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REGARDING THE MATTER OF THE INVESTIGATION  
OF THE DEATH OF JEANETTE ANAYA

GRAND JURY

January 14, 2014

DISTRICT ATTORNEY: Good morning.

GRAND JUROR: Good morning.

DISTRICT ATTORNEY: My name is Angela Pacheco and I'm the District Attorney for the First Judicial District. Also present in the Grand Jur...Grand Jury room is Alejandra, our tape monitor, and twelve, thirteen, fourteen...sixteen members of the Grand Jury. Today's date is January 14<sup>th</sup>, 2014, and the time is 8:45 a.m.

This morning I will be presenting to you a case to determine the issue of justifiable homicide by a public officer. The Grand Jury file number is 2014-3061.

The witnesses in this case will be Sergeant Lorenzo Aguirre with the New Mexico State Police, Officer James Parks of the New Mexico State Police, Lieutenant Shane Arthur with the New Mexico State Police, Sergeant Scott McFall with the New Mexico State Police, Officer Wilson Oliver...I'm sorry, Officer Oliver Wilson with the New Mexico State Police, Mr. Jeremy Muñoz, Officer Imelda Sanchez with the New Mexico State Police, Lieutenant Andrea Dobyms with the Santa Fe Police Department, Agent Eric Armijo with the New Mexico State Police, Sergeant Paul Chavez with the New Mexico State Police, Sergeant Lauren Milligan with New Mexico State Police, and Sergeant Clay Gorritt with New Mexico State Police. Do any of you know any of these people? Yes, ma'am.

GRAND JUROR: Officer Parks.

DISTRICT ATTORNEY: You know --

GRAND JUROR: I do.

DISTRICT ATTORNEY: The fact that Officer Parks will be testifying, can you be fair and impartial considering his testimony?

GRAND JUROR: Yes, I can.

1 DISTRICT ATTORNEY: Thank you. The statute for your consideration is  
2 Justifiable Homicide by a Public Officer. it's 30-2-6, and it's on page 211 at the bottom of your  
3 Statutes. And I will read it to you.

4 "Homicide is justifiable when committed by a public officer or public employee or  
5 those acting by their command and in their aid and assistance." And we're specifically  
6 concerned with paragraph 2 which is, "When necessarily committed in overcoming actual  
7 resistance to the execution of some legal process or to the discharge of any other legal duty,  
8 paragraph B, for the purposes of this section, homicide is necessarily committed when a public  
9 officer or public employee has probable cause to believe he or another is threatened with  
10 serious harm or deadly force while performing those lawful duties described in this section.  
11 Whenever feasible, a public officer or employee should give warning prior to using deadly  
12 force."

13 At the conclusion of all the evidence I will give you instructions on the issue of  
14 justifiable homicide by a public officer and other instructions on the law before you deliberate.  
15 I will call witnesses one at a time to be sworn before you and to testify. I will ask questions of  
16 each witness. When I have finished asking questions of the witness, you may ask questions of  
17 the witness. If I determine the question is not legally proper for any reason, I will either ask the  
18 witness not to answer it or rephrase the question so that it is legally proper.

19 The first witness to be called in this case will be Sergeant Lorenzo Aguirre with New  
20 Mexico State Police.

21 FOREPERSON: You do swear or affirm that the testimony which you are about  
22 to give will be the truth under the penalty of law.

23 SERGEANT AGUIRRE: Yes, sir.

24 FOREPERSON: Okay. Good morning now.

25 GRAND JURORS: Good morning.

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TESTIMONY OF SERGEANT LORENZO AGUIRRE

1  
2 BY THE DISTRICT ATTORNEY:

3 Q. Good morning, sir, would you state your name?

4 A. Yes, Lorenzo Aguirre.

5 Q. And what is your rank, sir?

6 A. I am a sergeant with the New Mexico State Police.

7 Q. Have you recently been promoted, sir?

8 A. I have. Last --

9 Q. And what is your current assignment?

10 A. I'm actually assigned to the uniform bureau up in Roswell, New Mexico.

11 Q. How does your wife feel about that? [Laughs]

12 A. She's not too happy but, that's another issue. [Laughs]

13 Q. Well, congratulations on your promotion, Sergeant.

14 A. Thank you, ma'am.

15 Q. Sergeant Aguirre, were you asked to be the case manager on an incident involving a  
16 Jeanette Anaya and Officer Oliver Wilson?

17 A. That is correct.

18 Q. First of all, what was the date of the incident?

19 A. That was back on November 7<sup>th</sup>, 2013.

20 Q. And where did that occur?

21 A. In Santa Fe County.

22 Q. And just to be a little bit more specific, do you recall the location of the incident?

23 A. I believe the, the incident happened or started over on Saint Francis and...Saint Francis  
24 Road and then it ended up in Camino del Rey.

25 Q. Okay. And as case agent, what is your responsibility?

26 A. As a case agent I'm just, um, I'm assigned by my sergeant to gather the facts and give  
27 assignments to other agents to assist in gathering the facts of what happened during the  
28 incident.

1 Q. So you basically manage the case.

2 A. That's correct.

3 Q. So there are other agents who were given specific tasks involved with this  
4 investigation.

5 A. That is correct, ma'am.

6 Q. So, ladies and gentlemen of the Grand Jury, Agent Aguirre, since he's the case  
7 manager, I'm going to ask him just some limited questions right now to introduce some  
8 evidence and then I'm going to excuse him, but he'll be in and out throughout the day as the  
9 case manager because I need him to be able to identify and introduce certain evidence. And  
10 then he will be towards the end of the case and then he can...you can ask him whatever  
11 questions you really need, if that's okay with all of you.

12 So, you know, you, you said that the incident evolved on Saint Francis Drive.

13 A. That is correct. That's where it started, ma'am.

14 Q. And could you just say a little bit about how the incident started?

15 A. So what happened is one of our patrol guys, Officer Oliver Wilson, attempted to initiate  
16 a traffic stop there on Alta Vista and Saint Francis. The vehicle that he was attempting to stop  
17 decided not to stop...the driver of the vehicle decided not to stop, so a vehicle pursuit ensued  
18 and that moment that's when Officer Wilson generated a pursuit and the vehicle  
19 actually...Officer Wilson actually ended up PIT maneuvering the vehicle, and there'll be  
20 another officer here to explain to you guys what the PIT maneuver is, but the vehicle was PIT  
21 maneuvered and after the vehicle was PIT maneuvered, shots were fired and, and there was a  
22 female that was struck and later deceased.

23 Q. So the driver of the vehicle was identified as Jeanette Anaya, is that correct?

24 A. That is correct, the driver was identified as Jeanette Anaya.

25 Q. And was there a passenger with her?

26 A. There was, there was a male front passenger. He was identified as Jeremy Muñoz.

27 Q. And did anything happen to Mr. Muñoz?

28 A. No, there was no apparent physical injuries of Mr. Muñoz.

1 Q. I'd like to show you what I've marked as identification, Grand Jury Exhibit No. 3. Can  
2 you identify who that is?

3 A. This over here shows Mrs. Jeanette Anaya's face, ma'am, with --

4 Q. So that's for identification purposes, correct?

5 A. That is correct.

6 Q. Okay. And what do you mean by face mask?

7 A. Her frontal portion of, of a person.

8 Q. And is that conducted at the autopsy?

9 A. That is conducted at the autopsy, ma'am.

10 Q. Okay. As part of your duties, did you go out and determine the path of the pursuit  
11 with...that Officer Wilson and Ms. Anaya were involved in?

12 A. That is correct. That is part of our investigation protocol to --

13 Q. So you --

14 A. -- make sure that all the, all the facts are, are presented and at this, at this point that's  
15 when a couple of agents and myself went over to the area where the pursuit ensued and  
16 followed the path of the pursuit and documented on a map as well.

17 Q. And do you have that map with you?

18 A. I do.

19 Q. Could we post it on the wall for the Grand Jurors to see --

20 A. Yes, ma'am. [Inaudible 00:10:14].

21 Q. And we will mark that as Grand Jury Exhibit No. 4. See, I'm not sure where is the most  
22 ideal place to staple that.

23 A. You could put it back here --

24 Q. Do you mind, and then I apologize for the inconvenience. It will be behind your back,  
25 but....

26 A. [Inaudible 00:10:42].

27 Q. If you could put it up higher [inaudible 00:10:50].

28 A. [Inaudible 00:10:52].

1 Q. [Inaudible 00:10:58]. [Laughs] Sometimes [inaudible 00:11:03].

2 A. It's up to you. Is that okay?

3 Q. Yeah, that's good. Just come down a little bit. The...that's good.

4 [Laughter]

5 A. Is it okay, the picture?

6 [Laughter]

7 ?: A little to the left.

8 [Inaudible conversations among Grand Jurors]

9 DISTRICT ATTORNEY: The most difficult part of this investigation is dealing  
10 with the massness of it.

11 [Laughter]

12 Q. And I am marking this as State's Exhibit No. 4. Okay. So, Officer...Sergeant Aguirre.

13 A. Yes, ma'am.

14 Q. So could you please kind of take us on the pursuit?

15 A. Yes, ma'am. So, I'm not too sure...I'm sure you're all familiar with the Santa Fe area.  
16 So this little arrow here, this is the officer's path, and the green arrow is actually the, the  
17 suspect's path. So the officer is traveling south on Saint Francis, approaching the Alta Vista  
18 intersection, and the suspect, Mrs. Jeanette Anaya's traveling I believe it's east on Alta Vista  
19 towards the Saint Francis intersection. At this point this is what the vehicle...where the officer  
20 and the suspect make contact first hand, and this is where the officer actually gets behind the  
21 suspect, Mrs. Jeanette Anaya, and attempts to, to, attempts to do a traffic stop on her. Mrs.  
22 Anaya does not stop the vehicle and takes the officer in a pursuit down Saint Francis, makes a  
23 left...oh, actually a right, on Circle Anaya and another right on Calle Anaya, again on Anaya,  
24 it's a loop, and she decides to come back all the way around into...onto Saint Francis, at which  
25 point Officer, Officer Wilson decides to turn on the sirens. He figures that the, that the  
26 [inaudible 00:14:26] Jeanette Anaya doesn't...isn't able to see the lights on his unit, so he  
27 decides to turn the sirens on his unit to make sure that maybe she [inaudible 00:14:34] the  
28 portion of the, of the pursuit.

1 At that point, she doesn't, she doesn't stop so she just taking Mr....Officer Wilson  
2 [inaudible 00:14:43] pursuit, high rate of speed, makes a right at Saint Francis, makes a quick  
3 left on south Pacheco and then a right on Siringo Road, at which point she takes him all the  
4 way down Siringo Road -- and this is just an extension of this, just because we were, we were  
5 trying to get everything on one sheet of paper. So what happens is she takes Officer Wilson  
6 down Siringo Road and onto Rancho Siringo Road where they, where they make a left. And  
7 the [inaudible 00:15:13] I mean just means that it's a continuation from as well. It's just so you  
8 all know. So this is the continuation from here. So, so Officer Wilson and Ms. Anaya takes  
9 [inaudible 00:15:24] takes Officer Wilson on a pursuit down Rancho Siringo Road and onto  
10 Calle Anna Jean, at which point it becomes...they make a right on Cedro Circle and then a left,  
11 like it's, it's a circle back to town, just follows the road all the way to Camino, um, Camino  
12 Carlos Rey, Carlos Rey, at which point this is where the vehicle gets PIT once Ms. Anaya's  
13 attempted to make a left turn. Officer Wilson decides that the vehicle had slowed down where  
14 he could [inaudible 00:15:56] a PIT maneuver, and that's what he does here, this area, and  
15 that's where the, the pursuit ends.

16 Q. When they were...at different times throughout the pursuit, Officer, were the speeds  
17 being recorded on the officer's --

18 A. There is --

19 Q. -- program video?

20 A. There is...every State Police officer marked unit has what we call a Coban video. The  
21 video itself, once you engage the, the red lights or sirens on our units, the video turns on by  
22 itself, so all this is recorded, the speed as well gets recorded on that Coban video.

23 Q. And what were the speeds on Siringo Road specifically?

24 A. You know, the speeds vary [inaudible 00:16:34]. When the pursuit first started, they're  
25 about 25 or 35 miles per hour. Once she got onto a straightaway, Jeanette Anaya, the speeds  
26 reach up to 87 to 90 miles per hour that you can see on a, on a...in the area.

27 DENNIS, GRAND JUROR: I have a question.

28 DISTRICT ATTORNEY: Yes.

1 BY DENNIS, GRAND JUROR:

2 Q. Dennis. What was the reason for the initial stop, and where do the arrows meet?

3 A. At the Sandia --

4 Q. Yeah, what was the reason...what did she do?

5 A. Well, Officer Wilson's explanation, and he'll come in here and explain himself on that  
6 portion. He'll tell you what, what the traffic stop was for and all that. So I'll let him explain  
7 that.

8 DISTRICT ATTORNEY: Okay.

9 BY SHARON, GRAND JUROR:

10 Q. I'm Sharon. What...did he call for back up at some point?

11 A. He did. Yeah, he radioed dispatch and notified dispatch that he was in a pursuit, and at  
12 that point dispatch...we had another officer on duty and that other officer attempted to make...  
13 [inaudible 00:17:32] people assist Officer Wilson. She was just out of the area, she was  
14 [inaudible 00:17:37] the area, so she as well will be here to speak to you all on what she had  
15 done on what, what area she was at when she was called to assist Officer Wilson [inaudible  
16 00:17:47].

17 BY KAREN, GRAND JUROR:

18 Q. [Inaudible 00:17:49] Karen, what time of day was that?

19 A. It happened early morning at 1:31 a.m. on the 7<sup>th</sup> of February.

20 BY BILL, GRAND JUROR:

21 Q. Bill. Was the officer by himself?

22 A. Yes, he was.

23 DISTRICT ATTORNEY: Okay, Sergeant, if you would take your seat, please.

24 WITNESS: Sure.

25 BY THE DISTRICT ATTORNEY:

26 Q. You mentioned earlier that every State Police officer has a Coban video system in their  
27 unit. I'd like to show you what's been marked as State's Exhibit No. 1.C. Does that look  
28 familiar to you, sir?



1 A. Yeah, this is my, my writing on this CD documenting the, the Coban video that was  
2 taken from Officer Wilson's unit of the pursuit.

3 DISTRICT ATTORNEY: Thank you. Ladies, gentlemen, at, at this time I'm going  
4 to ask Sergeant Aguirre to be excused because I have to bring the other witnesses, but he'll be  
5 in and out as we introduce other matters involving this incident. Is that okay with you?

6 FOREPERSON: Yes, that's going to be fine.

7 DISTRICT ATTORNEY: Okay. Thank you, Sergeant?

8 WITNESS: Thank you.

9 [knock]

10 DISTRICT ATTORNEY: Okay, thanks. We were locked out.

11 [Laughter]

12 ?: It locks automatically.

13 DISTRICT ATTORNEY: Right here.

14 JAMES PARKS: You want me there?

15 DISTRICT ATTORNEY: Yeah.

16 FOREPERSON: You do swear or affirm that the testimony which you are about  
17 to give will be the truth under the penalty of law.

18 JAMES PARKS: Yes, sir.

19 FOREPERSON: Thank you.

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TESTIMONY OF JAMES PARKS

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BY THE DISTRICT ATTORNEY:

Q. Good morning, sir.

A. Good morning.

Q. Would you please state your name, sir?

A. James Parks.

Q. And, sir, what do you do for a living?

A. I'm an officer with the New Mexico State Police.

Q. How long have you been with State Police, sir?

A. Approximately eleven years, a little over eleven years.

Q. And what is your current assignments?

A. Right now I'm in Special Operations in the Aviation Section, so I fly for a living.

Q. What does that mean?

A. Basically, it's Special Operations. I'm a tactical flight officer so when the helicopter launches I'm handling the law enforcement side of it [as well as? 00:20:38] a pilot. There's also an officer, but...or officers, but I was going to fly the helicopter to keep us safe, I'd take care of all communications as well as running ground units, so on, so forth.

Q. Do you enjoy doing that?

A. I love it. Don't get to put on a uniform very often but it's one of those things.

Q. Did we make you put on the uniform today?

A. Somebody made me [inaudible 00:20:55], it was her.

[Laughter]

Q. Yes.

A. So as you could see, just to let you guys know. after ten minutes I'll slow down a little bit when I'm talking. If I miss anything, stop me. Say, Officer Parks, shut up for a minute. Let's get this straight. Because I, I tend to talk really fast, speak really, really quick, so I want to make sure you guys understand where I'm going here. Go. There is a lot you guys need to....

Q. Now, you understand why it's hard to get mad at this officer.

1 [Laughter]

2 Q. So, Officer Parks, prior to being assigned to Special Operations and Aviation, were you  
3 ever assigned to the Law Enforcement Academy?

4 A. Yes, ma'am.

5 Q. And at the Law Enforcement Academy, what would you do there?

6 A. At the Law Enforcement Academy I spent three years there. I was one of the lead  
7 instructors at the Academy. I was certified in a couple different areas, one of them being use of  
8 force, the second one being driving, and the third being defensive tactics. To get certified in  
9 those classes you have to go through advance training. It's not, it's not a...those are obviously  
10 very important subjects to be instructing in so they put you through a little bit more instructing,  
11 a little bit more curriculum, so.... Is this mine? Are you sure? Okay, thanks.

12 Q. So, Officer, since I made you put on your uniform, would you please stand up.

13 [Laughter]

14 Q. So, is that a New Mexico State Police uniform?

15 A. Last time I checked, yes, ma'am, this is a full uniform.

16 Q. And what do you call how...where you wear your gun? What's that belt called?

17 A. This is basically our...what's called our Sam Brown. This is the belt that we have all of  
18 our equipment on. Or tools. Either way, some people consider it equipment, other people  
19 consider it tools. Put on the belt. An officer when they go to work...every officer in the, in the  
20 State, pretty much the country, are going to have obviously their sidearm, their handgun. Some  
21 of the equipment on this belt is optional in the way...and I'll go through that. This is the  
22 transmitter for the video camera system or audio. Mine's a little different because obviously  
23 what I do, my equipment's like seven years old, so they don't think I need a police car. These  
24 are the magazines for your weapon. This is a flashlight. This is the taser. And myself, I have  
25 two sets of handcuffs, carry two sets of handcuffs at all times. The mace, or OC spray, and an  
26 asp is what, carry. The optional portion of it is the taser and the mace. On the RCM, which  
27 we'll get into here in a little while, it's up to the officer if you want to carry a taser or mace,  
28 and that's strictly...it's an officer discretion thing.

1 Q. Is an asp -- most people would say the baton -- is that standard? Everybody --  
2 A. Yes, ma'am.  
3 Q. -- has to have that.  
4 A. That's required.  
5 Q. Okay. And then do officers ever carry a knife?  
6 A. Obviously, yes. Officers who carry knives, I carry my knife for opening mail -- it's a  
7 tool is all it is -- opening mail, cutting seatbelts at crash scenes if we have somebody that's  
8 stuck in a vehicle, something like that, to cut seatbelts. I've actually been in a situation where I  
9 had a prisoner in the back of my car that tried to choke himself, so I had to cut, cut the seatbelt.  
10 That's what we use knives for. We don't use knives for defensive tactics and situations, so....  
11 Q. Also, it's obvious you're not carrying your, your gun right now, but what kind of  
12 weapon is standard for New Mexico State Police?  
13 A. A standard issued weapon is a Smith & Wesson 9 millimeter M&P. And then also we  
14 have a backup weapon that's usually on our, on our ankle, and that's going to be a Smith &  
15 Wesson 38. Those are the issued weapons. Officers now within the State Police are allowed to  
16 carry their own weapons, as long as they qualify with them and go through the same course of  
17 curriculum as we do with our issued weapons from the State Police.  
18 Q. And when you carry extra bullets, what do you put the extra bullets in?  
19 A. These are considered magazines.  
20 Q. And how many bullets does each magazine carry?  
21 A. Sixteen, if I'm not mistaken. We just went to the 9 mil so everything...our  
22 terminologies have all changed.  
23 Q. Sixteen or seventeen?  
24 A. Seventeen [inaudible 00:25:17].  
25 Q. Seventeen.  
26 A. You got me all nervous.  
27 Q. So, and normally, if you were wearing your gun --  
28 A. Yes, ma'am.

1 Q. -- what is the standard practice? If your magazine has seventeen, how do you maximize  
2 your, your weapon?

3 A. So in the weapon itself, within the chamber you're going to have one, one round in the  
4 chamber and you'll have seventeen in the magazine. So in the weapon itself you're going to  
5 have eighteen rounds ready to go.

6 Q. And that's typically what most officers will do.

7 A. I would hope that every officer does that because when you start getting in use-of-force  
8 situations, if you get yourself into a deadly-force situation, you don't want to be standing there  
9 loading your weapon and so on and so forth. You usually don't have that time.

10 Q. Thank you, Officer, thank you for modeling the uniform.

11 A. Oh, can I sit down now?

12 Q. Yes, you may sit down.

13 [Laughter]

14 A. Thank you.

15 Q. You know, you know, the whole issue of, of use of force, and you're an instructor on  
16 that.

17 A. Yes, ma'am.

18 DISTRICT ATTORNEY: And I'd like to show you what's been marked as State's  
19 Exhibit No. 2. I didn't know about this one thing. If you can, so that we can [inaudible  
20 00:26:41]. Let's see if we can hold this somehow. [Inaudible 00:26:58] on the top.

21 JAMES PARKS: I'll just [inaudible 00:27:00]. Let's see if this...we'll just do this  
22 much.

23 DISTRICT ATTORNEY: Hold it. This shouldn't fall as long as it's....hold it.

24 JAMES PARKS: You know, somehow I was going to have to do this [inaudible  
25 00:27:16].

26 DISTRICT ATTORNEY: Well, you need to work for this. You get to fly all day  
27 and [inaudible 00:27:20].

28 JAMES PARKS: I know, it's a rough life. Say you get called out at 4:30 in the

1 morning.

2 DISTRICT ATTORNEY: Oh.

3 JAMES PARKS: I see a chair.

4 DISTRICT ATTORNEY: Actually, it got cold.

5 JAMES PARKS: Can everybody see that?

6 DISTRICT ATTORNEY: If you pick up the flowchart, can you --

7 ?: We can try. Are you going to need this?

8 DISTRICT ATTORNEY: Yeah, but later.

9 JAMES PARKS: You're not going to make it right, are you?

10 DISTRICT ATTORNEY: Not just...on this one.

11 JAMES PARKS: There you go.

12 DISTRICT ATTORNEY: And who said that?

13 ?: You saved the day. You saved the day.

14 BY THE DISTRICT ATTORNEY:

15 Q. So, Officer Parks, looking at, at this. What is this, reactive control model.

16 A. This is a reactive patrol model of the State Police. This is what we're trained to. Pretty  
17 much any officer in the State of New Mexico, this is a reactor control model for use of force.  
18 And this would be...this is the model, this is how an officer...every situation we encounter, if  
19 it's your basic traffic stop which you need traffic stop. You hopefully usually starts out as basic  
20 on up to deadly force situations. The subject we're dealing with, what they're doing, what  
21 they're not doing, so on and so forth. This is what we have to go through as an officer. Are  
22 they going to be in this mode being cooperative? Are you going to be in a, in a...are we in  
23 survival mode, so on and so forth? So how do you want me to go through it, ma'am, do you  
24 want me to go step by step --

25 Q. Step by step.

26 A. So this is the part, if I skip something or if I get to going too fast, tell me to slow down.  
27 I've got two cups of Starbucks in me, so I'm going pretty crazy. But, so, subject behaviors, in  
28 this column right here, behavioral cues, and what is the subject doing? Okay, the person you're

1 dealing with was it just an encounter on the side of the road as you walk up to somebody, so  
2 on, so forth. Criminal activity cues, this is what we're doing in the way of is it a traffic stop?  
3 Are we going to serve a high-risk warrant? Is it a, are we going to take a report from  
4 somebody, so on, so forth. This is all that goes through our, our, our minds all the time. Officer  
5 mental condition, right here, alert. Control, active or survival? [Inaudible 00:29:35]. Officer's  
6 actions, just our presence. Right now, believe it or not, just me being in full uniform, it's...I'm  
7 showing force to a certain extent. I'm going to get a little bit different reaction than if I walked  
8 in here in a suit and tie, correct? I mean, they look a little prettier than me but I'm going to get  
9 a different reaction. Okay. It's just one of those things. So, cooperative subject, you know, with  
10 behavioral cues from the subject you're dealing with. They going to submit to...or they're  
11 going to submit to...they're going to be compliant. They're going to be very responsive to  
12 what you're talking about. Follow directions. Ma'am, you just go ahead and get back in your  
13 vehicle. They get back in their vehicle -- or sir, or a twelve-year-old kid or whoever. They're  
14 very compliant, no issues at all. At that point I'm not going to have to use any force or  
15 anything like that.

16 Activity clothes...or cues, it is an unknown threat, though, if you're going on a basic  
17 traffic stop, you don't know what that person's going to do, so the officer is always going to be  
18 mindset-wise, alert, as we always are, saying, okay, this person could do this, but we're alert,  
19 yet they're being very cooperative, very basic situation. Okay?

20 Authority assessment, custody decision, position and procedures. This is what we're  
21 going through it all the time, if we're going to have to arrest, so on, so forth. Non-cooperative  
22 individual. Sorry....resisting custody, not responsive to directions, not listening to you. Sir,  
23 ma'am, you need to get back in your vehicle. They're posturing up, they're squaring up to an  
24 officer, so on and so forth. Your basic questions, ask them what's your name and date of birth.  
25 I don't have to tell you that. That or they give you the wrong name and date of birth. Verbal,  
26 like with [inaudible 00:31:26] verbal resistance or body posture, posturing up, squaring up.  
27 You guys heard that term before? Squaring up to the officer. Pulling, moving, or running away.  
28 That's pretty self-explanatory. Somebody who takes off, they're obviously not being very

1 cooperative or get in a full pursuit. Okay?

2           Going back through the activity clues, you could be on a traffic stop or you could be  
3 serving a warrant, just there's so many different avenues with here. We can do control, so at  
4 this point as an officer -- I don't want to hit you, ma'am, so, but -- we're in the control mindset  
5 now. How are we going to control this situation with a non-cooperative subject? We're not  
6 even talking being armed or anything at this point. We're just talking about an individual that  
7 is running from us, that is posturing up to us. How are we going to do that? Verbal persuasion.  
8 Sir, ma'am, you know what? This is the deal. You need to start cooperating with me or it's  
9 going to get bad and you're going to be in handcuffs, you're going to be taken to jail, so on, so  
10 forth. Start giving them some persuasion, direction. Sir, ma'am, get on the ground. Turn  
11 around. There's a difference. Everybody understand that? Okay. And going into the control,  
12 now we're starting to get into the use of force a little a little bit in the way of this is what's on  
13 our RCM FD hand tack techniques in the way of impact takedowns, so on, so forth. I'm losing  
14 my [inaudible 00:32:51]. Escort positioning, distraction techniques, compliance holds,  
15 takedowns, impact takedowns. If this person is running from us, this person is not being  
16 compliant, at that point within the RCM we're trying to control the situation. So we're going to  
17 take them into custody, put handcuffs on them, so on, so forth.

18           Unarmed assailant, okay. Unarmed and threatening. You're standing off, if you have  
19 somebody...I'm using a traffic stop as an example. Is that alright, ma'am?

20 Q.     Mm-hm.

21 A.     Using a traffic stop as an example due to the fact that's what we're on most of the time,  
22 but, so if you have somebody outside their vehicle, they're threatening you in the way of  
23 posturing up, squaring up, clinched fists, so on, so forth, what we can do. Going into our, into  
24 our intermediate weapons, which is going to be the asp, taser, mace, pull that out. Draw the  
25 baton or other, other intermediate weapon. Okay, show force. Pull it out. Joint force. Pull out  
26 the...I'm not going to pull out the taser, but pull out the taser. That's showing force. What that  
27 also does is it puts the officer one step ahead of the situation. So if this person, the subject  
28 you're dealing with, charges, starts closing distance, you're already one step ahead of the fact



1 for, one. your safety, you can go ahead and use force. If it's doing a strike with, with the asp to  
2 defend yourself, that or tasing him. That, or myself, depending on the officer -- this is one of  
3 those officer discretion moments -- you don't really always have to use your, your intermediate  
4 weapons. You can just use your, your defensive tactics, go hands on. We tell the people that I  
5 was instructing our recruits, if you're using your intermediate weapons, some point or another  
6 you're going to have go hands on with this individual. It's not like you can tase them, deploy  
7 that taser, you're going to have to go hands on at one point. Me, personally, I feel very  
8 comfortable with my defensive tactics.

9           Going back to your takedowns, your holds, and stuff, go hands on, get them under...in  
10 custody. At that ports...at that point, with my experience, you didn't have to use as much force  
11 at times. Get them in custody, get the cuffs on them, put them in your unit. Most of the time,  
12 you're done. You don't have to deal with that individual at that level any longer. Does that  
13 make sense? Told you after ten minutes I'd slow down. Okay?

14           So unarmed attack, pretty much gone through that. That person's closing distance on  
15 you. You're --

16 Q.    What do you mean by closing distance?

17 A.    Closing distance. You always...as an officer you always want to have probably three to  
18 five feet between you if you're dealing with a subject like on a traffic stop. If you've ever  
19 noticed if you've been on a traffic stop or you've been around an officer, I'll give you a quick  
20 story here in a minute. We don't like people in our space, period. That's why I told you, you  
21 know, stay. We don't like people in our space. We have to have that space to operate. We have  
22 to react. We need to have a little bit of space. Okay? If you're dealing with a subject like with a  
23 knife, and this is getting into survival over here, dealing with a subject with a knife, you need  
24 to at least have twenty-one feet, twenty-one feet. If that person starts closing distance at  
25 twenty-one feet, and I'm just standing here, they can close that distance within twenty-one feet  
26 in like three seconds or less, and I don't have enough time to draw a gun. Okay, so that's why  
27 we need as much distance as possible. Okay?

28 Q.    So how long does it take you, if you're...somebody, you know, comes at you with a

1 knife, and your gun is holstered, what is the actual amount of time?

2 A. It's right...it's a little over a second. A little over a second, and I forgot the exact, 1.2

3 or 1.3, but it's a little over a second. You cannot draw your weapon and deal with that.

4 Twenty-one feet that they're covering, an average officer cannot draw his weapon quick

5 enough to get a shot off, an accurate shot off on an individual that's closing that distance of

6 twenty-one feet, okay. So going back to you're going on your basic traffic stop, you're not

7 going to have Ms. Pacheco, who is approximately twenty-one feet away from me...say,

8 ma'am, can I see your driver's license? Yeah, it'd be nice but you can't do it, so you can

9 imagine at three to five feet, where we're usually operating, that's why we're always in the

10 alert mode watching for cues. Yes, ma'am?

11 BY SHARON, GRAND JUROR:

12 Q. Sharon. I just...I don't know if this applies, but --

13 A. Ask.

14 Q. At what...okay. At what, at what distance would a person who is not trained,

15 not a trained officer, be accurate with a pistol?

16 A. Most...and this is getting in...this is not my expertise, but most gunfights, quote,

17 unquote, gunfights happen within five feet of an officer, okay? And an officer only hits like

18 fifteen or twenty percent of the time within five feet. That's because the dynamic of the

19 situation. An officer's drawing down just firing off rounds. So --

20 Q. So....

21 A. Does that make sense? Did I answer your question?

22 Q. You said within five feet they are how much, how much accurate?

23 A. They're not very --

24 Q. That just seems--

25 A. -- accurate at all --

26 Q. Okay.

27 A. -- due to the fact, five...five to ten-foot range.

28 Q. Okay.

1 A. They're not very accurate at all. Just due to the dynamic of the situation --

2 Q. Okay.

3 A. Not the officer, necessarily, it's the dynamics of the situation. People are charging him  
4 or her.

5 Q. Right.

6 A. Everything's going crazy.

7 Q. Okay. Thank you.

8 A. Make sense?

9 Q. Yes.

10 Q. Okay.

11 DISTRICT ATTORNEY: And there will be another witness that will be able to  
12 address some of those issues.

13 A. So, so driving on. High-risk activity. When we get into this red area here, we're  
14 looking...we're in survival mode. At that point the officer is in survival mode. The officer is  
15 feeling threatened for his life. It's great bodily injury. The person is armed now. They could be  
16 armed with anything, a rock, a stick, pretty much anything, a golf club, a car, anything that  
17 officer feels is putting his life in danger, that or the general public, the personnel there. It's not  
18 just the officer, that we're defending you-all. So if I feel that -- I don't know all you-guys's  
19 names -- Sharon is in harm's way for some reason at all, and I have to use force, it's going to  
20 happen. If I feel that somebody is going to hit Sharon with a golf club or a stick or a board or  
21 anything that's going to cause great bodily injury, that or death, I'm in survival mode at that  
22 risk, high-risk activity. Okay?

23 The person...we're still here in the, in the active situation, covering...trying to get  
24 cover if we need to, if we're being fired upon, getting distance. At this point, like I explained a  
25 minute ago, you want to be as far away from that person as possible. You're getting distance  
26 away from that person, okay?

27 Asking for assistance. Santa Fe, which is my dispatch, send the officers. This is what's  
28 going on. Send me backup. I don't care if it's Santa Fe PD, send me [inaudible 00:39:59].

1 Okay. Retreat, you're getting that distance. Retreat and cover is the same thing. You're at a  
2 distance. You're gaining distance, you're getting cover, you're getting away from that person if  
3 you can, so you can react early, assess the situation. Okay? And it's viable actions, using force.  
4 If that person, if they're coming at you with that weapon, if you can justify or you can  
5 articulate that you feel that your life's at risk, your [inaudible 00:40:27] life's at risk, or  
6 anybody's life is at risk, great bodily injury, firing that weapon to stop the attack. That's what  
7 we're trying to do here. And the most part with all this, what we're trying to do is use enough  
8 force to get the action stopped without going overboard. Does that make sense? And that's  
9 why they had to do in RCN, way back when, so an officer has something to go by. Yes,  
10 ma'am?

11 BY LINDA, GRAND JUROR:

12 Q. Linda. You were saying in the survival area that the officer is in a threat for himself or  
13 someone else. So would you consider a speeding vehicle in pursuit as an armed...as, as being  
14 in survival mode [inaudible 00:41:13] --

15 A. Depending on the --

16 Q. -- someone else, you know, like hitting another car or whatever?

17 A. Definitely. Definitely. That's why, that's why, well, and this is going a little bit out of  
18 the spectrum, but it would be my personal opinion that's why pursuits are so, so dangerous.  
19 There's a lot of things that get into it with pursuits -- and I know the...that Ms. Pacheco will  
20 get into it -- why you're chasing the vehicle, so on, so forth. So that's a whole another thing,  
21 but, yes, it can be considered deadly force, can be considered deadly force depending on the  
22 actions of that driver.

23 Q. Officer Parks, does an officer have to...when they have a situation, stop and go, well,  
24 first I have to go through blue, then I can move to yellow, then I can move to orange, then I can  
25 go to red. Or can they go [sharp clap of her hands] right to red?

26 A. Your perfect...you know what's your perfect situation, the perfect use-of-force  
27 situation? Yeah, it can go from blue to yellow or orange to red. That's the perfect scenario.

28 What I deal with in the last eleven years of my life as a State Police officer, nothing goes blue,

1 yellow, or blue to yellow to orange, red. Very seldom. It's very seldom when you say. sir. can  
2 you stop this? Please? Okay. Pull out your asp and then...no. it doesn't, it doesn't work that  
3 way. I can be in alert and immediately, if I'm on a basic traffic stop and Sharon and I are three  
4 to five feet, feet apart talking, and all of a sudden -- I haven't patted her down, you know,  
5 haven't looked for weapons or anything like that, but I'm getting ready. You know what,  
6 Sharon has a warrant. Okay, ma'am, if you go ahead and turn around, and she immediately  
7 draws down a weapon or a knife, at that point I've gone from blue to survival [snaps fingers]  
8 that quick. Okay?

9 The same thing, though. You know what, Sharon pulls out a knife. Okay, I draw down.  
10 Ma'am, put down the knife. She puts down the knife, she's back to being cooperative. Okay?  
11 Puts down the knife. Turn around, Sharon. At that point she would go down to the ground,  
12 place her in custody. So all this is based on a reasonable officer dealing with his training or her  
13 training and the way they've been trained in the Academy. It goes to show you how quick as an  
14 officer we have to make decisions and stick within the RCM, basically our bible. Like I was  
15 telling Ms. Pacheco last week, this is basically our bible. This is what guides us on a day-to-  
16 day...in the day-to-day world. Anything else you want me to touch on?

17 DISTRICT ATTORNEY: Members of the Grand Jury?

18 JAMES PARKS: I've slowed down now, so you've got me all day?

19 [Laughter]

20 BY THE DISTRICT ATTORNEY:

21 Q. Let me ask you a question, Officer Parks. If I'm coming at you with this knife, can you  
22 shoot it out of my hands?

23 A. No.

24 Q. Why not?

25 A. Okay, because what I'm going to try to do as an officer is I'm going to try to stop the  
26 action of a person with a knife. As I've told -- I was talking to Sharon, correct, Sharon a little  
27 while ago, five to ten feet, it's very difficult with the dynamics of the situation. If I'm sitting  
28 here going...trying to aim at a knife, it's not going to happen. Plus, I'm responsible...after

1 every round that comes out of this gun, it's not like the wild wild west, contrary to what you  
2 think. It's not like [inaudible 00:44:17]. I'm responsible for every single...or every single  
3 round that comes out of this gun. So if I'm sitting there trying to fire at that knife, and I'm  
4 hitting people down-range or hitting anything down-range, I'm responsible for that. Okay, I'm  
5 going to hit...I'm going to attempt to stop the action of that individual that's coming at me.

6 Q. So, and would that be pretty much from about where? Your chest to about your groin  
7 area?

8 A. Exactly --

9 Q. It's hit or miss?

10 A. -- this is the area I'm going to aiming at, right there, because that's going to stop the  
11 action. Yes.

12 BY SHARON, GRAND JUROR:

13 Q. Sharon.

14 A. Sorry.

15 Q. If you shoot a gun in the air like you want to stop, is that possible. Would you want to  
16 shoot the gun once? Is --

17 A. No.

18 Q. -- no.

19 A. No, we're not trained to do that.

20 Q. Okay.

21 A. That's, for a lack of a better term, that's a no-no. For due to the fact, like I just  
22 explained a minute ago, if that round's going up, and guess where, it's coming down. We have  
23 no idea. New Year's Eve, perfect example, for the most part. This probably isn't going to make  
24 you guys have real warm feelings, but New Year's Even when...right around midnight, law  
25 enforcement, we tried to get indoors, we tried to get out of harm's way. Being in aircraft like I  
26 explained to you guys a little while ago, we briefed it. We will not be up in the air from  
27 probably 11 p.m. till 1 a.m. due to the fact of guns and helicopters really don't get along real  
28 well, okay? So, yeah. No. It doesn't happen. We're responsible for every single round. If I'm

1 firing off a weapon, I'm in a survival mode. I'm looking to stop the actions of somebody so I'll  
2 be firing at somebody or something. Make sense?

3 BY THE DISTRICT ATTORNEY:

4 Q. So, Officer Parks, how is a motor vehicle considered a deadly weapon?

5 A. A motor vehicle is considered a deadly weapon due to the fact is that vehicle can cause  
6 great bodily injury, that or death, very, very easy. But what a lot of people don't realize is  
7 vehicles, it's pretty self-explanatory what they will do to a human body, but what a lot of  
8 people have issues with wrapping their hands around...or their heads around is like a stick, a  
9 stabbing instrument, or a board or a rock. Those are also deadly pieces of stuff that can hurt  
10 you very, very seriously, if not kill you. So any...that's...I'm not getting into that other thing.  
11 We're not going to go down that road. I don't want to confuse them.

12 Q. But a vehicle.

13 A. A vehicle itself is because of the large and...the size of a vehicle, no matter if it's a  
14 Smart Car or an eighteen-wheeler will do the same amount of damage to a human body. It's  
15 coming at you. It's deadly force. Deadly force and it's coming right at you. Yes, sir...ma'am,  
16 sorry.

17 BY TERRY, GRAND JUROR:

18 Q. Terry.

19 A. I almost called you sir.

20 Q. Is it appropriate to taser someone who's driving an automobile?

21 A. We're not trained to do that, no. Due to the fact, every situation's different, so I don't  
22 want to say straight up it is or it isn't. We're not trained to do it due to the fact when you tase  
23 somebody, that person's going to be incapacitated for a minute, okay? We've been tased as  
24 officers. I've been tased. You have no control over what's going on, so if that person's driving  
25 a vehicle going down the road at ten miles an hour, five miles an hour, or anything like that,  
26 and you tase them, guess what? That vehicle's now out of control, totally out of control, more  
27 out of control than the situation was in before, so the vehicle's going to be out of control. It  
28 could go down the road, it could hit somebody, hit something, go through a wall. So no. It's

1 not recommended.

2 BY THE DISTRICT ATTORNEY:

3 Q. Also, Officer, you go...you have...a taser has two prongs and they have to connect in  
4 order to make a connection.

5 A. Yes, ma'am.

6 Q. And driving...trying to shoot it through a window, for the two prongs to open up  
7 and...could be very difficult?

8 A. Yes, if not impossible. Those prongs, if the windows are up -- that's a very good point,  
9 that's why she's the DA -- very good point, the glass...the prongs on this taser will not  
10 penetrate through glass. It will not penetrate through a Carhart jacket, believe it or not. I've  
11 been in that situation personally. I deployed a taser. It wouldn't even go through a Carhart  
12 jacket, and everybody knows what a Carhart jacket is, correct? Real thick material, wouldn't  
13 even penetrate through that. So....does that make sense?

14 Q. Does anyone have any more questions of this officer? I know he's been quite  
15 entertaining. We would love to have him all day.

16 A. Sorry, that's the way I roll.

17 DISTRICT ATTORNEY: If there are no further questions, may this witness be  
18 excused?

19 FOREPERSON: Yes.

20 DISTRICT ATTORNEY: Thank you, Officer Parks, as always. It's a pleasure.

21 JAMES PARKS: Can I go fly now? [Inaudible 00:49:03] going to call me?

22 [Inaudible conversations]

23 FOREPERSON: You do swear or affirm that the testimony which you are about  
24 to give will the truth under the penalty of law.

25 SHANE ARTHUR: I do.

26

27

28



TESTIMONY OF LIEUTENANT SHANE ARTHUR

1  
2 BY THE DISTRICT ATTORNEY:

3 Q. Good morning, sir.

4 A. Good morning.

5 Q. Would you please state your name?

6 A. My name is Shane Arthur.

7 Q. And, sir, what do you do for a living?

8 A. I'm a Lieutenant with the New Mexico State Police. I supervise our Crime Scene  
9 Investigation team.

10 Q. So basically, you're the one that, you know, popular, you know, believe, sir, you're Mr.  
11 CSI.

12 A. Well, I...maybe for the State Police.

13 [Laughter]

14 Q. So, but you oversee that unit.

15 A. That's right.

16 Q. And, Officer, how long have you been with State Police?

17 A. About fifteen-and-a-half years.

18 Q. And what kinds, you know, fifteen years, fifteen and a half years is a long time to be a  
19 police officer. And I know that you've received all kinds of training, but specifically have you  
20 ever been trained in the area of force science?

21 A. Yes, ma'am.

22 Q. And could you please explain, what is force science?

23 A. So, essentially, a group of doctors and psychologists in Minnesota about twenty years  
24 ago began examining human dynamics in high-stress situations. They specifically focused on  
25 law enforcement shootings and military shootings. They focused on the biology, what happens  
26 to the human body when people have a rush of adrenalin, what happens to people's vision,  
27 how tunnel vision occurs, how people lose, you know, dexterity during high-stress situations.  
28 They also focused on how people make decisions under very life-threatening situations.

1 Q. So...let's talk about some of that, and I want to break it down a little bit. First of all,  
2 let's. let's back up a little bit and talk about a police officer's training.

3 A. Okay. So, specifically, New Mexico State Police officers go to an academy that's about  
4 twenty to twenty-two weeks long, depending upon when they went through the academy. As it  
5 relates to this topic, police officers are trained in pursuit driving, so they're getting...given  
6 time on the track. Understand that most of the time they spend on the track, it's a nice flat,  
7 level road. It's in broad daylight. It's in a completely controlled environment. They do train  
8 mostly in the daytime. They do get some nighttime training, but then after pursuit driving at  
9 some point they'll get trained in how to do what we refer to as PIT maneuver, which is vehicle-  
10 to-vehicle contact to bring a pursuit to an end. When they do that it's almost always in the  
11 daytime. Very little training occurs at night, but it's a very controlled environment, well lit, it's  
12 broad daylight, so they don't typically do this at night. And they're trained in felony stop  
13 procedures, so once a pursuit comes to a stop, officer gets out of his car. He's trained to do a  
14 certain number of things to get the individual or the suspect out of the car, to come back to try  
15 to make the arrest. Again, usually done in a very controlled environment. And one of the things  
16 I would, I would note is that these blocks of instruction are not blended together, typically. It is  
17 not like...we do not teach felony stop and then go to the range to fire handguns. It could be  
18 months apart. They could have pursuit driving and then next week history, and then felony  
19 stops. So they're not typically blended together. They just occur during that twenty-two weeks,  
20 somehow, some way.

21 Q. Are police officers trained to shoot at night?

22 A. Yes.

23 Q. Are they trained to shoot while running?

24 A. They receive a very limited amount of training in shooting on the move. They...I've  
25 been a police officer for fifteen-and-a-half years, and I can count on one hand the number of  
26 times I've been trained at the range to shoot while jogging or they wouldn't be...we receive  
27 very little training, and even, even shooting while walking fast. Once you start jogging, the  
28 number of times I've been trained to shoot while jogging is maybe twice in fifteen years.

1 Q. How accurate were you?

2 A. Not accurate at all. It's very difficult to be accurate while jogging.

3 Q. What's the purpose of all this training for an officer? Why do they go through all this  
4 training?

5 A. Number one, the number one most important thing that they're going to all of this  
6 training for is to survive lethal-force encounters, to stay alive when they, you know, are  
7 experiencing some sort of violent threat. After that it's to effect arrests and maintain public  
8 safety in the, what we hope, is the safest manner possible.

9 Q. Sir, you know, the purpose of training, it would seem to me, is that with enough  
10 training that it would become...the actions would be automatic for an officer, rather than the  
11 officer have to stop and think, well, I was told I should do it this way, I should do it that way.  
12 Or is it just something that happens like that?

13 A. Most of the training that officers are going through, whether it was driving training or  
14 firearms training, it must be trained, it isn't reflex. It isn't something they were born to do.  
15 They didn't grow up doing it. Most of these skills, firearms training, the, the action of simply  
16 just drawing from the holster must be trained, and certainly aimed fire on a, on a target at night  
17 with confused lighting, that has to be trained. That's not a instinctual behavior. So research  
18 shows us that for an action, a trained action to become just completely natural, just to  
19 completely be totally memory...muscle memory, total natural, we like to see between five  
20 thousand and ten thousand repetitions. So my analogy would be that when a student driver,  
21 when a teenager's first learning to drive a car, when they're trying to learn to drive a stick shift,  
22 the first hundred times they get in the car and they try to put it in reverse, they try to use the  
23 clutch with the brake with the gearshift, it's ugly. It's very hard for them. And they must do it  
24 in single steps, so they get into the car, they think, okay, put my seatbelt on, click. Put my  
25 hands on the steering wheel at three and, you know, three and nine, clutch in, shift into first,  
26 check mirror. They do everything one, two, three, say through steps twenty. At some point if  
27 they do it enough they start to do things smoothly, as we would expect somebody to do. But  
28 what happens is at the beginning, once...after, say, six months of driving confidently in the

1 daytime with an adult next to them in the most controlled manner possible, they begin to do  
2 these actions kind of in groups. so they'll do like one through three, they'll be able to do  
3 clutch, brake, shift at one time. Then they'll do the next three things in a group. So they kind of  
4 do one two three, four five six, seven eight nine. And as long as they have their environment  
5 controlled and in their, in their mind they're not stressed out, those processes can continue to  
6 kind of group together. At some point after you've been driving for five years every day, you  
7 just do the whole thing naturally. The one through twelve all occur in one fluid motion over  
8 and over and over. You don't even think about it, and that's the way firearms training occurs.  
9 That's the way pursuit driving occurs, so we, we, we try to get these guys to go to the range as  
10 much as possible, but it's the same situation with any sort of, you know, mechanical motion of  
11 your body.

12 Q. You know, we're trained to do things, you know, at a shooting range, driving range. I  
13 go out on the streets, I'm a young rookie officer, I'm now in unfamiliar territory. What happens  
14 to me when I'm have, I, you know, I have to deal with some of these difficult situations and  
15 I'm in unfamiliar territory?

16 A. Your level of stress goes up. It's the same thing with the kid with the car. If you put the  
17 kid with the car out in the church parking lot where there's nobody else moving, he's able to  
18 practice, he's able to get good. If after two or three drives you decide to put him on the  
19 interstate, rush hour traffic, you're going to have a problem. He's going to...his stress is going  
20 to get so high that he's just not going to be able to function. It's the same thing with police  
21 officers. If we teach a police officer pursuit driving in the daytime under a controlled  
22 environment, and then immediately we put him on the street and he's expected to perform at  
23 that level in the dark with confused lighting, his stress level goes up. We ask him to do certain  
24 things at the range, you know, fire his handgun, fire his shotgun, fire his rifle, use his  
25 flashlight. We ask him to do these things, then we take him and we put him into an  
26 environment that's much more stressful, especially -- and this is, this is the, the research that  
27 these folks are doing -- especially when we put him in a situation that is life or death. That  
28 obviously is the highest level of stress that your body is designed for. When you're confronted

1 with act or die, act or be hurt badly. So we've trained him in a very controlled environment,  
2 he's a rookie, now we're putting him in a very, very high-stress environment. Performance  
3 typically suffers.

4 Q. So, you know, you're a police officer, you know, and based on the studies it's kind of  
5 like, you know...this is a pointer, just so you know. And I point the gun at you. You know, the  
6 studies will say, you know, if it's a pointer...let me, let me back up. Based on the studies,  
7 where does their focus go?

8 A. So in a high-stress -- and when I say high stress, I mean you perceive that you're about  
9 to die, that not, not maybe I have a little time to get out of it, not kinda sort of could get hurt,  
10 but genuinely you perceive a deadly threat. And in that situation human, human beings  
11 experience chemical changes in their body. The one that most people are most familiar with is  
12 an adrenalin rush. So that's, that's a defense mechanism for the body. There are other  
13 chemicals that, that rush through your body as well. One of the things that this does very  
14 commonly is it causes people to get tunnel vision. I think sometimes people, people have  
15 experienced this in their own lives. What is essentially happening is, is normally your human  
16 eye is designed to have about seventy to one hundred degrees of vision. You have peripheral  
17 vision. But when, when your body perceives that you're about, you're about to be hit with  
18 something that's going to kill you, or really hurt you bad, the human eye essentially turns off  
19 the peripheral vision and just focuses on the threat, wherever that threat is. So it begins  
20 ignoring what's out here. The human eye can, can collapse the tunnel vision down to about  
21 three degrees. That's the worst case scenario, that somebody could have about three degrees of  
22 vision. That's about like taking a half dollar and putting it at arm's length. That's what you  
23 would be looking through, if that's, if that's your, if that was what you were looking through.  
24 So that's often why either police officers or witnesses or, you know, just human beings that  
25 have that happen to them, they say, you know, all I remember was the, the firearm, you know.  
26 It had a barrel and it looked *this* big. And I don't remember what color shirt he was wearing, I  
27 don't remember who was standing behind him or beside him, because their eye begins to  
28 ignore all that. It's a survival advantage, to focus your attention.

1 The same thing occurs with sound. A lot of times people will report a distant or  
2 muffled sound. It's because the brain simply says I don't need that information to survive the  
3 next ten seconds, so I'm going to ignore it. We lose fine motor skills. We lose the ability to do  
4 things like, like write carefully or, you know, even things like that [making a movement]  
5 would be difficult. Simply it's just a survival advantage to only need to do gross motor skills,  
6 make big, bold movements.

7 Other things occur in relation to time. People often report time slowing down, like,  
8 wow, it just seems like real time *really* slowed down. That's a function of the mind sort of  
9 going into overdrive. It's a survival advantage so that you can make, hopefully, make decisions  
10 to survive this threat.

11 Q. So if, you know, I'm police officer and I had a threat, and let's say I shot eight times,  
12 boom, boom, boom, boom, boom, boom, you know. But I...and you're interviewing me and I  
13 say, I just shot twice. Is that uncommon?

14 A. It's very common, and I should point out that this does not apply just to police officers.  
15 This applies to all human beings. It's just your body's reaction to a deadly threat. Oftentime  
16 [sic], memory is not as detailed as we think it should be. For one thing, the body does not  
17 remember what it does not perceive. So if this stuff was happening in his peripheral vision, he  
18 simply didn't perceive it. The officer perceived this, not what's happening out here. It's  
19 common that, that somebody would, would be shouting commands or saying things and he  
20 doesn't remember those things, even though the officer...other officer saying them is standing  
21 right next to him. It's because his brain doesn't need to hear that to survive that. We see  
22 officers, you know, report things like I thought he was standing eight feet away from me, but  
23 when I watch the video we're so close that we could have shook hands. Their distance, because  
24 their mind doesn't need to know that to survive that, so a lot of things get mis-remembered.  
25 Sometimes people assume that video camera is memory, and I would like to point out that  
26 what...the way a camera -- any camera but especially the ones we're talking about are in-car  
27 cameras in police cars -- video footage is not memory. So what we see often and then what the  
28 officer reports as his memory, it isn't the same because first of all the camera isn't where he

1 was standing. It can't be. It's not where he was standing. It's field of view is not the same as  
2 his. And cameras often -- our cameras, of course -- record in color. A lot of times during that  
3 situation people's eyes will only see in black and white. Essentially your brain just says,  
4 quit...we have rods and cones in our eyes. Some record color, some record black and white.  
5 Our eye just simply says quit sending me information from the color part of my eye because I  
6 don't need that right now. So it's quite common that they see...they're seeing this incident in  
7 black and white but it's being recorded in color. The microphone on the in-car camera is  
8 designed to record human sound. It is built...it is engineered at the factory to record people.  
9 That's the main thing, the spectrum that it tries to record. So you're going to hear that the  
10 microphone does a really bad job of recording gunshots, because they're, they're occurring at  
11 a, at a different sound level than it's designed to record. So where I'm going with that is if  
12 you're...if you were personally there and you hear gunfire, gunfire is very loud, very loud.  
13 Especially if you don't have ear protection on. The way you hear gunfire on-scene is very  
14 different than the way you're going to hear it when they play that video because it's just, it's  
15 just the function of the microphone. The microphone doesn't do a good job of recording things  
16 like when a vehicle accelerates, like the rev of a motor. That mechanical sound is not recorded  
17 very well. It would be different if you heard the rev of a motor and you're standing right by the  
18 car.

19 Q. You know, Lieutenant, you're talking, you know, really what we're telling you about is  
20 an individual's perception of an event, basically, and all the different things that happen to our  
21 body when we're perceiving this event, especially if it's a very frightening situation. Is that  
22 correct?

23 A. That is right.

24 Q. You know, and the same thing can also apply to witnesses, is that correct?

25 A. Absolutely.

26 Q. I'd like to just, you know, I was looking at this chart here, and let's just for a minute,  
27 for a moment, imagine this is a football field, okay? This is the football field right here. And  
28 most people covet the seats right in the center, correct?

1 A. That's right.

2 Q. Because you can see both sides. So if somebody is sitting in the center, is their  
3 perception, will it be the same as someone who's at the end zone?

4 A. No.

5 Q. It all depends on angles and --

6 A. Absolutely.

7 Q. -- timing?

8 A. Absolutely. Especially, one of the ones that in, in this scenario is going to matter most  
9 is a phenomenon we call looming. This is the difference between if you're standing on the  
10 sideline and the quarterback throws the ball across your field of view, you see what you're  
11 used to seeing. You're used to seeing a football field go across your field of view. But when  
12 you're the guy catching the ball, as the ball comes towards you, it's size increases  
13 exponentially every time it's distance is cut in half. So every time it gets cut in half, it gets  
14 bigger exponentially. That's important in this situation because the officer has a vehicle that he  
15 perceives coming at him. So it's not...in the, in the eye of the camera, when we see a vehicle  
16 going this way, it's different than when you're the guy standing in the path of it and it's  
17 coming directly at you. Your perception and the way that your brain is going to react to that is  
18 different.

19 Q. You know, Officer Parks testified prior to you and he...we were talking about stop the  
20 action and police officers are trained to stop the action.

21 A. That's right.

22 Q. And what does that mean?

23 A. In the simplest terms, it means stop the threat. If there is a dog coming toward me to  
24 bite me, it's not enough for me to shoot it once. I have to shoot it till it stops coming at me. I  
25 think most people can understand that if you shoot it once and it stops, wonderful, but the  
26 chances are you don't know what's going to stop the dog. So police officers are...we know  
27 from training and experience that the studies show that if two people are in a gunfight and  
28 somebody shoots somebody else, the most common reaction to being shot is no reaction at all,



1 that that's what the FBI studies tell us. If somebody is charging me with a knife and I shoot  
2 them, the most likely thing that's going to happen is they're going to continue doing whatever  
3 they were doing already until their body isn't able to function. The caveat to that would be  
4 injury to the central nervous system, so brainstem, certain parts of the brain would bring  
5 instantaneous stop to the action. But other than a shot to the central nervous system, the most  
6 likely response to being shot is no response, is that they're going to continue doing whatever  
7 they are doing. And police officers know that.

8 Q. So, you know, I see you coming at me with a knife, and I have my gun out, and you're  
9 not stopping. So I'm getting ready to shoot and I start to shoot you but then you drop the knife.  
10 I'm already committed, the shots?

11 A. Yes.

12 Q. You know, I can't stop that, can I.

13 A. It's difficult. Once a gross motor skill is begun, it's difficult to stop that gross motor  
14 skill. It's like, it's, it's like throwing a baseball. Once you actually begin the forward throw,  
15 and somebody says stop!, you kind of, it's hard. It's difficult, it's mechanically difficult to stop  
16 that, that, that motion. Usually what you end up with is some kind of messed up throw, where  
17 the person tries to stop but can't. It's the same thing with firing a handgun. Once the officer, or  
18 anybody -- not just police officers but civilians at a shooting range -- once the person has...the  
19 brain has told the hand pull the trigger, and that action begins, if somebody right there says  
20 stop, it's very, it's very difficult to stop. So yeah, that, a function of biomechanics in the body.

21 BY TERRY, GRAND JUROR:

22 Q. Terry. So are you saying that a police officer is not trained only to fire once?

23 A. They're trained to fire until the threat ends. So if the threat ends at one, yes, we would  
24 say stop, stop at one. If possible, stop at one, if there's no more threat. So, yes.

25 Q. Okay, Terry again. So then you're saying that even though they're trained this way,  
26 something else takes over their bodies that would make them react differently than the way  
27 they'd been trained?

28 A. Yes, sometimes in, in very high-stress situations -- and that's different than, you know,

1 being a little stressed out or maybe under a little bit of pressure. We're talking about somebody  
2 who believes they're about to die. They believe in this situation that they're about to be run  
3 over. So they defend themselves, and we see that in these situations people often employ a  
4 blend of their training and their human instinct. It's very difficult to train contrary to human  
5 instinct in these situations. You tell...you can tell a guy all day long, do this, do this, do this. In  
6 these situations he's going to...his body's going to do what it needs...that it thinks it needs to  
7 do to, to survive. And we see kind of a blending of what you've been told and what your  
8 instinct is.

9 BY LINDA, GRAND JUROR:

10 Q. Linda. So you're saying basically -- I'm going back to what you said earlier -- when  
11 you're confronting with that risk of life, you know, that your safety...and that you may die, you  
12 have the fight or flight syndrome where you just...you release the adrenaline. You're saying at  
13 that point that makes it difficult for the motor skills, say that she dropped the knife, and for you  
14 to at that point to use logical judgment?

15 A. Absolutely. A bunch of things break down . . .

CD 2, Track 1

16  
17 . . . when you're in fight or flight mode. And I have to remind you that we're, we're talking  
18 about true fight or flight mode. Many things break down. One of the first things that breaks  
19 down is perception. You know, you get the tunnel vision, you don't get all the information that  
20 you would normally get. Once you're not getting all that information, another thing that  
21 break down is your ability to make decisions analytically, reasoned. Reasoned decisions don't,  
22 don't really play in that much when you're body's just trying to survive. You do what your  
23 instinct tells you to do, which is fight or flight, and I should point out that it's not one or the  
24 other. It's not black and white. We often see people do things like they fight so they can then  
25 flight. Or they flight to a position so they can fight. It's kind of a spectrum. But they do the  
26 instinctual thing blended with what they've been trained to do, and the ability to make  
27 reasoned, rational decisions becomes difficult.

28 So a situation like where somebody's running at me with the knife, it's easy to talk

1 about until it happens. until you're the person and that you really genuinely think you're about  
2 to die. I see officers do many things. I've investigated about fifty-six police-officer-involved  
3 shootings in my career. At the range, we tell officers one of the courses of fire is draw, fire two  
4 rounds. Well, we do that because we need to just conserve ammunition, right? The police  
5 department doesn't have an unlimited amount of ammo, so two rounds seems to be the  
6 accepted standard. However, in reality what I see is officers often either fire one round and  
7 then observe, fire a round, observe, fire a round, observe. That's what most officers do when  
8 they have time, when they have the benefit of time and distance. When they don't have the  
9 benefit of time and distance, a very common response is to just fire every round they have, is to  
10 turn, run, and just unload, or to in some way move and fire rapidly. We don't have a course of  
11 fire...we don't have at our range, we never train that. We never tell officers run and shoot  
12 sixteen rounds. Run and shoot thirty rounds. We don't do that. But many times that's what  
13 people do because that's their instinct.

14 BY BILL, GRAND JUROR:

15 Q. Bill. I understand the instinct part and then I guess whether you are a police officer or a  
16 lady in a domestic abuse, I mean, I guess the instinct is there for that if she feels threatened she  
17 can...if the abuser drops on the first time, she can continue to shoot [blind? 00:03:33].

18 A. That's possible, yes. Yes. And what we also have to keep in mind, the two...there's  
19 many things that affect this sort of decision-making in that situation. The two biggies --  
20 because there's, there's a laundry list the doctors would tell us -- but the two biggies are  
21 perceived threat, like how to the person, to the lady, how much threat does she believe. She  
22 genuinely believe [sic] her life is totally in that moment in danger. The other one is how much  
23 time does she have to make responses? Because you can feel very threatened, but if you have  
24 minutes to decide, you might make, I don't know, more appropriate decisions or more well-  
25 thought-out decisions. Appropriate's probably not a, not a good word, but more thought out.  
26 It's when you have very heightened stress level and very little time to make these decisions,  
27 that's the most that that decision-making sort of starts to break down.

28 And in this situation, the officer has very little time to react to what he believes is a

1 deadly threat, and the whole thing, the whole, from one shot to the end -- is it okay if I talk  
2 about that, Spence? From beginnings end, from the entire, from when you see the video, from  
3 the time the officer fires the first round to the time the officer fires the last round is about six  
4 seconds. It's very rapid. Sixteen rounds in six seconds. It's just not much time to change what  
5 you were doing. You enter fight or flight mode, your body reacts, you make decisions, your  
6 body doesn't have enough time to step out of that. I mean, imagine, I would say, a lot of people  
7 have been in car crashes or some sort of vehicular accident. In the moment when you realize,  
8 oh no, I'm going to crash. This...I can't stop this. This is going to happen, I'm going to crash.  
9 Or you look in the rearview mirror and you see that they are going to hit you. Your body does  
10 certain things. We see people bend steering wheels, they get so much adrenalin. We see people  
11 break handles off doors, they have so much adrenalin. And then once the crash has ended and  
12 wherever they are they get out of the vehicle, it's very difficult for them to recover from that  
13 quickly. It takes some time for them to sort of wind down and begin to make decisions. Often  
14 we see people wander off. They're walking into traffic, like they get out of their car and they  
15 step into traffic. They don't even realize that they're putting themselves into even a worse  
16 position. They say things out loud to other witnesses or people or passersby or police officers  
17 that don't make no sense. They say things they shouldn't say, they say things that are  
18 completely illogical because their body is in...still in that sort of revved up fight or flight  
19 mode. It might take five minutes, different people different times. Some people it  
20 takes...they've got to like go to sleep. They've got to wake up the next day before you can  
21 finally...they can finally begin to answer questions articulately. Did that answer your question,  
22 I think? Rather long.

23 DISTRICT ATTORNEY: Are there any further questions of this witness?

24 BY SHARON, GRAND JUROR:

25 Q. Sharon. I don't know if you would have the statistics, but what...wonder...what's the  
26 percent in Santa Fe County of lethal [inaudible 00:07:26]?

27 A. I don't have those statistics. Can you be a little bit more specific?

28 Q. Of, of, you know, shootings, deaths from like is it high, medium, or would you know?

1 A. I don't even, I don't know what the national average is, so I'm not sure --

2 Q. Well, just this county, Santa Fe County.

3 A. You know, I don't, I don't have those statistics, ma'am.

4 Q. But is it taught in the police academy?

5 A. So like how many...are we saying how many pursuits are going to end in --

6 Q. What, in lethal --

7 A. In shootouts or some sort of lethal --

8 Q. Yes.

9 A. -- some sort of lethal action? I don't know how many pursuits end in lethal action.  
10 Police officers, what they're trained during pursuit driving is that once the pursuit has, has  
11 really genuinely turned into a pursuit -- because sometimes people just don't see you, and  
12 that's not a pursuit -- once it's genuinely turned into a pursuit, they're, they're taught that once  
13 the pursuit comes to an end that there are certain sort of best practices. One of the best  
14 practices is we want to, we want to go into what we call felony stop mode, which simply  
15 means exit your vehicle, you draw out. They do teach these officers at night get your flashlight,  
16 draw out, and we...if it's one officer by himself, he's responsible for everything. We tell him  
17 to stay behind your door or stay behind a position of cover and call out, have them exit their  
18 vehicles. So we teach them that at the end of a pursuit you've got to be prepared that things  
19 could go really bad in a number of ways, you know, that it could turn into lethal force, which is  
20 why we have them draw out.

21 DISTRICT ATTORNEY: Any further questions? May this witness be excused.

22 FOREPERSON: Yes.

23 DISTRICT ATTORNEY: Thank you, Lieutenant.

24 LIEUTENANT SHANE ARTHUR: Thank you.

25 DISTRICT ATTORNEY: This next witness will be short and then we'll take a  
26 break. How's that?

27 [Inaudible conversations]

28 GRAND JUROR: [Military? 00:10:04] mode, I mean, you can't stop it. You hear

1 the, I mean, when I was in the military, you hear cease fire and the shots still go, and you just  
2 can't stop it.

3 GRAND JUROR: Yeah. The military [inaudible 00:10:19].

4 GRAND JUROR: I know you can't --

5 GRAND JUROR: Yeah, we're not motivated [inaudible 00:10:20].

6 FOREPERSON: You do swear or affirm that the testimony which you are about  
7 to give will be the truth under the penalty of law.

8 WITNESS: I do.

9 FOREPERSON: [Inaudible 00:10:30].

10  
11 TESTIMONY OF SERGEANT SCOTT MCCALL

12 BY THE DISTRICT ATTORNEY:

13 Q. Good morning, sir.

14 A. Good morning.

15 Q. Would you please state your name?

16 A. Scott McCall.

17 Q. What do you do for a living, sir?

18 A. I'm a sergeant for the New Mexico State Police Investigations Bureau here in Santa Fe.

19 Q. What does that mean?

20 A. It means I'm a certified police officer for the State of New Mexico. I work for the New  
21 Mexico State Police. I run the Investigations Division, which is the detectives division for the  
22 State Police, out of zone 1 here in Santa Fe.

23 Q. Okay. Do you also...are you also trained to teach certain things at the Law  
24 Enforcement Academy?

25 A. Yes. I'm a certified EVO [pronounced evaw] instructor, which is an Emergency  
26 Vehicle Operations instructor. I've been certified since 2007, currently the lead instructor for  
27 the New Mexico State Police Driving Program, and I just recently took over the Law  
28 Enforcement Academy Basic Program, as well. With that certification I'm certified...I teach

1 in-services and Safe Pursuit Act, various updates of pursuit policies, as well as I'm a PIT  
2 certified instructor, so I teach our officers how to do the PIT.

3 Q. Okay. The Grand Jury has heard this morning...so a few officers keep referring to *the*  
4 *pit*.

5 A. Yes, ma'am.

6 Q. What is *the pit*?

7 A. The PIT is basically it stands for the Pursuit Intervention Technique, or Precision  
8 Intervention Technique. The Pursuit name actually kind of stuck because this technique is used  
9 during pursuits. It's a tactic used with motor vehicles. What we determine it as, is it's a  
10 hundred and eighty degree noncompliance stop of the vehicle. We're using a patrol vehicle to  
11 cause the suspect vehicle to spin a hundred and eighty degrees and come to a stop.

12 Q. Okay.

13 A. That's the basic of the PIT.

14 [Sounds]

15 A. There we go.

16 [Inaudible conversation]

17 A. Sure.

18 Q. Excuse me, I'm going to reach in front of you to try to get [inaudible 00:12:46] can see.  
19 So, Sergeant McCall, I've handed you two toy vehicles. One's a purple/silver vehicle, and the  
20 other is obviously a police car.

21 A. Well, that's --

22 Q. That is the target. The target.

23 A. Very nice. [Laughs]

24 Q. So explain and show people because, you know, it's better when you see what you're  
25 talking about. What's...how do you train someone to do a PIT maneuver.

26 A. I'll stand up, if I can, just so you guys can see what we're doing here. The PIT  
27 technique is, is...there's just basically four steps to it. The way we train, we train in a  
28 controlled environment and we teach them the steps individually, and then we apply it all at

1 once. When it's done properly, what you can do is you can immobilize this vehicle in a  
2 location that you want to mobilize it. So you can kind of pick and choose where, where you do  
3 it at. The PIT can be done at speeds above thirty-five miles an hour, but the national standard  
4 is...your typical standard-size vehicle made in America or made in a foreign country, when it's  
5 pitted at thirty-five miles an hour or less will only rotate a hundred and eighty degrees before it  
6 comes to a stop.

7 And the way we do the technique is, depending on which way your suspect vehicle  
8 allows you to go, what the officer does is, is he catches up with the vehicle and then he  
9 matches the vehicle's speed. So, for instance, on a straightaway the officer would be behind the  
10 suspect vehicle or offset to whatever side he has available to him or her. As they approach the  
11 vehicle, they're going to come up and they're going to match the speed of the vehicle. When  
12 they match the speed, at the same time they're, they're setting up their front fender with their  
13 rear quarter panel, whether it be right or left, okay, depending on the...depending on the  
14 circumstances of where you're going to apply the PIT. When you match the speeds and you,  
15 and you set up that technique where your, your quarter panels are together, well, the key to the  
16 PIT is finesse. It's not a ramming technique, it's not vehicle-to-vehicle contact. It's a very  
17 smooth contact, and when you do make that contact, at that point you...when a contact is made  
18 you do a quarter-turn of the steering wheel, and you do a nice smooth acceleration. You're not  
19 mashing the gas pedal, you're not being aggressive with it, what you do is you do a quarter turn  
20 and you drive almost through the back of that vehicle. And what that does is it causes, for  
21 instance, as the officer would say he's going to make this particular PIT, he's going to turn the  
22 wheel to the right. When he does turn the wheel to the right, it's going to cause the back of his  
23 vehicle to push out. The dynamic behind that is that once the vehicle reaches a twenty-five to  
24 thirty degree on the back end like this, this maneuver it's irreversible for your suspect vehicle.  
25 He cannot or she cannot recover from it. It's just, it's not possible. And what happens is when  
26 he, when he does turn that into it, a turn of the vehicle, it starts to rotate out. As it rotates out,  
27 the officer literally just continues in this, this path of the turn as this vehicle rotates out away  
28 from him, and you drive right by. Okay, it's all about smooth acceleration, and the steering



1 input is smooth. And it can be done either way. Ultimately, at that point, the pitting officer, or  
2 the spin vehicle, as we call it, continues past our suspect vehicle and would attempt to get back  
3 around to contain it. You know, and when we teach in our environment, we like to have other  
4 units available as to come in the front and block the vehicle in, but in the perfect world, you  
5 know, we always have that. In this particular case, we don't.

6 Sometimes what officers will do is they'll...you can stay with the turn and it gets you  
7 to come around quicker. Okay. But you also have a second...you have a risk of a secondary  
8 impact sometimes at that point, which is...it's not a, it's not an intentional impact, it's just the  
9 dynamic of the way the vehicle spins. And then coming into play also, if it's twenty miles an  
10 hour or twenty-five mile an hour, it really depends on the way the vehicle and how much  
11 acceleration you put into it as to how fast it rotates. Sometimes they don't rotate a complete  
12 one-eighty like perfectly. They'll rotate slowly around, depending on the street that it's applied.  
13 And it works, like I said, in both ways. You can do it either way. This side, the other side,  
14 however it works.

15 Q. So I have a question for you in reference to that. In the video that they have not seen yet  
16 -- they're going to -- but there is a PIT maneuver that is done by Officer Wilson, and in the PIT  
17 maneuver it kinds of hits that way.

18 A. Correct.

19 Q. Explain how that occurred.

20 A. That's what we would call a double-tap, okay, in the training environment, and it's in  
21 a...it's not an intentional aspect but what it comes down to is the fact of whether the officer, he  
22 accelerated, didn't decelerate. Sometimes you can avoid a double-tap by just slightly tapping  
23 the brakes or removing your foot completely off the accelerator. In this particular case in a  
24 close environment where you see you have a narrow road, and you don't have an avenue that  
25 you can swing out wide enough, and the speeds are not fast enough, that this vehicle  
26 rotates...doesn't rotate fast enough out of your way. And so what ends up happening is the that  
27 vehicle, your spin vehicle, once it applies the technique and spins out, this vehicle is spinning  
28 too slow and this vehicle doesn't have the opportunity to go around it or through it because the

1 speed that the speed was rotating and either the brakes aren't applied or acceleration's not  
2 slowed down enough, or the brakes are applied and it's just...it's too close contact. So you  
3 have...what you have is a secondary, what we call a double-tap, which is, like I said, it's, it's  
4 part of the PIT depending on the circumstances that you apply it at.

5 In a training environment, a wide-open highway, it usually doesn't happen because we  
6 have those avenues of escape. So....

7 Q. So, currently are all New Mexico State Police officers trained with this technique?

8 A. Yes. We just...in fact, in November and the first part of December we did our last in-  
9 service class which updated all the commissioned personnel that work the field. We were all  
10 updated with this PIT technique and are now our, our current recruit schools are actually being  
11 certified as they come out of recruit school.

12 Q. And you instruct them on this.

13 A. I do. Yes, ma'am.

14 Q. I have no further questions of this witness. Members of the Grand Jury?

15 A. Okay.

16 Q. Thank you, sir.

17 A. Thank you very much.

18 DISTRICT ATTORNEY: Maybe this...would you like to take a break now?

19 FOREPERSON: Yes, please.

20 DISTRICT ATTORNEY: Why don't we...can we take a fifteen- minute break?

21 FOREPERSON: Fifteen would be great, ma'am.

22 DISTRICT ATTORNEY: So the time is now 10:22. Let's take a morning break.

23 FOREPERSON: How long will we have?

24 DISTRICT ATTORNEY: Fifteen minutes --

25 FOREPERSON: Fifteen minutes.

26 DISTRICT ATTORNEY: -- please.

27 [Inaudible conversations]

28 [Off the record]

1  
2 DISTRICT ATTORNEY: . . . that it's 10:40. We have sixteen members of the  
3 Grand Jury, Alejandra the tape monitor, and myself, an Officer Oliver Wilson with New  
4 Mexico State Police has entered the room as well.

5 FOREPERSON: You do swear or affirm that the testimony which you are about  
6 to give will be the under the penalty of law.

7 OFFICER OLIVER WILSON: Yes, I do.

8 FOREPERSON: Thank you. Please sit down here.

9  
10 TESTIMONY OF OFFICER OLIVER WILSON

11 BY THE DISTRICT ATTORNEY:

12 Q. Good morning, Officer.

13 A. Good morning.

14 Q. Would you please state your name for the record.

15 A. I'm Officer Oliver Wilson of the New Mexico State Police.

16 Q. How long have you been a police officer, sir?

17 A. Approximately a year and a half.

18 Q. How are you doing today?

19 A. I'm doing okay.

20 Q. You're doing alright?

21 A. Yes, ma'am.

22 Q. Do you need any water or anything?

23 A. No, not right now.

24 Q. So, Officer Wilson, do you...were you working let's just say on the evening of

25 November the 6<sup>th</sup>, 2013? Do you remember what shift you were working on?

26 A. Yes, I was on the grave...graveyard shift. It starts at nine p.m. and goes till six in the  
27 morning.

28 Q. And how were you dressed that day, sir?

1 A. I was dressed pretty much like I am today, with my full uniform. I was on patrol. I was  
2 wearing my cap as well.

3 Q. And what kind of vehicle were you driving?

4 A. I was driving one of the marked black and white State Police units.

5 Q. So if I were to see you, you know, you know, as you describe the way you're dressed  
6 and the vehicle you're driving, would I have any doubt that you're a police officer?

7 A. No, I don't believe so.

8 Q. So it's pretty, it's pretty well marked that you're a New Mexico State Police officer.

9 A. Yes.

10 Q. Okay. So, normally when you are on patrol, you know, what does that mean when  
11 you're on patrol?

12 A. You know, usually what I do is I kind of monitor traffic. During the, the early hours I'll  
13 go out on the interstate, will answer calls if there's a, a call in the county or a call assisting  
14 another agency will respond to, to various calls. And I'll make normal traffic stops for traffic  
15 violations and things like that.

16 Q. Sir, do you go as far out on the interstate as Pecos or is there a Pecos officer that deals  
17 with that?

18 A. There's usually a Pecos officer, but only after...until a certain time at night. So if  
19 there's a need for us to go out there, we'll respond out there as well.

20 Q. How about up north towards, let's say, Cuyamungue, Pojoaque?

21 A. Yes --

22 Q. You also respond that.

23 A. Yes, we have calls out there regularly.

24 Q. How far south do you go?

25 A. As far as the 252, a landmark there would be the San Felipe casino.

26 Q. And then like going over towards, you know, Edgewood, Stanley, on Highway 14, how  
27 far do you go out on that?

28 A. All the way down to Clines Corners. We usually don't get a lot of calls out there, but,

1 you know, we can respond out that far for, for District 1.

2 Q. So it's a fairly large area.

3 A. Yes, it is, ma'am.

4 Q. And how many patrol officers on a normal, just a normal night, more or less, are  
5 usually on, on your shift? How many of you are on duty?

6 A. Usually about two, myself and one other officer, usually.

7 Q. Not a whole lot of police officers out there, are there?

8 A. No, not for the State. No.

9 Q. Okay. So, Officer Wilson, on November the 7<sup>th</sup>, 2013, you were involved in a vehicle  
10 pursuit that started on Saint Francis. Could you please tell the members of the Grand Jury what  
11 you recall about the events that evening.

12 A. Yes. I was, I was on a regular shift. I was in my full uniform, driving a marked unit,  
13 and I wasn't...it was, it was really quiet on the street and I had just gotten off the phone with  
14 my wife, actually, and so I wasn't really, you know, looking for anything or looking to stop  
15 anyone. I was coming up to the intersection of Alta Vista and, and Saint Francis, and I was  
16 quite a ways away. I could see the light change from, you know, green to yellow and then to  
17 red. And it was red for about five seconds when I saw a, a silver Honda approach the  
18 intersection. And what caught my attention about the vehicle as it approached, it approached  
19 from Alta Vista pretty rapidly, did what a lot of people call a California stop, and that was odd  
20 to me because they had the green light because my light had been red, you know, for about five  
21 seconds, more or less. And, so, you know, that kind of attracted my attention, so I just  
22 continued traveling in that direction, and as the vehicle made the right turn -- it was a, it was a  
23 small passenger vehicle -- I could see the chassis kind of wobble like that, and, you know, that,  
24 that drew my attention as well. I was like, well, that was kind of an easy right turn. You  
25 wouldn't need to...you don't need to put any steering input to make that right turn, not that  
26 much, you know, that would cause it to wobble. So that, I thought that was strange, as well,  
27 and I...and two thoughts came into my mind at that point. I was like, well, they approached the  
28 intersection really rapidly, they kind of paused. I don't know if I startled them or, or what

1 happened, but they kind of paused and then went through the light and then, you know, had  
2 that little wobble. And I was like, well, maybe they're impaired, you know, or maybe there's  
3 something wrong with the vehicle.

4 So I continued on my path of travel just to, you know, continue to investigate, and I  
5 hadn't made a decision to stop at that point, but I had started to become suspicious, you know,  
6 so I, I continued on my path and I observed it. And as I was behind the vehicle, the vehicle  
7 began to accelerate a little bit away from me, and I thought that was a little strange as well  
8 because, you know, if you're not doing anything wrong, you usually don't try to, you know, get  
9 away.

10 So the vehicle made a, a right turn onto what I believe was a side street. I'm not sure  
11 what it was called. I believe it was Calle Nava. I would have to look at my report again. So it  
12 made a right turn and I, I followed the vehicle onto that street, and with all those clues, the  
13 California stop, kind of the wobble as it turned, you know, I was suspicious that the person  
14 may be impaired or under the influence of alcohol or drugs. So I turned my lights on and I  
15 called in the, the traffic stop.

16 Once I turned my lights on, the vehicle didn't slow down or, or stop or anything, and  
17 the vehicle made another turn onto what I believe was Calle Anaya. And I didn't know this at  
18 the time, but Calle Anaya loops you back around to Saint Francis. So I called into dispatch  
19 once. There was no response, and we kept traveling on Calle Anaya, and I called in again, and  
20 the vehicle still wasn't stopping. I had my lights on and it was dark out, you know, so I think  
21 that they saw me. But as we made another left turn and headed back towards Saint Francis, I  
22 turned on my siren, and that's protocol when we're in a pursuit. At that time I notified dispatch  
23 that we're...that I would be in pursuit of the vehicle.

24 As we approached Saint Francis, the vehicle began to accelerate a little more rapidly,  
25 and they went out onto Saint Francis without stopping at the stop sign. There was a stop sign  
26 there -- it's residential area. They made a right turn on Saint Francis and at that point the  
27 vehicle really picked up speed and I knew that the, the chase was on pretty much.

28 As we were going down Saint Francis, I believe we got up to about seventy miles an

1 hour, and Saint Francis at that point, between I guess Calle Anaya and Saint Michael's, is  
2 about a thirty-five mile-per-hour zone, I believe, and so we were going pretty fast for that area.  
3 I saw maybe one other car on the road, but other than that, I don't remember seeing any other  
4 cars at that section.

5 We drove towards Saint Michael's, and as we drove towards Saint Michael's, you  
6 know, the speed continued to increase and the vehicle exited onto Saint...onto the Saint  
7 Michael's ramp from Saint Francis. And at that point I saw the vehicle kind of cross the yellow  
8 lines, and we were approaching a major intersection and I could see up ahead that the light was  
9 red, but the vehicle continued through the red light and made a right turn onto Saint Michael's.  
10 I remember calling dispatch to ask for permission to PIT the vehicle, and that's a Pursuit  
11 Intervention Technique, just to stop the, the vehicle, because I knew that, you know, we were  
12 turning onto Pacheco and that's a residential area as well, you know.

13 We turned onto Pacheco. I didn't hear any response over the radio as far as a supervisor  
14 coming over and, and giving me permission, so we continued the pursuit. There was another  
15 vehicle on Pacheco, and Pacheco is a twenty-five mile-per-hour zone, and so that vehicle  
16 passed, and they just passed us without being impeded. They didn't stop or anything. We  
17 continued down Pacheco Street and I believe we got up close to seventy miles an hour on  
18 Pacheco.

19 As we approached the intersection of Pacheco and Siringo Road, there's a stop sign at  
20 the end of that street, and the vehicle didn't stop at all there, and I continued to pursue it. And  
21 the whole time while I was in the pursuit, I wanted to make sure if someone was coming to  
22 back me up or coming to assist me they knew where I was. So I called out every street that I  
23 could see. I would look and see and call it out, you know, so my location would be, you know,  
24 relayed to any other officers in the area.

25 So as we proceeded down Siringo, that's when the speeds really got excessive. I believe  
26 we were in excess of seventy, almost ninety miles an hour going down Siringo Road, passing  
27 Santa Fe High School. Off to my left I remember seeing a Santa Fe PD officer with its lights  
28 on. I think he was finishing a traffic stop, and when we passed that intersection I thought he

1 may, you know, come to assist me, but when I turned on the next street, which was, I believe,  
2 Rancho Siringo, still in pursuit of the vehicle, I didn't see anyone behind me at that point, and I  
3 didn't know if any other officers were going to assist me.

4 And this is the point where the pursuit, I think, really started to get dangerous, more so  
5 than any other area, is there were...on Rancho Siringo is marked by speed humps, and the  
6 speed humps have that reflective I think white paint on the top to let you know to slow down,  
7 and then there's a posted advisory that says twenty miles an hour, I believe. So the first speed  
8 hump the vehicle ramped over it and I could see the rear-end of the vehicle go up onto the  
9 curb, and I believe sparks flew out. And at that point I, I remember telling dispatch the vehicle  
10 seems like it's out of control. And so we continued to ramp over these speed humps. There is a  
11 stop sign in the middle of Rancho Siringo, and the vehicle just flew through that one, and then  
12 there was another...there were several other speed humps.

13 And during the, during the time I, I made it a point to -- doing it while I was calling out  
14 and doing the pursuit -- I made it a point to stay really present as far as where I was and, and  
15 calling out the locations because I wanted to...I've had...I had two other pursuits before that  
16 and I didn't call out all the streets, so this one I wanted to call out all the streets because I kind  
17 of got, you know, a little bit reprimanded for not saying pursuit and calling out all my  
18 locations. So I was...wanted to be really careful and I made sure I regulated my breathing to  
19 stay calm, you know, because, you know, if...my thinking was if I stay calm, you know, I can  
20 be able to, you know, continue to relay my position to dispatch.

21 So as we...as we approached the end of that street, one way it turns into Calle Chamisa  
22 and the other way is another name, and I can't remember it right now. But as we turned there,  
23 there was another stop sign. We turned there, the vehicle didn't stop, and I could see the, the  
24 end of the vehicle, as we made a right turn, kind of lose control. And I thought at that point, I  
25 was like, well, the vehicle slowed down, I've asked for permission to stop the vehicle several  
26 times, so this will be a good place to stop it using the, the PIT maneuver. So I drove my  
27 vehicle, my Crown Victoria, up on the, the right side of the vehicle because the vehicle had  
28 kind of lost control going to the left, and I was going to stop it there, but the vehicle out-



1 accelerated me. It was too fast for my vehicle.

2 At that point we continued driving, and the vehicle made a right onto I believe it's  
3 called...there was three streets called Cedros. One is Cedros Circle, one is Cedros Lane, but I  
4 don't, I don't remember which is which, but we made. made a right turn on the first Cedros  
5 and went down...and in this area there's cars lined on each side of the street, and I began to...I  
6 was really afraid that, you know, somebody might be out driving or, you know, somebody out  
7 for a midnight stroll or something might be in our, in our path of travel, and so I really  
8 became...I knew that I needed to stop the vehicle imminently, you know, or else someone else  
9 could, could be injured.

10 So we made that first, first right turn, then we made a left turn on the next Cedros, and  
11 then a left turn onto I believe it's called Calle Cedros, which intersects with Camino Carlos  
12 Rey. So as we approached Camino Carlos Rey we were going probably about forty-four miles  
13 per hour, and then we slowed down to about twenty-two to twenty-five miles an hour, as I  
14 recall. And during our Pursuit Intervention Technique class, they say that, you know, it's safe  
15 to do the PIT maneuver at that speed, you know, so I said, well, I believe it's under thirty-five  
16 miles per hour is what we're trained. So, and it's not a, it's not a use of deadly force or  
17 anything. It's just a way to get the driver to stop so that they can be, you know, apprehended at  
18 that point. And that was what I wanted to do, you know, just stop the pursuit, you know,  
19 because I felt like it was...it had become extremely reckless.

20 So I positioned my vehicle on the left side of the driver's vehicle and as I positioned the  
21 vehicle on the left side. I...it's...what I...what we try to do, and I'll just demonstrate here, is  
22 position it near the gas tank. And it's not an impact move, it's not a ramming motion, it's  
23 simply we position our vehicle, turn the wheel and push the rear portion of the vehicle so that  
24 it loses traction and the pursuit is pretty much stopped. I guess ideally you want to kind of turn  
25 it at a hundred eighty degrees, and what we were trained to do was, you know, two units would  
26 come up and actually be able to contain the vehicle so it wouldn't move any more.

27 As we made the turn and the, the PIT maneuver, and as far as I recall, the vehicle ended  
28 up somewhat like this, and my vehicle somewhat in that, in that position. you know, as I recall

1 it. I remember thinking that I needed to contain the, the vehicle, so I moved my vehicle, you  
2 know, so my vehicle touched theirs, and I got out immediately because I wanted to, you know,  
3 make contact with the driver and, and stop the pursuit.

4 As I exited the vehicle and this part is, is really hard for me because everything was  
5 happening fast, but it seemed to slow down, so...and my recollection of the events are in, in  
6 frames. It's not a, a continuous...you know, like you watch a movie, you know, it's a  
7 continuous stream of motion. But my recollection of the event happened in more like still  
8 frames of images, you know, and I remember certain things about it. So I remember exiting the  
9 vehicle, and I remember exiting the vehicle rapidly. And there was...there was something  
10 weird that I noticed after the incident was over is that my...and I'll...I'll, I'll...my flashlight  
11 was wedged under the, the left rear wheel of my vehicle. And I usually have my flashlight  
12 between my legs, you know, so that when I get out to make a traffic stop I won't forget it, you  
13 know, I'll have it to, to make the traffic stop.

14 I remember the, as I got out I remember seeing the windshield, the rear windshield of  
15 the vehicle coming towards me, and I remember my weapon firing. I remember seeing the  
16 muzzle go up and down. I remember feeling terrified and my thought was to prevent myself  
17 from being crushed between the vehicles, my vehicle and, and hers. And...it's...as I fired at  
18 the, the vehicle, I saw it coming towards me and I, um....the vehicle then struck, struck the, the  
19 front of my vehicle and the driver began to drive away. I didn't know if my shots were  
20 effective through the rear window. I...so I ran along and at that point the vehicle was...after it  
21 struck my, my unit, it was in this position. So --

22 BY DENNIS, GRAND JUROR:

23 Q. Where were you standing? Dennis.

24 A. I was standing in this general direction, so I can't --

25 Q. Was your car door open?

26 A. I believe so, you know, because it would have...I would have had to open it to, to jump  
27 out, and I don't know if I closed it behind me or not, you know, so I remember, you know,  
28 right before the, the vehicle struck, I fired and the vehicle struck my vehicle this way. And so

1 my camera is here in the center, so I must have been standing off in this direction, you know,  
2 as the vehicle was coming towards me. So I fired the shots, you know, I felt my life was in  
3 danger, you know. Everything slowed down and my vision was...I guess, and the Academy  
4 tells us all if you go through an incident you'll have tunnel vision and this will happen and that  
5 will happen. And those things did occur, you know. My vision got really narrow. I couldn't...I  
6 don't remember seeing anything else but the rear of the vehicle coming towards me. I didn't  
7 hear the shots. I believe I fired four shots in the direction of the driver. I remember the muzzle  
8 going up and down, but I didn't hear the, the shots. And usually if...and that stood out to me  
9 because on the range I've, I've made the mistake of not putting my hearing protection on, and  
10 the, the weapons are really loud, you know, so for being not to hear it was, was odd to me.

11 I didn't know if my shots were effective after that because the vehicle began to drive  
12 away, sort of at an angle, so I ran and I said, well, I need to stop it still. So I ran and fired shots  
13 at the right rear tire because I wanted to at least, you know, take out one of the tires in case,  
14 you know, the vehicle kept driving it would be harder for them to get away.

15 The vehicle crossed the street and crashed into a wall there, and I remember dispatch  
16 was asking me where...what my location was, so I remember yelling for...I remember looking  
17 over at the street sign and calling out my location. I called for an ambulance, which is...we call  
18 it a fifty-five, so I called for an ambulance and I...after that I remember yelling at the driver, let  
19 me see your hands, let me see your hands. I used some, some curse words. I was really in that  
20 emergency mode then, you know. And I got the...I still had my weapon drawn. I got the driver  
21 [sic] out and I had him walk back towards me and do the, do the felony-type procedures, walk  
22 back towards me, get down on your knees and lay on the ground, and at that point my, my shift  
23 partner, Officer Sanchez, came up and actually handcuffed the passenger.

24 The driver wasn't moving and I believe I called for an ambulance again. After that, I  
25 believe Santa Fe PD got on-scene. There was two officers that assisted me. I went into the  
26 vehicle and to...tried to check the pulse of the driver, and my heart I guess was beating so fast  
27 when I put my hands on her, on her neck I couldn't tell if it was my pulse or if it was hers. So I,  
28 I asked one of the Santa Fe PD officers if they could assist me. So we took her out and laid her

1 on the ground, and they, they cut her shirt and...or took it off, I can't remember, and they  
2 began performing compressions on her, and she was unresponsive. I remember telling...I gave  
3 my keys to my shift partner and told her I had a...an ID or AD in my trunk, which is one of  
4 those electronic resuscitation units, but I, I think she was a little frazzled, too, because she  
5 didn't understand what I was saying and she came back with something else. And, but at that  
6 point the, the Santa Fe PD officers, I believe, were still doing compressions and things like  
7 that. Shortly after, I was taken off-scene.

8 BY THE DISTRICT ATTORNEY:

9 Q. Officer, what I'd like for you to do is if you could stand up over here, and this is Calle  
10 Cedros.

11 A. Okay.

12 Q. And this is Camino Carlos Rey.

13 A. Okay.

14 Q. And, you know, you did the PIT this way.

15 A. Mm-hm.

16 Q. Could you kind of...it's crude, but could you kind of put...and this is the fire hydrant.  
17 There was a fire hydrant and [inaudible 00:26:38]. This is quite alright. If the vehicle, you  
18 know, the vehicle's over here someplace. Where'd you stand when the vehicle was there?  
19 Where were you standing? That's the big question.

20 A. Yeah.

21 Q. Do you remember the position of the vehicles in your head?

22 A. Uh...not exactly. You know, it's like I say, it's in the frames, but, you know, after the  
23 PIT, I was...we were somewhat perpendicular, you know.

24 Q. Okay, let me get another...excuse me for one second. Let me just grab something real  
25 quick.

26 GRAND JUROR: He can position the cars on a piece of paper.

27 DISTRICT ATTORNEY: Pardon?

28 GRAND JUROR: He can position with the plastic cars and a piece of paper.

1 DISTRICT ATTORNEY: I think that's what we ask. I'm going to show him.

2 BY THE DISTRICT ATTORNEY:

3 Q. Let me show you what'll be marked as State's Exhibit No. 6. This is a diagram that was  
4 prepared by Sergeant Lauren Milligan who's going to testify later on, where he kind of puts the  
5 approximate area of the vehicles. So let's just assume, for a moment, that's the approximate  
6 area. Okay. Here's her vehicle and that's your vehicle.

7 A. Mm-hm.

8 Q. Okay? Where would you be standing?

9 A. As I, I exited here and I remember approaching the vehicle this direction. You know, so  
10 I was just standing right around here.

11 Q. Okay. Kind of put...you could just put it, please, where you, where you were, you were  
12 standing more or less...Okay, so can you just put like a little circle on this diagram, and that  
13 would be where you felt you were standing at the time that you started shooting? Or when  
14 you...when did you see the vehicle coming? You know, when did you perceive the threat, and  
15 then where were you when you were shooting?

16 A. The vehicle, it was...I don't know if, you know, and I don't want to say anything that,  
17 that's untrue, but I don't...the vehicle was in a space where it was moving towards me --

18 Q. Okay.

19 A. -- because we were touching at first.

20 Q. Okay.

21 A. And when I started shooting, the vehicle was actually moving back towards me --

22 Q. Alright.

23 A. -- you know, so it wouldn't be...you know, I would be standing further in front of my  
24 unit, you know, off to, off to the left side.

25 Q. So you would be in front of your unit more so?

26 A. Off to the left here, because if I was in front of my unit, the, the camera would have,  
27 would have showed me while I was firing, you know, and so after the vehicle...because the  
28 vehicle started here, and she must have taken off, you know, and tried to move her vehicle

1 away, and then she backed up and it struck my unit, and so I was off to the side here when I  
2 started firing. But this is...this would be where I started when I got out, you know of the, of the  
3 unit.

4 Q. Alright, thank you [inaudible 00:30:13] set here. Do you recall...go ahead, have a seat  
5 in the box. Do you recall how many shots were fired?

6 A. In total through the...throughout the whole incident?

7 Q. Yes.

8 A. I remember firing approximately four shots initially. After that I don't remember how  
9 many I fired.

10 Q. When the vehicle...you know, the vehicle then went...you shot, then the vehicle started  
11 to go forward, correct?

12 A. Yes.

13 Q. What were you thinking as the vehicle went forward?

14 A. I thought...I was thinking, I was like, well, my shots must not have been effective at  
15 stopping the driver, so I was like, the vehicle still needs to be stopped. I was already outside of  
16 my unit, my weapon was drawn, so I thought I needed to really stop it, so I ran alongside it and  
17 fired at the rear tire, the right rear tire.

18 Q. Why, why did you feel you needed to stop the vehicle?

19 A. I felt like at that point it was a situation where the, the driver was, was reckless and  
20 intentionally trying to harm me, and I didn't know if her...I didn't know what her state of mind  
21 was at that point, you know, if she would try to injure someone else, so I felt like it was  
22 imminent that I stop the vehicle.

23 DISTRICT ATTORNEY: Okay. So what, what I would like to do now is I would  
24 like to show the video. The video is about five minutes long, and then after you see the video  
25 then there...then you can continue to ask more questions. What I would like to do is if I could,  
26 just take about a minute break to make sure I have the equipment running.

27 ? : Okay.

28 DISTRICT ATTORNEY: Thank you. The time is now eleven, eleven. Thank you.

[Off the record]

CD 3

1  
2  
3 DISTRICT ATTORNEY: Okay, thank you. We're back on the record. It's eleven  
4 thirteen. All the members of the Grand Jury are here including the witness, Officer Wilson, and  
5 I have just inserted State's Exhibit No. 1. Well, actually I have it on my computer, but it's  
6 State's Exhibit No. 1, which is the Coban video that was introduced by Sergeant Aguirre. He  
7 was the first witness. So what I'm going to do is I'm going to play that for you now. Okay,  
8 where am I? It keeps...not that one. Let's see. This one. And this one. Oops, not that, not that.  
9 The State Police has a special Coban that you can only open videos with this player. There you  
10 go. There we go. [Sneakers? 00:01:29]. [Inaudible 00:01:31] stand up over here.

11 OFFICER OLIVER WILSON: [Inaudible 00:01:34].

12 DISTRICT ATTORNEY: There we go. We'll see.

13 [Video]

14 ?: Where's all the sound?

15 DISTRICT ATTORNEY: The sound should be starting.  
16 [Video in progress]

17 [Siren]

18 OFFICER OLIVER WILSON: Getting off on Saint Michael's Drive right now.

19 [Siren ongoing]

20 DISPATCH: [inaudible 00:03:52].

21 OFFICER OLIVER WILSON: I'm not sure about the [inaudible 00:04:07].

22 We're going about thirty miles per hour right now. [Inaudible 00:04:11]. You could call it  
23 [inaudible 00:04:15]. And now we're going by [inaudible 00:04:29] Street on Pacheco. She's  
24 at around seventy miles in a thirty-five miles per hour zone. [Inaudible 00:04:43] to get me.  
25 We're turning right on Siringo Road. We're all turning right on Siringo.

26 DISPATCH: [Inaudible 00:04:54].

27 OFFICER OLIVER WILSON: [Inaudible 00:04:56] right now [inaudible

28 00:05:03] but I don't know if we're going to join, get permission to [inaudible 00:05:11].

1 We're turning off Siringo Road on Cedros [inaudible 00:05:28], heading towards Cerrillos  
2 [inaudible 00:05:37]. It looks like we're turning left on Camino Siringo. The vehicle seems to  
3 be out of control. It's going at speeds at about forty-five miles an hour [inaudible 00:05:55]  
4 still on [inaudible 00:05:58] forty-five miles [inaudible 00:06:04]. We're turning right on  
5 North [inaudible 00:06:10] Road. [Inaudible 00:06:21], one male and one female. Turning  
6 right on Cedro Lane, turning left on [inaudible 00:06:32] Siringo. [Inaudible 00:06:44] Cedro.  
7 This is about forty miles per hour. [Inaudible 00:06:56]. [Yelling] get your hands up! Show  
8 your hands! [Sixteen gunshots]. Open your hand! [Inaudible 00:07:13] anyway! Keep your  
9 hands up! Keep your hands up! [Inaudible 00:07:21]! [Siren ongoing] Let me see your hands!  
10 Let me see your hands! [Inaudible 00:07:40]. I'm going to give you [inaudible 00:07:45].  
11 [Inaudible 00:07:50].

[End of Video]

12  
13 DISTRICT ATTORNEY: Okay. There's also...I have another one where it's at  
14 much slower when the PIT occurs. I don't know if that would help you to see that part again,  
15 because it goes very quickly. Would you like to see it?

16 GRAND JURORS: Yes. Yes.

17 DISTRICT ATTORNEY: Okay.

18 ?: Yes, a lot goes quickly at the end.

19 DISTRICT ATTORNEY: Yes, so that's why it's, it's just the last part and it goes  
20 much slower, so because it's going at a slower speed, the voice will be ohhhh, you know, just  
21 so you don't...okay. Let me get that set up. It's going to start right away with the [inaudible  
22 00:08:53] --

[Slower Video Starts]

23  
24 [Siren blaring]

[Inaudible 00:08:58-9:35].

25  
26 OFFICER OLIVER WILSON: Get your hands up! Show me your hands!  
27 [Sixteen gunshots] Open your hand! [Inaudible 00:09:57] your hand!

[Slower Video Stops]

28



1 DISTRICT ATTORNEY: Does anyone need to see it again? Do you need to take a  
2 break to think a little bit? Want to see it again? You know. and there'll be other witnesses and  
3 we can replay it again if you need to.

4 DENNIS, GRAND JUROR: I'd like to hear his explanation of it again. From the  
5 second he gets out of the car.

6 DISTRICT ATTORNEY: So, let me turn off...let me turn the lights on. Let me just  
7 turn this....

8 BY THE DISTRICT ATTORNEY:

9 Q. Officer Wilson, would you please...so would you...Mr. Grand Jury, you had a...Grand  
10 Jury, you had a question?

11 BY DENNIS, GRAND JUROR:

12 Q. Yes, Officer, this is Dennis.

13 A. Mm-hm.

14 Q. Could you please go --

15 A. Yes, sir.

16 Q. -- through it again the second that you get out of your car?

17 A. Yes, sir.

18 Q. It is...I, I know [inaudible 00:10:57] but could you just try to slow it down for us?

19 A. Yes, sir.

20 Q. And step by step. I mean...yeah, please.

21 A. Yeah.

22 Q. Whatever you, whatever you can do.

23 A. Okay. As I said before the...my recollection is in frames and...so what I remember  
24 clearly is, you know, I was out of the vehicle, um...and once I got out, you know, you can, you  
25 can hear me shouting, you know, let me see your hands, and what I remember clearly, you  
26 know, is the vehicle coming towards me, you know, the rear-end of my vehicle, once I got out.  
27 And just to explain what my thought process was and what I usually do, on a pursuit, when I'm  
28 doing a PIT maneuver, I'll already have my seatbelt off because a thousand things can happen

1 at the end of a pursuit. You know, you don't know what's going to happen, if they're going to  
2 jump out and run, if they're going to jump out and shoot at you, you know, any, any number of  
3 things, you know, so I just prepare myself and in the past I, I even...I would even take my AR  
4 out of the, out of the rack, put one round in the chamber and put the AR between my legs, you  
5 know. I did that on one other pursuit because I was in a remote area and my backup was  
6 minutes away. So I was like, well, if they get out and try to engage me, at least I'll be  
7 somewhat prepared, you know.

8 This time I didn't do that. I didn't feel like it was that level of a pursuit. Yes, it was  
9 fast, it was reckless, but I felt like, you know, backup was right around the corner hopefully, so  
10 I didn't have to do that. But I prepare myself to get out of the vehicle, so as soon as the vehicle,  
11 we came to a stop there, I was out. And, and that's where, you know, the, the segments I  
12 believe I was able to move...fire and move laterally somewhat, you know, as the vehicle was  
13 coming towards me, but it just happened that quickly, you know, so, you know, that's the,  
14 that's the best explanation I can give, you know.

15 BY DENNIS, GRAND JUROR:

16 Q. Dennis. Did you --

17 A. Yeah.

18 Q. -- were you firing through the rearview...or through the rear window, the rear  
19 windshield?

20 A. Yes, sir. Yes, sir.

21 Q. At approximately the...where the driver would be sitting?

22 A. Yes, sir. You know, the...oh, I'm sorry.

23 BY A GRAND JUROR:

24 Q. I had a question.

25 A. Yes, sir.

26 Q. You said that you saw the vehicle coming towards you?

27 A. Yes.

28 Q. Would the camera have caught that, with the vehicle coming towards you?

1 A. No...oh, you --

2 Q. Or is the vehicle backing up or --

3 A. All you can see is when the...when we make the first contact --

4 Q. Right.

5 A. -- and then if you watch it you'll see the, the second contact when the piece of the, the,  
6 the driver's...when you see the piece of the driver's, um, I think it was a taillight. You'll see it  
7 fly over, over my hood.

8 Q. Yeah, [inaudible 00:14:21].

9 A. You know, so --

10 Q. I was, I was a little unsure of that.

11 A. Yeah. So there was, there was the first contact and then she must have pulled ahead and  
12 then that's when I saw her reversing back towards me. And I, you know, I remember  
13 everything. At that point it, it really slowed down dramatically and I, I was focused on that one  
14 point on saving my life. You know, as a police officer you don't think about saving your life  
15 all the time? You know, you think about saving other people and helping other people and, you  
16 know, that's why, that's why I got into police work to, to help people, but...you just don't  
17 think that people want to hurt you, you know. You know. Yes, ma'am?

18 BY GERI, GRAND JUROR:

19 Q. Geri.

20 A. Mm-hm.

21 Q. You gave the command --

22 A. Mm-hm.

23 Q. -- for her to put her hands up --

24 A. Yeah.

25 Q. -- and then when you saw the car come back toward you, do you remember was it  
26 rolling backwards or did it come back very forcefully, very suddenly, or somewhat in between?

27 A. It started slow and then it accelerated deliberately --

28 Q. Okay.

1 A. -- towards me.

2 Q. But she had it --

3 A. Yeah.

4 Q. -- in reverse.

5 A. Yes.

6 Q. Mm-hm.

7 A. It wasn't like it was in neutral or anything. Yes, ma'am.

8 BY SHARON, GRAND JUROR:

9 Q. Sharon.

10 A. Mm-hm.

11 Q. Do you...would you know how many laws she...this person had broken at the time you  
12 did the PIT maneuver?

13 A. You mean at the time?

14 Q. Did you at...when you were in pursuit --

15 A. Mm-hm.

16 Q. -- how many laws did she break by the time before you even did the PIT maneuver?

17 A. Um, it was approximately seven stop sign and speed violations on every...almost every  
18 major street, you know, so --

19 Q. So those were all [inaudible 00:16:21] laws that she broke?

20 A. Yes. Mm-hm.

21 Q. And was one of them a menace to the community? Would that be one of laws --

22 A. Uh --

23 Q. -- a danger to the community?

24 A. Reckless driving.

25 Q. Reckless driving?

26 A. When we were going over the speed humps, I don't know if you noticed the vehicle --

27 Q. Yes.

28 A. -- you know, really lost control.

1 Q. Mm-hm.

2 A. So if, if it had ended another way, then that would have been one of the, the charges,  
3 you know, would be reckless driving.

4 Q. Okay.

5 A. Yes, sir?

6 BY BILL, GRAND JUROR:

7 Q. I'm Bill.

8 A. Mm-hm.

9 Q. When I guess you started...you noticed the vehicle coming back towards you.

10 A. Yes, sir.

11 Q. And then you fired.

12 A. Mm-hm.

13 Q. And then her vehicle tried to reverse gears and started going forward --

14 A. Yes, sir.

15 Q. -- going away from you? And that's when you tried to shoot out the tires?

16 A. Yes, sir.

17 Q. Then the people got out of the car?

18 A. No, sir, they didn't get out of the car. As I was...the vehicle drove away and I ran  
19 alongside it, and they crashed...there was a rock wall there in front of a residence. The vehicle  
20 crashed into that residence and they were still sitting in the vehicle at that point.

21 Q. And then when did they exit? You did say that they got out of the vehicle.

22 A. I got the driver out. I asked him to walk back towards me, you know. I got him out --

23 BY THE DISTRICT ATTORNEY:

24 Q. Excuse me, driver or passenger?

25 A. I got the passenger out, I'm sorry. I got the passenger out at that point. You know, using  
26 verbal commands. I did have my weapon drawn and, and pointed at him, which is, you know,  
27 what we do during, you know, a felony-type stop. You know, we'll ask them to walk back  
28 towards the sound of our voice and then, you know, turn around and walk backwards, you

1 know.

2 BY BILL, GRAND JUROR:

3 Q. And then do you --

4 A. So --

5 Q. -- recall at what point your backup shows up?

6 A. As I remember asking the...I walked the suspect back towards me. I asked him to kneel  
7 on the ground, and then I asked him to lay on the ground, and then at that point I remember my  
8 shift partner coming up, Officer Sanchez, and handcuffing the, the suspect...the passenger.

9 Q. And the driver was still in their car?

10 A. Yes, and I remember one thing the -- and I didn't include this before, I'm sorry -- the  
11 passenger told me I kept telling her to stop, I kept telling her to stop. I don't even know this  
12 woman. You know, which I thought was strange, you know, and, and, you know, I walked him  
13 back anyway and, and, you know, he was handcuffed by my partner. She stood him up, I guess,  
14 and I went back over to see about the driver. Yes, ma'am?

15 BY GRAND JUROR:

16 Q. [Inaudible 00:19:28]. Did you ever at some point think that you shouldn't even stop  
17 that person? Is that even an option?

18 A. It didn't...it didn't enter into my mind to stop it. Usually that's a supervisor's call, and  
19 they'll call us over the radio and say, hey, you know what? It's not worth it. Just stop it. You  
20 know, but I never, I never heard that and, you know, that never entered my mind at that point. I  
21 wanted to stop it using, you know, the PIT maneuver, you know, to stop them from, from  
22 fleeing. Yes, sir.

23 BY GRAND JUROR:

24 Q. You called for backup on your way there.

25 A. Mm-hm.

26 Q. Was there any response from any other agencies or any [inaudible 00:20:15]?

27 A. Um...

28 Q. Seemed like they were on the way to help you out or....

1 A. You know. I don't. I don't remember the radio chatter. I do remember asking for help  
2 and for a supervisor. But as far as the specific response, I don't remember that.

3 BY DENNIS, GRAND JUROR:

4 Q. Dennis.

5 A. Yes, sir.

6 Q. The help that you asked for was from your dispatcher, right?

7 A. Yes, mm-hm.

8 Q. Do your calls go through the, the Sheriff's Department picks them up also, or just the  
9 State Police?

10 A. They do, the Sheriff Department is able to scan us and I believe some of the police PD  
11 units are able to scan our, our radio channel. So when we call out a traffic stop they can hear us  
12 and a lot of times if we need assistance and one of our own is not nearby, our dispatch will call  
13 the, the SO and, and they'll get them going towards us. Excuse me. [Clears throat] Yes,  
14 ma'am?

15 BY GRAND JUROR:

16 Q. From start to finish --

17 A. Mm-hm.

18 Q. -- [inaudible 00:21:18] up to [inaudible 00:21:19] and I count about five minutes. Is  
19 that about right?

20 A. I think so, five to six minutes. Yes, ma'am. Yes, ma'am?

21 BY GRAND JUROR:

22 Q. I'm Shirley.

23 A. Mm-hm.

24 Q. At what point did you...I mean, made you, you said that everything was slowed down.

25 A. Mm-hm.

26 Q. Is that the point at which you felt it's survival?

27 A. I felt like my, my life and, life and limb was in danger. You know, I, I didn't want to,  
28 you know, be crushed between the vehicles, between mine and hers. And, you know, I wanted

1 to. I wanted to just, to survive and what I'm. what I'm told by I guess the, the science of it is  
2 that when your body goes into emergency mode like that, those are some of the things that  
3 happens.

4 Q. Yes. So at...when you stepped out of the car and you were fine, you felt fine until you

5 --

6 A. Right.

7 Q. -- saw that car coming at you?

8 A. Yes, ma'am. And I, you know, even during the pursuit I was calm, you know. I didn't, I  
9 didn't expect to use deadly force, you know.

10 DISTRICT ATTORNEY: Are there any other questions of this witness? May this  
11 witness be excused?

12 FOREPERSON: Yes.

13 DISTRICT ATTORNEY: Thank you, Officer. [Whispering] Mr. Muñoz.

14 ? : Okay.

15 DISTRICT ATTORNEY: [Click]. These doors.

16 ? : Hold on, I think.

17 DISTRICT ATTORNEY: [Whispering] so you've got Mr. Muñoz?

18 FOREPERSON: Raise your hand, please. You do swear or affirm that the  
19 testimony which you are about to give is the truth under the penalty of law.

20 JEREMY MUÑOZ: Yes, I do.

21 DISTRICT ATTORNEY: [Whispering] there's some tissue there.

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TESTIMONY OF JEREMY MUÑOZ

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BY THE DISTRICT ATTORNEY:

Q. Good morning, sir.

A. Good morning.

Q. Would you please state your name for the record?

A. Jeremy Muñoz.

Q. How you doing today?

A. I'm doing okay.

Q. You alright?

A. Yeah.

Q. This is different, isn't it.

A. Yes, it is.

Q. So, Mr. Muñoz, I'm going to ask you about what happened to you late November 6<sup>th</sup>, early November 7<sup>th</sup> when you were riding with Jennifer...I'm sorry, Jeanette Anaya.

A. Yes, ma'am.

Q. So first of all, let me just kind of start, back up a little bit. How long have you known Jeanette Anaya?

A. I've known Jeanette for about seven years, probably.

Q. And how did you meet Ms. Anaya?

A. I met Ms. Anaya. She was actually my neighbor in the condo complex that I live in.

Q. Okay. And did you, did you get...become friends?

A. Yes, we did,

Q. Okay, I asked you this before, but I'm going to ask you again. Were you girlfriend/boyfriend at any time?

A. No, ma'am.

Q. Okay. So you're just good buds.

A. Just good friends.

Q. Alright, that's cool. But you spent time with her?

1 A. Yes.

2 Q. But she spent time with you and your family?

3 A. No, not with me and my family, but me and daughter. She had been around, yes. My

4 daughter lives with, you know, me and her mother part-time so we have, you know, joint

5 custody. So she would spend time with me and my daughter, yes. So family, yeah.

6 Q. So in November of 2013 was Ms. Anaya still living in that condo complex?

7 A. No, she was not.

8 Q. Where was she living?

9 A. She was living with her parents.

10 Q. And where do her parents live?

11 A. I'm not sure exactly the street, but it's right off of, um, Yucca Street. [Knocks against

12 something] whoops. It's right off of Yucca. I'm not sure, if you pass right there by the tennis

13 courts at the high school?

14 Q. Yeah.

15 A. Right there you make a, a left-hand turn and it's down that way. I'm not sure the exact

16 roads but....

17 Q. Okey-doke. Did Ms. Anaya work for a living? Do you know if she had a job?

18 A. Yes, she did. She worked at the Dr. Field Goods Café. It's at the little plaza right there

19 where Big 5's at.

20 Q. And did Ms. Anaya have a boyfriend that you knew of?

21 A. Um, I know she had...she was seeing a guy she had mentioned, but I'm not too sure if

22 they were, you know, how serious they were or what, but I had never met the, you know, the

23 gentleman or anything like that. I had just, you know, gone off of, you know, just hearing, you

24 know, some phone calls and conversations like that, but never really, you know, said too much

25 about that, no.

26 Q. So the night of the 6<sup>th</sup>, what time did Ms. Anaya come here?

27 A. It was actually on the morning of the 7<sup>th</sup>, which would be, you know, it was probably

28 twelve thirty, I'm assuming twelve thirty. As I said, there was an altercation at the house. I was

1 outside with the Santa Fe PD, and that's when she showed up right shortly after that. So it was  
2 about 12:30.

3 Q. Okay, so there is no confusion, you're talking there was an altercation....

4 A. It was...it....

5 Q. At the condominium?

6 A. Yes, at the condos, actually, at my neighbor's house right across. That's the reason that  
7 I was awake. I mean, I woke up at that time. I was actually getting ready for bed and I heard a  
8 loud bang against the door. I go outside, you know, and my neighbors had actually, you know,  
9 were in an altercation with some other people, and so anyway I was outside and I had spoken  
10 with, you know, the police officer, Santa Fe PD officers and just gave them a statement as to  
11 what I saw, you know, and what went on. And shortly after that, like I said this was about  
12 twelve thirty and I went in, you know, back into the house and I was just, you know, getting  
13 ready to lay back down and that's when Jeanette came and knocked at my door and asked if I  
14 could give her a hand, and I said no problem.

15 Q. Give her a hand how?

16 A. Filling up her tires. She [inaudible 00:29:06]...one of her tires, actually two of them  
17 were low but one of them was, you know, in need of some air and she asked me if I could go  
18 with her to the station to go put air in. I said, you know, sure. I wanted to get a pack of smokes  
19 anyway, so I was like you know what? I said sure, I said I'll go get a pack of cigarettes and I'll  
20 help you put, you know, air in your tire.

21 Q. So where'd you go?

22 A. We went down to the...to I believe it's a Giant or...I believe it's a Giant. Anyway, it's  
23 right on the corner of Baca Street and Cerrillos Road.

24 Q. Right across from Tecolote?

25 A. Right across from Tecolote, from the new Taco Bell. We went there. I had ended up  
26 forgetting my wallet so I was unable to get the cigarettes, but we filled up the tire and that's  
27 where we were at. Did you want me to continue from....Okay, um --

28 Q. Continue from there.

1 A. Anyway, we left from the gas station, we left from Baca Street. We hit the stoplight at  
2 Baca, we crossed over Cerrillos Road. We got onto Alta Vista Street. We were heading up on  
3 Alta Vista. As we got closer to the intersection of Alta Vista and Saint Francis, the light was  
4 red, so we started to come to a slow...to stop at the red light. But the light turned green before  
5 we had even got to the intersection so she accelerated and made a right-hand turn onto Saint  
6 Francis.

7 Q. Okay.

8 A. And as soon as we made the right onto Saint Francis, the police officer got behind us  
9 and turned on his lights. There was no sirens or anything, but he turned on his lights and got  
10 behind us and at that time Jeanette, we went off into a little like residential area back there.

11 Q. Mm-hm.

12 A. And anyway, we started going around and, you know, that's when I was like, you  
13 know, what's going on? Or like, you know, because she didn't want to stop and that's when  
14 she informed me that, you know, she didn't want to stop because she had a warrant and she  
15 didn't, you know, tell me what the warrant was for or anything, but, so anyhow, she continued  
16 to drive. At that point we almost got back...because it's like a roundabout. I mean, not a  
17 roundabout, but it's like a, almost like a horseshoe around that little neighborhood that we  
18 were in. Anyway, so we almost got back to the intersection of Saint Francis, and that's when  
19 the police officer, you know, turned on his sirens and, you know, and at that time we started,  
20 you know, the, the speed. We got...from that point we turned right onto Saint Francis, and  
21 that's when, you know, the speeds increased and we went...from Saint Francis we went down  
22 Saint Francis, we got off onto Saint Michael's, and then from Saint Michael's we went up  
23 Pacheco Street, and then from Pacheco then we made a right onto side...or what is it, Siringo?  
24 Sorry, yes. We made a right onto Siringo and then went down on Siringo and right after the  
25 intersection of Yucca and Siringo there's a right-hand turn. I'm not sure what the street is, but  
26 we took that right-hand turn and went around a bunch of roads.

27 Q. Right-hand or left?

28 A. I'm sorry, a left. I'm sorry.

1 Q. [Inaudible 00:32:52] --

2 A. Well, yeah.

3 Q. -- take your time. Now, I know you're nervous.

4 A. I've just got a lot going on, too, you know. Didn't get too much sleep last night but,  
5 anyway, so we made a right-hand turn --

6 Q. Left-hand turn?

7 A. Sorry, left-hand turn. We went through all of those little back roads. Like I say, I don't  
8 even know which...I'm not too familiar with the streets, you know, but anyway we were, you  
9 know, going through that back road, and the whole time, I mean, the officer's right behind us  
10 and at one point, you know, we came around and we were making a left-hand turn and that's  
11 when it felt that we lost control of the vehicle. We kind of like spun around, and that's when  
12 the officer made contact with the vehicle at that point. The car, our vehicle, was pushed up  
13 against like a fire hydrant curb, and the officer kind of hit us [moves something]...I'm sorry  
14 about that. The officer hit us at...from here, like kind of like that. So he kind of hit like the  
15 back corner of the vehicle.

16 At that point, Jeanette backed up, made contact with his car, and as we tried, as we  
17 tried to drive off and pull forward to leave the scene is when the shots opened, you know, he  
18 started...the police officer opened fired on us and at that point the vehicle went this way and  
19 we hit a wall, a cinderblock wall, and that's where we came to rest, I guess, you know?

20 Q. So as the police officer was driving, I mean pursuing even. Jeanette's driving the  
21 vehicle. The police officer is behind you.

22 A. Yes, ma'am.

23 Q. Are you telling Jeanette anything? What are you telling her?

24 A. I'm telling her to please stop. I said just please, please just stop, you know. I said, you  
25 know, a warrant, I said I promise I'll go get you out of jail, you know, I just, I was just pleading  
26 with her to stop, you know. It wasn't worth, you know, and at the time I told her you know,  
27 you know, this...he's not going to...he's not going to back up. He's not going to let you go,  
28 you know. I said he's not going to stop, you know, so, but I just kept pleading with her to

1 please stop and she was just so deathly afraid of going to jail that, you know....

2 Q. Did she think the pursuit was going to stop at any point?

3 A. Yes, she did. She said that...she mentioned that, I mean, towards in the beginning of  
4 the whole thing when we first started on the...when the speeds got increasing, when we got

5 on...back onto Saint Francis from the little residential area, that's when everything started.

6 And she's like, They're not supposed to chase you. They're not supposed to chase you. She's

7 like, I'll just deal with it when I get back to the house. She's like, They can pick me up. They

8 have my license plate. And I was like, You've got to stop and....she didn't want to go to jail.

9 Q. Do you know why she was saying they're not supposed to chase you?

10 A. I, I don't know.

11 Q. Okay.

12 A. I don't know.

13 Q. So were you afraid?

14 A. Yeah.

15 Q. Why didn't you jump out of the car?

16 A. Going seventy-five, eighty miles an hour....you know, I would rather just sit there and I  
17 didn't think, you know, any...that the outcome was going to be that, you know. I mean, given  
18 the options I honestly don't know.

19 Q. So, Mr. Muñoz, would you look at this...at State's Exhibit No. 5 right here. Oops. If  
20 this is Calle Cedro, you know, and let's just say this is where the PIT occurred?

21 A. Mm-hm?

22 Q. Do you remember the position of the vehicle when you stopped? When *you* stopped.  
23 Your vehicle?

24 A. Mm-hm?

25 Q. Do you remember?

26 A. Mm-hm.

27 Q. And I ask you to be a great artist. Can you just kind of draw wherever your vehicle  
28 was?

1 A. Sure.

2 Q. Just put a box, yeah, just to show us where your vehicle was. Okay, now, if this --

3 A. This is, this is --

4 Q. -- yellow thing is the --

5 A. -- a house? A fire hydrant?

6 Q. Here's the fire hydrant. This, you know --

7 A. It's so hard to get our vehicle stopped [inaudible 00:37:19].

8 Q. Okay. Where was the police officer's vehicle?

9 A. The police officer's vehicle I want to say was about right here.

10 Q. Alright. When the police officer started shooting, did you see him?

11 A. Say yeah.

12 Q. Okay. What did you see?

13 A. What I saw was at the point when we stopped, and, like I said, at the, at the time that

14 we...the vehicle was stopped here, the police officer was standing here on the side of the

15 vehicle, on the driver's side of the vehicle, standing by Ms. Anaya's window.

16 GRAND JUROR: We can't see all this.

17 DISTRICT ATTORNEY: Oh, I'm sorry. I apologize.

18 JEREMY MUÑOZ: Let me make....

19 DISTRICT ATTORNEY: Is that better?

20 GRAND JUROR: Thank you.

21 DISTRICT ATTORNEY: I apologize.

22 A. So our vehicle, the police officer's vehicle, the police officer was standing on the side

23 of our vehicle at the time when, you know, after everything stopped, after the collision and

24 everything, after we stopped. The police officer, you know, jumped out of the vehicle. I'm

25 assume...I mean, I didn't see him exit the vehicle, but the next thing I know is we're backing

26 up. We strike the officer's car. At that point he's standing on the side of Ms. Anaya's window,

27 and that's when he has his weapon drawn and ready, and he's telling me to stop! You know,

28 stop, stop, and at that point, like I said, we had already backed up, we made contact with the

1 police officer's vehicle. just enough in order for us to pull forward and start driving away from  
2 the scene. At that point when we start driving away and when we start turning this way, and  
3 he's already behind the vehicle, I can see him standing behind the vehicle and that's when the  
4 shots start.

5 BY THE DISTRICT ATTORNEY:

6 Q. So where...when, when did the shots start?

7 A. As we're pulling away.

8 Q. As you're pulling away.

9 A. Yes, ma'am.

10 Q. Do you remember when they stopped? If you don't remember [inaudible 00:39:25].

11 A. I don't. No, I don't remember. I mean, like I said, I mean I just heard a bunch of shots,  
12 and the next thing you knew we were up against the wall, smoke, glass. That's what I  
13 remember about [inaudible 00:39:41]. At that point, it got kind of, you know, kind of  
14 [inaudible 00:39:49].

15 Q. Sir, Mr. Muñoz, did...when the PIT maneuver occurred, did Ms. Anaya say anything?

16 Do you recall her saying anything?

17 A. She was saying, uh...[upset] excuse me. She was saying, Please stop. Stop. She was  
18 referring to the officer to stop. She's like, What are you doing? Stop, stop, you know. She  
19 couldn't understand, I guess, why he was ramming us or why, you know, he did what he did.

20 Q. So, and that's when the PIT maneuver occurred and then you hit, you know, basically  
21 the curb.

22 A. Right.

23 Q. Did she say anything from that point on? If you recall. I'm not asking you to make  
24 anything up. It's only what you recall.

25 A. That's like I say, at that point when he hit us and we went up against the curb, that's  
26 when she's saying, Stop! Stop! What are you doing? And then after that it was just, I don't, I  
27 can't really recall exactly what, I mean, was said between either one of us. I can't even  
28 remember what I was saying at that time, I mean.



1 Q. Do you have any recollection of Ms. Anaya being shot?

2 A. Um, I didn't see...I didn't see her, of course, because I was in fear for my life and I was  
3 pretty much up against the floor, but, yes, I did see when we came to the stop and after, you  
4 know, I was pleading with the officer to please stop. Enough was enough, you know. My  
5 hand's out the window, just telling him, you know, to stop. Enough. And he kept yelling and  
6 so I looked over and that's when I saw that she'd been shot [crying] and....

7 Q. Did she make any noises or yell at all when the shots started, do you recall?

8 A. I don't recall.

9 Q. Do you have any recollection of how many shots were fired? And if you don't, that's  
10 okay.

11 A. I know it was a lot.

12 Q. Um...I have no further questions of this witness. Do members of the Grand Jury?

13 BY SHARON, GRAND JUROR:

14 Q. Sharon. When you hit the wall at the very end --

15 A. Yes.

16 Q. -- what was your position in the car? Were you under the dashboard or --

17 A. I was --

18 Q. -- did you put your head down?

19 A. At that point I was pretty much tucked as far down to the corner between the door, the  
20 seat, kind of, you know like your passenger seats. You know, your sitting passengers. So I  
21 went down this way.

22 Q. Mm-hm.

23 A. You know, I was all the way up against the floor and up against the door. I figured, you  
24 know, that was probably my safest place.

25 Q. Mm-hm. So, you weren't wearing a seatbelt. Did you have the seatbelt on at that point?  
26 And then, so at what speed do you think when you hit the wall? Was it really a jar? Did it  
27 break the windows?

28 A. I really honestly can't, you know, really recall. But I know we did hit it with some good

1 force. you know. I can't say. Like I said. between, you know, everything that was going on, I, I  
2 really can't, you know, honestly be totally correct, but I know it was a good impact against the  
3 wall, yes.

4 Q. Okay.

5 A. Mm-hm.

6 BY LINDA, GRAND JUROR:

7 Q. Linda. You were saying after your car had stopped and the police officer was walking  
8 towards the driver's side of the vehicle?

9 A. Yes, ma'am.

10 Q. How far had he gotten when you were in the process of reversing? Was he right by --

11 A. He was, he was standing, he was standing so the vehicle...our vehicle's parked up  
12 against the curb like this, like I said up against the fire hydrant. The officer's standing right  
13 here.

14 Q. And that's before you fled the car or anything. So, I mean, in regards --

15 BY THE DISTRICT ATTORNEY:

16 Q. Just a [inaudible 00:44:31], so the record's clear. You're pointing to an area by the  
17 driver's side.

18 A. Correct.

19 Q. Okay, just for the record.

20 A. Yeah. Driver's side.

21 DISTRICT ATTORNEY: Go ahead, go ahead, again, I apologize.

22 BY LINDA, GRAND JUROR:

23 Q. So you, when you were in reverse, the police officer was standing by the driver's front  
24 window.

25 A. Yes, ma'am.

26 Q. Okay, when were the...when did you hear the first shots?

27 A. I was actually looking back...as we were driving away I was looking back, and that's  
28 when I saw him standing there with the gun, and that's when I heard the first shot --

1 Q. [Inaudible 00:44:59] all in the process of moving forward --

2 A. Yes, ma'am.

3 Q. -- when you heard the first shot?

4 A. Yes, ma'am.

5 Q. I think just to reiterate, Jeremy. When you guys were backing up, he was not firing at  
6 your back.

7 A. No. Shot's didn't...shots didn't start until, like I said, as we started to leave the scene,  
8 and that's when the first shots came in, or were from, I could see him standing there. I looked  
9 back because, like I said, we...I know we made contact with the vehicle, and as we started to  
10 pull forward I was looking back, and that's when, like I said, the shots fire started.

11 BY DENNIS, GRAND JUROR:

12 Q. Is there any doubt in your mind about, about what happened?

13 A. No doubt.

14 BY THE DISTRICT ATTORNEY:

15 Q. So, Mr. Muñoz, just to be...so it will be real clear, is it possible when you saw the  
16 officer...let me just [inaudible 00:46:09] [goes to map]. Again, to make sure this is clear  
17 enough. You know, here's the police officer's car. Here's your car.

18 A. Uh-huh.

19 Q. Is it possible that she's...Ms. Anaya's backing up as the officer is approaching the  
20 vehicle? Is that a possibility? I'm not asking to put words in your mouth. I just want to make  
21 sure.

22 A. No.

23 Q. So --

24 A. I mean --

25 Q. Okay.

26 A. -- as, like I say, and, you know, this is from us hitting the wall and everything. I mean,  
27 not the wall but the curbs, coming to a stop at the fire hydrant. As far as I know I look over --  
28 and I mean this is what I remember -- I look over and that's when I see him standing at the side

1 of the window yelling at her. Stop, stop, put your hands up, you know all the, all that stuff, and  
2 that's when, like I said, we backed up, made contact with his vehicle. As we started to pull  
3 forward, that's when....

4 Q. When the vehicle came to a final resting place at the wall, did you see the officer go to  
5 the driver's side window? You know, when, when you hit, you know the officer [sic], didn't  
6 he...did the officer go to the driver's side at all?

7 A. [No verbal response].

8 Q. Okay, just wanted to make sure. Alright.

9 A. After, after I told him that, that he had shot her.

10 Q. Okay, and then what did he do?

11 A. He went around to the other vehicle because I was, like I said, at that point, you know, I  
12 was just pleading with him to please stop. I had my hands out of the window. I was pretty  
13 much hanging out of the car telling him, Please, just stop! At that point he kept yelling and  
14 yelling, you know, and I figured, you know, he was talking, you know, he wanted both of us to  
15 put our hands up, so at that point that's when like I said I looked over and I saw that, you  
16 know, she was just slouched over like that. And that's when I told the officer, I was like, You  
17 shot her, she's dead, I was like, you know, and....That's when he ran around to the other side  
18 of the vehicle and kind of went like that with his gun, you know, and got out the rest of the  
19 window, you know, because it was already shattered anyway, but he like knocked all the glass  
20 out and that's when he checked, I guess, you know, and looked in the car and saw that, you  
21 know, she was slouched over, and that's, you know, when I'm assuming he ran back like  
22 towards the opposite side of the vehicle, like where I was at, where his car was parked and  
23 that's when, you know, everybody else showed up, all the other police officers, and I was just,  
24 you know, begging with him to please get me out of the car and...but....

25 BY DENNIS, GRAND JUROR:

26 Q. Dennis. When Ms. Anaya backed up and then contacted the police vehicle --

27 A. Yes, sir?

28 Q. Where was the officer?

1 A. I'm sorry?

2 Q. Where was the officer standing?

3 A. He was standing on the side of her ve...he was standing on...more like that, more  
4 parked up against the curb. The fire hydrant's here, police officer standing right here on the  
5 side, pointing the gun into Ms. Anaya's window, telling us, you know, to please...to stop or,  
6 you know, put your hands up, that kind of stuff. As we backed up, made contact with the  
7 vehicle, then we drove forward.

8 BY GERI, GRAND JUROR:

9 Q. Geri. Do you know or recall anything she said when she started to back up?

10 A. At that point, like I --

11 Q. And why did she then?

12 A. So we could leave.

13 Q. [Inaudible 00:49:56].

14 BY THE DISTRICT ATTORNEY:

15 Q. Mr. Muñoz, let me ask you this, at any time did you tell a police officer -- just so that  
16 there's no confusion -- that you...did you ever tell a police officer when she was...that you had  
17 said to Ms. Anaya, Watch out, stop, there's a police officer behind us. Did you ever say that?

18 A. I don't, I don't recall saying that. Like I said, I mean, there was a lot of confusion and  
19 stuff, but I do not recall ever telling her to watch out, that there was a police officer behind us.  
20 I don't remember saying that, no.

21 Q. Okay.

22 BY BILL, GRAND JUROR:

23 Q. Bill. Do you recall saying after the whole incident had happened that you didn't know  
24 Ms. Anaya, that --

25 A. I honestly, you know, I didn't...I don't recall saying that, no. Like I said, I mean  
26 everything was just so confusing and, I mean, at the point when all of it happened and we came  
27 to a stop, I mean I didn't even know whether I was shot, whether I was hurt. I mean, that is all  
28 like, you know, it's kind of a blur to me at that point. The first thing, like I said, I do remember

1 is, is, you know, just pleading with the police officer to please stop and to please, you know,  
2 just get me out of the vehicle. And that's, like I say, I'm not too, you know, during the whole  
3 incident I'm not sure. Like I was telling, you know, Ms. Pacheco, I don't remember what my  
4 words were to her, what her words were to me. I mean, I don't even know if we were  
5 conversating at that point or not. I'm not sure.

6 BY THE DISTRICT ATTORNEY:

7 Q. You know, Mr. Muñoz --

8 A. Yes, ma'am.

9 Q. You know, in your, your statement to the police you told them that you didn't know  
10 Ms. Anaya's last name. Do you remember that?

11 A. [No audible response].

12 Q. Did you know her last name?

13 A. I knew Ms. Anaya's last name, yes.

14 Q. Because you put that you didn't even know her. You stated basically...where is it?  
15 You're asked by Agent...or Sergeant Aguirre, "Who is the driver? What's her name?" And  
16 you said, "Jeanette." Mr. Aguirre...Sergeant Aguirre says, "Jeanette?" And you say, "Yes."  
17 Sergeant Aguirre says, "Do you know her?" And then you say, "I just found out her last name,  
18 which was Anaya." Sergeant Aguirre says, "You never knew her last name?" And you say, "I  
19 didn't know her last name, no, sir." And then the officer asks you, "Who told you that her last  
20 name was Anaya?" And you said, "The officer that was here, the other State Police officer,  
21 because he asked me. He asked me if I knew more or less what her name was, and I thought it  
22 might have been Vigil."

23 A. Yeah, I thought...I didn't think, you know, in the...I wasn't too clear on at that point,  
24 you know, like I say, I do remember...recall him asking me the question, but at the time, I  
25 mean, I was so shaken up and so terrified and, I mean, I, I...but I mean I've known, like I said,  
26 I've known Ms. Anaya for, you know, seven years or so, so I know, you know, that...I mean, I  
27 know her pretty well.

28 Q. Let me...just one other place. [Looking through transcript] okay. In your statement

1 again to Sergeant Aguirre. there's a...you're describing what's going on.

2 A. Mm-hm.

3 Q. And it says, and this...here's where the confusion is coming, and I need you to see if  
4 you can put it in context for us, alright?

5 A. Yes, ma'am.

6 Q. And you're asked, "And did you see the officer exit the vehicle, his police car?" Your  
7 response was, "I, I, I didn't actually. You know what? When we backed up I saw him standing  
8 outside. I didn't see him exit the vehicle. I didn't see him jump out or nothing, but when  
9 she...when we went over like that, like I said when we impacted, I looked back and that's  
10 when I felt the officer hit us. And then, like I said, the car felt like it rolled forward a little bit  
11 and she tried to put it in reverse, and I looked back and I could see him standing outside, and I  
12 said Stop. What the hell are you doing? Stop, stop, you know. And he had a gun drawn and he  
13 was telling her, Stop! Stop! And she, boom, tried to take off." Who are you saying, And I said  
14 stop? Are you saying it to Ms. Anaya or are you saying it to --

15 A. No, I'm saying it to Ms. Anaya.

16 Q. Okay. Alright.

17 A. I'm telling her to stop. I mean, you know, and that's pretty much what I told her the  
18 whole entire time of the whole thing, you know, as that was going on, you know. I was just,  
19 like I said, pleading with her to stop, you know. I mean I told her, you know, a warrant. And I  
20 told her, I promise I'll go get you out of jail, I mean, you know, whatever, you know. Just stop  
21 and, you know, I have, I have a daughter, you know, I mean. I've got to be around, you know?  
22 So...it was just like...and as I was saying, you know, earlier, I actually didn't, you know, see  
23 him, like I say, exit the vehicle.

24 Q. Mm-hm.

25 A. But I do know that he was standing on the side of our vehicle pointing a gun into  
26 Jeanette's window, which would be the driver's side window.

27 DISTRICT ATTORNEY: Member's of the Grand Jury, any other questions? May  
28 this witness be excused?

1 FOREPERSON: Yes.

2 DISTRICT ATTORNEY: Mr. Muñoz, if...you're excused now but don't leave.

3 JEREMY MUÑOZ: Okay.

4 DISTRICT ATTORNEY: Don't leave and I'll, I'll visit with you out there.

5 JEREMY MUÑOZ: Okay.

6 DISTRICT ATTORNEY: Okay, so if you could...you have to step out now, sir.

7 JEREMY MUÑOZ: Okay.

8 DISTRICT ATTORNEY: Thank you for your testimony. Just wait for me in the  
9 hall, okay?

10 ?: [Inaudible 00:57:04].

11 DISTRICT ATTORNEY: Wait, wait, wait. Do you have a question, ma'am?

12 ?: I...no, I have a question for you.

13 DISTRICT ATTORNEY: Okay. Well, thanks, Mr. Muñoz.

14 ?: I'm sorry?

15 DISTRICT ATTORNEY: [inaudible 00:57:14]. Just a second. I'll be right out there.

16 Yes, Yes.

17 DENNIS, GRAND JUROR?: I know, all the other juries in the past we always  
18 had a target.

19 DISTRICT ATTORNEY: There is no target.

20 DENNIS?: What are we doing?

21 DISTRICT ATTORNEY: All you're...all you have to do is you're going to hear  
22 evidence as to whether or not it was a justifiable homicide by a police officer. All you do is yes  
23 or no.

24 DENNIS?: So we're having kind of like a trial here, right?

25 DISTRICT ATTORNEY: It's no trial. It's the same thing, you're reviewing the  
26 evidence and you're making a decision as to whether or not it was a justifiable homicide. It's  
27 either yes it was or not it was not. It's a police shooting. We always bring police shootings to  
28 the Grand Jury for the Grand Jurors to review it, for everyone to decide. You represent the



1 community. Because if I were to do it just on my own and not bring it to you, people would  
2 think I'm trying to cover up something, and so this way I bring it to all of you to make a  
3 decision.

4 DENNIS?: Well, yeah but he thought you were giving testimony for somebody else.

5 DISTRICT ATTORNEY: Who?

6 DENNIS?: Oh, I don't know. It was like you were quoting somebody --

7 DISTRICT ATTORNEY: Oh, I was --

8 DENNIS?: -- that we hadn't heard before.

9 DISTRICT ATTORNEY: Agent Aguirre. He was the first witness.

10 GRAND JUROR: He was the first one.

11 GRAND JUROR: He was the first witness.

12 DENNIS?: What, yeah, but I don't remember him saying it up there.

13 DISTRICT ATTORNEY: Oh no, no. I was talking about his statement that Mr.

14 Muñoz gave.

15 DENNIS?: Okay, I was just --

16 DISTRICT ATTORNEY: Yeah.

17 DENNIS?: -- saying that...I was confused.

18 DISTRICT ATTORNEY: No, I understand, sir. It is...it can be...yes, ma'am?

19 GRAND JUROR: Can we look at the video one more time, ma'am?

20 DISTRICT ATTORNEY: You may look at it as often as you want. And you'd like

21 to do it right now?

22 GRAND JUROR: I would if you don't mind.

23 DISTRICT ATTORNEY: Sure, no problem.

24 GRAND JUROR: You want to see the [snowball, Sharon? 00:58:45]?

25 DISTRICT ATTORNEY: Let me just...do you want to see it from the very  
26 beginning or do you want to see it --

27 GRAND JUROR: Just towards the end.

28 GRAND JUROR: Towards the end in slow motion.

1 GRAND JUROR: The end, yeah.  
2 GRAND JUROR: Yeah.  
3 GRAND JUROR: The slow-motion one.  
4 DISTRICT ATTORNEY: Okay.  
5 GRAND JUROR: The slow or [inaudible 00:58:58] --  
6 GRAND JUROR: That's the --  
7 GRAND JUROR: -- that's what [inaudible 00:58:58]?  
8 GRAND JUROR: We should do that, yeah.  
9 DISTRICT ATTORNEY: Okay.  
10 GRAND JUROR: And you really can't hear the shots in the --  
11 GRAND JUROR: Right.  
12 GRAND JUROR: -- in the slow motion one.  
13 GRAND JUROR: Oh, I see.  
14 GRAND JUROR: I want to see it again.  
15 GRAND JUROR: Okay, okay.  
16 GRAND JUROR: Yeah, you can.  
17 GRAND JUROR: They're just slower.  
18 GRAND JUROR: I didn't hear it.  
19 GRAND JUROR: You could hear it --  
20 GRAND JUROR: Yeah.  
21 GRAND JUROR: Yeah.  
22 GRAND JUROR: When it's near me [inaudible 00:59:13] --  
23 [Laughter]  
24 GRAND JUROR: Hey, I've lost a lot hearing.  
25 GRAND JUROR: I counted one.  
26 GRAND JUROR: [Inaudible 00:59:16].  
27 GRAND JUROR: You did?  
28 GRAND JUROR: Yeah.

1 GRAND JUROR: When you're young it's [inaudible 00:59:21].  
2 DISTRICT ATTORNEY: And then I know you all have lunch, so want to go lunch.  
3 I'm trying to...we have a bunch of witnesses this afternoon, too.  
4 FOREPERSON: This is important, so....  
5 GRAND JUROR: Yes.  
6 GRAND JUROR: It's winding now.  
7 DISTRICT ATTORNEY: Great. Okay.  
8 GRAND JUROR: Ms. Pacheco?  
9 DISTRICT ATTORNEY: Yes, sir.  
10 GRAND JUROR: Do the [inaudible 00:59:36] have their take on this?  
11 DISTRICT ATTORNEY: I am sorry, I can't comment on this, [though? 00:59:40].  
12 GRAND JUROR: You can't comment.  
13 GRAND JUROR: Yes, can I ask will there be...was there any sort of toxicology on  
14 her done or will there --  
15 DISTRICT ATTORNEY: There will be witnesses that will...this afternoon that will  
16 address many of those questions.  
17 GRAND JUROR: Okay.  
18 GRAND JUROR: [Inaudible 00:59:53].  
19 GRAND JUROR: Are we going to...is it okay to ask what the warrant was? Did  
20 she have a warrant?  
21 DISTRICT ATTORNEY: Mm-hm. And that, that'll be this afternoon.  
22 GRAND JUROR: [Inaudible 01:00:00].  
23 GRAND JUROR: Oh yeah.  
24 DISTRICT ATTORNEY: Oops, now I have to wake this guy up. Let me find...so  
25 I'm going to be playing the slower video, and it's going to start, so here we go. Let me just get  
26 it going.  
27 [Slower video starts]  
28 [Siren blaring]

1 OFFICER OLIVER WILSON: Okay, now, we're being [inaudible 01:01:12].  
2 DISPATCH: [Inaudible 01:01:19].  
3 OFFICER OLIVER WILSON: [Shouting] Get your hands up! Show me your  
4 hands! [Sixteen gunshots] Show me your hands! Give me your hands!  
5 [Slower video ends]  
6 DISTRICT ATTORNEY: And there will be other witnesses this afternoon who will  
7 address the accident, the evidence at the scene, to assist you in making your decision.  
8 GRAND JUROR: Can I ask a question?  
9 DISTRICT ATTORNEY: Sir?  
10 GRAND JUROR: The...was there a shot through the moving passenger window?  
11 DISTRICT ATTORNEY: There will be witnesses this afternoon who will be able to  
12 answer many of those questions.  
13 GRAND JUROR: Okay.  
14 DISTRICT ATTORNEY: Yes, ma'am?  
15 GRAND JUROR: [Inaudible 01:02:42] back up the car, turn it around to leave  
16 [inaudible 01:02:48]?  
17 DISTRICT ATTORNEY: I can't answer that question for you.  
18 GRAND JUROR: They were probably just trying to get away.  
19 DISTRICT ATTORNEY: Let's let, you know, this is part of your deliberation --  
20 FOREPERSON: Right, so --  
21 DISTRICT ATTORNEY: -- so you really can't discuss it.  
22 FOREPERSON: Not now. Later.  
23 DISTRICT ATTORNEY: So, you're going to have a full house this afternoon, so  
24 what time, Mr. Foreperson, for lunch?  
25 FOREPERSON: One fifteen be back.  
26 DISTRICT ATTORNEY: Okay. Everybody, so we can start right away and don't  
27 eat a heavy lunch because some of the witnesses are a little dry. I don't want you to fall asleep.  
28 [Laughter]

1 GRAND JUROR: Okay.

2 DISTRICT ATTORNEY: So try to eat a lighter lunch. Thank you very much.

3 GRAND JUROR: Thank you. Do we have a time table when [inaudible 01:03:28]

4 when we'll be out of here? We're trying to [inaudible 01:03:30].

5 DISTRICT ATTORNEY: I don't know. It's going depend --

6 GRAND JUROR: Like five thirty, five . . .

7 [CD 3, Track 1]

8 DISTRICT ATTORNEY: . . . now one seventeen and all members of the Grand  
9 Jury are present. The tape monitor, Alejandra and myself, Angela Pacheco. And are we going  
10 to need to see the video right now or should . . . can I turn off the projector for awhile. Okay --

11 ?: Turn it off?

12 DISTRICT ATTORNEY: Please. We'll turn it off. And if then if we need to we  
13 can . . . if you need to see a video again, we can do that. The next witness to be called will be  
14 Officer Imelda Sanchez from the New Mexico State Police.

15 IMELDA SANCHEZ: Okay. Excuse me. Hello.

16 ?: Hi.

17 FOREPERSON: You do swear or affirm that the testimony which you are about  
18 to give will be the truth, under the penalty of law.

19 IMELDA SANCHEZ: I do.

20 FOREPERSON: Have a seat.

21

22

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1 TESTIMONY OF OFFICER IMELDA SANCHEZ

2 BY THE DISTRICT ATTORNEY:

3 Q. Good afternoon, Officer.

4 A. Good afternoon.

5 Q. I apologize if I embarrassed you out there.

6 A. Oh, no worries. [Laughs]

7 Q. I mean, you look different when you're not in uniform.

8 A. I know that's what you meant.

9 Q. [Laughs] would you please state your name for the record?

10 A. Officer Imelda Sanchez with New Mexico State Police.

11 Q. And, Officer Sanchez, how long have you been with the New Mexico State Police?

12 A. Thirteen months.

13 Q. And currently which shift are you on?

14 A. Right now I'm working the swing shift, which is from two p.m. till eleven p.m.

15 Q. And on November the 6<sup>th</sup>, 2013, which shift were you working?

16 A. I was working the graveyard shift, but the only thing is I don't remember if it was six  
17 p.m. till three a.m. or from nine p.m. till six a.m.

18 Q. But it was the graveyard shift.

19 A. It was a graveyard shift.

20 Q. And you were on duty that evening.

21 A. Yes.

22 Q. And how were you dressed?

23 A. In full uniform, display my badge of office of New Mexico State Police.

24 Q. And what were you driving?

25 A. My fully marked New Mexico State Police unit.

26 Q. And Officer...Officer Oliver Wilson was involved in a pursuit on...actually the early  
27 hours of November the 7<sup>th</sup>, 2013, and prior to you becoming aware of that, what were you  
28 doing?

1 A. I was sitting at the office. I was actually calling in a Sky report, which is a state central  
2 intake regarding a previous call that we had responded to.

3 Q. And who had responded to that call, yourself and who else?

4 A. Myself and Officer Oliver Wilson.

5 Q. And where was Oliver while you were, you know, at your office?

6 A. We were actually...we returned back to the office to debrief on the, on the call. I told  
7 him that I had a few concerns and I was going to go ahead and call in my report to Sky, and he  
8 said, Well, I'm going to go ahead and head out. I'm going to go drive around and see what I  
9 find, meaning patrolling.

10 Q. And Sky has to do with child abuse, correct?

11 A. That is correct.

12 Q. So when is it that you become aware that Officer Wilson's involved in a pursuit?

13 A. I'm sorry, excuse me [coughs]. When I was at the office I get a phone call from our  
14 dispatch, and at that time it was a dispatcher Jonathan Montoya, and he stated to me, Oliver's  
15 in a pursuit, and I said, Where is he at? And he gives me a location of Saint Francis and Saint  
16 Michael's. Hang up and I take off.

17 Q. And your, your office, District One patrol office is located where?

18 A. Forty-four ninety-one Cerrillos, very close to the intersection of Cerrillos and Jaguar.

19 Q. So basically you boogie.

20 A. Yes. [Laughs]

21 Q. And what do you do next, Officer?

22 A. At that point I'm already listening to Officer Wilson's location. I didn't even say I was  
23 en route on the radio simply because I did not want to interrupt him. He was giving very good  
24 locations as far as where the vehicle was turning, what was happening. Obviously they were in  
25 the City. My instinct, the location that was given to me, Saint Michael's and Saint Francis, I  
26 proceeded north on Cerrillos. At that point when he's calling out the locations, he calls out  
27 Siringo. I have to make a u-turn to come back because they're headed south. So at that point I  
28 notice a PD unit also with its emergency lights on and I figure we're headed to the, to the same

1 call.

2 Q. When you say PD, are you referring to Santa Fe Police Department?

3 A. Yes, I apologize. Santa Fe Police Department.

4 Q. And so are you following the police officer, the SFPD?

5 A. Myself, as an officer, I'm not too familiar with the, with the City, simply because I  
6 don't patrol in the City. So my instinct was to follow the, the police officer to where Oliver  
7 was at, where he was calling out his locations, simply because they're more familiar with the  
8 City.

9 Q. And what do you remember next on this?

10 A. He's still calling out his locations, and to me I cannot place where the streets are at, so  
11 my instinct going with following the officer proved to me right because he was...we were  
12 going to the same call. The street that I remem...one of the streets that I remember was  
13 Camino Carlos Rey, and that's the same street that we turn into.

14 Q. And then the next thing?

15 A. And then we're driving. He's still calling out locations, and then he calls out San  
16 Pedro. At that point the Santa Fe Police Officer pulls over to the side, I pull up next to him  
17 [clears throat], excuse me, and I ask him where is this street? And he's like, I don't recall this  
18 street. And then there was a, a momentar...momentarily silence on the radio, and I'm asking  
19 dispatch, Get me a location as far as where's Officer Wilson? At that point dispatch is trying to  
20 contact him. Negative contact. Get me a location. Negative contact. And then he calls in, I  
21 believe it was Las Cacas and Carlos Rey, and as far as he said that...or as soon as he said that  
22 the PD officer...we were just seconds away from him, from the location. Followed him and  
23 sure enough his unit was in the middle of the roadway with his lights on.

24 Q. And what did you find when you arrived?

25 A. At that point I parked my unit right next to his, and I get out of the vehicle, run, run to  
26 Officer Wilson's location, and what I noticed when I got there was a silver vehicle partially  
27 parked over a sidewalk. It was...it looked like it had been crashed into a wall. At that point I  
28 also looked for Officer Wilson and he was to my right, and at that point he was standing with



1 his weapon unholstered on his side. and there was a male subject on the floor, laying on the, on  
2 the road. My instinct was to take him into custody. I did, handcuffed him, searched him, put  
3 him in the back of my unit. At this point I still have no idea who the passenger was.

4 Q. And while you were dealing with the passenger, what was Oliver Wilson doing? Are  
5 you aware of it?

6 A. Yes, actually when we do a felony stop, the person that we're pulling...the person that  
7 we're getting out of the vehicle, we have them at gunpoint until another officer arrives and  
8 takes them into custody. He didn't have his weapon drawn on the individual, he just had it  
9 unholstered, waited for me until I took custody of, of the individual, and he holstered it as soon  
10 as he was cuffed.

11 Q. Did you then go talk to Officer Wilson?

12 A. At that point I didn't. I set him in the back of my unit and I walked to where the other  
13 police officers at that point [inaudible 00:09:22] that whole time more PD officers arrived on  
14 the scene. When I walked towards the silver vehicle...excuse me [coughs]. When I walked  
15 towards the silver vehicle, I noticed a female laying on the ground and the police officers were  
16 doing chest compressions on the female.

17 Q. As in trying to resuscitate her?

18 A. Right. At that point, since there were a few officers working on her, it was me and  
19 Officer Wilson, we were standing by, you know, we could assist in, in whatever they needed.

20 Q. So, what did you do next?

21 A. At that point, I told Officer Wilson, you know, go have a seat in your unit. Just wait  
22 until, you know, some...a supervisor gets here. I'll take care of the scene. And he said, I cannot  
23 sit in my car. So I told him just, just go away, but I made sure that he was okay. But as we were  
24 both standing there, you know, standing by with the, you know, waiting for more assistance to  
25 come -- by assistance I mean the ambulance -- Officer Wilson, you know, reality kind of sunk  
26 in what had happened. Just trying to take everything in. That's why I asked him, you know,  
27 just go, just go somewhere else.

28 So at that point he did. He stepped away. They were still working on the female. I went

1 and checked on the guy to make sure he was okay. I did that a few times. And that's when  
2 Captain...New Mexico State Police Captain Collins arrived on scene.

3 Q. What was Officer Wilson's demeanor like when you arrived on the scene?

4 A. When I took custody of the individual, we're pretty much trained to react to a situation.  
5 And what I mean by that is the felony stop. You have your weapon drawn, another officer  
6 comes in, takes the subject into custody. It was just kind of...everything just fell into place, our  
7 training. The male subject was into custody and I went back to check on the female, and  
8 Officer Wilson was there...I could sense that he wanted the female to wake up. Me, too. You  
9 know, please wake up. So [voice shaky], sorry. So at that point...I became very sympathetic  
10 towards him [voice shaky] in the sense that I just can't imagine what he's going through as an  
11 individual. [Crying] not anymore as an officer. So...to me that's what...it was my instinct, just  
12 go away to not look at this, until we get more, more help. So yeah, at the end, you know,  
13 everything just started sinking in on his end.

14 Q. Did the passenger make any statements to you at all [about the incident? 00:13:24]?

15 A. Um, when I took him into custody and searched him, I read him his rights. And he said  
16 he wanted to talk to me. He said, She wouldn't stop. I put my hands up, giving up, and then  
17 there were shots fired. I said, Okay. He didn't go more into detail with me. I didn't ask him  
18 anything else. He did have blood on his jacket, on his clothes. I check him to make sure he was  
19 okay. He refused medical attention. And, but I think at that point he was, he was in shock with  
20 everything that had happened, because later on he, he said, I need medical attention simply  
21 because I wasn't wearing a seatbelt. My back is hurting. So everything just started kind of  
22 thinking in. He was in a crash. So EMS got there. They evaluated him and they made the  
23 decision to transport him just to make sure.

24 Q. I have no further questions of this witness. Members of the Grand Jury?

25 BY GRAND JUROR:

26 Q. Yeah.

27 A. Yes, sir.

28 Q. Was this passenger, was he ever arrested [inaudible 00:15:02]?

1 A. I didn't tell him he was arrested. I told him you are only being detained for  
2 investigative purposes. But he was never told he was under arrest.

3 Q. But he was never arrested anyway.

4 A. No, he as was never arrested anyways. Yes.

5 DISTRICT ATTORNEY: If there are no further questions, may this witness be  
6 excused?

7 FOREPERSON: Yes.

8 DISTRICT ATTORNEY: Thank you, Officer. You're excused.

9 OFFICER IMELDA SANCHEZ: Okay. Thank you.

10 DISTRICT ATTORNEY: Thank you, Officer.

11 FOREPERSON: Please raise your hand. You do swear or affirm that the  
12 testimony which you are about to give will be the truth under the penalty of law.

13 LIEUTENANT ANDREA DOBYNS: I do.

14 FOREPERSON: Have a seat.

15 DISTRICT ATTORNEY: [Whispering] why don't you go on down here.  
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TESTIMONY OF LIEUTENANT ANDREA DOBYNS

BY THE DISTRICT ATTORNEY:

Q. Good afternoon, Miss.

A. Good afternoon.

Q. Would you please state your name for the record?

A. My name is Andrea Dobyms.

Q. And what do you do for a living?

A. I'm a lieutenant at the Santa Fe Police Department.

Q. And how long have you been with the Santa Fe Police Department?

A. I have been with that department about ten years.

Q. What is your current assignment with the Police Department?

A. Right now I'm a lieutenant on graveyard patrol.

Q. And what is graveyard?

A. Graveyard is a shift that we work the hours of eleven p.m. to seven a.m.

Q. And how many officers do you have normally under your command on your shift?

A. Under my command I have about twenty-five officers, but on a given night I have about eight to twelve.

Q. So there are eight on...out on patrol.

A. Yes.

Q. All over the City, correct?

A. Yes, ma'am.

Q. And on November the 7<sup>th</sup>, early hours of November the 7<sup>th</sup>, were you working?

A. I was.

Q. And was there a request for assistance by a New Mexico State Police officer in a pursuit?

A. Yes, ma'am.

Q. And could you please explain that, please.

A. Yes. So at about one thirteen in the morning on November 7<sup>th</sup> our dispatch advised that

1 State Police was involved in a pursuit that was entering...or began in the City, in the  
2 jurisdiction of the City, and they were requesting our assistance. So I was the commander on  
3 duty at the time, and one of the first questions I ask is what is the pursuit for, because without  
4 knowing what the pursuit is for, that is actually what will make the decision if we're going to  
5 join in or not. So I asked our dispatch what the pursuit was for and they were unable to obtain  
6 that information. I waited about a minute, asked again, and again they were unable to give me  
7 that information. So I told my officers that we will not be involved in the pursuit until we have  
8 further information.

9 Q. And that's a policy of your departments?

10 A. Right. So when another agency is involved in a pursuit, we're still governed by our  
11 policies, and one of the policies that we follow is that we have to know what the initial stop  
12 was for. And in our department, we...the initial stop...it can't just be a traffic violation. It has  
13 to be someone that's going to cause harm to someone else, you know, and that  
14 there's...it's...the risk of a high-speed pursuit outweighs the crime that they've committed,  
15 basically. So without knowing what the original stop was for, we just can't get involved.

16 Q. Did you ask the officers to kind of stay in the area in case assistance was needed?

17 A. Yes, we knew basically what area the State Police officer was headed to, so I told my  
18 officers to flood that area and be in the area *if* assistance was needed by State Police.

19 Q. And that would explain why you arrived at the scene so quickly.

20 A. Right, most of us were there within, you know, a minute to a couple of minutes.

21 Q. When you arrived at the scene, what did you see?

22 A. I arrived at the scene pretty shortly after the shots fired call came out. I was a couple  
23 minutes away. And when I got to the scene I saw the officer that was involved and a female  
24 State Police Officer, both on scene, both their vehicles kind of in the middle of Camino Carlos  
25 Rey, and then the suspect vehicle had smashed into a wall on Carlos Rey and Las Casitas.

26 Q. Okay. And what assistance did you provide at that point in time?

27 A. At that point I advised my officers to render aid, so we had a medic that's an officer  
28 and he and two other officers rendered aid, they did CPR, they bandaged the wounds, and...but

1 my, my job duty is I actually secured the scene, set up all of our police units so that no one  
2 could go in and out of Camino Carlos Rey or any of the side streets. We brought out our bomb  
3 truck because it has good lighting and it's kind of a command post. It was a cold night so it's,  
4 it's a trailer. So I allowed that to come out. And we basically just secured the scene until State  
5 Police...the rest of State Police came out and took over the scene.

6 Q. And at some point you turned over the scene to State Police.

7 A. Right. We did initially start a crime scene log. That's who goes in and out of the scene,  
8 and that log was handed over to State Police when we handed the scene over to State Police.

9 DISTRICT ATTORNEY: Okay. I have no further questions of this witness.

10 Members of the Grand Jury?

11 BY SHARON, GRAND JUROR:

12 Q. Sharon. I just wondered if the, the woman who was shot, did...was...during the time  
13 that you were...had this barricade, do they...did the ambulance come and --

14 A. Yes.

15 Q. -- take her?

16 A. So initially we called an ambulance, and before the ambulance arrived -- you know, it  
17 took a couple minutes -- our officers pulled her out of the vehicle, started to render aid, and  
18 then an ambulance was able to come in, and they took the woman to the hospital.

19 Q. So this happened before the State Police Chief came in?

20 A. I believe so. It was pretty quick. Some of the other State Police officers arrived soon,  
21 but since we're in the City the ambulance wasn't too far, and I believe that they arrived before  
22 any other State Police officers that weren't on the scene already arrived. Mm-hm?

23 BY BILL, GRAND JUROR:

24 Q. I'm Bill. When you arrived there was only the two State Police, Mr. Oliver and the  
25 other lady?

26 A. When I arrived there was the two State Police officers plus a lot of City officers were  
27 already there. But the only two State Police officers were Mr. Oliver and the woman, and there  
28 was, I don't know, at least probably six of our City officers that were already on scene.

1 DISTRICT ATTORNEY: If there are no further questions, may this witness be  
2 excused?

3 FOREPERSON: Yes.

4 DISTRICT ATTORNEY: Thank you, Lieutenant.

5 LIEUTENANT ANDREA DOBYNS: Thank you.

6 DISTRICT ATTORNEY: Thanks.

7 LIEUTENANT ANDREA DOBYNS: Yeah.

8 DISTRICT ATTORNEY: Appreciate it.

9 LIEUTENANT ANDREA DOBYNS: [Inaudible 00:22:35].

10 AGENT ERIC ARMIJO: How you doing?

11 ?: [Inaudible 00:22:48].

12 FOREPERSON: Please raise your hand. You do swear or affirm that the  
13 testimony which you are about to give will be the truth under the penalty of law.

14 AGENT ERIC ARMIJO: I do.

15 FOREPERSON: Thank you. You can take a seat.

16 AGENT ERIC ARMIJO: [Inaudible 00:22:58] evidence.

17

18 TESTIMONY OF AGENT ERIC ARMIJO

19 BY THE DISTRICT ATTORNEY:

20 Q. Good afternoon, sir.

21 A. Good afternoon.

22 Q. Would you please state your name?

23 A. Agent Eric Armijo.

24 Q. And what is your current assignment, Agent?

25 A. Criminal Investigations here in Santa Fe, State Police.

26 Q. Let me just grab my notes here for a second. So...Agent Armijo, were you called out  
27 on an incident that occurred on November the 7<sup>th</sup>, 2013?

28 A. Yes, ma'am, I was.

1 Q. And when you arrived at the scene...did you arrive at the scene or....  
2 A. I first went to our State Police headquarters here in Santa Fe for a briefing.  
3 Q. Okay.  
4 A. And then after that we went straight to the hospital, me and the case agent, Larry  
5 Aguirre --  
6 Q. Mm-hm.  
7 A. -- went straight to the hospital. There I found out two medics [sniffs], excuse me, a  
8 little congested. I found out the names of two medics who transported the driver and the name  
9 of two medics who transported the passenger. I had hospital staff call the two medics that  
10 transported the driver, and they came back to the hospital where I interviewed them.  
11 Q. Okay. And did you see Ms. Anaya at the hospital?  
12 A. Yes, ma'am, I did.  
13 Q. And when you arrived, what was her condition?  
14 A. Deceased.  
15 Q. And when someone dies like that, what's the normal protocol with the body?  
16 A. Well, typically Office of the Medical Investigator will be contacted. He or she will then  
17 arrive on scene. They will do their assessment of the, the body, the injuries, and then they will  
18 prep the body, place it in a body bag, and then a funeral home will come pick him up.  
19 Q. And then they take it down to Albuquerque for an autopsy?  
20 A. Correct.  
21 Q. And were you present for Ms. Anaya's autopsy?  
22 A. Yes, ma'am, I was.  
23 Q. Do you recall what injuries Ms. Anaya sustained?  
24 A. Ms. Anaya had two gunshot wounds to her body, one to the head and one to her torso,  
25 chest.  
26 Q. I'd like to show you some photographs that have been marked State's Exhibits 7, 8, 9,  
27 10, 11, 12, 13, and 14. And starting with No. 7, does No. 7 look familiar to you?  
28 A. Yes, ma'am, it does.



1 Q. And what is that?

2 A. It's a picture of Ms. Anaya with the gunshot wound to her back.

3 Q. And is that a photo from the Office of the Medical Examiner?

4 A. In Albuquerque, yes ma'am.

5 Q. Okay. And then what's No. 8?

6 A. No. 8 is a picture of Ms. Anaya's lung, I don't remember if it was her right or left lung.

7 Q. And what does that show?

8 A. It shows a bullet trajectory through her lung causing the lung to collapse.

9 Q. Okay. What's No. 9?

10 A. No. 9 is a frontal view of Ms. Anaya, showing a gunshot exit wound to her throat.

11 Q. Okay, and in reference to that, I'd like to show you what's been marked as State's

12 Exhibit No. 15. Can you identify that?

13 A. State Exhibit No. 15 is a photo of a bullet fragment, or pretty much almost intact.

14 Q. And where was that discovered?

15 A. It was discovered in a black scarf belonging to Miss Anaya. One of the medics, after

16 she was transported to the hospital, they went back to the ambulance to clean it out, noticed a

17 scarf laying on the ground in the ambulance that had a bullet in it. It was handed

18 over...packaged in a brown paper bag and handed over to law enforcement.

19 Q. It's a scarf a woman would wear around her neck?

20 A. Correct.

21 Q. Okay. So going to the next photo, was it...where'd I leave off?

22 A. Ten, No. 10.

23 Q. Thank you. What's No. 10?

24 A. No. 10 is a close-up of a gunshot wound. I believe it's a close-up of the entry wound in

25 the back.

26 Q. Of...the back?

27 A. I believe so. The shape looks consistent to me, anyway.

28 Q. [Inaudible 00:29:08] did I give you a wrong photo?

1 A. Well....

2 Q. That's it [inaudible 00:29:11]. Oh, it's just a close-up of ...yes, that's the close-up of  
3 the wound to the, wound to the back. Yeah, okay. And then No. 11?

4 A. No. 11 is a close-up view of the gunshot wound to the back of the head.

5 Q. No. 12?

6 A. No. 12 is another view of Ms. Anaya's skull with the gunshot wound, entrance wound.

7 Q. No. 13?

8 A. Thirteen is a rod through the skull, showing trajectory of the wound through the, the  
9 head.

10 Q. And is the path through the brain?

11 A. Yes, it is.

12 Q. Okay. And then No. 14?

13 A. Fourteen is exit wound just near her left earlobe.

14 Q. Okay. So, if you could stop there. So if you could stand up, Officer. Could you show,  
15 just kind of...well, let me go over there. More or less, the wound to the back is -- let me turn  
16 sideways -- is right about here?

17 A. Just about between the two shoulder blades, yes.

18 Q. Okay. And then if you could turn and show them where it exited.

19 A. Right around the sternum, right around here, in this area.

20 Q. Okay, and then the second shot.

21 A. The second shot went in, in this area right here.

22 Q. And exited....

23 A. And exited right around here.

24 Q. Thank you, Officer.

25 A. Yes, ma'am.

26 DISTRICT ATTORNEY: I have no further questions of this witness.

27 BY A GRAND JUROR:

28 Q. I have one.

1 A. Yes, sir?

2 Q. Those wounds that were done, could those wounds have been inflicted from shooting  
3 from the back of a vehicle?

4 A. Yes. That's my opinion, yes, they could have been.

5 Q. Okay. Just what about the one on the side and exiting --

6 A. Well, the...in the head? It went in the back of the head, just behind the right ear.

7 Q. So it came out this [inaudible 00:31:25].

8 A. And it came out right here. So it went in here and came out right here.

9 Q. So going from a windshield, say a rear windshield, the one on the torso --

10 A. Mm-hm?

11 Q. -- it would have had to go through a seat or....

12 A. I'm not familiar with --

13 DISTRICT ATTORNEY: There will be some evidence that shows you the path of  
14 the bullet, that will address your issue, sir.

15 A. I never did study the trajectories of the car, so I couldn't really answer to those.

16 BY LINDA, GRAND JUROR:

17 Q. Linda. So in your opinion, this...the gun would have had to have been fired from the  
18 back of the vehicle.

19 A. That's my opinion but, you know, she could have had her head turned. I have no idea  
20 what...how she was sitting. All I know --

21 Q. Would those type of entry areas be of any indication that, that the gun was fired from  
22 [direct? 00:32:11] side?

23 A. The side of the car?

24 Q. Yes, from say the driver's window, approximately.

25 A. Not...again --

26 DISTRICT ATTORNEY: He can't answer it. Officer, don't answer.

27 A. Yeah, I can't, I can't. I can only give an opinion but --

28 DISTRICT ATTORNEY:

1 Q. Okay.

2 DISTRICT ATTORNEY: And there may be other witness that can address that.

3 A. I'm sorry.

4 SHARON, GRAND JUROR: Sharon. Are we going to look at the...that bullet, that  
5 stray bullet that was in her scarf?

6 DISTRICT ATTORNEY: It's right here. Oh, you mean the actual bullet?

7 SHARON: I don't think I want to see it. I just [inaudible 00:32:40].

8 DISTRICT ATTORNEY: It's at the lab.

9 SHARON: No, I mean are we going to look at, at where it came from or what, what,  
10 or is somebody else going to be talking about it?

11 DISTRICT ATTORNEY: Oh, it came, it came from...you'll hear.

12 BY THE DISTRICT ATTORNEY:

13 Q. Where did the bullet come from?

14 A. The bullet came from the shot in the back and it came out through the throat. The scarf  
15 was around her throat at the time, so...again, my opinion, going through the seat or going  
16 through something, it slowed down enough to where after it exited her body it got stuck in the  
17 scarf.

18 Q. And who fired the shot?

19 A. Officer Wilson.

20 Q. Okay. That's where it came from.

21 A. Yeah.

22 DISTRICT ATTORNEY: Any other questions? Thank you, Agent.

23 AGENT ERIC ARMIJO: Thank you.

24 BY THE DISTRICT ATTORNEY:

25 Q. Oh, one other thing I just remembered. Was there...they always do a toxicology on  
26 everyone that's deceased. Did you get a report back?

27 A. I know Officer --

28 Q. Have you seen a report?

1 A. I've seen a report. yes.

2 Q. And what does the report say?

3 A. It shows that Ms. Anaya had cocaine in her system, .08 milligrams per liter or  
4 something like that.

5 Q. At the time of her death.

6 A. Exactly.

7 Q. Okay. But no alcohol.

8 A. I'm not sure. I don't know.

9 Q. Okay.

10 DISTRICT ATTORNEY: Yes, sir.

11 BILL, GRAND JUROR: I have no...Bill. I have no relation, what is .08? I mean,  
12 is that --

13 DISTRICT ATTORNEY: I don't know the answer to that either. Thank you, Agent.

14 AGENT ERIC ARMIJO: Alright.

15 DISTRICT ATTORNEY: Here [inaudible 00:35:03].

16 GRAND JUROR: Would anyone like to see the photos [inaudible 00:35:07]?

17 DISTRICT ATTORNEY: He'll explain it all.

18 FOREPERSON: You do swear or affirm that the testimony which you are about  
19 to give will be the truth under the penalty of law.

20 SERGEANT PAUL CHAVEZ: I do.

21 FOREPERSON: Thank you. You can go to the end and sit in the chair.

22

23

24

25

26

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28

1 TESTIMONY OF SERGEANT PAUL E. CHAVEZ

2 BY THE DISTRICT ATTORNEY:

3 Q. Good afternoon, sir.

4 A. Good afternoon.

5 Q. Would you please state your name for the record?

6 A. Paul E. Chavez.

7 Q. And what do you do for a living, sir?

8 A. I'm a full-time commissioned officer with New Mexico State Police assigned to the  
9 Investigations Bureau in Santa Fe, and my current title is Sergeant.

10 Q. Okay. And, Sergeant Chavez, were you the crime scene manager for the shooting  
11 incident involving Officer Oliver Wilson?

12 A. Yes.

13 Q. And what were your duties?

14 A. My duties were the overall documentation of the scene and evidence therein, and also I  
15 was in charge of making the assignments for the other, for the other crime scene investigators  
16 that were involved in the investigation as well.

17 Q. And...at the actual shooting scene, do you know how many casing were located?

18 A. Sixteen.

19 Q. And they're all...they are all believed to come from Officer Wilson's gun?

20 A. To the best of my knowledge, that is correct.

21 Q. Okay. Are you also an automobile reconstructionist?

22 A. I'm a crash reconstructionist.

23 Q. I apologize, crash. What does that mean?

24 A. What that means is you have specialized training and expertise in the area of, of  
25 crash...what's referred to as crash reconstruction, where you have the...where you have the  
26 training to break down an automobile collision and determine what, what occurred, you know,  
27 things like how the vehicles engaged, causation, determining factors, sometimes speed, and  
28 things, things of that nature. It's a little more in depth than what your typical police officer has

1 as far as accident investigation skills.

2 Q. So in this instance, was it you or Officer Milligan that did the actual reconstruction?

3 A. Officer Milligan actually did the reconstruction. I tasked him with, with analyzing that  
4 portion of the crime scene, specifically the crash.

5 Q. And did you do any of the analysis?

6 A. More of a peer review. I mean, I...I mean, we put our heads together to make sense of,  
7 of what actually had transpired. But ultimately, he was the, he was the officer who analyzed the  
8 scene...the accident scene.

9 Q. Okay.

10 A. When I say accident, I'm referring to the collision between the vehicles.

11 Q. And were the vehicles towed after the scene? Where were they towed to?

12 A. They were towed to the storage lot at the Department of Public Safety headquarters,  
13 and here in Santa Fe.

14 Q. And what was the purpose of towing the vehicles there?

15 A. Well, it...the vehicles are considered evidence in the case, so the vehicles are treated as  
16 such. We actually collect them and transport them, accompany the vehicle to the, to the storage  
17 facility there at the headquarters. So that way there's...the vehicle is not compromised in terms  
18 of evidence in any way, so we can further analyze the vehicles that were involved, the stuff  
19 that's a little more time-consuming that's not feasible to do out at the scene. In other words,  
20 you know, we conduct our trajectory analysis of all of the... of the majority of the bullet holes  
21 where we could identify trajectory pass, and that's a little more feasible to do in a controlled  
22 setting instead of at the scene. We did what was required and necessary at the scene, and then  
23 we further, we further examined the vehicles for evidence.

24 Q. And, you know, I know that, you know, in the reports whenever...as opposed to a  
25 bullet hole you refer to them as defects in the vehicle.

26 A. Correct. That is the term, the term that we utilize when we're talking about a bullet  
27 hole in a...on a person or on a, or on a vehicle or on houses. Defect is usually the term that's  
28 used.

1 Q. Do you know how many defects were located?

2 A. There was a total of forty-one defects, but also understanding that, that some of  
3 those...some single projectiles created three or four defects as they traveled through multiple  
4 surfaces. There was a total of fourteen primary impacts. In other words, primary being the first  
5 time that the bullet impacted a surface. So it appeared, from the investigation we conducted,  
6 the car was shot fourteen times and there are secondary impacts subsequent to those primary  
7 impacts.

8 Q. So if the car was shot fourteen times, where were the other two shots? Where did they  
9 go?

10 A. There were actually two defects on the asphalt surface that were identified as probable  
11 bullet impacts. We actually, there was two...there's two areas not far from the car where,  
12 where there was actually pieces of asphalt that are chipped out, and there's some scraping on it  
13 that we actually conducted a presumptive test which, which showed the presence of lead and  
14 copper, which is consistent with, with a bullet impact. So fourteen hit the car and two hit the,  
15 the asphalt.

16 Q. So you were able to account for all sixteen cartridges.

17 A. To the best of our knowledge we were able to do that, yes.

18 Q. So, what...since Officer Milligan did the reconstruction, I'll have him deal with that  
19 part then.

20 A. Okay.

21 DISTRICT ATTORNEY: I have no further questions of this witness. Members of  
22 the Grand Jury?

23 Thank you.

24 SERGEANT PAUL CHAVEZ: Thank you.

25 DISTRICT ATTORNEY: Sergeant, I should say.

26 FOREPERSON: Please stand right here.

27 WITNESS: Okay.

28 FOREPERSON: And raise your hand [inaudible 00:42:24]. You do swear or



1 affirm that the testimony which you are about to give will be the truth under the penalty of  
2 law?

3 WITNESS: Yes, sir, I do.

4 FOREPERSON: Thank you. [Inaudible 00:42:33]

5 WITNESS: Okay.  
6

7 TESTIMONY OF SERGEANT LAUREN MILLIGAN

8 BY THE DISTRICT ATTORNEY:

9 Q. Good afternoon, sir.

10 A. Good afternoon.

11 Q. How are you today?

12 A. Well, thank you.

13 Q. Would you please state your name for the record.

14 A. Yes, my name is Sergeant Lauren Milligan.

15 Q. And, sir, what do you do for a living?

16 A. I'm in charge of the Central Crime Scene Team for the New Mexico State Police. We  
17 investigate major incidents of a criminal nature in New Mexico.

18 Q. How long have you been a police officer?

19 A. Since June of 1999.

20 Q. Okay. And since you're with the Crime Scene Team, what are some of the...what's  
21 some of the training that you have?

22 A. So I've been to the National Forensics Academy, which is a ten-week class in  
23 Knoxville, Tennessee, where you learn all aspects of forensics, including blood stain with  
24 pattern analysis, shooting reconstruction, latent prints, DNA, etc. I've also been to blood stain  
25 pattern analysis class, shooting reconstruction classes, two of those. I've also been through a  
26 large number of traffic crash reconstruction classes, and I've been on the Traffic Crash  
27 Reconstruction Team for the State Police for about, about eleven years.

28 Q. And, Sergeant, the New Mexico State Police recently spent a large amount of our tax

1 dollars on a little thing that I call gizmo. Will you please tell them what it is?

2 A. So what the Department has bought -- we've actually since bought two of them -- and  
3 it's by a company called Leica. Leica, I think they're popular for building cameras in  
4 Switzerland. So what this is, it's essentially high-definition surveying. So instead of the old  
5 days of using a, you know, a measurement wheel or a, you know, a measurement tape, we've  
6 gotten past the stages of using a total station and now we're using this kind of a robotic system.  
7 So you set it up, push a few buttons, the thing, it, it can tell if it's level or not. If it gets out of  
8 the whack at all and it's no longer level, it shuts the scatter down. But what it does is you set it  
9 up here, it'll spin around the room, and it bounces light off of objects, and whatever the time  
10 for the light to get back to the scanner is, it measures a distance. And it's going to measure  
11 about fifty thousand points per second, and it'll reach out to about three hundred meters.

12 But the way this thing works, it's kind of like a flashlight. So you shine your flashlight  
13 around the room, and whatever is behind the light, it doesn't pick up. So with a scanner you  
14 have to move it in many locations so that you can make sure that you get beneath, behind  
15 everything that you're trying to get. And that was at a cost of about \$240,000. And these  
16 are...it's used by surveyors, engineers. They used these things before we did, and these have  
17 been in law enforcement here for about seven years.

18 Q. And what's the benefit of having one of those objects?

19 A. So, first off it takes survey-grade measurements, up to about a quarter of an inch. And  
20 the benefit to us is that once we...so if I scan this room, I always have the data. I always know  
21 the distances. I always have it. So after we scan with it, we can then use that data to create a  
22 near-scale diagram. So after we scan everything, we put it into a computer program and that  
23 will compute...will make a diagram based off of the point data. And like I said, we always  
24 have it, so if we ever want to go back and say what's the distance between here and here? It's  
25 always there.

26 Q. So, Sergeant, were you called out to a scene on November 7<sup>th</sup>, 2013, in which New  
27 Mexico State Police Oliver Wilson was involved in a shooting?

28 A. Yes, ma'am.

1 Q. What was your assignment for that incident?

2 A. So my original assignment was to go to the hospital and photograph the decedent. And  
3 after I completed my work at the hospital, I went back out to the scene where the shooting  
4 occurred, and Sergeant Paul Chavez was the crime scene manager, so essentially he's in...he's  
5 in charge of the crime scene. And then he directs different people to do different things. So he  
6 asked me to diagram...or document the scene with a 3D scanner and assist with a search of the  
7 scene for evidence.

8 Q. And it was kind of...the scene kind of spread out because there were different impact  
9 points, isn't that correct, sir?

10 A. Yes. So I think for the purposes of this, so I can explain it properly, there's, there's  
11 three impacts. There's something called vehicle-to-vehicle contact -- or a PIT maneuver -- and  
12 that's where the police vehicle hits the vehicle to cause it to lose control. There was a second  
13 impact where it appears that the police vehicle was coming around, and it looks like the  
14 suspect vehicle had stopped, and they hit each other, and then there's a last impact where you  
15 can hear a motor rev up, the vehicle comes in reverse and hits the police unit once again. So,  
16 do you want me to explain all those in more detail?

17 Q. Well, and then also you have the continuation of the vehicle over to the wall, and in  
18 between that you have a lot of markers because there's a lot of evidence in between.

19 A. Okay, so I suppose you could also look at it as four impacts. There's the vehicle-to-  
20 vehicle contact -- the PIT maneuver -- there's the impact as the vehicle comes around and hits,  
21 there's the other impact where it comes back, hits the patrol car, and then the vehicle travels  
22 back on the curb, travels kind of diagonally across the road, and then hits a concrete wall on  
23 the other side of the street. And all these...there's markers that we put down to note where  
24 evidence is at. So if you think about a bullet, a casing is very small and it's hard, it's hard to  
25 see it. So we put these green cones next to the evidence so we'll know when we take our  
26 photography where everything's at.

27 Q. And how do you do that with a scanner?

28 A. So the scanner picks up the cone, so we'll take a cone...you know, if there's a bullet

1 right here we'll take the cone, we'll set it next to it, and that way when we're doing our  
2 diagram I can just put a point right there, next to the cone. It's hard to see that small casing, but  
3 I know that I've got my cone, so my cone right next to the middle of the bullet, and that's  
4 where my point's at. Okay? So it's easier to pick everything out in the scan data.

5 Q. And does the scanner show elevations, trajectories? What does the scanner show?

6 A. It can really show whatever you want to find out. If you have a grade, you can put a  
7 point at one part of the grade, a point in another part of the grade, and it'll figure out essentially  
8 like the hypotenuse of a right triangle, and it'll figure out the grade or what the slope of that  
9 roadway is. It can figure out trajectory. There'll be another sergeant who comes in and talks to  
10 you guys a little bit about trajectory. So it'll scan everything you want it to scan. Now, we tell  
11 it at what level to scan. So we can tell it to scan, say, a medium resolution, which is what we  
12 normally do at an outdoor scene. And that just tells it how close to put the points together. For  
13 some things we do a high-resolution scan, so it puts the points really close together so that we  
14 can get a nice, strong scan of like a trajectory rod. And Sergeant Gorritt will go further into  
15 that, so I probably shouldn't spoil it for you.

16 Q. How does this...how does that help us to understand the impact of the vehicles?

17 A. So what helps a lot in this case is by looking at the photography, and looking at how the  
18 two vehicles hit each other. And that's essentially just taking photos of the vehicles, looking at  
19 the...there's what's called contact damage, which is two objects hitting each other, you know,  
20 two vehicles coming in, they hit like so. The contact is where they actually contact each other.  
21 There's also something called induced damage, and essentially with induced damages, if I have  
22 an aluminum can, I push it...you know, push from on two sides, contact on each side, so I push  
23 it in. The middle of the aluminum dents and fractures, or what have you, that's just induced.  
24 It's not actually contact, but as you push it, the force from two sides will damage the inside,  
25 okay?

26 But as you watch the tape, you'll see...from a different impact you'll see some debris  
27 kind of going up into the air, okay? Now, as far as the first impact go -- the PIT maneuver -- so  
28 when I took this PIT maneuver class awhile back, what you're trained to do is to set up on the

1 car, and pretty much the further back you can tap it, then the more rotation on the vehicle,  
2 okay? And it's safer for everybody, okay? Now, if we did this kind of thing where you pulled  
3 up next to the person and we just hit him, it's not going to do any good. Alright? They're going  
4 to be kind of pushed off this way but with physics they're going to kind of push off on me as  
5 well. okay? So the further back you go, the more rotation you're going to get. That's how  
6 we're, we're taught to hit something like this, okay? And what that does. if you tap and they  
7 spin out. Alright.

8 Now, in this case, as the vehicles are going around the corner, you can see the silver  
9 Honda Accord, which is driven by Ms. Anaya, start to make the corner, and you can see  
10 Officer Wilson start to set up as he's supposed to, okay? But as this vehicle kind of cuts in  
11 front of him, instead of hitting it like this, it's more hit like this. She just cuts in front of him  
12 and there's a time-distance thing there, and they just...they hit each other, more to his right  
13 front bumper to her left rear, okay? So he hits her, she spins out, and then he just kind of drives  
14 around like so and comes to a stop. Now, you can't really see it in the, in the video, you can't  
15 see her stopped, but just from the damages it looks like she stopped something like this. He's  
16 going to swing around and he's going to hit her like this, okay? That's the second impact,  
17 alright?

18 Now, if you look at the front end of our Crown Vic patrol cars, headlight, headlight and  
19 they have these side marker lamps. The side marker lamps are clear plastic with some kind of  
20 amber in them as well. And then sometimes you'll see some red kind of flowing through the  
21 back of them. That's just from the LED light on the back. But on the front end of our patrol  
22 cars there's no red plastic like you would see in a brake lamp assembly. The only red plastic  
23 you're going to find in this collision is going to be on the back of the silver Accord, okay? So  
24 both of the rear taillight assemblies...assemblies are, are red plastic, okay? So when you step on  
25 your brake you can see that, that red, alright?

26 Okay, so keep in mind when he, when he hits her and causing her to spin out, she's not  
27 pushing on her brake, but there's drag on the tires. Okay? So if you're going straight there's no  
28 drag on your tires. You know, there's just some kind of mechanical stuff from the transmission

1 or what have you. When she gets hit and starts rotating, there's more and more drag on her  
2 tires. Okay? So she's slowing down. Alright. So she comes to a stop. He comes around. And it  
3 looks like they hit sort of like this, alright? So she'll come to a stop and they hit like so, okay?

4 Q. This sheet has been marked as State's Exhibit No. 6.

5 A. Okay.

6 Q. Does that look familiar to you, sir?

7 A. Yes, it does.

8 Q. What is that?

9 A. So this, this is a demonstrative photo that I did, just showing an approximate point of  
10 impact from where she likely came to stop and where he, he struck her, okay? Now, there's  
11 really no roadway evidence like skid marks or scuff marks, or whatever, on the road to kind of  
12 show this. But when you watch the video you'll notice that you cannot see her car in the video  
13 for the second impact, so after the PIT comes around they hit each other. You can't see her,  
14 alright? So, you know, the patrol car has got a little camera like right about here. It's going to  
15 show like this much area, alright?

16 Now also, if you look at the left-front corner of his car, if you look on it straight on like  
17 this, if you look on it straight on, you don't see any...you see the damage, kind of some, you  
18 know, a little bit of contact damage up here from where he initially hit her on the PIT  
19 maneuver, but you don't see anything here. You don't see anything coming straight on, okay?  
20 And further, you don't see any scuff marks or any damage behind the front wheel in this area,  
21 okay? All you see is just damage to kind of this left-front corner right here and front of the  
22 front tire. Alright?

23 So if you think about how wide a car is...you know, if a car comes back and hits like  
24 this, well, where are you going to have damage? You're going to have it here, the tire, and  
25 behind the, the front tire. Okay? Something like that. Alright? So just based off of what we're  
26 looking at and the damage to her car, it looks like the initial hit was something like this, okay?  
27 And that's based off the fact you can't see it from the...you can't see her car from the front. If  
28 she backed up into him like this, you would see that. Okay? So swung back, hit him like

1 so...I'm sorry, he comes in and hits her. And if you'll watch the video, you'll see pieces of  
2 clear plastic, amber plastic, and little pieces of red plastic. So we know the only part that's  
3 damaged on her car is right there. That's the only part where the brake light assembly is  
4 fractured and damaged and there's pieces of red. Okay?

5 So he comes over, hits her, she goes forward and her left front tire bumps up on the  
6 curb. Alright? It looks like the front tires are likely kind of...they go like this. Alright.? And  
7 the reason I say that is if you look at this, right down here is where her left front tire is going to  
8 be on. Now, if her car was...let me back up a little bit. So there's an acceleration mark in the  
9 dirt. She throws it in reverse, hits the gas, the tire spins, and this is an open differential car,  
10 which means, you know, if you have like a locked differential, both front tires will spin. This  
11 thing's open differential, so I guess whichever tire's got the least amount of resistance would  
12 spin. Right? And do you have a picture of the, the shoulder kind of where the dirt was  
13 displaced?

14 Q. Yes, I do.

15 A. Okay. So the dirt was sort of displaced at an angle, alright? It wasn't displaced in this  
16 direction. Alright? So, if her tires were straight, she punches it, it spins, it throws the dirt in the  
17 direction the tire was at, it would be projected more kind of towards the sidewalk. But it was  
18 kind of projected more at an angle, alright, which tells me that when she's up on the curb, her  
19 tires are turned to the right a little bit, so front of the car, tires, this tire is spinning, okay  
20 backwards, and it's pushing dirt at an angle in this direction. Okay. So if she's got her tires  
21 canted like that, when she punches it, it goes in the...she's going to come backwards and kind  
22 of to the side and essentially hits him for the third time in the same manner, okay? Alright?  
23 Is everybody clear on that? If I get anybody confused, just slow me down a little bit, okay?

24 Okay.

25 BY GRAND JUROR:

26 Q. Sorry. So the first one was in that front...all impacts were in the front left?

27 A. Yes.

28 Q. Okay.

1 A. They were. Because if you look at the, the second impact after the PIT, you'll see  
2 Officer Wilson comes along and his vehicle stops suddenly, alright? Which makes me think  
3 she was either going very, very slow, or she was actually stopped, okay? So swings around and  
4 hits like so. And remember, this is going to be a hit sort of like this. Okay? And that first hit  
5 kind of fractures her rear taillight assembly, and it also breaks out his left front on the side of  
6 the headlight. Because remember, you've got clear plastic, you've got some amber plastic, and  
7 the only thing that has, you know, clear and amber is his car. And then the red is hers. Okay.

8 BY THE DISTRICT ATTORNEY:

9 Q. [Inaudible 01:00:42] State's Exhibit 16.

10 A. Okay.

11 Q. Is that what you're talking about?

12 A. Yeah, that's it. Okay. So right here is where her left front tire is. She revs it up, throws  
13 it in reverse, and then the tire, you know, it does one of these things and it's kicking dirt  
14 forward, alright? Now, the dirt gets projected over here, so, I don't know, probably like a, say a  
15 thirty, forty degree angle, okay? Now, if her tires were straight...okay, so here's the front of  
16 her car and her tires are straight. She throws it in reverse, from where the dirt was projected,  
17 she's going to back up and she's just kind of go in this direction. Alright? She's just going to  
18 back up and kind of be parallel with him, alright? But instead, her tires are turned, she punches  
19 it, it comes back at an angle again, and it hits him. Now, when it hits him, when she, you  
20 know, throws it in reverse, revs up the motor and comes back at him, they're going to be  
21 largely in the same area right here. So if you consider where his...where he's exiting his  
22 vehicle on the driver's side front door, she's coming right back at him. Okay? So after that  
23 occurs, shots are fired, she pulls back forward, and then Sergeant Gorritt will kind of explain  
24 more about that.

25 But one of the important things to watch on this, so let's say this is the second impact  
26 after the PIT, okay? We have the little parts of clear plastic, amber, and some of the little red  
27 plastic. So we know that that right rear tail lamp assembly from her car was damaged. She goes  
28 forward, when she comes back again and she hits him, you'll see a curved piece of red plastic



1 that flies over through the video camera, and that is again from that right rear tail lamp  
2 assembly on hers because she's the only one that has that, okay? And if, and you watch the  
3 video, his car is stationary, you can hear her motor rev up, she comes back and hits him.

4 And if you look at the photos -- I don't know if there's a better photo here -- but after  
5 the shots are fired, she goes forward. There's nothing really obstructing her. When you look at  
6 the dirt, this dirt that's projected away from her as she's backing up, all that dirt's kind of  
7 pushed down again. And the reason for that is as she drives back forward again, she drives  
8 back through this dirt which is, you know, just kind of on top of all the weeds and stuff, as she  
9 drives it back down, mashes it down. And then you'll see her suspension kind of flex a little  
10 bit. That's just as she comes around, drops back off the curb, and then continues to go until she  
11 hits the wall. Okay. Do you want me to run through it again? Does everybody have it?

12 DISTRICT ATTORNEY: And also members of the Grand Jury, there's a lot of  
13 photos and I'm trying not to give you a lot of photos, but if you want a lot of photos, I can  
14 show you photos, and I intend to use some photos with the next witness, but, you know, I have  
15 photos of all the damage, if you want to see those photos. I mean, lots of photos. I just don't  
16 want to overdo it with you all.

17 BY GERI, GRAND JUROR:

18 Q. Geri. Would it be possible for you to take those two cars, stand up, and show them  
19 from the beginning to the end?

20 A. Yes, certainly.

21 Q. I mean, but you're --

22 A. Yeah, I could do that. I'll use this?

23 DISTRICT ATTORNEY: Mm-hm.

24 SERGEANT LAUREN MILLIGAN: Okay.

25 DISTRICT ATTORNEY: Let me help you.

26 SERGEANT LAUREN MILLIGAN: Okay. Can I take this off?

27 DISTRICT ATTORNEY: Yes.

28 SERGEANT LAUREN MILLIGAN: Okay.

1 DISTRICT ATTORNEY: You can grab this.

2 SERGEANT LAUREN MILLIGAN: Alright. [Drawing] so this is kind of Camino  
3 Carlos Rey. I think the road that they're coming in on here. What was that road?

4 DISTRICT ATTORNEY: Um...I have it right here.

5 GRAND JUROR: [Inaudible 01:05:07].

6 SERGEANT LAUREN MILLIGAN: [Inaudible 01:05:07] Calle Cedro?

7 GRAND JUROR: Calle Cedro and [inaudible 01:05:10].

8 DISTRICT ATTORNEY: Yeah, Calle Cedro.

9 SERGEANT LAUREN MILLIGAN: Okay, so they're both traveling up Calle Cedro,  
10 and what you'll see from the photos [inaudible 01:05:26] see three marks [drawing], centerline  
11 and the edge lines. Alright. So the reason if you can see three marks is you think about your  
12 normal vehicle, okay, traveling down the road. If you lock up your brakes you leave two  
13 marks, okay? It's because your back tires are basically over the middle of your contacts, okay?  
14 If you take that same car and you start rotating it in the same direction, okay, so what do you  
15 have now? You have four marks, okay? So what you're having right here with the PIT  
16 maneuver is, you know, she's kind of lining up like this, and if she gets hit from the rear and  
17 her rear end rotates, then you have something more or less like this. So this mark right here is  
18 the, let's see, the right rear tire, this one is the right front tire, and this one is the left front tire.  
19 Okay? Does that make sense? Alright.

20 So it spins around, let's say it comes to a stop roughly here. So after the PIT he drives  
21 around, and it doesn't look like they have contact at this point. It looks like he's just got his  
22 left, you know, his tire, cranked over to the side pretty good, and he's just kind of coming up  
23 like this. He comes around, comes to a stop. The impact occurs right here. Okay? So after the  
24 impact, she goes forward, I'd say her left front tire roughly in this area, and then because she's  
25 got her wheel print and she punches it, the dirt, you know...if she goes straight forward like,  
26 you're going to see the dirt projected in this area, straight down. But you don't see that. What  
27 you see is it's kind of in this area, okay? So what that is telling me is that she stops up on the  
28 curb with her wheels turned. So front of the car, okay, and tires are like this. Okay. So throws it

1 in reverse. punches it, digs down in that dirt pretty good -- all the dirt gets projected this way --  
2 swings around. and there's another impact caused right there as she backs up and hits the patrol  
3 car.

4 After that, shots are fired and then she continues forward, she drives over kind of this  
5 dirt in this area with her passenger side of her tires, and then back onto the roadway here,  
6 drives forward and then she impacts this wall roughly there. Yes?

7 BY SHARON, GRAND JUROR:

8 Q. Sharon. So approximately the time it takes for her to back up and hit as hard as the  
9 second impact --

10 A. Mm-hm.

11 Q. -- is about what?

12 A. You know, that's a, it's a good question that I don't have an answer for. It's not very  
13 much time.

14 Q. Is it seconds?

15 A. It's definitely seconds, yes, because you can hear...his siren's going, so, you know, you  
16 hear...you can hear the car, her car rev up. And we know it's her car because his car is still in  
17 gear. In fact, once we completed our investigation, I forget what time it was the following day,  
18 once we were done and moved his car we put it back in park. So, obviously if his car was in  
19 drive and was revving up, he would be going forward, okay. So we hear her car fire...rev up,  
20 back up -- yeah, I would say it is seconds -- and then there's the impact.

21 Q. Now, can you...will you...are you able to talk about his position? Or that's not, not  
22 here or there?

23 A. You know, he would probably be better about talking about his position, but --

24 Q. Because that...in this investigation, in your part of the investigation, you're not looking  
25 at the person, you're looking at the [inaudible 01:09:37]?

26 A. Yeah, but if...okay, so let's say, you know, here's his car. Okay? And then her car. So  
27 her car is damaged on the right rear, okay? So when she backs up...this is very approximate  
28 right here, but if you think of about where the driver's side door is, like so...now, keep in mind

1 as well that there is no damage. There's only damage to this area of his car, and there's only  
2 damage to this area of her car. Okay? So, the impact is probably a little more like that, okay?  
3 So if you just consider, you know, roughly where his driver's side door is, and where he's  
4 getting out of, that car is....And all the kind of reference where he's at is based off of where his  
5 driver's side door would open at. So if you think about where his driver's side door is opening  
6 at, you know, that, that car's going to...Yes.

7 BY CARY, GRAND JUROR:

8 Q. So after the PIT maneuver --

9 A. Mm-hm.

10 Q. -- she swings around like you're saying and leaves the tire marks, the three tire marks  
11 on the street.

12 A. Mm-hm.

13 Q. Does she then land with her wheel up on the curb after the PIT maneuver, or --

14 A. No.

15 Q. -- or just from the result of the PIT maneuver, or is it...does she rev up onto the curb  
16 after she lands from the PIT maneuver?

17 A. So from watching the video, it looks like his car largely stays in the same area after the  
18 second hit, okay? So there's the first hit which is the PIT, okay? So he hits her, she kind of  
19 spins around, and then it looks like as he's coming around, he hits her. You watch the video,  
20 you can see movement followed by him stopping suddenly and some different pieces of glass  
21 and stuff flying up in the air. Okay? So if you're familiar at all with physics, Newton's second  
22 law, equal and opposite reactions, when he hits her he's going...a certain amount of his energy  
23 is going to be transferred onto her, pushing her forward, and then he's going to stop because  
24 she's fixing to stop. Okay? So as they come around they hit, some of his energy is transferred  
25 to her, it's going to push her forward and she's going to pop up on the curb on the second hit.  
26 And then once her left front tire is on the curb, throws it in reverse, then she backs up and hits  
27 him. Okay?

28 BY KAREN, GRAND JUROR:

1 Q. Karen.

2 A. Mm-hm?

3 Q. And do you know about approximate distance, because it's not on the videos so were  
4 you able to obtain it some --

5 A. Yes. It's about five feet. So between where her left front tire is up on the curb to the  
6 point of impact is approximately five feet.

7 Q. Does that include the length of the car?

8 A. Right, so what I'm looking at here is if I put her left front tire on that acceleration mark,  
9 so the distance that she backs up and actually hits him, that distance, just from where the  
10 acceleration mark is to hitting is five feet. And that of course does include the distance of the  
11 car, you know what I'm saying? So it's like the cars like sixteen feet, total distance is like  
12 twenty-one feet, subtract sixteen from twenty-one to get five. But Sharon, I'm sorry, did I  
13 answer your question?

14 Q. Yes. Thank you.

15 A. Okay.

16 DISTRICT ATTORNEY: Does anyone have any questions for the sergeant?

17 BY TERRY, GRAND JUROR:

18 Q. Also...sorry, this morning we talked about impact defects?

19 A. Yes.

20 Q. And he said that perhaps you would also talk about that. Are you going to get to that or  
21 [inaudible 01:13:41]?

22 A. I can tell you about the ones that I found on the road and then Sergeant Gorrith will  
23 explain more about what he found in the car. So a bullet is largely made out of copper and  
24 lead, okay, so there's a copper jacket over a lead core. So when we see something on the road  
25 that looks like a bullet defect, we test it with different chemicals to see if they have the  
26 properties of either copper or lead. So I found a couple of defects on the road that looked like  
27 bullet impacts. I tested them for both copper and lead. One of them was positive for copper and  
28 lead, and the other one was positive for just...it was just copper. So, let's see, there's one of

1 my diagrams will kind of show you where those are at.

2 DISTRICT ATTORNEY: Which diagram is it?

3 SERGEANT LAUREN MILLIGAN: Let's see, I...I can actually...I have them in my  
4 file.

5 DISTRICT ATTORNEY: There's photos, too.

6 SERGEANT LAUREN MILLIGAN: Yeah. The diagram that has the green evidence  
7 arrows.

8 DISTRICT ATTORNEY: [Looking through papers] Mm. Let's see. I'm not sure  
9 which one that is, Sergeant.

10 SERGEANT LAUREN MILLIGAN: I can help you find them or I can show out of my  
11 file.

12 DISTRICT ATTORNEY: Is this it?

13 SERGEANT LAUREN MILLIGAN: Yes.

14 DISTRICT ATTORNEY: Thanks. Where's my stickers?

15 See what's marked as State's Exhibit No. 17.

16 SERGEANT LAUREN MILLIGAN: Okay. Thank you. Thank you. Okay, so with this  
17 there's, there's two diagrams. This is essentially all the evidence that we found at the scene.  
18 The top one has got all the green evidence, stuff that's not bullet casings. The one below it is  
19 all the light, you know, it's pointing to where all the casing were. So up top here, the green  
20 ones just kind of show what different markers are and what descriptions they are. There's two  
21 of them that are right here. They're black, and these are those defects I was talking about.  
22 They're 25 and 26. So PIT maneuver happens over here, the impacts happen kind of this area.  
23 This is where her left front tire is there on the, on the shoulder, on the dirt shoulder. This is  
24 where she ends up. As you can see here, the white arrows are kind of all for where all the  
25 casings are at. These two impacts right here, one of them is on the white shoulder line and one  
26 of them is kind of right here on the asphalt near the right rear tire. So those were tested for  
27 copper and lead. They looked like where a bullet hit because you can see kind of the, the lands  
28 and grooves from the casing, and so those were...most likely were bullets striking that.

1 BY LINDA, GRAND JUROR:

2 Q. Linda.

3 A. Yes.

4 Q. So by looking at that, would you say that it was going to...that the gun was shooting  
5 towards the ground?

6 A. Yes. Yes, so the one that was on the light line was a little more definable. You could  
7 tell which direction it was going. It was almost in line with the white line. The other one was  
8 more of a, more of a hole, probably once the bullet struck it took out pieces of rock of what  
9 have you, so that one was a little hard to tell the direction. But, yeah, I think they were...they  
10 were at least common as far as bullets striking the ground.

11 BILL, GRAND JUROR: I have a question. Bill. Is this the officer we can ask  
12 about the...what bullets went into the car and like where?

13 DISTRICT ATTORNEY: I'm sorry, sir, what was that question again?

14 BILL: Is this...awhile ago I asked a question and you said we'd . . .

15 CD 5, Track 1

16 . . . get back to it. And I don't know if this is...if you're going to cover this later, the impact of  
17 the bullets that went into the car.

18 DISTRICT ATTORNEY: There'll be another officer that can discuss those issues.

19 SERGEANT LAUREN MILLIGAN: Yeah, the only thing that I can add to that is so I  
20 scanned the scene with our high-definition surveying tool. I also scanned the vehicle. So when  
21 Sergeant Gorritt talks about trajectory, I was like the one who actually scanned the vehicle,  
22 okay? And when we scanned it the scan will show where the trajectory rods were inserted in  
23 the vehicle, and he'll kind of explain a little more about that.

24 DISTRICT ATTORNEY: If there are no further questions, may this witness be  
25 excused?

26 FOREPERSON: Yes.

27 DISTRICT ATTORNEY: Thank you --

28 SERGEANT LAUREN MILLIGAN: Okay.

1 DISTRICT ATTORNEY: -- Sergeant, and if you could just wait for me out there  
2 and not leave?

3 SERGEANT LAUREN MILLIGAN: Certainly.

4 ?: [Inaudible 00:01:09]?

5 DISTRICT ATTORNEY: Yes. The time is now two thirty-seven. Why don't we  
6 have a break. Thank you. It gets hot in here.

7 [Off the record]

8 CD 5, Track 2

9 DISTRICT ATTORNEY: Mm-hm.

10 ?: Oh yeah.

11 ?: [Inaudible 00:00:03].

12 DISTRICT ATTORNEY: Mm-hm.

13 ?: [Inaudible 00:00:04].

14 DISTRICT ATTORNEY: Pardon?

15 ?: There's [inaudible 00:00:06].

16 DISTRICT ATTORNEY: So are you ready to get back on the record? Okay, the  
17 time is now two forty-three. The next witness to be called, Sergeant Clay Gorritt. Sergeant  
18 Gorritt.

19 FOREPERSON: Please raise your hand, please. You do swear or affirm that the  
20 testimony which you are about to give will be the truth under the penalty of law.

21 WITNESS: I do.

22 FOREPERSON: Okay. Thank you. You can go sit [inaudible 00:00:42].

23 DISTRICT ATTORNEY: Down here, Sergeant.

24

25 TESTIMONY OF SERGEANT CLAY GORRITT

26 BY THE DISTRICT ATTORNEY:

27 Q. Sir, would you please state your name.

28 A. My name is Clay Gorritt.



1 Q. And, sir, what do you do for a living?

2 A. I'm currently employed as a sergeant with the New Mexico State Police Crime Scene  
3 Team.

4 Q. And are you stationed out of the Las Vegas area?

5 A. I am.

6 Q. Okay. What was your involvement in the incident involving Officer Wilson?

7 A. I was assigned to document the bullet impacts in Ms. Anaya's vehicle, the silver  
8 Honda, document the blood stains, and document the trajectory of...resulting from the bullet  
9 impacts in the vehicle.

10 Q. So, how do you do that? You know, I'm a regular person. How do you do that?

11 A. Well, what we start by doing is we start identifying impacts consistent with...or defects  
12 consistent with projectile impacts or bullet impacts. So we start looking over the interior and  
13 exterior of the car, looking for these defects in the glass or the metal or the...whatever portion  
14 of the car, looking for defects that are consistent with a projectile or a bullet passing through  
15 there.

16 Q. Okay, you find, you find them. Then what do you do with them?

17 A. Well, what we'll do then is we'll label them and, you know, we'll stand back a little bit.  
18 We label them and we start looking at them and we start identifying which are primary  
19 impacts, meaning that appears to be the first of a series of impacts, and which are secondaries  
20 indicating that that defect is associated with other impact. So --

21 Q. How do you define primary impact?

22 A. So primary impact would be the first place that we see an impact in the vehicle  
23 associated with a particular trajectory.

24 Q. What would be secondary?

25 A. Secondary would be those defects that are following on along that same trajectory. So  
26 you might have a projectile that goes through a window then into another portion of the car,  
27 say some upholstery, a seat, and continues on, continues on, and each one of those. So the  
28 primary would be the window, and as you look and as they line up, you see that the other ones

1 are secondary, and we would label those as secondary impacts.

2 Q. What type of cartridges does New Mexico State Police use?

3 A. Currently, we're issued nine millimeter...of course, we're talking about a handgun  
4 cartridge.

5 Q. Right.

6 A. We're currently issued nine millimeter plus B plus wrapped.

7 Q. And is it hollow point?

8 A. They are.

9 Q. What's a hollow point supposed to do?

10 A. Well, the basic premise of a hollow point is that when it strikes soft tissue, it will  
11 expand and become larger. It will mushroom out and that creates tissue damage.

12 Q. Is it uncommon for...when you shoot...I shot a handgun, you know, one of your guns,  
13 goes through the wall, and it comes out and if it hits something else, can it tend...can it lose  
14 fragments?

15 A. Yes, it can. In fact, what normally happens is when, when a bullet's shot, its flight is  
16 fairly straight along that parabolic arc for...until it hits the first barrier, whatever that barrier is.  
17 At that point, then, it becomes a question of what angle it struck that barrier, what that barrier's  
18 made out of, but it really...a whole host of things come into play, so you could see some  
19 deflection. The bullet starts to expand. There's a whole host of things that can happen and it  
20 becomes kind of indeterminate at that point what that bullet can do. It can be deflected, it can  
21 ricochet, it can penetrate, stop, it can be deflected and bounce back. There's a lot of things that  
22 can happen.

23 Q. And it can slow down, is that correct?

24 A. Definitely it could slow down.

25 Q. As it goes through things? It can also start to tumble?

26 A. That's correct.

27 Q. Explain the tumble.

28 A. So, that's really a mechanism of the deflection of a bullet. As it strikes a surface at

1 something less than orthogonal -- at less than straight on -- it can be...start to yaw, and so it  
2 starts to tumble. It's no longer traveling in a straight line, the bullet starts to tumble. So it  
3 might still be traveling in that straight line, but the bullet is...the axis of the bullet is no longer  
4 along that straight line, so you can see some odd entries and exits in whatever barrier it is. It's  
5 no longer that perfect circular hole that we all kind of think of as bullet holes.

6 Q. Let's see. You and I are going to spend a lot of time with photos. And we'll go through  
7 the report.

8 A. Sure.

9 Q. So you can...we'll go step by step. How's that sound? I'm going to make you work. I  
10 know you're enthusiastic about it. Let's see. The problem is I don't want to do overkill, but,  
11 you know, as part of your analysis, you take just about every angle, photography angle  
12 possible, is that correct?

13 A. That's correct.

14 Q. And why do you do that?

15 A. Well, I mean, that's the primary way we document a scene is through photography.  
16 That's the first and last thing that we do is photography, mainly we show what it is, what the  
17 scene looks like before we get started and what we discover within the scene. And that's the  
18 primary way we can kind of convey what we find at the scene is through photography.

19 Q. Let me do this. [Shuffling papers]. We'll use.... [shuffling papers]. Sergeant, I'm going  
20 to show you what's been marked as State's Exhibit 41, 42, 43, 44, 45, 46, and 47. Would you  
21 go through each one and just kind of describe what you see the photo of. And then we'll get  
22 into the next phase of this thing.

23 A. Okay. So State's Exhibit 41 is a photograph of the silver Honda Accord driven by Ms.  
24 Anaya. That's apparently at its resting place where it had come in contact with the wall. Some  
25 of the things that I notice that are present here, obviously you can see in the background,  
26 there's some glass next to the vehicle. There's also glass on the roadway back behind the  
27 vehicle from...apparently from whence it came.

28 So, State's Exhibit 42 is a, again, another picture of the silver Honda Accord. Now

1 we're looking at the vehicle. It's been parked in, in a bay at the New Mexico State Police  
2 headquarters here in Santa Fe. These appear to be what we call overview shots. This is the  
3 photography we'll take of the vehicle prior to, to us beginning our documentation of the  
4 vehicle. You can see some damage to the front end of the vehicles. At least some of it would  
5 appear to be older from the tape. You can see there's some what we identified as impact  
6 defects in the front windshield. Glass is out of...is fractured and missing out of all four  
7 windows...door windows, and the rear window.

8 State's Exhibit 43 is at...once again it's a picture of the silver Honda Accord. Now  
9 we're looking at the front right, basically a little less than the front right half of the vehicle.  
10 Again, we've got damage to the front of the vehicle. Also we can see a defect in the lower  
11 right-hand corner of the windshield. The right front window is fractured and a substantial  
12 portion of the glass appears to be missing. You can also see a defect in the door and it appears  
13 to be coming from the inside of the door, somewhat below the mirror of the vehicle, which we  
14 later identified as an impact caused by a projectile.

15 And State's Exhibit 44, we're looking at the, basically the back half of the right side of  
16 the vehicle, or the passenger's side of the vehicle, right side of the vehicle. There's a  
17 substantial portion of glass missing out of the right rear window. It's important to note that it's  
18 kind of got this v-shape here and a little there. I think that's going to be very important later on  
19 when we talk about some trajectories and stuff like that, but a very substantial portion of glass  
20 is missing. We can also look through the vehicle. Right rear...or right left rear window is  
21 missing a substantial portion of glass. Also, the right rear tire is deflated, and you can see in  
22 this picture also that the bumper trim that extends back towards the right rear tire is hanging  
23 down substantially. You can also see...it's hard to see but you can see that the rear window in  
24 this picture, you're beginning to see that it's also fractured or diced, as we call it, and is  
25 missing significant pieces of glass.

26 State's Exhibit 45 is basically the rear of the silver Honda Accord. You can see some  
27 damage to the rear bumper. It's hanging low. It's got damage, appears to be on both corners  
28 and on the rear of the, the bumper. Right rear taillight is missing a substantial portion of the

1 lens. You can also see that the rear window is missing a significant majority or the vast  
2 majority of the glass in the rear window.

3 State's Exhibit 46 is a higher picture of the rear, looking through the rear window into  
4 the front. You can see the rear window of the vehicle. If you look closely you can see one  
5 defect that we identified as a projectile impact in the what I would call the lower left corner of  
6 the window, approximately behind the, the driver's seat. It's hard to tell but there's another one  
7 up in the upper left-hand corner. At least in this photo it's hard to tell. You can also look  
8 through there and see two bullet impacts in the windshield of the silver Honda Accord.

9 State's Exhibit 47, now we're looking at the left side or driver's side of the vehicle. It's  
10 important to note that the driver's side window is missing a substantial amount of glass. Also,  
11 the left rear door window is missing a substantial amount of glass, been fractured and diced.  
12 You can also see, on the leading edge of the window, there's a defect present there that we  
13 identified as a projectile impact. You can also see in the headrest there is a defect in the  
14 headrest that we later identified as a bullet impact...or projectile impact that was associated  
15 with the trajectory.

16 Q. Thank you for doing that, Sergeant. This way it gives them an opportunity to view the  
17 vehicle. What I'd like to do now, Officer, is go through your...basically how you started with  
18 your investigation, how you label everything, like 1A, you know, so on and so forth.

19 A. Right.

20 Q. And we'll go through it, and then I will give you a photo that corresponds to that so that  
21 you can describe what you're looking at.

22 A. Sure.

23 Q. Does that make sense?

24 A. Sure.

25 Q. Okay. So what is your IIA? What's the *I* stand for?

26 A. So *I* is basically an acronym for impact. So I've identified that as a likely projectile  
27 impact in the vehicle. I mean, we're talking about bullets striking this vehicle. We kind of  
28 stand back and we say, you know, this looks like a projectile has struck the bullet...or struck

1 the vehicle. I'm going to identify this defect in the vehicle with an *I* and an item number  
2 associated with it. Now, when, when it's plainly obvious that a series of defects are linked in  
3 that one's a primary and the rest are secondary, we'll...what we'll do is we'll say, okay, this is  
4 I1, the next one might be I1A, the next one might be I1B, and so on. Later on you'll see that  
5 some defects are not...that later on I correlate or I say that these are linked together. They don't  
6 follow that methodology because when I first found them and I first identified them, I was not  
7 certain that they were, in fact, linked together. So some defects, and specifically I1, I think, is a  
8 good example. It's --

9 Q. Okay, let me, let me --

10 A. -- fairly obvious that that one and the corresponding defects behind it are all linked  
11 together by the same projectile.

12 Q. Let me show you State's Exhibit 48 and 49, and explain what you're talking about.

13 A. Right. So we have...so this is a picture of a projectile impact in the, the roof of the  
14 silver Honda Accord. It's slightly behind the headrest...or, sorry, not the headrest, the sunroof,  
15 and basically above the approximate center of the right rear door. So a projectile has struck the  
16 roof, been deflected, continued traveling in its...in that same azimuth and has then struck the  
17 roof of the vehicle a second time. It has perforated the roof at that point, and then it continues  
18 --

19 Q. Excuse me.

20 GRAND JUROR: Can you show us --

21 BY THE DISTRICT ATTORNEY:

22 Q. Could you hold it up?

23 A. Oh yeah, I'm sorry.

24 Q. Stand up and show them, please?

25 A. Sure. So we have the initial strike of the, the projectile. I would identify this as a  
26 primary bullet impact, right. It's the first place that we see this, this projectile struck the  
27 vehicle. So it struck here. It's been deflected, but only slightly. Now, it continues on in that, in  
28 that same path. It continues on and it strikes the roof in another place. Now, at that point it

1 penetrates...or perforates the, the roof at I1B and it basically it goes through the sheet metal  
2 and then it starts...it continues its path and we start seeing defects inside the roof, inside the  
3 sheet metal where it's hitting, hitting, hitting, until it comes basically to a stop at the sunroof  
4 portion. There was something solid enough there to stop that, the projectile from continuing  
5 any further.

6 Q. So if you look at the next photo, I believe that'll --

7 A. Right, but then we --

8 Q. -- show what you're talking about.

9  
10 A. -- then we've...we identify each one of those, and so in this case no question that these  
11 are all related to one projectile. So I have labeled them I1A, I1B, I1C, I1E and then...or I1D  
12 and I1E, okay? So...yes, ma'am.

13 BY LINDA, GRAND JUROR:

14 Q. Linda. So at which point is the bullet actually entering the car?

15 A. So at this point it has penetrated the roof at I1B, for this particular one. It's deflected at  
16 I1A, and you can see that. It struck the vehicle at an angle shallow enough, acute enough, that  
17 it doesn't go into the metal, it's deflected slightly and goes [inaudible 00:21:39]. But because  
18 of the shape of the car, as it continues it then strikes at an angle in the roof because the roof  
19 doesn't just end there and go flat. I mean, the roof's kind of a curved shape there, it is able to  
20 penetrate the sheet metal here and continue you. And then it, it becomes a case of it's moving  
21 here and creating little defects, but never able to leave the, the roof of the vehicle. Yes, sir.

22 BY MALE GRAND JUROR:

23 Q. So would it be...a shot like that, would it be from the side or would a shot like that  
24 come from the rear, since it's angled like this?

25 A. Well, right. This particular vehicle comes from...and that gets into us talking about  
26 how we established a trajectory path. So what I would do here in this case, and what I did in  
27 this case was I establish a trajectory path by putting a trajectory rod in these defect. I'll link the  
28 first defect and a secondary defect. That's the only way that we can do a trajectory, and that

1 leads us...that gives us a trajectory that comes from back to front. from right to left, and this  
2 particular shot, I believe, was very slightly upwards.

3 BY LINDA, GRAND JUROR:

4 Q. Linda. On the right side of the car, it's on the right --

5 A. This particular one, yes.

6 Q. -- side [inaudible 00:23:06] in front.

7 A. Yes.

8 BY THE DISTRICT ATTORNEY:

9 Q. That's the passenger side, correct?

10 A. Yes, right side would be the passenger.

11 Q. Yeah. And that shot skimmed the roof, basically.

12 A. Basically, yes. it...it was basically between the headliner and the metal exterior sheet  
13 metal of the roof.

14 Q. But it didn't enter the compartment where the --

15 A. It did not enter.

16 Q. -- passengers were.

17 A. This particular shot did not enter what we would consider kind of the passenger area  
18 compartment.

19 Q. So you identified that as a primary impact defect, correct

20 A. Yes. Now, I...now, of course, I1A is the primary impact.

21 Q. Correct.

22 A. I1B, C, D --

23 Q. Are secondary.

24 A. -- and E are all secondary impacts. They're all related to I1A.

25 Q. But the reason I, I raise that is that's one of the ones you used for your trajectory  
26 analysis.

27 A. That's correct.

28 Q. Okay. So going on to I2.



1 A. Okay.

2 Q. And correct me if I'm wrong, but I believe this is I2, and if you could describe what  
3 that is?

4 A. Okay, so I2 --

5 Q. And that's State's Exhibit No. --

6 A. Fifty.

7 Q. -- 50, thank you, sir.

8 A. Okay. So I2 is the next defect that I've identified in the vehicle. It is a impact in the  
9 glass of the right front window. If you look closely you can see this defect is elongated because  
10 of the angle that it struck the glass. You can see the white where it struck the glass, that gives  
11 that particular indication that it is a defect. Also --

12 Q. If you could turn it around and show them so that they know what you're talking about.

13 A. So this is the defect, right there. Now, notice that there's a substantial amount of glass  
14 missing from here, and there are common reasons for that. The first time a bullet strikes  
15 tempered glass -- which is what the side windows and the rear window of a vehicle are -- as it,  
16 as it goes through, it...when it perforates the glass, the glass fractures and becomes diced, and  
17 that's these little tiny pieces here. Now, that makes the glass very unstable, very unstable, so if  
18 the door's manipulated, if it's slammed, if another projectile goes through now it doesn't  
19 normally mean that the glass is all going to fall out. In fact, you could expect to find all of the  
20 glass still there and just be diced if we only have one projectile go through it. Some glass could  
21 fall out, but any further manipulation to the glass or the door or the whole vehicle could cause  
22 the glass to fall out. And that's going to be important a little bit later. In any case, there's I2.  
23 Okay?

24 Q. Okay. Let's see. [Paper shuffling]. The next one is I3A and 3B, is that correct?

25 A. That's correct.

26 Q. Show you what's been marked as State's Exhibit 51 and 52. And you can pass those  
27 around.

28 A. Okay. Well, I wanted to hold onto this one because we --

1 Q. Okay, Gorritt, hang on.

2 A. -- and I'll pass them around together --

3 Q. Okay.

4 A. -- because we're going to talk about I2 in relation to I3A. So we've already talked about  
5 this is a projectile that has gone through this window and diced. You can tell it was not an  
6 orthogonal strike, meaning it did not strike perpendicular. It struck at some angle. During my  
7 trajectory analysis I determined that it likely was...continued on after strike this and it...that  
8 projectile was actually the cause of this defect in the lower left-hand corner of the windshield,  
9 I3A. That bullet struck the windshield, and because of the way the windshield glass is  
10 manufactured, it actually deflected and went into the dash and caused the defect I3B. So what  
11 we have here is a projectile that has struck I2, gone through the window at an angle. Now, that  
12 bullet, and we talked about a bullet striking a barrier begins to slow down. Because it's slowed  
13 down and because of the construction of the window of the lamination of the front windshield  
14 on modern vehicles, if it strikes that window at an angle, that window starts to deform because  
15 of that lamination between the two pieces of glass. I guess it's flexible or something like that.  
16 It allows it to deform as opposed to just shatter like the tempered glass that we see on the side  
17 window. And so it deflects the window down and into the dash. So during my trajectory  
18 analysis, I linked I2 with I3A and I3B. So that would be an example of primary and secondary  
19 defects that we later linked together.

20 Q. How you doing, Sergeant? I'm making you work.

21 A. Yes, you are.

22 Q. Okay. This is a good thing. Next I'd like to ask you about I4. Let me show you what's  
23 been marked as State's Exhibit 53.

24 A. So I4 is a defect in the leading edge of the rear left door. Now, because of the nature of  
25 this defect, we can see that it is traveling from right to left, meaning from passenger to driver  
26 side, and it has struck the, the leading edge of this door and has actually gone into the window  
27 frame of the, of the door, on the leading edge of that, that door there. And it's actually, it struck  
28 it in such a manner that it has caused the frame to deform, but not allow that bullet to perforate

1 the exterior sheet metal. So it deforms that metal and falls down. That gets back to it would  
2 appear that that bullet had already slowed at some point, so we might expect a bullet that had  
3 not slowed, a projectile that had not slowed to perforate that. So that might be some indication  
4 that we could say, you know, there was some intermediate barrier that this bullet may have  
5 struck before this to cause it to deform this sheet metal and not be able to perforate it.

6 Q. Let me show you what's been marked as State's Exhibit 54. It relates to your 15.

7 A. Right. Now, 15 is a defect in the right rear window, so right passenger side door  
8 window. You can tell there's not much of a defect present. It's very small. It is...a very small  
9 amount of the defect's present. The majority of the glass has fell away. That presents some  
10 challenges when we're doing a trajectory analysis. It doesn't lend itself to a good trajectory.  
11 However, based on my analysis, I have come back and said that while I cannot say it with a  
12 certainty, it is likely associated with that defect that we see in 14, okay? And we'll talk a little  
13 bit about the difference between certainty and likeliness, I guess likelihood, of these  
14 trajectories that, you know, some things I can't say with a certainty, but we get to a point where  
15 we can infer some things that appear to be likely. Okay?

16 Q. Officer, I'm going to show you what's been marked as State's Exhibit No. 55, and,  
17 actually, we can take care of two of your numbers, I6 and I18.

18 A. Okay. Right. So I6 and I18, and I'm going to...so I6 and I18 are projectile impacts in  
19 the right front rim of this vehicle. I6, I think, I think every would agree, even to somebody who  
20 has no experience in this, that there's obvious a very significant impact to that rim with that  
21 divot. That metal's broken out like that. Very obvious impact. I18 is much more subtle, and  
22 that is...what causes that is a bullet that has struck the rim at an acute angle and is deflected or  
23 a ric...what we would call a ricochet off of the edge of the rim. Okay? So those are two bullet  
24 impacts in the right front tire of the silver Honda Accord. Or right front rim. I guess I should be  
25 more specific.

26 Q. I'd like to show you what's been marked as State's Exhibit 56 and 57, and 57 helps...  
27 illustrates your 7 and your 8 numbers.

28 A. Okay, so I7 is...this is a defect in the right rear tire of the Honda. You can see there's a

1 small circular defect in basically the tread portion of the tire, but very close to the sidewall area  
2 of the tire, and that's a projectile striking the tread, penetrating the tread and going into the tire.  
3 The I8 is a primary impact in the wheel well of the right rear tire area of the Honda Accord. I8  
4 was interesting in that initially because of its shape and its location, I initially considered or  
5 determined that it was a secondary impact. Based on some locations of other defects that we  
6 were able to locate and then able to do some trajectory on it, we later determined that I8 was,  
7 in fact, a primary defect and that the reason why it was so irregular in shape was that the plastic  
8 of the wheel well had deformed oddly and kind of hidden that, that shape that we look for in  
9 some primary impacts.

10 Q. [Paper shuffling]. Fifty-eight, 59, and 60 correlate to your 9.

11 A. Okay. So I9A through, I believe it goes through I9E --

12 Q. Do you have I9 sub C?

13 A. Is there an I9C? I mean, yes, there is one. No --

14 Q. Did I --

15 A. -- IC...I9A...yes, you can just see it --

16 Q. Okay.

17 A. -- in this picture, the actual [inaudible 00:37:28] --

18 Q. I'll give you a better C.

19 A. Okay. So I9A is a...what I would classify as a primary bullet impact. We've seen a  
20 projectile has come from the back of the vehicle and has struck the right rear headrest, the  
21 headrest on the passenger side of the backseat. It is perforated, the headrest, meaning it's  
22 entered and exited and it continues its travel. It strikes the...so when it exits the headrest that's  
23 I9B, so that's...you could probably use the picture...oh, you had a picture I9B.

24 Q. Here's 61, 62, and 63.

25 A. Okay.

26 Q. These are up here.

27 A. Alright. So it enters the headrest at I9A, exits the headrest at I9B, continues on its path  
28 to I9C which you can just see in this picture, and let's see if we have a better picture of I9C.

1 Yes. So we have a picture, strikes the front right seat, the front passenger seat, just to the left of  
2 the headrest, perforates the seat, exits again at I believe it's I9E because when I labeled them I  
3 got E and D backwards, so it exits that seat at I9E and continues on to I9...oh yeah, here's a  
4 picture of I9E. So it's exited the passenger seat, the front of it, and then continues on to I9D,  
5 striking the dash just to the right of the radio console area, and it goes into the dash. Eventually  
6 that bullet continued on and it struck the heating core and was up against the firewall. Put these  
7 in some kind of rationale order, here.

8 Q. So, Officer, I'd like to show you 64, 65, and 66, and give you these, your I0 and your  
9 I1.

10 A. So I10 and I11, from State's Exhibit 64, are defects in the left half of the rear window  
11 of the Honda Accord. I10 is here, more towards the center, I11 is up here. You can tell there's  
12 obviously a substantial amount of glass missing, not uncommon when more than one projectile  
13 strikes that tempered glass which the rear window is made out of tempered glass, unlike the  
14 front window. Now, I11, and this picture of I11 you can see just a small part of the defect here,  
15 once again not well defined but certainly present. But the other thing that we see is this...this  
16 last fragmentation is this pulverized glass. What happens when a bullet strikes glass is that  
17 regardless of the angle that's...when it strikes it, the glass, approximately orthogonal or  
18 perpendicular to that glass, there'll be a deposition of pulverized glass moving away from  
19 the...that defect. And so we see a perfect example of that showing this pulverized glass there.  
20 That's secondary fragmentation and it is indicated that this, this appears to be related to I11, I  
21 believe. Right, and here's a better picture on State 66 showing the defect and that orthogonal  
22 deposition of that pulverized related to I11.

23 Q. Sergeant, I'd like to give you what's been marked as State's Exhibit 67, 68, 69, and 70,  
24 and they correlate to your 12...it's 13.

25 A. So State's Exhibit 67 we've got primary impact I12A. We also have a secondary  
26 impact just up and to the left, I12B. This particular one, and if you look closely you can also  
27 see more of that pulverized glass indicating that this projectile more likely than not struck a  
28 window first, meaning there was glass present there, as it continued on, and it continued in its

1 path, went through I12. either a fragment of the bullet or a fragment of the glass. and this  
2 pulverized glass was deposited on the headrest of the vehicle. I12A continues on to I12C  
3 where it exits the right side of the driver's headrest. You can even see, I mean it like [inaudible  
4 00:43:34] it's struck the foam lining inside, whatever's inside that headrest, and has drug some  
5 of it out there. And then it's continued on.

6 I13A is another primary...let me check something. I want to make sure that I...I  
7 believe I13A is going to be a, yeah, secondary impact. You can see the glass. Once again we've  
8 got pulverized glass here, around there, indicating that that projectile has struck some glass,  
9 that glass continues on in the same basic path of the bullet, and the bullet has...or projectile  
10 has struck the seat, perforates the seat, exits at I13B. It's important to note -- and we'll talk a  
11 little bit about it later -- but there were no terminating defects associated with I13, and this is  
12 going to be important later. Alright, put these back in an order here. [Inaudible 00:44:50].

13 BY GRAND JUROR:

14 Q. When you say...I'm sorry.

15 A. Yes.

16 Q. Okay. When you say no terminating defects, what does that mean?

17 A. Okay. So the bullet will continue on...or the projectile will continue on until it expends  
18 all of its energy and comes to rest, and we expect to see some evidence of that somewhere.

19 Q. Okay.

20 A. So we're always looking for the terminating defect. If it strikes this surface, goes  
21 through this surface, then we'll continue that path and say, well, where did it land. And we  
22 didn't find that terminating defect in the vehicle. Now, I think we're going to find it someplace  
23 else. We'll talk about that in just a little bit.

24 BY LINDA, GRAND JUROR:

25 Q. Linda. On I12A and B, is that primary entrance into the left driver's...

26 A. Headrest.

27 Q. Headrest.

28 A. Yes.

1 Q. In the left [inaudible 00:45:56].

2 A. Yes. That projectile's coming from left to right, slightly downwards, from back to  
3 front. I think when we start talking about trajectories a little bit more, and we've got some  
4 demonstratives that's really going to clear this up, as far as directionality. Yes, ma'am.

5 BY SHARON, GRAND JUROR:

6 Q. Sharon. This may be [inaudible 00:46:27] nature, but according to your investigations  
7 of the primary defects, how many bullets or how many defects were there below the...on the  
8 lower part of the car like towards the, you know, the tires?

9 A. Right. Okay. So let me start with how many impact defects we...let me back up just a  
10 little bit and I'll answer your question as part of that. So I identified forty-one total defects in  
11 the vehicle associated with projectiles. Now, we'll talk about it in a trajectory phase, but  
12 basically we've identified, to answer your question, I think specifically, I was able to identify  
13 ten trajectories. There were --

14 Q. On her person or....

15 A. Well, no, now trajectories are different than --

16 Q. Oh yes, I, I understand.

17 A. They're not primary, okay? So we've got a defect...if we have a primary and a  
18 secondary defect, we can establish it's trajectory.

19 Q. Yes.

20 A. Okay. I was able to establish that there were approximately four primary defects in  
21 the...either the, the left front...or, I'm sorry, right front tire or left rear tire, and one in the  
22 wheel well of the right rear tire. So, now that one later on, I8, it actually entered the cab  
23 through the wheel well but was not a, I guess what I would say, is not a factor in, in Ms.  
24 Anaya's injuries. But, so I guess to answer your question, those five rounds would be at the  
25 lower portion of the vehicle. Does that...is that --

26 Q. Yes.

27 A. -- answer your question? Okay.

28 BY THE DISTRICT ATTORNEY:

1 Q. So, Sergeant, I'd like to show you what's been marked as State's Exhibit 73, 74, 75, 76,  
2 77, 78, and that's the numbers indicated.

3 A. I think I need to --

4 Q. Seventy-nine and 80 also.

5 A. I think I need to add just a little bit so that it, it's a little bit more clear. If you're  
6 considering, and I think I know where you're going with this which is why I want to make sure  
7 that you ...that you're considering this. And if you're considering rounds in different levels,  
8 there were also two defects that were not present in the vehicle, and no trajectory is possible,  
9 and those are the defects that were present on the asphalt in the, in the vehicle. So I gave you a  
10 number. It could be suggested that those defects could be in addition to or part of that number.

11 SHARON, GRAND JUROR: Okay.

12 SERGEANT CLAY GORRITT: Okay? And I have no way of knowing whether  
13 those are separate, unrelated to the defects that I identified, meaning that they're...could that  
14 bullet have struck the ground, ricocheted, or been deflected back up into the vehicle. And then  
15 I see that evidence in the tire. Do you see what I'm saying?

16 SHARON: I thought the bullet would have stayed in, in the asphalt. I thought the  
17 casings were, were blooming.

18 SERGEANT CLAY GORRITT: No. Casings are not bullets.

19 SHARON: Oh, I'm sorry.

20 SERGEANT CLAY GORRITT: So when you see a defect in, in the asphalt, it does  
21 not mean that the bullet stayed. Okay, so, it is more likely that it has been deflected, okay?

22 SHARON: I see.

23 SERGEANT CLAY GORRITT: But I think that the --

24 SHARON: Yes.

25 SERGEANT CLAY GORRITT: -- the true answer to your question is don't forget  
26 about those two defects, okay?

27 BY GRAND JUROR:

28 Q. [Inaudible 00:50:30] my question just --



1 A. Yes, ma'am.

2 Q. -- [inaudible 00:50:31]? I'm still going back to that I12A.

3 A. Yes, ma'am.

4 Q. And when you said they came through on the left, inside their car, it brought...I mean,  
5 if your angles, where approximately on the left side of the car did they enter?

6 A. I think that question will be addressed...are we going to get to the demonstratives of  
7 the trajectories?

8 DISTRICT ATTORNEY: As soon as we finish this, we're going into --

9 SERGEANT CLAY GORRITT: Right. I...as part of my trajectory analysis, I  
10 generate a demonstrative of a trajectory cone. Basically it is a possible location from where  
11 that shot came, and I think that's going to answer your question --

12 SHARON: Okay.

13 SERGEANT CLAY GORRITT: -- very clearly.

14 DISTRICT ATTORNEY: And I apologize to you. The reason the Officer is going  
15 through all these photos, so you can see how he created this. I know that it's, it's monotonous,  
16 but this is something we need to do so that we can, you know, do it correctly.

17 SERGEANT CLAY GORRITT: I14 is a defect in the steering wheel of the Honda  
18 Accord. In the steering wheel cover, I guess the, like the surface of the steering wheel, not so  
19 much the, the metal, okay? So I identified that as I14. Later on, through my trajectory analysis,  
20 I was able to establish that it was a primary impact and that it was related to the secondary  
21 impacts I15A which was in the front left door, the driver's side front door, and I15B which is  
22 on the exterior of the driver's door. So this projectile entered the cab, struck the steering wheel,  
23 continued on, struck the driver's side door just forward of the door handle -- that's this  
24 mechanism right here -- continued on and exited the driver's side door. Okay. So I'll pass  
25 those on.

26 I16 is a defect in the windshield, the front right corner of the windshield. We'll see...I  
27 think there's probably better, well, pictures...this projectile actually fragmented at that point  
28 and some of the projectile stayed in the dash, some of the projectile continued on,

1 strike...struck the windshield wiper and then ended up underneath the hood in that same area  
2 of the vehicle.

3 State's Exhibit 77 shows secondary impact, I17A, B, and C. This is a projectile which  
4 has come from left to right, back to front, and it struck the dash just below the...this vent on  
5 the right side of the vehicle, the passenger side of the vehicle. It continued out...now, this  
6 picture shows the door open. Obviously, the door was closed when this happened. It continues  
7 on, strikes the door and penetrates this inner panel of the door and continues on, and then we'll  
8 see...here's better pictures of I17A, I17B, I17C. Do you have a picture of I17D? It may not be  
9 important. This projectile actually, from C it continues. This is the front passenger side door,  
10 the front right door.

11 DISTRICT ATTORNEY: No, I don't.

12 SERGEANT CLAY GORRITT: It continues on and strikes the exterior sheet metal  
13 but at that point it doesn't have enough energy to penetrate it, so it strikes that and falls down.  
14 We actually recovered that projectile in the body of the door.

15 BY LINDA, GRAND JUROR:

16 Q. Is that responsible for...Linda. Is that the buckle in the door that you see in the red  
17 [inaudible 00:54:56]?

18 A. Yes. Exactly. On the right side. On the right side.

19 Q. That's...okay.

20 A. Okay, the, the projectile in the left door perforated it and continued on.

21 DISTRICT ATTORNEY: Let's see. [Makes sounds as shuffling through papers.]

22 Okay. Okay, let me show you what I've marked as State's Exhibits 71, 72, and that's when this  
23 happened, 81, 82, and 83.

24 SERGEANT CLAY GORRITT: Okay, State's Exhibit 71 is a, another one of those  
25 defects in the rim. This one is in the rim of the right rear tire. It's another deflection. Because  
26 of this hard aluminum of the rim, the bullet has struck it at such an acute angle that it has  
27 deflected and gone on. Here's a close-up of that. You see that typical [waig? 00:56:33] shape  
28 indication that the bullet has come in, struck the metal, and then continued on, deflected by the,

1 the hardness of the metal.

2 I18 is another --

3 GRAND JUROR: Could you turn it just a little bit?

4 SERGEANT CLAY GORRITT: Oh yes, I'm sorry. I'll go back to this one, so, so  
5 this is that kind of waig shape indicating that the bullet has come in at this direction, struck the  
6 metal, and then deflected off, okay?

7 So I18 is a defect in the, I believe this is the right front tire, if I am correct. Yeah, right  
8 front wheel of the, of the Honda. Very subtle, but, once again, you can see that a very hard  
9 object has struck that and been deflected off of there. So that was State's Exhibit 81.

10 State's Exhibit 82 is the primary impact I20A. You can see a circular defect in the  
11 weather-stripping of the front...or, I'm sorry, rear left door, the rear driver's side door. A bullet  
12 has actually penetrated the weather-stripping, gone on and struck the metal behind. Once it  
13 struck the metal it was deflected off and to the left and continues on into what we call the B  
14 pillar of the vehicle, or the middle pillar, and eventually that bullet is...loses enough energy  
15 that it is unable to perforate the sheet metal, and it presumably fell down into the cab.

16 Here's some close-ups of I20A and I20B, I20A being the primary impact and I20B  
17 being the secondary impact and I20C kind of being that terminating defect where we find that  
18 the bullet has made its last strike of any kind of barrier, sorry, [inaudible 00:58:44]. And so this  
19 is the circular defect in the, in the weather-stripping, defect in the metal, and because of the  
20 metal deforming and deflecting that bullet it ends up coming back this way into I20C. Okay?

21 BY THE DISTRICT ATTORNEY:

22 Q. I'm here. So, Officer -- I should say Sergeant. You know, you went through all the  
23 photos and you identified the defects. What's the next thing you do in order to determine  
24 trajectory?

25 A. So once, once we've identified all of these defects in this vehicle, we start inserting  
26 what we call trajectory rods into these defects where...so that we can establish azimuth and  
27 elevation angles, basically trying to determine can we say with any kind of certainty where this  
28 round came from and where it went to. And so that's what I did. So we were able to identify

1 ten trajectories in the vehicle. Now so we have ten trajectories in the vehicle now. There were  
2 four primary impacts that were unsuitable for trajectory analysis. and those are the ones in the  
3 rim and the tire. Without a secondary impact -- a suitable secondary impact -- to allow us to  
4 establish trajectory, there's no way to put a rod in there. The other thing that we have to  
5 consider, and something that becomes important is, as the wheel's rotating, because it's  
6 striking that rim, it changes that greatly. And I can't...there's no way, at least in this case, in  
7 this investigation, for me to say where that tire was in relation to where that shot was fired. So  
8 those don't lend themselves to trajectory. But we were, or I was able, to identify ten trajectories  
9 in the vehicle.

10 Q. So, Sergeant, would you identify what's been marked State's Exhibit No. 84?

11 A. Okay, so this was the...basically the legend for my trajectory analysis demonstrative.  
12 Here I've listed the ten trajectories that I was able to identify. I list them first by the primary  
13 impact and then the corresponding secondary defects, up to a...any deflection point where it no  
14 longer be able...even though that secondary defect may still be established as part of that, it  
15 doesn't become part of the trajectory analysis because it's deflected, say, some strange angle,  
16 some very acute angle that it no longer becomes important to the trajectory analysis. We're  
17 really interested, in most of these, where the shot came from as opposed to where it terminated,  
18 although termination becomes important in some of them, obviously.

19 So we have identified ten trajectories start with I12A, I12C, I17A, I17B, I17C, and I17.  
20 That's the first trajectory. The next one is I20A through I20B. The next trajectory is I11  
21 through I16. The next trajectory is I10 through I13A through I13B. The next trajectory is I9A  
22 through I9B through I9C through I9E through I9D. The next trajectory is I8 through I8B. The  
23 next trajectory is I1A through -- for brevity I'm just going to give the terminating defect -- I1E,  
24 I2 through I3A, I14 through I15B, and I5 through I4.

25 Q. Sergeant, do those numbers always correlate to the photos that they've seen with the  
26 markers that you've created to show the --

27 A. Exactly. Those are --

28 Q. -- the [inaudible 01:03:11] --

1 A. -- the same numbers, same designation. Now, one thing I want to make sure that we,  
2 we understand that I have not put these in any particular order. This order doesn't indicate  
3 sequence, doesn't indicate anything, color. When we see the demonstrative, doesn't indicate  
4 anything other than I chose that particular color and I chose to put it in that order. Okay?

5 You're going to see an elevation and...or, I'm sorry, an elevation and an azimuth. You  
6 know, azimuth is the horizontal angle that the bullet has come in to wherever it struck, and  
7 elevation is going to be basically from parallel to the ground, okay? It's important to know that  
8 I give a degree for each of these, but that degree is plus or minus five degrees, I mean the  
9 spread of about ten degrees, and there's a reason for that.

10 BY DENNIS, GRAND JUROR:

11 Q. It'd be Dennis. This horizontal angle, that, I mean the angle back and forth, is relative  
12 to what?

13 A. Relative to the vehicle.

14 Q. To the, to the Honda.

15 A. To the Honda, right. Now --

16 Q. Is it on the center line of the Honda or --

17 A. Right. Exactly.

18 Q. Okay.

19 A. So zero would be right down the center. And we'll say, so for example, the first  
20 trajectory I12 through I11 was at an azimuth of fifty degrees from left to right, okay, so it's  
21 fifty degrees from the center line, traveling from left to right. It was at an elevation of minus  
22 ten degrees, so it was downward ten degrees, okay? Talking a little bit more about why, why  
23 we have plus or minus five degrees -- and you're going to see it...you see one number and then  
24 you're going to see a cone in the description. Like all things, when humans measure things,  
25 there's a little bit of uncertainty. There's also a little bit of uncertainty on how...what amount  
26 of deflection there is present when a bullet even traveling what we would call perfectly  
27 orthogonal or perpendicular to a surface, when it strikes it there might be, you know, a  
28 deflection that we can't explain because we say, oh it struck it perpendicular. It should have

1 just traveled straight through it. You know, real life isn't, isn't like that. It isn't neat and tidy  
2 like that. So it's been well established through the experts, and one of the experts trained me,  
3 that plus or minus five degrees based on the uncertainty of measurements and all that, is a  
4 reasonable assumption for these trajectories. Okay?

5 Q. Okay, Sergeant, I'd like to show you -- and let's do these for...let's just get them  
6 introduced and then you can start working.

7 A. Sure.

8 Q. Okay. The first one is State's Exhibit No. 85. What is that?

9 A. State's Exhibit 85 is a top view of the silver Honda Accord. It's a trajectory analysis  
10 demonstrative showing the trajectory cones that I have established for the vehicle.

11 Q. [Inaudible 01:06:32].

12 A. Actually, this one should precede --

13 Q. Okay.

14 A. -- this one.

15 Q. Alright.

16 A. So this one doesn't have the roof --

17 Q. Eighty-six.

18 A. -- yeah.

19 Q. Okay.

20 A. This one has the roof removed. I've digitally removed the roof of the, of the vehicle so  
21 that we can see the trajectories as they continue on.

22 Q. Okay, 86 then.

23 A. Eighty-six is basically the same view, except that the roof is, is present. So, really, you  
24 would look at 86 first and then you digitally remove the roof and you can kind of see the  
25 trajectories as they continue on. Yes, ma'am.

26 Q. Can, can...let us just identify --

27 GRAND JUROR: Okay.

28 Q. -- them and then you can ask all the questions. You don't mind?

1 GRAND JUROR: No.

2 A. Okay.

3 Q. I just kind of...Okay. Eighty-seven.

4 A. Eighty-seven is a close-up of the same view with the roof removed. We can start seeing  
5 the trajectories a little bit clearer and how they went through the vehicle.

6 Q. Eighty-eight.

7 A. Eighty-eight is a rear view of the trajectories that I established, so we're looking at the  
8 rear of the Honda and, I mean, we're looking directly at the rear so we see trajectories coming  
9 from the left and the rear and from the right. Okay?

10 Q. [Inaudible 01:07:44] at the scene?

11 A. No, it's the same.

12 Q. Okay, so, you're going to take, then, and this is how...89 and 90.

13 A. So 89 would be a trajectory of the right side of the vehicle, so we're looking at the right  
14 side of the vehicle looking at these trajectory cones. You can easily see the trajectories on the  
15 right side. It's a little harder to see them on the left side, obviously, because these cones are all  
16 on about the same level, which is kind of consistent. And then we've got the left side view of  
17 the vehicle showing the trajectories to the left side. Okay?

18 Q. Okay. So, why don't you...first of all, based on those trajectories, can you tell which  
19 shot occurred first?

20 A. I cannot sequence shots in that manner. Now, it is sometimes possible in tempered  
21 glass to do some sequencing, but it's impossible in most cases to establish this shot came  
22 before this shot. Okay? I think it's, it's, it's possible, because of the way tempered glass  
23 fractures, it's sometimes possible to say this shot came before this shot. But the other shots in  
24 other windows, I can't say...I can't sequence them and say this one came before that. It's just  
25 not possible. In order to look at that, you have to look at the totality of not just the trajectory  
26 but of the scene, casings, everything within there to get a better view. But even then, nobody,  
27 nobody is ever going to be able to say this shot came before this shot, just based on its location  
28 in the car. Okay? If there was some evidence there, you know, if there, if there was something

1 in there that, that would lead us to believe there...if one projectile struck an object which then  
2 moved and was struck by another object, not by another projectile, and we could see that  
3 movement, then we might be able to say, well, you know what? This shot came before that.

4 But of these shots I cannot sequence it. It's ---

5 Q. So if you would pick up the purple car.

6 A. Okay.

7 Q. And point to where the, the red shot came from --

8 A. Okay.

9 Q. -- starting on the left side view.

10 A. Alright. Let me set this up here so we can kind of see it. Can everybody see that?

11 Alright. So, this is the purple car. Red shot is coming in so -- this is a two-door car, the Honda  
12 Accord was a four-door car, so we'll have to imagine that there is a second door here -- comes  
13 in through the right side window, right, strikes the headrest, continues on through the headrest.  
14 After it exits the headrest it continues on, strikes that dash at I17A, way in the right...front  
15 right portion, the driver's side portion, goes through the dash, enters the right side door,  
16 continues on until it strikes the exterior sheet metal where it...yeah, failure to penetrate that  
17 metal and it drops into the door. So it's basically coming through here.

18 Q. That's the red. The next color is blue or something.

19 A. Dark blue.

20 Q. Dark blue.

21 A. So dark blue is coming in at a little bit shallower of an angle. It comes through that  
22 same window area, strikes the rubber windshield or, yeah, window trimming...window  
23 stripping, and then perforates the leading edge of the door frame and continues on into there  
24 and it drops in, in there. Okay?

25 Q. I give up, what's the next color?

26 A. It's hard for me to tell from this one. Let me get a good top view. So the next one  
27 would be brown. Okay. Brown, this is one that we need to talk a little bit about, in that this is a  
28 trajectory that I've identified as being likely but not certain, okay? This is...brown is going to



1 be I11, I believe. and I'm going to consult my chart so we don't get...let it cross...let...yeah.  
2 I11 to I16. So we had that defect in the upper right-hand portion of the rear window. Then we  
3 have a defect in the windshield in the right-hand corner of the windshield. And we talked about  
4 that bullet slowing down. If the bullet is traveling at a speed...the same speed as it exits the  
5 muzzle of the...of a firearm, the 9 millimeter, especially the +b+ that the State Police carry, if  
6 it struck the windshield without striking an intermediate barrier, some barrier before, I would  
7 expect that it would penetrate that windshield. That windshield doesn't have enough strength  
8 to deflect it. In that, that I see that that bullet has been deflected down into the dash and into  
9 the hood, it must have struck an intermediate barrier. Given the angle that is present there and  
10 this defect here, I matched these two up and said, it is likely although it's not a scientific  
11 certainty, that these two defects are related. Okay? So this...it is my opinion, I guess is what  
12 I'm trying to say, is that this bullet has traveled through I11, continued on, struck the  
13 windshield at I16, and ended up in the dash. Okay?

14 Q. How about the blue one?

15 A. The dark blue one?

16 Q. Is that dark blue?

17 A. Are we talking this one or this one?

18 Q. And that's the...which is the next one?

19 A. This...oh, next one is light blue.

20 Q. Okay, that's light blue.

21 A. Okay.

22 Q. How about that one?

23 A. Okay. That is I10, okay? And it is...I've linked it to I13A and 13B. Now, that's one of  
24 those ones that we talked about no terminating defect, okay? I10 and I13A and I13B again,  
25 they...when I ran a trajectory rod through I13A and I13B, it was aligned perfectly on the same  
26 azimuth as I10. But it was several inches below I10, and actually the trajectory rod pointed  
27 back to the rear seat where no defect is present. Okay? So that tells me that something has  
28 changed, right, bullets, projectiles, okay, the laws of physics. They travel in straight lines, they

1 don't loop-to-loop or do anything weird. They may tumble but they're still traveling by the  
2 laws of physics.

3 I'm not certain of what caused that change, if it was movement in the seat when those  
4 officers got Ms. Anaya out of the vehicle in order to do CPR on her or whatever other medical  
5 things that they did, or if it was just the lack of her weight, or something else moved that seat.  
6 So there was a little bit of vertical correlation that wasn't there, but given that the azimuth is  
7 dead on, it's likely, highly likely, that those are linked together. Now --

8 Q. So, Sergeant, is one consistent with the injury that Ms. Anaya sustained?

9 A. Right. We talked about it not having a terminating defect. Based on my analysis,  
10 without having that terminating defect, we start wondering, well, where is that defect? And, in  
11 fact, in looking at the injuries that Ms. Anaya sustained, particularly the round that struck her  
12 in the back and exited in the throat, this defect...this trajectory, would appear to be the  
13 projectile that struck her in the back. Okay, no...we don't see that terminating defect because  
14 the bullet was recovered, I believe, from her clothing where it exited her neck. Okay?

15 Q. And then the next color, is that green, dark green?

16 A. Dark green. So that's going to be I9A through I9E, I believe. I think this is the one I'm  
17 looking for, yes. So green is I9A through I9E...or I9D, I'm sorry. This is the projectile that  
18 came through the rear window, or the rear window area, struck the headrest, the right rear  
19 headrest, the right...the rear right passenger headrest, went through the passenger seat and  
20 ended up in the dash next to the radio. Okay?

21 CD 6, Track 1

22 Q. Next color.

23 A. It looks yellow. It's actually orange. When I produced this, this is more of a  
24 photocopying issue, but this is orange and it's designated that way in my chart. So this is I8A  
25 through I8B. This is the trajectory of the defects in the right rear wheel well. So this bullet  
26 came from this direction, struck the wheel well, and continued on into the passenger cab,  
27 underneath the rear passenger seat.

28 Q. And the next one, whatever color.

1 A. The next one is going to be purple. That is I1A through I1E. So this, this trajectory is  
2 the one in the roof, right? That was the first one we saw. It's striking the roof. It deflects at first  
3 then is able to penetrate the sheet metal of the roof and continues on between the headrest and  
4 the exterior of the sheet metal until it comes to rest approximately at the edge of the rear of the  
5 sun roof of the, of the Honda.

6 Q. Next color.

7 A. Next color is...let's go with turquoise. That's this color here. That's I2 into I3A. That is  
8 that impact in the front right window. It matches up with the secondary defect I3A in the front  
9 right corner of the windshield of the Honda Accord. So this bullet has come from this angle  
10 and gone through this front right door window and continued on until it struck the windshield,  
11 ended up in the dash.

12 Next trajectory is going to be I14. It's the yellow one right here. I14 through I15A  
13 through I15B. This is the one that it comes through the right rear window, continues on, strikes  
14 the steering wheel, continues through the door panel, exits the door at I15B and continues on. I  
15 don't believe...well, we did...I believe there was some projectile fragments located at the  
16 scene, but it's indeterminate whether those projectile fragments were associated with this.

17 Q. Is it possible that that shot correlates to the head injury in Ms. Anaya?

18 A. It is possible. You know, there are two trajectories that I cannot exclude. So we've  
19 already talked about the trajectory that struck her in the back. There's no doubt in my mind that  
20 it's this, this trajectory right here, this light blue trajectory. There's two trajectories that I  
21 cannot exclude that are the ones that struck her in the head, and that's going to be this one in  
22 the red and this one in the yellow. One in the red, one in the yellow, okay? And the reason why  
23 is, is those are the ones that are at the right approximate height, depending upon body position.  
24 There's no way to exclude those because I think it's possible to put the human body in a  
25 position that would allow that trajectory to be the one that struck her in the head and exited out  
26 her left cheek. So yellow and red I cannot exclude. I also can't say one is more likely than the  
27 other. Those are what I have identified.

28 BY DENNIS, GRAND JUROR:

1 Q. Dennis. We do know which side of her head was the entrance wound.

2 A. Right.

3 Q. Correct?

4 A. That's correct.

5 Q. So what --

6 A. The entrance was in the back of her head, slightly on the right side, exited out her left,  
7 left cheek. But here's the thing. The human body can twist and turn, not only at the neck but at  
8 the hips. And so if we start considering, and we have to in this case, if you start leaning  
9 forward in the seat, twist at the hips and look back, you start exposing the right-hand side of  
10 your head to different portions of the vehicle, depending on how far you start looking back  
11 behind you. Yes?

12 BY A GRAND JUROR:

13 Q. But then possible that the one that you say is kind of what you think entered the back,  
14 could it have been, or she slumped from the bullet wound to the back, and it could have been --

15 A. I can't say. Once again, we're getting into possibilities of the body position.

16 Q. Right.

17 A. Is she slumped over because she's ducking, she's moving forward? Is she just up  
18 against the steering wheel? Has she been struck by another projectile? I cannot say. There's no  
19 way for me to say. I just can't sequence them in that manner. It gets to that question of the  
20 human body's remarkably flexible, and it's made to articulate and I can't, I can't exclude  
21 those, those rounds.

22 Q. Okay, again, okay?

23 A. Yes.

24 Q. The officer said that he...when the car was coming towards him, the first thing that he  
25 noticed was the rear windshield coming towards him. So that's when he's -- I assume, maybe  
26 not -- that's when he started firing. So getting back to that part, maybe if he was at the rear of  
27 the vehicle, those were the first, give or take.

28 A. I think that might be a reasonable assumption, but, once again, I can't sequence them

1 that way. My trajectory has to stand on its own, regardless...I mean, these are physical facts,  
2 and there is no altering them, within reason, right? Certainly one could make assumptions, but  
3 my analysis doesn't allow me to do that. I have to go with the facts that I see. Okay?

4 Q. Okay.

5 BY THE DISTRICT ATTORNEY:

6 Q. What colors do we have left?

7 A. Pink. Pink is I5 to I4. This is another one of those that is likely but not to a certainty.  
8 We have a defect present in the right rear window that does not match up with any other  
9 trajectory, and we have a defect in that right rear...or that B pillar. So we...basically, it's an  
10 inference. It's likely that these two match up, but it's not a certainty. Does that make sense?  
11 Okay. So that covers the ten trajectories that we've talked about...or that I was able to identify.

12 Yes, ma'am.

13 BY SHARON, GRAND JUROR:

14 Q. I'm Sharon. I'm assuming that the lighter part of the cone is the source? Okay.

15 A. Right.

16 Q. That's where the officer --

17 A. Right. So, what I've done is...the way a trajectory cone works, we've established...I've  
18 established...and I've set my cones to begin with the exterior of the vehicle. We know that  
19 they've passed at this point, and they most likely have struck some portion of the, of the  
20 vehicle prior to entering the cab: the glass, the sheet metal, what have you. So we work kind of  
21 backwards from there and say because of the uncertainty of measurements, human error, those  
22 kind of things, you know, if I measure this can two millimeters and you measure this can a  
23 millimeter, we're going to get a different number, probably, right, depending on how close we  
24 measure it. That generates this cone plus or minus five degrees. But you can see, and if you  
25 start looking...and that's why these side views become so important. You start seeing that  
26 they're very consistent. They're all coming from a very...roughly the same height. Now,  
27 there's some that are more down than others because that might indicate that those shots were  
28 being placed at a different area. But they're consistent. They all match up. We don't have one

1 that's going straight up. We don't have one that's going straight down at an impossible angle,  
2 okay? You check this other side, you can see how consistent these cones are. Alright. Yes,  
3 they're areas. That's a general area where that shot or that projectile could have originated  
4 from. And these are random...these cones do not indicate a distance from the vehicle, because  
5 that was not part of my investigation. I was not at the scene. I slowly was at the...investigated  
6 the vehicle while it was present in the bay there at the State Police [inaudible 00:09:52].

7 BY SANDRA, GRAND JUROR:

8 Q. Sandra. Is there any way on that one photo that you've got standing up there that maybe  
9 you can show us where the police car's back end was at the, at the collision point from, you  
10 know, so we can kind of look at?

11 GRAND JUROR: There's a diagram right there.

12 SANDRA: Yep.

13 SERGEANT CLAY GORRIT: Alright, um --

14 DISTRICT ATTORNEY: You need a [inaudible 00:10:11] --

15 SERGEANT CLAY GORRITT: Yes and no. Let's talk about that because it's  
16 going to bring up some other things. Remember that this is a dynamic event. We've vehicles  
17 moving, we've got people moving, both inside and outside of the vehicle. I cannot, based on  
18 my trajectory, put vehicle her, shooter here, at this time. Remember, these are all in relation to  
19 the vehicle. Now, you can...you could take this picture and put it into the diagram and say,  
20 well, he's here. But that leads us to say, well, what if it...the vehicle was forward five feet or  
21 back five feet? It starts bring in a lot of what ifs. What I can say is this is the trajectory  
22 associated with those. We can make some assumptions, but that's what they would be, they'd  
23 be assumptions.

24 FOREPERSON: No, you brought that.

25 SERGEANT CLAY GORRITT: Okay.

26 BY THE DISTRICT ATTORNEY:

27 Q. So, where's the one where...the close-up with the roof off? You could just kind of  
28 put...where? Show them where, where the passenger would be sitting.

1 A. So it's a little bit hard to see, but the passenger would be sitting [inaudible 00:11:32]. I  
2 think you can see the passenger was extraordinarily lucky.

3 GRAND JUROR: Yeah.

4 GRAND JUROR: He got on the floor, and he said he was [inaudible 00:11:40]  
5 down, you know. [Inaudible 00:11:42] --

6 SERGEANT CLAY GORRITT: Yeah. He was extraordinarily lucky.

7 GRAND JUROR: It's another way he was really lucky.

8 GRAND JUROR: Yeah.

9 SERGEANT CLAY GORRITT: Yes, sir.

10 BY A GRAND JUROR:

11 Q. There were no primary impacts, just I guess, coming directly towards the driver.

12 A. Well, okay, so I'm not sure. I mean, this is directed towards the driver. I mean --

13 Q. No, what I mean is coming straight --

14 A. Like --

15 Q. -- down from the top...no, the other one.

16 A. From the top?

17 GRAND JUROR: Coming in from the driver's --

18 GRAND JUROR: From the driver's side.

19 GRAND JUROR: From the driver's side.

20 SERGEANT CLAY GORRITT: With the except...I, I mean --

21 GRAND JUROR: With that one.

22 SERGEANT CLAY GORRITT: -- this, this one's...I, I guess, I guess this one's  
23 close to what you're talking about. This one comes through that driver's side headrest at a  
24 pretty...I mean, I wouldn't call that an acute angle in relation to the vehicle. It's...let me...I  
25 think that's like at fifty degrees or something. Yeah, fifty degrees, so it's --

26 GRAND JUROR: But these were ten trajectories.

27 SERGEANT CLAY GORRITT: That's correct.

28 GRAND JUROR: And we had sixteen?

1 SERGEANT CLAY GORRITT: There...I, I believe it...there were sixteen rounds  
2 fired --

3 GRAND JUROR: [Inaudible 00:12:59] two hit the ground.

4 SERGEANT CLAY GORRITT: Right. And there was --

5 GRAND JUROR: [Inaudible 00:13:03] four you can [inaudible 00:13:04].

6 SERGEANT CLAY GORRITT: There was two into the right rear tire and two  
7 here. So that leaves...I mean, that comes up with sixteen, right? You've got ten trajectories. I  
8 will tell you that's exceptional that...that actually caused me quite a bit of concern that it...it's  
9 easy to say, oh, we identified everything. It's real easy for a bullet...or a projectile to have  
10 traveled through one window and through, through another, and if it's not the first impact of  
11 either one, for you not to see that evidence. So my point is, is I think that we were  
12 extraordinarily lucky that we were able to do this much analysis and identify these trajectories.  
13 This is not easy, I guess is what I'm trying to say. Yes, ma'am.

14 BY A GRAND JUROR:

15 Q. One last question. It looked like, and what you're saying is, every shot that...the ten  
16 that you can account for are coming at an angle from the back of the vehicle or towards the  
17 back end of the vehicle, and nothing coming directly at the driver, standing beside the driver,  
18 on the driver's side of the vehicle.

19 A. Right. I don't see any shots that are what I would call orthogonal to the side of the  
20 vehicle, perpendicular. They're all coming from back to front, some more than others. I mean,  
21 we see...I'm going to go to this...we see red. It's starting to get acute. Pink is also starting to  
22 get acute. But they're all...of the trajectories that I have identified, they are all from back to  
23 front, okay? Now, once again, the ones at the tires, I have no way of establishing trajectories  
24 for those, but I think that that's part of where you start looking at the totality of the scene. This,  
25 in conjunction with the video or in conjunction with the physical evidence that was out at the  
26 scene and was placed in the diagrams, you start seeing that complete picture. Yes, ma'am?

27 BY SHARON, GRAND JUROR:

28 Q. Sharon. So just by what your analysis is, and that's the scientific analysis which is all of



1 this that you...is not what your, your belief system of what's [inaudible 00:15:35]. The car is  
2 moving during this time, yes?

3 A. Yeah. Now, I don't base my movement on the trajectories, okay?

4 Q. The movement of the car?

5 A. Yeah. The trajectory is simply what it is. Where I see the movement, of course, is  
6 the...well, I do see a little bit of movement because I see that the tires have rotated. At least the  
7 right rear tire, there's a trajectory at the top and a trajectory at the...or an impact at the top and  
8 an impact at the bottom. Okay, so that indicates to me that that tire was probably moving. That  
9 might give me some indication. But, of course, we have video --

10 Q. Yes.

11 A. -- that shows during this incident that there was movement of the vehicle. We have the  
12 reconstruction of the PIT and the subsequent impact after that, and then we have the video that  
13 shows the vehicle coming back into, into view that shows that movement. The trajectory itself  
14 really can't show you that.

15 Q. Mm-hm.

16 A. Okay? I mean, it would be just...just from the trajectory, if I didn't have a video, if I  
17 didn't know anything, I could just as easily assume that he [inaudible 00:16:55].

18 Q. That's what [inaudible 00:16:58] --

19 A. But that may not be --

20 Q. Yeah.

21 A. -- right? I think that there is movement. We know there is movement of this vehicle,  
22 from the video. We know there's movement of people within the vehicle, and we know he's  
23 moving. So we have all of these things move in a very complex system. Okay.

24 In talking about the movement, I think there's one more thing that we need to talk  
25 about, especially with consideration to this yellow trajectory. If you watch the video very  
26 carefully, which I did. I actually went through it frame by frame by frame. When it comes into  
27 view, when the vehicle comes...the Honda comes in...back into view, after this incident was  
28 started, after shots had been...started firing, you see the vehicle come back into view. My...it

1 appears to me that when that vehicle comes back into view, this right rear window has  
2 sustained at least one, and possibly two, impacts at that point, because the window appears to  
3 be fractured and missing a significant amount of glass. In fact, it appears to me -- and you have  
4 to look on a very good monitor -- that it, the glass is fractured as we found it...as I found it  
5 when I went to do my projectile analysis.

6 I think that's important because that places some of these shots as having already been  
7 fired at that point. So that gets a little bit into sequencing. I can't give you an order, but it  
8 appeared to me that that window was fractured and the glass is missing. And I think that's  
9 something that if you go back to look at the video that you want to look for very closely.

10 DISTRICT ATTORNEY: Do members of the Grand Jury have any more questions  
11 for Sergeant Gorritt? Sergeant, I appreciate your education and your thoroughness, and I think  
12 maybe we'll just take like a ten-minute break. It's kind of hot. Everyone's tired. So the time is  
13 now 4:20. We're off the record.

14 [Off the record]

15  
16 CD 6, Track 2

17 DISTRICT ATTORNEY: The time is now 4:36. Our next witness will be Sergeant  
18 Lorenzo Aguirre. Sergeant? And if you'll recall, you're under oath.

19 SERGEANT LORENZO AGUIRRE: Yes, ma'am.

20  
21 RECALL SERGEANT LORENZO AGUIRRE

22 BY THE DISTRICT ATTORNEY:

23 Q. The questions that came out with another witness, Sergeant, is why...do you know  
24 what kind of warrant was out for Ms. Anaya?

25 A. There was a, a conceal. She was concealing her identity warrant. It was a five hundred  
26 Dollar bond warrant out of the City of Santa Fe.

27 Q. So out of Municipal Court?

28 A. Out of Municipal Court.

1 Q. So it was on concealing identity.

2 A. That is correct.

3 Q. Okay. That was the warrant.

4 A. That is the warrant that she had for her.

5 Q. Okay. There was a question earlier. There was a witness, Mr. Muñoz, who testified  
6 prior, and I was asking him and reading him some statements he made. And did you take a  
7 statement from Mr. Muñoz?

8 A. I did, the night of the incident, at the, at the hospital itself.

9 Q. Okay. Alright. Let's see. I'd like to show you just a couple of items here. Where is  
10 Officer Wilson's firearm that was used that night?

11 A. It was taken into evidence, ma'am, and the reason we do that is because we wanted to  
12 match the casings that were there at the scene with the actual weapon that was fired.

13 Q. Okay. So basically, it's at the crime lab.

14 A. That is correct, ballistic testing.

15 Q. They haven't processed it.

16 A. Not yet.

17 Q. Okay. So I'd like to show you what's been marked as 92, 93, 94, 95, and 96. Could you  
18 tell me what those items are?

19 A. So State Exhibit 92 is ac...the actual weapon that was utilized by Officer Wilson --

20 Q. Okay.

21 A. -- the night of the, of the shooting.

22 Q. And what kind of weapon is that again?

23 A. It's a Smith & Wesson 9 millimeter.

24 Q. Okay.

25 A. It's the actual weapon that is issued to us, to a department.

26 Q. Alright.

27 A. Exhibit...State Exhibit No. 93 is the actual magazine, the, the magazine that carries  
28 approximately seventeen rounds --

1 Q. And what--

2 A. -- and we actually carry one in the chamber, so approximately eighteen rounds would  
3 be --

4 Q. So what does that picture depict?

5 A. They just depict the actual magazine that carries the rounds.

6 Q. Okay, is there a cartridge in that one?

7 A. There is a cartridge...well, we call them magazines. It's cartridges.

8 Q. Okay.

9 A. But, um, in the law enforcement, well, setting --

10 Q. Okay. Alright.

11 A. -- we call them magazines.

12 Q. Okay.

13 A. Sorry about that. Apologize. State Exhibit No. 94, again it's another secondary  
14 magazine with no casings in it or any bullets inside of it.

15 Q. Okay.

16 A. There's also one single bullet aside that was taken from the magazine and  
17 photographed to be part of the actual casing...or bullets that came from the, from the actual  
18 magazine.

19 Q. And why, why was that done?

20 A. Just so we can corroborate the actual bullet with, with the magazine itself, ma'am.

21 Q. Okay.

22 A. State Exhibit No. 95 is showing the same two magazines together in one photo, and it's  
23 also just weighing the amount of bullets that were in each magazine itself...in itself.

24 Q. Okay.

25 A. And State Exhibit No. 96 is our backup weapon. It's a 38 caliber backup that is issued  
26 as well, through our department, and it's voluntarily [sic] if you want to carry it on duty, but it  
27 is a secondary weapon that is issued to us by the State.

28 Q. And was Oliver Wilson carrying that the night of the incident?

1 A. And he was carrying it that night, that is correct.

2 Q. And was that fired?

3 A. That was not fired, ma'am.

4 Q. Okay. Thank you. Did you locate all sixteen casings at the scene? Not you personally,  
5 but were they located?

6 A. Most of them, ma'am, for the majority of them were, I believe. I don't have a set  
7 number. I think it was fourteen of them, but don't quote me on that one --

8 Q. Okay.

9 A. -- but most of them were located.

10 Q. And they were throughout the street, is that correct?

11 A. That is correct. They were scattered throughout the street where the incident occurred.

12 Q. I'd like to show you what's been marked as State's Exhibit No. 18. Can you identify  
13 that?

14 A. State Exhibit No. 18 is the actual patrol that...the front part of the patrol car that  
15 Officer Wilson was driving the night of the incident, with several numbers displaying the  
16 position of the casings that were found at the scene.

17 Q. What number is that?

18 A. State Exhibit No. 18.

19 Q. Okay. And here's State's...no, I'm sorry, what number is on the marker, evidence  
20 marker?

21 A. Oh, one. I'm sorry. Exhibit...it's displaying number one. The cone is displaying the  
22 actual number one.

23 Q. Okay. Here's State's Exhibit No. 19. What does that depict?

24 A. A secondary casing and it's noted as number two.

25 Q. Okay.

26 A. At that's State Exhibit No. 19.

27 Q. State's Exhibit No. 21, if you could just...what does that identify?

28 A. State Exhibit No. 21 identifies a green cone with number three and number four, also,

1 casings and a flashlight that appeared to have been dropped by Officer Wilson the night of the  
2 shooting.

3 Q. [Inaudible 00:06:56] if it gives the location of the flashlight there.

4 A. It just gives the actual standard where Officer Wilson was standing as he was exiting  
5 his unit, and his flashlight rolled out from inside his vehicle.

6 Q. And was, was his vehicle left in drive?

7 A. At the time, yes, ma'am.

8 Q. And did the flash have kept it from going forward, do you know? If you don't know,  
9 don't answer.

10 A. Yeah. More than likely, ma'am, but, yeah, I wouldn't be able to go to that...give you  
11 that answer.

12 Q. So here's State's Exhibit 22 and 23, which are...depict?

13 A. So State Exhibit 22, again, is a green-colored cone with the number three, noting the  
14 position of another casing that was fired from, from Officer Wilson's duty weapon.

15 Q. The next photo?

16 A. And the next photo is State Exhibit No. 23. Again, it's a green in color cone, noting  
17 number...the number four. Also noting a casing that was fired from Officer Wilson's weapon.

18 Q. Here's State's Exhibit 24 and 25.

19 A. State Exhibit No. 24 is a green in color cone with the number seven on it, again noting  
20 the...a spent casing that was found there at the scene, being ejected by Officer Wilson's  
21 assigned weapon. And State Exhibit No. 25 shows the number eight also displayed on the  
22 green cone, and, again, it's noting another casing found there at the scene fired from Officer  
23 Wilson's weapon.

24 Q. Now, if you could identify State's Exhibit 27, 28 and 29?

25 A. State Exhibit No. 26 has a green cone again, noting the number nine, and this...it's  
26 actually displaying another casing that was again found at the scene, shot from Officer  
27 Wilson's duty weapon, and that was State Exhibit No. 26. State Exhibit No. 27, again a green  
28 cone noting the number twelve, dis...or displayed on, on a casing shot by Officer Wilson's

1 weapon. found at the scene. State Exhibit No. 28, it's a green in color cone noting the number  
2 thirteen, identifying another casing found at the scene, and the casing being shot from Officer  
3 Wilson's duty weapon. State Exhibit No. 29 displays a cone number fourteen, also noting a  
4 spent casing that was found there at the scene and also shot from Officer Wilson's duty  
5 weapon. And just for the record, all these casing that were found are 9 millimeter casings.

6 Q. State's Exhibit 30, 31, and 32?

7 A. State Exhibit No. 30 is actually a green in color cone noting the number fifteen,  
8 showing shattered glass found there at the scene from the impacts that were made by both  
9 vehicles. State Exhibit No. 31 shows again a green in color cone noting number sixteen, again  
10 displaying shattered glass from the impact from...of both vehicles, of the unit and the vehicle  
11 driven by Mrs. Jeanette Anaya. State Exhibit No. 32 is displaying a green in color cone noting  
12 the number seventeen, indicating that another spent casing was found there at the scene, and  
13 the casing being shot from Officer Wilson's duty weapon.

14 Q. State's Exhibit 20, 33, and 34.

15 A. So State Exhibit No. 20 is showing the number eighteen...a green-colored cone noting  
16 the number eighteen, identifying another spent casing found at the scene, and the casing  
17 coming from Officer Wilson's duty weapon. And State Exhibit No. 33, again a green in color  
18 cone noting the number nineteen, showing a spent casing that was found at the scene, and the  
19 actual casing being shot from Officer Wilson's duty weapon. State Exhibit No. 34, displaying  
20 the number the number 20 on a green cone, I'm sorry, and a...it's displaying or, or depicting  
21 the actual casing that was found there at the scene, being shot from Officer Wilson's duty  
22 weapon.

23 Q. Finally, State's Exhibit 35, 36, 37, and 38.

24 A. State Exhibit No. 35, again a green in color cone, displaying the number 31, showing a  
25 spent casing found at the scene that was shot from Officer Wilson's duty weapon. State Exhibit  
26 No. 32 [sic] displaying a green-colored cone, item number twenty-three, also showing the, the  
27 position of a casing that was found at the scene, that was shot with Officer Wilson's duty  
28 weapon. State Exhibit No. 37 is a green in color cone noting the number twenty three. Again, it

1 was a found casing that was located there at the scene, and the casing being shot from Officer  
2 Wilson's duty weapon. State Exhibit No. 38, a green in color cone noting the number twenty-  
3 four, again showing a spent casing that was found at the scene, and the casing was a 9  
4 millimeter round that was shot from Officer Wilson's duty weapon.

5 Q. Finally, I have these last [ones? 00:13:51]. So I'd like to show you what's been marked  
6 as 97, 98, 99, and 100. If you could please, identify those.

7 A. State Exhibit No. 97 shows one of our uniform patrol units displaying the unit number  
8 249, and that was the unit that Officer Wilson was driving the night of the incident. State  
9 Exhibit No. 98 shows the front part of the...of unit 249 having heavy damage to the left front  
10 bumper and light portion of the vehicle. Again, that was unit 249, our State Police unit. That  
11 unit was assigned to Officer Wilson the night of the, of the incident. State Exhibit No. 99  
12 shows the front part of Unit 249 and the actual photo displaying damage to the front part of  
13 the...of the front bumper of the...of unit 249. State Exhibit No. 100 is showing frontal damage  
14 to unit 249...front bumper damage to unit 249 with some paint transfer.

15 Q. And in what county did all of this occur in?

16 A. This occurred in Santa Fe County, ma'am.

17 Q. On what day, sir?

18 A. November 7<sup>th</sup>, 2013.

19 Q. And the decedent's name?

20 A. Jeanette Anaya.

21 DISTRICT ATTORNEY: I have no further questions of this witness. Members of  
22 the Grand Jury? You may be excused, Agent...or Sergeant. I have to get used to Sergeant.

23 SERGEANT LORENZO AGUIRRE: Thank you, ma'am.

24 DISTRICT ATTORNEY: Give me a moment here to get myself together.

25  
26  
27  
28



JURY INSTRUCTIONS

DISTRICT ATTORNEY: Okay. That concludes the presentation of evidence in this case. I will now instruct you on the law in this case.

For you to find probable cause, probable cause, it means the evidence presented would cause a reasonable person to believe that a crime has been or not been committed. Probable cause does not require proof beyond a reasonable doubt.

Here's the, the instructions on this. For you to find whether this homicide by a public officer was justified, you must find the following: one, at the time of the killing, New Mexico State Police Officer Oliver Wright [sic] was a public officer or employee.

GRAND JUROR: Excuse me?

GRAND JUROR: Was it Wright or Wilson?

DISTRICT ATTORNEY: I'm sorry, Wilson. I'm sorry. I put in the wrong name. Wilson. I apologize. Wilson. Thank you.

The committing...the killing was committed while New Mexico State Police Officer Oliver Wilson was performing his duties as a public officer or employee. Three, the killing was committed while Officer Wilson was overcoming the actual resistance of Jeanette Anaya to the discharge of his duties as a police officer in a traffic stop. Four, a reasonable person in the same circumstances [as] New Mexico State Police Officer Wilson would have reasonably believed that Jeanette Anaya posed a...threats of death or great bodily harm to himself or another person. That's the end of that instruction.

In addition to the other elements, you must find probable cause to believe that the...well, let's see, that doesn't really apply here. Ladies and gentlemen, that completes the...that completes the evidence and the instructions on this relevant law in this matter. I ask you to deliberate and vote upon the matters presented at this time for each suggested charge. I tender to you a form which indicates and it reads, "In the matter of the investigation of the death of Jeanette Anaya, the Grand Jury of Santa Fe County in the investigation of Jeanette Anaya finds it to be a justifiable homicide." There's a place for yes and there's a place for no. And it's signed by the Foreperson and then it's given to me.

