

1 STATE OF NEW YORK
2 MONROE COUNTY GRAND JURY

3 _____

4 DAY 8:

5

6 Investigation into the death of Daniel T. Prude

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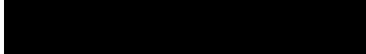
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9 Transcript of the Proceedings held before
10 the Monroe County Grand Jury, at the Monroe County,
11 Hall of Justice, 99 Exchange Blvd., Rochester, New
12 York, 14614, on January 13th, 2021.

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14 APPEARANCES: Letitia James, ESQ.
15 New York State Attorney General
16 Appearing for the People
17 BY: JENNIFER SOMMERS, ESQ.
18 Deputy Chief of Special Investigations
19 BY: MICHAEL SMITH, ESQ.
20 NYS Office of the Attorney General

21

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I N D E X T O E X H I B I T S

FOR THE

PEOPLE

DESCRIPTION

ID

EVD

GJ 63 RPD Training Bulletin 9

GJ 64 Evidence items for review 18

1 (Proceeding reconvened.)

2 MR. SMITH: Good morning, ladies and
3 gentlemen. We are back on the record in the
4 investigation into the death Daniel Prude. Michael
5 Smith and Jennifer Sommers from the Office of the New
6 York State Attorney General. The date is January 13th
7 of 2021. We are back for the first time since
8 December 21st, 2020.

9 At this time, ladies and gentlemen, there
10 are 21 grand jurors present. As such, we do have a
11 quorum, and the first item of business this morning,
12 ladies and gentlemen, we're going to be asking you to
13 vote to extend the term of this additional Grand Jury.

14 Just to give you a little bit of context
15 here, ladies and gentlemen. When this Grand Jury was
16 impaneled on October 19th, 2020, we let you know that
17 we were going to -- the term was for about three
18 months and the term expires on January 22nd, 2021.

19 We let you know that you were going to be
20 hearing about one case and that it was going to be a
21 full and fair investigation into the death of Daniel
22 Prude. Over the past almost three months, we've been
23 here several times, you have heard from over 30
24 witnesses, there's been over 60 pieces of documentary
25 evidence admitted into evidence, thousands of pages of

1 transcripts have been generated from the testimony,
2 ladies and gentlemen.

3 And again, we asked you to take your oath
4 seriously and open mindedly to review every piece of
5 evidence, review all of the testimony carefully, and
6 the Attorney General's Office is doing the same thing
7 and that doesn't just mean me and Ms. Sommers, that's
8 from the Attorney General on down. Before we make the
9 next decision on how to proceed and what your role
10 will be and what we're going to ask you to do, based
11 on all that evidence, that's what's happening right
12 now, all that evidence is being reviewed, all the
13 transcripts are being reviewed at, sort of, the
14 highest level. Again, we ask you to take this
15 seriously and Attorney General's Office is doing the
16 same thing.

17 So, with that in mind, ladies and gentlemen,
18 we're not going to adhere to, sort of, an artificial
19 time dead line. We set that January date up when we
20 established the Grand Jury; and, based on everything I
21 just told you, we are not going to be able to finish
22 the business at that time. So, what we're asking at
23 this time, is that the Grand Jury vote to extend the
24 term of this additional Grand Jury for just over an
25 additional month until February 26th, 2021. Again,

1 for the purpose of completing your business with
2 respect for the matter currently pending before you,
3 that being, the Investigation into the Death of Daniel
4 Prude.

5 So, again, Ms. Sommers and I will leave the
6 room and let you guys vote on extending the term until
7 February 26th, 2021.

8 (Whereupon, Mr. Smith, Ms. Sommers, and the
9 court reporter left the grand jury room during
10 deliberations and subsequently returned.)

11 JURY FOREPERSON: There is a request for the
12 Grand Jury to see if we can edit the date that you
13 guys want to extend it to. If we could pull that in
14 by two days. So, the request from the Grand Jury is
15 can we change the extension to just February 24th of
16 2021?

17 MS. SOMMERS: Is that a Wednesday?

18 JURY FOREPERSON: Yes.

19 MS. SOMMERS: So, my only problem with that
20 is, not -- it doesn't have to do with the Grand Jury,
21 it has to do with the foreperson only. Sometimes --
22 so, when the Grand Jury is recording an action of any
23 type -- so, be it something affirmative, or something
24 not affirmative, it has to be, quote, handed up and,
25 generally, that's done by the foreperson. So, there's

1 always a chance that -- that -- I don't know if we
2 could say for sure that it would be possible to do it
3 that exact day. In other words, by extending to the
4 Friday, that doesn't mean that there's a chance that
5 anybody, except the foreperson, would --

6 MR. SMITH: We don't anticipate anybody
7 coming in that Thursday or anybody coming in that
8 Friday, absent some crazy extenuating circumstances
9 that we don't foresee right now. This has to do with
10 the court process and making sure that those days
11 would be available, if there is some action to report.
12 And again, perhaps the foreperson would be needed but
13 those aren't two days that --

14 A JUROR: But, we're voting on the 26th
15 date, which gives you permission to bring us in, which
16 [REDACTED] [REDACTED] has already stated that [REDACTED] can't be
17 available and she wishes to be here for the
18 conclusion.

19 MS. SOMMERS: We will not -- this is -- so,
20 having the term end on the 26th would only allow us to
21 -- we're only asking for that so that the foreperson
22 could come in and report. I understand that
23 completely what -- that I assume everybody who is
24 here, you know, wants to be here and we are telling
25 you that we will schedule it for Wednesday, which is

1 the 24th, and we will not schedule it, the meeting of
2 the grand jurors, for beyond that date, and we're
3 putting that on the record.

4 But, I'm only hesitant to limit your term to
5 the 24th. And, it may be possible that if the
6 foreperson is available can -- and the Court, and
7 everything be handled on the 24th, but it sometimes
8 isn't. And, I'm just concerned that if we shut the
9 term down on the 24th, that then the foreperson
10 wouldn't be able to meet with the Judge and provide
11 the information to the Judge. That's all.

12 MR. SMITH: We're looking within that day or
13 two, [REDACTED] [REDACTED] after the Grand Jury takes care of
14 the procedural process of that. If that makes sense.
15 So, that's why we're asking to vote for the 26th with
16 the anticipation being that, on the record here,
17 you're here last date would be the 24th.

18 A JUROR: Okay.

19 MR. SMITH: So, with that in mind, we would
20 want you to vote for the 26th.

21 MS. SOMMERS: With that qualification, would
22 everyone be comfortable voting?

23 A JUROR: Yes. Do you guys want to step out
24 again so we can re-vote with that clarification?

25 MS. SOMMERS: Yes.

1 (Whereupon, Mr. Smith, Ms. Sommers, and the
2 court reporter left the grand jury room during
3 deliberations and subsequently returned.)

4 MS. SOMMERS: So, for the record, we're back
5 in the room. We still have 21 grand jurors, and did
6 the Grand Jury vote?

7 JURY FOREPERSON: The Grand Jury voted. It
8 was unanimous, 21 approved for the extension to
9 February 26th.

10 MS. SOMMERS: Thank you.

11 So, with that, we actually have something
12 for the foreperson, and then we'll move on to some
13 additional matters.

14 MR. SMITH: I'm handing [REDACTED] the
15 acting Grand Jury foreperson, the affidavit to sign,
16 indicating that he is the foreperson of this Grand
17 Jury, that this Grand Jury was impaneled on the 19th,
18 was set to expire on January 22nd, 2021 and on this
19 date, the Grand Jury affirmatively voted to extend the
20 term until February 26th, 2021.

21 And, at this time, [REDACTED] [REDACTED] is signing that
22 affidavit.

23 Let the record reflect Ms. Sommers is
24 notarizing [REDACTED] [REDACTED] signature at this time.

25 (Whereupon, the affidavit was signed and

1 notarized.)

2 MR. SMITH: Thank you, [REDACTED] [REDACTED]
3 Ladies and gentlemen, I do have one piece of
4 housekeeping before we move on. You'll recall Officer
5 [REDACTED] testified the last time we were here on
6 December 21st, 2020. I posed Officer [REDACTED] you may
7 recall -- and again, ladies and gentlemen, your
8 recollection controls, don't let me tell you what
9 happened or the testimony. But, you may recall I
10 posed Officer [REDACTED] a question regarding his
11 training, regarding prone restraints and the length of
12 time of prone restraints. You may recall that Officer
13 [REDACTED] responded that he did have some training as
14 related to that issue, and he specifically referenced
15 a training bulletin form 2015 that had come out on
16 that issue that he had read briefly.

17 Ladies and gentlemen, at this time I've
18 marked Grand Jury Exhibit 63 and I'm going to offer it
19 into evidence. Is it that training bulletin from the
20 Rochester Police Department dated January 21st, 2015
21 that was referenced by Officer [REDACTED] So, at this
22 time, I'm going to move Grand Jury Exhibit 63 into
23 evidence.

24 (Whereupon, Grand Jury Exhibit Number 63 was
25 then received into evidence.)

1 MR. SMITH: Again, ladies and gentlemen,
2 like all other evidence, Grand Jury Exhibit 63 is in
3 evidence and you are able to review it, as you see
4 fit. I point out that, again, this bulletin, as
5 Officer ██████ testified, is from 2015. As you're all
6 aware that pre-dates the change in the Defensive
7 Tactics training and the new training protocols that
8 were done by the DCJS.

9 Ladies and gentlemen, this is a four page
10 document, and I would, specifically, draw your
11 attention to the second page, as it relates to body
12 positions, specifically, read under point 1C1,
13 positional asphyxia may occur when the position of the
14 person's body interferes with respiration, resulting
15 in serious injury or death, prolonged restraint and
16 struggling, particularly, when the lungs are being
17 squeezed while empty can result in exhaustion. This
18 can occur without the subject being aware of it and
19 lead to sudden death. The risk of positional asphyxia
20 can increase when the person is restrained in the
21 prone position.

22 Again, ladies and gentlemen, that is just a
23 pertinent part. You're free to review this whole
24 training bulletin again as referenced by Officer
25 ██████ during his testimony. And, draw no conclusions

1 with the fact that we're moving it in today. This was
2 after Officer [REDACTED] testified. We meant to move that
3 in last time following his testimony.

4 And again, the training bulletin, People's
5 63 is in evidence as well.

6 MS. SOMMERS: So, what we'd like to give you
7 the opportunity to do now is, as Mr. Smith indicated,
8 there had been 63 items of evidence submitted before
9 you, 30 some witnesses, which we could also read you
10 the names of the witnesses because there are some that
11 you may determine that you wish to, kind of, read
12 parts of their trans -- have parts of their
13 transcripts read to you. That part may be more
14 appropriate for the next time we meet, the last time
15 we meet.

16 Here are some of the potential items of
17 evidence. It's been a while since you've seen or
18 heard them and they may be valuable. I'm not in any
19 way saying these are the items that you should or
20 shouldn't listen to or see. In fact, I'll bring --
21 I'll leave the list here if other people wish to, kind
22 of, see or hear about other things but Grand Jury
23 Exhibit Number 3 was the 911 call made by [REDACTED]

24 [REDACTED] So, that would have been the first 911 call.

25 Grand Jury Exhibit Number 10 is the

1 synchronized compilation of the first response to Mr.
2 ██████████ home on March 22nd, 2020. And, whenever I
3 talk about a synchronized compilation, you can always
4 ask to see the individual things.

5 Grand Jury Exhibit Number 12 is the call
6 made to 911 by ██████████ on March 23rd of 2020.

7 Grand Jury Exhibit Number 16 are the
8 Rochester Police Department West dispatches from March
9 23rd. The dispatcher was ██████████, and that is
10 also in evidence.

11 Grand Jury Exhibit 17 is the 911 call of
12 ██████████ who, I believe, the transcript will
13 indicate was the tow truck driver who was present on
14 Jefferson Avenue.

15 Grand Jury Exhibit Number 22 is ██████████
16 ██████████'s Facebook Live video. That exists as a stand
17 alone, as do all the things that went into the
18 compilation videos. But, I also want to make
19 available, or indicate, Grand Jury Exhibit Number 20
20 is the compilation videos of the City cam, the
21 surveillance videos, as well as the Facebook Live
22 video.

23 And then, Grand Jury Exhibit Number 49 is
24 the synchronized body cam video from the officers that
25 were present that evening.

1 Again, so, I've printed out a list of the
2 available -- available Exhibits.

3 The ones that I just read are highlighted,
4 but -- and, I only did that to, kind of, maybe
5 perhaps, get you thinking about some things that you
6 might want to review before -- before we adjourn until
7 February. It's up to you.

8 So, as a group, you could talk about and
9 vote on which items you wish to see, relative to those
10 if you could see any or all of them.

11 And, so, I think we'll leave the room and
12 let you do that.

13 I'm going to leave the list of the Exhibits
14 right here, if anybody wants to come up and put them
15 up on the screen. I'm going to let you guys handle
16 how you want to do that.

17 A JUROR: You're leaving so we're going to
18 decide what things to see again?

19 MS. SOMMERS: Yes.

20 A JUROR: Okay.

21 MS. SOMMERS: We're not going to tell you --
22 and, I don't want anyone to feel that, just because I
23 didn't mention something, you can't review it or that
24 you have to review any of the things that I did
25 mention.

1 MR. SMITH: Yeah. This is in no way meant
2 to suggest you should or shouldn't do that or you
3 should or shouldn't pick certain things. It's up to
4 you guys whether or not it would help.

5 MS. SOMMERS: We have nothing else we're
6 putting in.

7 MR. SMITH: We're otherwise -- we have
8 nothing else to do today. We wanted to make sure that
9 we got extended and we wanted to make sure that we
10 moved a piece of evidence in that we didn't move in
11 last time that we didn't get to move -- give you guys,
12 sort of, the update of why we were asking for the
13 extension.

14 So, that's the definitive things that had to
15 be done today.

16 And again, after today, we're not going to
17 come back until February 24th. Because we're here,
18 because it's early in the morning, this is a
19 suggestion that perhaps, if there's things that you
20 guys haven't reviewed in a while, you may want to
21 refresh, that's why we're offering you the
22 opportunity. Again, this isn't meant to suggest that
23 you should or shouldn't or have to or don't have to.
24 This is just -- there's nothing else to do today.
25 Because we're here, there's a lot of time if -- if you

1 want to use the time for that purpose.

2 MS. SOMMERS: And, again, just because you
3 reviewed it this morning doesn't mean you can't review
4 it again. But, since it's been a long time and since
5 you're not going to be here, we just thought it might
6 be helpful.

7 A JUROR: This morning was a little
8 confusing. So, again -- so, originally, this morning,
9 there was a chance we were going to take a vote today,
10 but not that's done.

11 MS. SOMMERS: You're not going to vote
12 today.

13 MR. SMITH: The only vote was the vote to
14 extend. So, the vote to extend was to push back what
15 we were maybe going to do today or anticipated what we
16 could possibly have done today. That's going to be
17 done at the end of February. So, we're here today
18 with, sort of, no other new business.

19 So, with that in mind, because we're all
20 here, this is the -- we're offering you the
21 opportunity.

22 A JUROR: Was it ever determined that he
23 broke out the store window?

24 MS. SOMMERS: So, we can show you the
25 videos. I think if you -- you can review the videos,

1 for instance, Grand Jury Exhibit Number 40. That
2 might be helpful in terms of answering that. But,
3 that's not -- I'm not suggesting yes or no, but that's
4 for you to determine after you review the video.

5 MR. SMITH: So, we'll leave at this time so
6 you guys can talk about it off the record.

7 (Whereupon, Mr. Smith, Ms. Sommers, and the
8 court reporter left the grand jury room during
9 deliberations and subsequently returned.)

10 MS. SOMMERS: Our understanding is that
11 you've made some decisions relative to the review?

12 JURY FOREPERSON: Yes. So, the Grand Jury
13 has circled the list of evidence items we would like
14 to review. And, also, we've requested to review some
15 of the video testimony that was given remote.

16 MS. SOMMERS: Okay. Actually, let me talk
17 about that first because we were actually going to
18 indicate -- before we left today, that we were going
19 to be playing some of that anyway because -- so,
20 normally, a grand juror is not permitted to vote if
21 they missed relevant evidence. Some of you had missed
22 days and on some of those days some of the evidence
23 has been cumulative. For instance, a video was
24 admitted that was later captured as part of a
25 composite, that kind of thing. But, there were a

1 couple of days that were -- that was relevant evidence
2 provided, highly relevant, to the determination that
3 you're going to be asked to make. In order to not
4 lose grand jurors, we want this vote to be as robust
5 as possible and include as many people as possible.
6 There was -- there were -- there was at least one
7 grand juror who missed the day that the medical
8 examiner testified and there was at least one grand
9 juror who missed the day the medical expert testified,
10 the separate medical expert.

11 So, those two -- at least, those two bits of
12 evidence, actually, we're going to be representing --
13 we're going to be reading one into the record. We're
14 having the court reporter read one and the other we're
15 going to play again. If for no other reason, even if
16 nobody wanted to see them, it's necessary because we
17 want as many people to be able to vote as possible.
18 Does that make sense?

19 So, relative to -- so, we have
20 determinations to make in terms of that, like, going
21 through and comparing who was here when, and what was
22 cumulative and what wasn't, but I know, at a minimum,
23 you are going to be hearing those two things.

24 So, why don't we see what you want to
25 review; and, if you'd like, we could start some of

1 that today if you wish.

2 A JUROR: So, we have circled the items in
3 order.

4 MS. SOMMERS: Okay. So, if I'm reading this
5 correctly, I was just handed a piece of paper that
6 I'll mark for identification purposes as Grand Jury
7 Exhibit Number 64.

8 So, the items you wish to review are Grand
9 Jury Exhibits Number 1, Daniel Prude photograph, Grand
10 Jury Exhibit Number 4, [REDACTED] body worn
11 camera, Grand Jury Exhibit Number 5, [REDACTED] body
12 worn camera.

13 I just want to make clear here, do you not
14 wish to see the combined view of all the officers that
15 responded, you just want to see those two?

16 JURY FOREPERSON: Correct.

17 MS. SOMMERS: Okay. Thank you. Grand Jury
18 Exhibit Number 12, the 911 call from [REDACTED], Grand
19 Jury Exhibit Number 18, Officer [REDACTED]'s body worn
20 camera video, Grand Jury Exhibit Number 33, the video
21 downloads from 613 West Main Street, Grand Jury
22 Exhibit 36-A the Medical Examiner's report, which
23 we'll provide for you, Grand Jury Exhibit 46, [REDACTED]
24 [REDACTED]'s body worn camera footage from Jefferson
25 Avenue, and Grand Jury Exhibit Number 50, the

1 pre-hospital care report from the ambulance.

2 Did I mis-state any of that?

3 JURY FOREPERSON: No, that's correct.
4 That's accurate.

5 MS. SOMMERS: So, we'll start working on
6 that. Did you want to tell us now which testimony you
7 were thinking -- did you also say you want to hear
8 testimony again or not?

9 JURY FOREPERSON: There was a request to
10 hear the video from Dr. [REDACTED] and the video testimony
11 from Dr. [REDACTED].

12 MS. SOMMERS: So, we'll take care of -- all
13 right. Let's start by getting through some of this
14 stuff and then --

15 A JUROR: Is the Medical Examiner's report,
16 didn't she also video testify?

17 MS. SOMMERS: She did not. So, we have her
18 testimony in transcript form that we'll have read by
19 the court reporter.

20 A JUROR: Okay.

21 MS. SOMMERS: So, normally, video --
22 normally, a video is not captured of individuals, but
23 because these individuals testified, Dr. [REDACTED] and Dr.
24 [REDACTED] testified remotely, there is video for that
25 reason.

1 MR. SMITH: Ladies and gentlemen, as we
2 start to get this ready, the electron evidence to
3 review, some of what you asked to review, is straight
4 documentary evidence, photographs and records.

5 So, I'll start by publishing Grand Jury
6 Exhibit 1, the request of the photograph of Daniel
7 Prude on the Elmo now for your review as we get the
8 videos ready.

9 If the grand jurors wish, we could also hand
10 that around. I see no indication.

11 A JUROR: Can we turn the lights down just a
12 little?

13 MR. SMITH: Sure.

14 MS. SOMMERS: Okay.

15 (Whereupon, Grand Jury Exhibit Number 1 was
16 displayed for the Grand Jury.)

17 MS. SOMMERS: All right. For the record, I
18 put Grand Jury Exhibit Number 5 up on the screen and I
19 will go ahead and press play -- I'm sorry 4, Grand
20 Jury Exhibit Number 4. This is [REDACTED] body
21 worn camera video.

22 (Whereupon, Grand Jury Exhibit Number 4 was
23 then played for the Grand Jury.)

24 (Whereupon, the video was paused.)

25 MS. SOMMERS: Does anyone want a five minute

1 break?

2 GRAND JURY POOL: (All jurors indicating a
3 positive response.)

4 MS. SOMMERS: Okay. We can take five
5 minutes.

6 (Whereupon, there was a short break off the
7 record.)

8 (Proceeding reconvened.)

9 MS. SOMMERS: All right. I'm going start it
10 at the -- I played it just before the break. I'm
11 going to back it up. I started to play before the
12 break and I stopped it around 34 seconds so I'm going
13 to back it up to 24 seconds and start again. This is
14 Grand Jury Exhibit Number 4, the body worn camera
15 video of [REDACTED].

16 (Whereupon, Grand Jury Exhibit 4 was then
17 played for the Grand Jury.)

18 (Whereupon, the video terminated.)

19 MS. SOMMERS: For the record, we just
20 completed Grand Jury Exhibit Number 4, which was the
21 body worn camera footage of Rochester Police Officer
22 [REDACTED]. I'm now putting in and playing Grand
23 Jury Exhibit Number 5, which is the body worn camera
24 footage of Rochester Police Officer [REDACTED].

25 (Whereupon, Grand Jury Exhibit Number 5 was

1 then played for the Grand Jury.)

2 (Whereupon, the video terminated.)

3 MS. SOMMERS: Okay. For the record, we just
4 finished with Grand Jury Exhibit 5, the body worn
5 camera footage of Officer [REDACTED], and I am now
6 putting in Grand Jury Exhibit 12, which is the 911
7 call relative to [REDACTED]

8 So, this is one of the ones that has a
9 transcript attached to it for identification. So,
10 we'll hand out a copy of that just to remind you there
11 was not a court reporter on the phone call, so you're
12 -- if you hear something that's different than what
13 you see on the paper you go with what you believe on
14 the audio.

15 At this time, I'm playing Grand Jury Exhibit
16 12.

17 (Whereupon, Grand Jury Exhibit 12, audio
18 recording was then played for the Grand Jury.)

19 (Whereupon, the audio recording was paused.)

20 MS. SOMMERS: It looks like this isn't the
21 right one. So, for the record, we're stopping for a
22 moment. So, could everyone please pass those forward
23 and what I'll do is -- we could put it on the screen
24 if that would be easier or not, maybe --

25 MR. SMITH: I'll take the old ones first.

1 Who needed one?

2 MS. SOMMERS: So, for the record, not
3 everybody wanted a transcript the first time and
4 nobody has to take one, but we wanted to make them
5 available if people want one.

6 MR. SMITH: Does everyone have one that
7 needs one?

8 GRAND JURY POOL: (All jurors indicating a
9 positive response.)

10 MS. SOMMERS: So, for the record, I'm
11 re-starting.

12 (Whereupon, the audio recording resumed.)

13 (Whereupon, the audio recording terminated.)

14 MS. SOMMERS: Okay. For the record, we just
15 played the totality of Grand Jury Exhibit 12, which
16 was the 911 call placed by [REDACTED]. And, I'm now
17 putting in Grand Jury Exhibit, 18 which is the body
18 worn camera footage of Officer [REDACTED] of the
19 Rochester Police Department.

20 (Whereupon, Grand Jury Exhibit 18 was then
21 played for the Grand Jury.)

22 (Whereupon, the video terminated.)

23 MS. SOMMERS: For the record, we just played
24 Grand Jury Exhibit Number 18 in its totality. For the
25 record, putting Grand Jury Exhibit 33 up on the

1 screen. This is video download from 613 West Main
2 Street.

3 Would it be helpful for anyone to see the
4 map or is everyone all good? For the record, nobody
5 indicated that they wanted to see the map.

6 (Whereupon, Grand Jury Exhibit 33 was then
7 played for the Grand Jury.)

8 (Whereupon, the video terminated.)

9 MS. SOMMERS: For the record, there were
10 three separate clips collected at 613 West Main Street
11 and captured in Grand Jury 33 and all three were
12 played.

13 So, there's one more piece, going a little
14 out of order, but since we're playing video at this
15 point, I'll play the last bit that has been requested
16 by the Grand Jury. At this point, this is Grand Jury
17 Exhibit 46, the body worn camera footage of Officer

18

19 (Whereupon, Grand Jury Exhibit 46 was then
20 played for the Grand Jury.)

21 (Whereupon, the video terminated.)

22 MS. SOMMERS: For the record, we just
23 completed Grand Jury Exhibit 46, which was the body
24 worn camera footage from

25 MR. SMITH: With that, ladies and gentlemen,

1 that concludes the videos and the audio you asked to
2 have reviewed what remains are three pieces of the
3 documentary evidence: Grand Jury 1, the photograph of
4 Daniel Prude, Grand Jury Exhibit 36-A, which is in
5 evidence, Dr. [REDACTED] case summary report and
6 autopsy report, as well as the patient care report
7 from AMR Grand Jury Exhibit 45.

8 Ms. Sommers and I will leave for you to
9 review and when you're done, let us know.

10 (Whereupon, Mr. Smith, Ms. Sommers and the
11 court reporter left during jury deliberations/review
12 of evidence and subsequently returned.)

13 Ms. SOMMERS: All right. So, for the
14 record, we have been out of the room for a while,
15 while some evidence was reviewed, but we all just came
16 back in after being told we could do so.

17 Is there other evidence that you would like
18 to review today?

19 JURY FOREPERSON: The Grand Jury has not
20 requested other evidence be reviewed.

21 MS. SOMMERS: Okay. As we discussed
22 previously, the next time you meet, we'll be reviewing
23 some relevant evidence that was missed by certain
24 people who were not able to make particular days.
25 We're doing this because we want the Grand Jury vote

1 to include as many grand jurors as possible.

2 So, the next time that you meet, we will be
3 starting by -- well, as I mentioned, there may be one
4 last piece of additional evidence that may bring
5 together evidence that is already in front of you, but
6 that's not a certainty. But, we will be either
7 playing or reading or having the court reporter read
8 to you some evidence from the days that individuals
9 missed.

10 So, with that, anybody have any questions?

11 GRAND JURY POOL: (All jurors indicating a
12 negative response.)

13 MS. SOMMERS: All right. So, one last thing
14 I forgot to state. You're going to be back here, Mr.
15 Smith is telling you in a moment, the date.

16 MR. SMITH: Wednesday February 24th at 9:30
17 in the morning.

18 MS. SOMMERS: Wednesday February 24th. This
19 is still a secret proceeding so if you leave and
20 somebody says, when are you going back? We're asking
21 that you -- you know, if asked by the foyers and
22 whatnot, you're permitted to say you're Grand Jury
23 term is not over but if you could possibly refrain
24 from that date until a little closer to that date, to
25 the extent possible, we would appreciate it because

1 things tend to -- well, I'll just leave it at that for
2 now.

3 All right. Everybody, thank you so much.
4 We appreciate you and your time and we will see you at
5 the end of February.

6 (Proceeding adjourned.)

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1 **S T E N O G R A P H E R C E R T I F I C A T I O N**

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3 I DO HEREBY CERTIFY as a Notary Public in and
4 for the State of New York, that I did attend and
5 report the foregoing proceeding, which was taken down
6 by me in a verbatim manner by means of machine
7 shorthand.

8 Further, that the proceeding was then
9 reduced to writing in my presence and under my
10 direction. That the proceeding was taken to be used
11 in the foregoing entitled action. That the said
12 deponent, before examination, was duly sworn to
13 testify to the truth, the whole truth, and nothing but
14 the truth, relative to said action.



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Notary Public.

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