20 Q And how long have you been with FIT?

21 A FIT was started in January '22, so.

22 Q Okay. All right. And we've heard a little bit
23 about it, but what is the special mission of FIT?

24 A Reduction of gun violence is the main focus of
25 FIT, throughout the city. And it's a uniform assignment.

1 And so we work afternoon shift, and that's in essence our
2 job, is to completely focus on reducing gun violence.

3 Q Okay. All right, well I think you know why we're
4 here. We're going to talk about this incident at Mall 205
5 that occurred back on December 27th of 2023. Were you in
6 uniform, on duty and displaying a badge that day?

7 A I was, yes.

8 Q And were you working your FIT assignment?

9 A Yes.

10 Q All right. And were you dressed as you are now?

11 A Yes.

12 Q Okay. And were you working by yourself or in a
13 partner car

14 A I was in a partner car, with Office Hertzler.

15 Q All right. And what kind of vehicle was it?

16 A We were driving a unmarked FIU police car, just
17 like the Ford Explorer police car, it just doesn't have the
18 normal police markings. It's a maroon colored car.

19 Q All right. And do you switch, I guess,
20 responsibilities as far as who's driving and who's working
21 on the radio, working on the MDT, or is it --

22 A Gabe and I don't. Gabe always drives, and I
23 always ride passenger.

24 Q Okay. And so that was what was going on this day?

25 A Yeah.

1 Q All right. So what were you up to when you
2 heard about this call, or this event occurring in Mall 205?

3 A We'd begun to focus on the 82nd Avenue area, kind
4 of Fremont to, up to Killingsworth, is where our team was
5 working at that time. And we heard about it from, we have a
6 back channel that we use so we can talk to each other, which
7 is X-ray 9. And I think it was Officer Woods or Wyatt, I'm
8 not sure which one came on X-ray 9 and said that there was a
9 call going on in the East Precinct.

10 The area we were in is North Precinct. There's a
11 call going on in East Precinct that they thought we should
12 respond to.

13 Q Okay. And what did you learn about the call, or
14 where did you learn it from?

15 A They said it was happening at the Target, at Mall
16 205, that the loss prevention was calling in that they'd
17 identified a person that was inside, that they had probable
18 cause for robbery, and they believed he had a warrant. So,
19 since I was running the computer, I pulled up the call, and
20 read, you know, in there that loss prevention had called in,
21 and then they'd given a name. And so I ran that name on my
22 computer, to look at what history the person and if they had
23 warrants.

24 Q Okay. So, when you say there was probable cause
25 for robbery, what -- you know, for a police officer, what

1 does that mean?

2 A It means that a robbery had been committed, a
3 police officer had gone there and investigated it and
4 created that that suspect more likely than not had committed
5 that robbery and they put on probable cause that they need
6 to be arrested for that crime.

7 Q Okay. So if you arrested somebody you had
8 probable -- I mean, if you encountered somebody who you'd
9 learned had probable cause for robbery, you would typically
10 arrest that person for robbery?

11 A Yes.

12 Q Okay. And you also mentioned warrants or wants, I
13 guess it's sometimes call. Like, what did you learn about
14 whether -- and first of all, let me just ask you, what was
15 the name you were given? Do you recall?

16 A It was -- I can't remember if it was Tyrone
17 Johnson or Tyrone Jackson.

18 Q Tyrone Johnson?

19 A Okay.

20 Q Does that sound right?

21 A Tyrone Johnson, yeah.

22 Q Okay. And did you look -- you said you looked him
23 up on your mobile data terminal?

24 A Uh-huh.

25 Q And what did you learn about whether or not he had

1 a warrant, things of that nature?

2 A Yeah. So it showed he had -- quickly the hits
3 looked like he maybe was on probation or parole out of
4 Klamath County for a robbery, and he had a probation
5 violation out of Klamath County. Then it showed he was in
6 like abscond status for being on probation maybe out of
7 Multnomah County for like rob 2. Those are the ones I
8 remember. And then -- or no, sorry. He also had one out of
9 Oregon State Parole Board. And I believe the original
10 charge was robbery on that too. He had a parole violation.

11 And then I -- in his region history, which is our
12 database, I clicked on what the first case that he had been
13 linked to, the most recent case. And --

14 Q Let me stop you for one second.

15 A Okay.

16 MR. DAVIDSON: Let's put it on pause for a second.
17 Would you hold on there? Yeah. We're just going to go off
18 for -- can I actually speak to you?

19 (Whereupon, the above-entitled matter went off the
20 record at 4:43 p.m. and resumed at 4:44 p.m.)

21 MR. DAVIDSON: All right, we're back on the
22 record. Officer, go ahead and continue what you were
23 saying.

24 THE WITNESS: So there's a -- the first link in
25 Region was a case I clicked on that looked like a domestic

1 violence case. And I quickly just read through the first
2 paragraph to try and get a little bit of backstory on this
3 individual. And it stated in there that he was involved in
4 some sort of altercation with a female, and that he fired a
5 shot into the floor during that case that the officer was
6 investigating. And right about that time was when we were
7 pulling up to the Target.

8 BY MR. DAVIDSON:

9 Q Okay. So it sounds like there was probable cause
10 to arrest him for robbery, and there was a, sounds like a
11 warrant, at least one or maybe more than one arrest warrant
12 for him?

13 A At least one or two, yeah.

14 Q All right. So you said you were just arriving
15 there at the, at Mall 205. So, is there a plan being
16 formulated between units as you're arriving on the scene?

17 A Yes. Woods and Wyatt kind of taking primary over
18 establishing a plan of how to get them into custody. I
19 believe they were on the phone with loss prevention, so they
20 were getting more consistent updates on what the person was
21 doing in the store. So they asked us to go to kind of the
22 northwest area to try and establish a little bit of
23 containment before Mr. Johnson came out of the store.

24 Q And officer, you may have observed when you walked
25 in here, we've got a Google Earth image here of the Mall 205

1 area. Feel free, and also we can kind of zoom in or out
2 or adjust or actually do a Street View as well. So, as
3 you're testifying, if you feel like it's helpful to refer to
4 this image, please do.

5 A Okay. Yeah, we basically came right into that
6 corner, right there where those trees are. It was where we
7 first initially kind of positioned ourselves on 96th, when
8 we arrived, trying to get a lay of what the area looked
9 like, and where other officers were going to be.

10 Q Okay. So, once you arrived, what transpired?

11 A We were -- we repositioned ourselves after that,
12 because we couldn't -- with the brush, you couldn't really
13 see. We were trying to get a view of the front door, like
14 which door he would exit out of. So we kind of moved
15 ourselves, there's a little spot to drive through right
16 here, and got ourselves into this north kind of shade
17 towards the west section of the parking lot, and somewhat
18 out of view of what we thought the front door that he would
19 leave out of. And then other officers are positioning/O
20 themselves to the east, and they were forming up a custody
21 team, trying to get the pieces together for when he came
22 out, they could confront him.

23 Q Okay. So what's the objective here? What's the
24 best outcome you're looking for?

25 A The best outcome is that he's contacted by the

1 custody team, he complies and he's taken into custody.

2 Q Okay. So that was what you were planning for?

3 A Yeah.

4 Q All right. But there was other possibilities,
5 like he could have run, other things like that.

6 A He could run, which is why we had officers start
7 to set up that loose containment, in case he did run, take
8 off.

9 Q Okay. So what happened next?

10 A We're sitting there, kind of watching the door,
11 and this all kind of happens pretty fast. They came on the
12 radio and said that loss prevention saw him, he was leaving
13 the store, pushing a cart, wearing a green coat. And I
14 remember talking about like a gray mask. Right about then,
15 we kind of picked up somebody that just come out the front,
16 and was heading west, along the front of the store, right to
17 this kind of parking lot. It's almost like a street that
18 runs down the west side of the Target.

19 And we could see him, green coat, pushing a
20 shopping cart. He'd just gone past that. I don't think
21 it's actually a named street, but just gone past that
22 section of the parking lot, and he was standing on the
23 corner, right --

24 Q Do you want me to zoom in? Would that be helpful?

25 A Yeah, that'd be great. Yeah, you can see how it's

1 kind of sidewalk, and it looks like a street, but I don't
2 think it's named. He's basically standing right there. And
3 we were back up there. And right then we saw a patrol car,
4 the custody team coming from the east to come up behind him
5 and confront him.

6 Q Do you know who was in that unit?

7 A I believe it was Woods and Wyatt, but I'm not a
8 hundred percent the first car to contact him was them. But
9 I think it was them.

10 Q So what happened next?

11 A So they pulled up behind him. We could see kind
12 of the -- they pull up, both their doors come open, so you
13 can kind of tell they must have said something to him,
14 because his head turns around, looks at them. I'm sure they
15 were challenging him, to try and get him into custody, and
16 he immediately just takes off sprinting. And he's going
17 west through this parking lot of the T-Mobile store right
18 here.

19 Q Okay. So what do you and Office Hertzler do at
20 that point?

21 A So Gabe starts kind of driving, to try and get to
22 96th. So we're going to come out in this, that off street
23 right there, that opening in the parking lot. The other
24 officers had continued. So I'm watching him. Gabe's
25 driving, I'm watching him run. And he's really in full

1 sprint till I felt like he got about here. And then he
2 kind of starts to slow his pace a little bit, and that's
3 when I see his right hand goes into the pocket of his
4 jacket.

5 And so, it just wasn't -- it was out of the norm
6 for somebody when I've watched them run, you know, this full
7 pump of the arms, and they are absolutely just trying to get
8 away. This was definitely different. And I can't remember
9 what I said to Gabe, but we kind of alerted each other, like
10 oh that doesn't, something doesn't look right with that.

11 And so he continues going west, and I remember
12 seeing a patrol car. I can't remember if they came from up
13 there, if they looped in front. But I could see patrol cars
14 pulling on to 96th, to try and block his path to go, to
15 continue west. And we, at this point, are pulling in here
16 and almost paralleling him as he's running towards -- it's
17 kind of hard to see in this overhead view, but that's
18 actually a little bit of a drop from the parking lot going
19 down towards the street. It's like a little bit of a slope.

20 Q So I'm sorry, where is your unit right now?

21 A So we're kind of pulling like right here, as he's
22 like running right here.

23 Q Okay.

24 A And these other cars are starting to land right
25 about here. And right about here, he's kind of into some

1 brush. There's no real leaves on it, though, but he's
2 kind of just chopping some brush, and that's when I see the
3 handgun come out. And there's a -- which I can't really
4 tell from this view if that's the electrical box, or --
5 there's an electrical box. I think it's that.

6 There's like a 3-foot by 3-foot electrical box.
7 And he comes out and he's in like a kneeling position. And
8 I see the handgun come out, and it's pointed straight at the
9 cops that are on this street right here, that just stopped
10 their cars. They're all getting out of their cars. And so
11 I told, you know, Gabe, gun. And we -- he anchors it. I
12 think we're right about here. I think that's actually a
13 sign. We're right about there.

14 Q When you say anchors it, what do you mean?

15 A Oh, sorry. Stops the car real quick so we can
16 jump out. And so we had like a side view of him. And he
17 is, he's like --

18 Q I guess, just asking, I guess Office Hertzler is
19 on the south side of the vehicle?

20 A Yeah.

21 Q And you're on the north side of the vehicle, so --

22 A Correct, yeah. He's driving, and he's kind of got
23 nosed, so we're -- I'm getting out and looking kind of over
24 the hood, straight down this, that path right there, right
25 at the electrical box. And Gabe's getting out the driver's

1 side, and grabbing his rifle. And I can see the, Mr.
2 Johnson's, he's like on a knee. And he's like resting on
3 the, looks like he's resting on the electrical box, with the
4 handgun pointed at the cops that are in the street.

5 Q So when you say resting, was he using -- you know,
6 in your training and experience, I guess with firearms and
7 things of that nature, was he utilizing the electrical box
8 as kind of a stable platform to aim his gun?

9 A That's what it looked like, or cover, like he was
10 taking up a fighting position to try and shoot the cops.

11 Q Okay.

12 A That's what it looked like to me. So, I got out
13 and immediately I thought he was going to shoot the cop
14 standing there. So I drew my gun, was just coming up to
15 shoot him when I heard just a barrage of gunfire. And he
16 just drops.

17 Q Okay.

18 A And so, just the way he dropped, I didn't fire.
19 He didn't look like a threat right then, so I was like, hey
20 Gabe, we need to move, to get over with other cops. And so
21 --

22 Q So let me ask you, because you said something kind
23 of profound there. At that point, you had decided that if
24 you had, I guess a clear shot, you were going to utilize
25 deadly force?

1 A Oh, a hundred percent, yeah.

2 Q Can you explain a little bit about how you reached
3 that decision?

4 A Okay. Yeah. I mean, he -- so I mean, even going
5 backwards, you know, he runs from us, the crimes that we had
6 on him, he takes off running. I recognize too that, you
7 know, we didn't have anybody down here at that moment when
8 he could have just ran, turned the corner on this building
9 and just kept sprinting south.

10 Like he had avenues of escape but he didn't take
11 them. He purposely ran straight at these officers who were
12 right there, pulled out that handgun, pointed at the
13 officers. And I believed he was going to shoot and kill
14 them. That was the way I felt and I had to -- I thought I
15 had to get out of the car. I needed to shoot him to protect
16 those officers.

17 Q Okay. So, it was your impression that if you had
18 not utilized deadly force in that scenario, that he was
19 going to use unlawful deadly force against --

20 A Yes.

21 Q -- other people, specifically the police officers
22 in front of him?

23 A Yes. I think the only thing that stopped him is
24 they shot him.

25 Q Okay. All right. And you decided not to

1 discharge your firearm once you heard the other officers
2 discharge their weapons and he fell?

3 A Yeah. They start shooting right as I'm coming up
4 to shoot him, and he just drops. And kind of the way he
5 dropped too wasn't -- it was like a little bit of the fight
6 was out of him. It was just super fast, the way he fell.

7 Q Okay. As if he'd been struck, rather than oh he's
8 decided to seek cover or something?

9 A Rather than change his behavior, this was like he
10 got struck and something had changed, that he was different.
11 So I didn't think at that moment it would have been
12 appropriate to shoot.

13 Q Okay. So what happened next?

14 A So, Gabe and I decided that we needed to move to
15 try and get over with these officer. They had their, at
16 least two or three patrol cars there. So we're going to
17 move over to that, quickly to that position, try and get a
18 custody team established, to try and get him into custody.

19 So as we were running, kind of from our car over
20 to theirs, I remember seeing there was a red, I think it was
21 a red car was in this lane, just stop, maybe right about
22 here. And there was a lady sitting in the driver seat, and
23 she looked like she was just in shock, obviously, but she
24 wasn't moving. She was just kind of sitting there, staring.

25 And so I ran over and kind of tapped on her car

1 like to get her back, kind of back in reality. And I was
2 like, you got to get out of here. So I moved her, told her
3 to leave. She drove off to the north. And then Gabe and I
4 both met up with the other officers, kind of behind the
5 patrol cars.

6 Once we got there, I remember Wyatt was designated
7 on lethal, to cover the, Mr. Johnson, and we quickly just
8 established if anybody had, any of our officers been hit.
9 Nobody said they had been shot. So then I remember asking
10 Officer Ramic and Officer Bartlett if they had shot, and
11 they both said yeah, they were shooters. So Gabe, and we
12 pushed them back towards, those officers back towards that
13 grassy area, just to kind of get them out of this area.

14 We had enough, I felt like we had enough to deal
15 with this custody team that they didn't need to be a part of
16 it. So we kind of removed them from it, to include Officer
17 Wheeler, who -- I didn't talk to him, but he was also moved
18 away.

19 Q Is that the, kind of the philosophy in these post
20 (indiscernible) scenarios to remove the involved officers
21 from further action as quickly as possible?

22 A Yeah, if it's feasible. I mean there's obviously
23 times, if bodies are super short, and whatever you're trying
24 to accomplish outweighs it, but if you can, it's best to
25 just move them out of the way. And we had plenty of cops

1 that we didn't need to involve them in the future
2 process, which would be getting him into custody and
3 providing medical care for him.

4 Q Okay. So the involved officers were moved to the
5 back, and what happened next?

6 A Yeah, so then we looked at the situation. I could
7 see that he had, Mr. Johnson fallen. There's a, that 3-foot
8 by 3-foot-ish electrical box, and there's a concrete pad to
9 the right of it. And he had fallen down towards his right,
10 kind of laying on his right shoulder with the handgun right
11 beside him. And it was, the handgun was kind of facing
12 towards us.

13 So we quickly just decided the best approach, best
14 avenue would be to move ourselves around to the north, and
15 bring the custody team in from the north. We thought we had
16 a pretty good chance at getting him into custody as quickly
17 as possible if we did that. It just wouldn't be a good idea
18 to come straight at him.

19 So Office Hertzler quickly designated out some
20 roles to different people, to make sure that we had somebody
21 to go hands on, to actually take him into custody. Office
22 Hertzler was going to be lethal. I was going to carry a
23 shield, to kind of protect us as we moved up there. And so
24 right as we're kind of formulating that plan you could see
25 that he was -- like I was watching him. He was moving, but

1 it didn't appear to be intentional movement.

2 So I quickly just hollered out to him, hey, you know,
3 move away from the gun, we want to get you help, to try and
4 gauge his response, and there was no response to it. So I
5 felt pretty comfortable that we need to get up there and get
6 him into custody. So, once we had our team established, we
7 moved ourselves around. If that's the box, we moved
8 ourselves around to the north, and then kind of came at him,
9 so that way the handgun and he was facing a way that we had
10 a little bit of concealment as we moved up.

11 Once we got close, I believe it's Officer Costanzo
12 and Officer Woods were the ones that were going to go hands
13 on. And the way the concrete pad was, there was about a 2
14 to 3-foot drop from that pad down to the actual sidewalk.
15 And up on that pad is just kind of, in the, a little bit of
16 brush, and it wasn't a great area to actually provide
17 medical care. So they quickly grabbed his arms and realized
18 that wasn't the best spot.

19 So we pulled him down to the sidewalk so we had a
20 nice flat area. We left the handgun sitting there. So we
21 pulled him down to the flat area and rolled him onto his
22 back. And at that point, we were -- we talked about
23 handcuffing him real quick, but could tell there wasn't any
24 resistance, and so we didn't feel handcuffing was
25 appropriate. It's best to just move on to the medical care.

1 So, somebody had brought up a IFAK it. And so
2 I started providing medical aid to him. When I looked at
3 him, I could see he looked like he had a bullet wound
4 straight to his face. I couldn't -- there was nothing I
5 could do for that. So, I started to move on, to look for
6 any other wounds on his body that I could maybe fix. So
7 Gabe had some trauma shears -- or sorry, Office Hertzler had
8 some trauma shears, so I took those.

9 I cut his shirt open, looking for any wounds I
10 could treat. I didn't see anything on his torso right away.
11 But he did have a ton of blood down his, I think it's his
12 right pant leg. His right pants were covered in blood. So
13 I thought maybe he had a wound to, like his thigh or his
14 pelvis. So I cut his jeans open. I didn't find anything in
15 the thigh area, anything in the legs.

16 So my next thought is maybe he had a round that he
17 took in the like the (indiscernible) area of his groin or up
18 in the pelvis. So I was just getting ready to remove his
19 underwear right as the medics came up, and they declared him
20 deceased. So I stopped, set everything down and backed
21 away.

22 Q Okay. What role did you take after that, if any?

23 A Right after that, I was assigned by Sergeant
24 Kirwin to stand there with him and the handgun that was
25 evidence laying there. And so I maintained that position

1 until I was relieved by, I believe it was Officer Kamaka
2 (ph.).

3 Q Okay. And once you were relieved, what happened?

4 A They separated me as a witness out, and I was
5 placed in a patrol car until I was interviewed later that
6 night by detectives.

7 Q Okay. All right. You unholstered your gun but
8 you never fired a round?

9 A No, I didn't.

10 Q Did you observe Office Hertzler fire a round?

11 A No, I didn't.

12 Q I think those are all the questions I have.

13 MR. BENSON: Nothing for me. Thank you.

14 MR. DAVIDSON: Grand Jury? No? A lot of head
15 shaking, okay. All right, well I think we're done then. We
16 can go off the record. And that's it for today, everybody.

17 (Whereupon, the proceedings ended at 5:03 on April
18 29, 2024.)

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C E R T I F I C A T E

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I hereby certify that the proceedings set forth in the above-entitled matter were reported by audio recording; that thereafter I caused the said audio recorded notes to be transcribed into the foregoing transcript and the foregoing 300 pages constitute a full, true and accurate transcript of the proceedings as noted herein.

May 29, 2024
Date


PAMELA C. JACOBSON
Official Transcriber

Within this transcript of proceedings, some of the names and/or technical terms are spelled phonetically, inasmuch as exhibits, files and support documentation were not made available to us for reference.