

1 STATE OF NEW YORK
2 MONROE COUNTY GRAND JURY

3 _____

4 DAY 3:

5

6 Investigation into the death of Daniel T. Prude

7

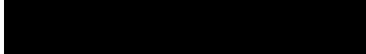
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9 Transcript of the Proceedings held before
10 the Monroe County Grand Jury, at the Monroe County,
11 Hall of Justice, 99 Exchange Blvd., Rochester, New
12 York, 14614, on November 18th, 2020.

13

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

14 FOR THE

15	PEOPLE	DESCRIPTION	ID	EVD
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16 -----

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1 (Proceeding reconvened.)

2 MS. SOMMERS: Good morning, everyone.

3 We are on the record in the case of the
4 investigation into the death of Samuel -- I'm sorry,
5 Daniel Prude.

6 For the record, there are 23 grand jurors
7 present. Just to review very, very quickly, the last
8 time we met was two weeks ago, and I just wanted to
9 briefly identify who testified at that point: Officer
10 [REDACTED] from the Cheektowaga Police Department
11 testified, and there was a video that was played in
12 connection with that, [REDACTED] from an
13 ambulance company also testified, and there was a
14 record that was presented. I submit to you, this is
15 all -- your recollection controls. But, this is based
16 on the notes and -- and my recollection. Officer [REDACTED]
17 [REDACTED] of the Rochester Police Department also
18 testified, and an additional video was admitted. And
19 then Supervising Investigator, [REDACTED], from the
20 New York State Attorney General's Office testified,
21 and a synchronized compilation video was played.

22 So, I'm just going to ask the secretary if I
23 accurately recounted who testified at the last
24 presentation?

25 JURY SECRETARY: Yes.

1 MS. SOMMERS: Okay. Thank you. So, I
2 believe, this morning we have three or four witnesses.
3 We will then take a break. And then, in the
4 afternoon, we'll have four witnesses. So, it's going
5 to be a pretty full day. So, there will be a lunch,
6 and we can, kind of, get into specifics about how long
7 -- and everything after we see how long these first
8 witnesses take.

9 Anyone have any questions before we get
10 going? All right. Thank you.

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1 (Whereupon, the witness entered the room at
2 a time of 9:31 a.m.)

3

4 [REDACTED] [REDACTED], after being duly
5 called and sworn, testified as follows:

6

7

EXAMINATION BY MS. SOMMERS:

8 Q. If you wouldn't mind going around and having a
9 seat. Could you please state your name and spell it?

10 A. [REDACTED]. [REDACTED]. Last name is
11 [REDACTED].

12 Q. Thank you. Mr. [REDACTED], where do you work?

13 A. I currently work at the University of Rochester
14 Department of Public Safety.

15 Q. And, in what capacity?

16 A. As a dispatcher.

17 Q. Thank you. I would like to draw your attention
18 back to March 23rd of this year, were you working at a
19 different location at that time?

20 A. Yes, I was at the Emergency Communications
21 Department, the 911 Center as a dispatcher slash
22 operator.

23 Q. All right. Can you please explain for the Grand
24 Jury what is the difference between a dispatcher and
25 an operator?

1 A. An operator or call taker takes the incoming
2 calls from the public, and a dispatcher dispatches
3 them out to different police agencies.

4 Q. Thank you. And, you had done both of these
5 positions during your time at ECD?

6 A. Yes.

7 Q. And by ECD, I'm referring to the Emergency
8 Communications Department?

9 A. Yes.

10 Q. Thank you. When a call is additionally received,
11 a 911 call, for instance, could you just explain
12 briefly the role of the call taker, or the operator?
13 What types of basic steps do you perform?

14 A. So, basically, our role is to gather as much
15 information, location of the incident, what's going on
16 and then classifying it and entering all kinds of, you
17 know, Pereztinent information, descriptions, plate
18 numbers, stuff like that.

19 Q. And, where does that information go?

20 A. So, it goes on to -- we create or generate what's
21 called a job card, and that goes over to the
22 appropriate dispatcher for dispatch.

23 Q. When does the call taker's role end, relative to
24 a particular job or incident?

25 A. When the call ends.

1 Q. So, if I were to call 911, and make a -- some
2 type of a compliant or something, when would the call
3 taker's role in the incident end?

4 A. When we disconnect.

5 Q. Okay. Thank you. Can you explain for the Grand
6 Jury what a job card is?

7 A. A job card is, basically, chronological events of
8 what happened. So, the time the call came in, and
9 then, basically, as you're giving -- as you're giving
10 the information or giving the operator information
11 we're typing it up, and it just kind of keeps a time
12 stamp of that information.

13 Q. For each individual call, who begins the process
14 of capturing information for the job card?

15 A. The call taker.

16 Q. Who -- who continues that process after the call
17 is over?

18 A. The dispatcher.

19 Q. Thank you. I'm approaching you with what's been
20 marked for identification Grand Jury Exhibit Number
21 11, can you just, in a general sense, note for the
22 record what that is that I just handed you?

23 A. That's a job card.

24 Q. What date does that job card relate to?

25 A. March 23rd of this year, 2020.

1 Q. Is that a job card that you were personally
2 involved in?

3 A. Yes.

4 Q. Are documents, such as the one in front of you,
5 made in the normal course of the business of ECD?

6 A. Yes.

7 Q. When is the data that's captured on the job card
8 actually put into the system and -- and captured?

9 A. Realtime. So, as I'm typing it, it goes onto the
10 job card.

11 Q. And, is that also kept in the normal course of
12 business of ECD?

13 A. Yes.

14 Q. Thank you.

15 MS. SOMMERS: At this time, I will move to
16 admit Grand Jury 11.

17 **(Whereupon, Grand Jury Exhibit Number 11,**
18 **was then received into evidence.)**

19 BY MS. SOMMERS:

20 Q. Mr. [REDACTED], what time did the 911 call that
21 generated this event come in?

22 A. It came in at 2:58 in the morning.

23 Q. Referring to the job card, who was it that called
24 911?

25 A. [REDACTED] -- well, [REDACTED].

1 Q. Okay. Was that the person that called 911, or
2 was that the person about which --

3 A. Oh, that's the person -- the person that called
4 was [REDACTED], [REDACTED].

5 Q. [REDACTED]?

6 A. Or, [REDACTED].

7 Q. Okay. We'll get to that in a moment.

8 A. Okay.

9 Q. Relative to just reading the job card, who called
10 911?

11 A. [REDACTED].

12 Q. Someone named [REDACTED]?

13 A. [REDACTED] to my understanding was.

14 Q. Okay. Have you subsequently learned that you
15 misunderstood the name?

16 A. Yes.

17 Q. And, what have you learned that the name actually
18 was?

19 A. [REDACTED].

20 Q. All right. What address did the job card relate
21 to?

22 A. [REDACTED] Child Street.

23 Q. When calls are received at ECD, are they also
24 recorded?

25 A. Yes.

1 Q. Every call?

2 A. Yes.

3 Q. Was this call recorded?

4 A. Yes.

5 Q. Approaching with Grand Jury Exhibit Number 12,
6 have you ever seen this before?

7 A. Yes.

8 Q. What is Grand Jury Exhibit Number 12?

9 A. It is a CD of the call that I took from [REDACTED] Child
10 Street.

11 Q. How do you know that that's a CD of the call that
12 you took?

13 A. Because it's labeled, and I initialed it after
14 listening to it.

15 Q. So, you've had the opportunity to listen to it?

16 A. Yes.

17 Q. Is what's contained on Grand Jury Exhibit 12 a
18 fair and accurate capturing of the 911 call that you
19 received on March 23rd?

20 A. Yes.

21 Q. Thank you.

22 MS. SOMMERS: I'll offer 12, please.

23 **(Whereupon, Grand Jury Exhibit Number 12,**
24 **was then received into evidence.)**

25 MS. SOMMERS: All right. At this time,

1 we're going to play Grand Jury Exhibit 12.

2 I'm also going to hand out -- I'm also going
3 to hand out an unofficial transcript of the call. So,
4 this isn't the first time you've heard this before.
5 You don't even have to read the transcript if you
6 don't want to. This is not an official transcript.
7 There was not a court reporter taking notes on the
8 call. So, if you think that you hear something
9 different when you're listening, you go with what you
10 believe you heard. It's just meant to be an aid.

11 Everyone all set? All right. Thank you.
12 All right. We're going to go ahead and play the call.

13 **(Whereupon, Grand Jury Exhibit Number 12,**
14 **the 911 call, was then played into the record.)**

15 MS. SOMMERS: For the record, the recording
16 just stopped.

17 BY MS. SOMMERS:

18 Q. Mr. [REDACTED], that, what the Grand Jury just listened
19 to, was your recorded call with Mr. [REDACTED]?

20 A. Yes.

21 Q. And, other than the inaccurate name, is the rest
22 of the information captured on the job card accurate?

23 A. Yes.

24 Q. Thank you.

25 MS. SOMMERS: So, I'm going to have you come

1 around here and step outside. You can go right out
2 there. Don't leave yet just in case anyone has a
3 question.

4 THE WITNESS: Okay.

5 (Whereupon, the witness left the Grand Jury
6 room at a time of 9:46 a.m.)

7 MS. SOMMERS: Does anyone have any questions
8 for Mr. [REDACTED]? All right. Thank you. You can let him
9 know he can go.

10 Would you mind passing up the unofficial
11 transcripts? I will keep a copy designated 12-A for
12 identification.

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1 (Whereupon, the witness entered the Grand
2 Jury room at a time of 9:49 a.m.)

3

4 [REDACTED] [REDACTED], after being duly
5 called and sworn, testified as follows:

6

7 MS. SOMMERS: Before we get going, can
8 everyone hear okay?

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

11 MS. SOMMERS: Okay.

12 MR. SMITH: And that volume, was that good?

13 JURY POOL: (All jurors indicating a
14 positive response.)

15

16 **EXAMINATION BY MS. SOMMERS:**

17 Q. Good morning.

18 A. Good morning.

19 Q. Would you please state your name and spell your
20 -- actually, spell both your first and last names for
21 the record?

22 A. My name is [REDACTED]. [REDACTED].

23 [REDACTED].

24 Q. Thank you. Mr. [REDACTED], where do you work?

25 A. I work at 911, the Emergency Communications

1 Department.

2 Q. Is that sometimes referred to as ECD?

3 A. Yep.

4 Q. Thank you. How long have you worked there?

5 A. About a year and a half.

6 Q. What position do you hold there?

7 A. I'm a police dispatcher.

8 Q. What does a police dispatcher do?

9 A. We dispatch officers to 911 calls.

10 Q. Are you communicating with officers directly?

11 A. Yes, over the radio.

12 Q. Thank you. Were you working on March 23rd, 2020?

13 A. Yes.

14 Q. What was your shift that day?

15 A. I was a police dispatcher on the west side.

16 Q. But, what was your -- what was your shift? When
17 did you begin and end your --

18 A. Oh, midnight to 8:00 a.m.

19 Q. So, you began at midnight on the 23rd and ended
20 at 8:00 in the morning on the 23rd?

21 A. Correct.

22 Q. Thank you. And, what role did you play as a
23 dispatcher during those hours -- actually, I'd like to
24 withdraw that. From approximately five minutes to
25 3:00 in the morning, until 3:30, in what capacity were

1 you working?

2 A. I was dispatching for the west side of the
3 Rochester Police Department.

4 Q. Can you please explain for the Grand Jury how the
5 Rochester Police Department is divided, relative to
6 ECD? Is there a north, south, east, west or --

7 A. They're dispatched on two different channels, an
8 east side and a west side.

9 Q. What is -- what is contained within the east
10 side?

11 A. Goodman Section and Clinton Section.

12 Q. What is contained within the west side?

13 A. Lake Section, Genesee Section and Central
14 Section.

15 Q. And, those Sections all relate to different parts
16 of the City?

17 A. Correct.

18 Q. You just indicated that you were dispatching for
19 the west side?

20 A. Yes.

21 Q. So, can you just, again, reiterate what Sections
22 that pertain to?

23 A. That pertains to Lake Section, Genesee Section
24 and Central Section.

25 Q. What Section of the City do the dispatches that

1 we're going to be specifically referring to this
2 morning, what Section of City do they take place in?

3 A. Genesee Section.

4 Q. Thank you. I'm approaching with Grand Jury
5 Exhibit 13 for identification, do you recognize, in a
6 general sense, what that is?

7 A. Yes.

8 Q. What is that?

9 A. It's a map of the Genesee area.

10 Q. Is what's contained in Grand Jury Exhibit 13 a
11 fair and accurate capturing of the Genesee area of the
12 City of Rochester?

13 A. Yes.

14 Q. Thank you.

15 MS. SOMMERS: I'll move to admit it, please.

16 **(Whereupon, Grand Jury Exhibit Number 13,**
17 **was then received into evidence.)**

18 MS. SOMMERS: For the record, I've put Grand
19 Jury Exhibit 13 up on the Elmo.

20 BY MS. SOMMERS:

21 Q. Is the area of [REDACTED] -- are you able to see that,
22 Mr. [REDACTED]?

23 A. Yes.

24 Q. Is the area of [REDACTED] Child Street depicted on that
25 map?

1 A. Yeah, in the top left corner.

2 Q. For the record, I'm pointing to the top left
3 corner of Grand Jury 13, is that accurate?

4 A. Yes.

5 Q. Is that where I'm pointing? And, is that [REDACTED]
6 Child Street?

7 A. Yes.

8 Q. Is the general vicinity or area of 767 West Main
9 Street depicted in Grand Jury Exhibit 13?

10 A. Yes.

11 Q. And, just in a general area type of way, where is
12 that?

13 A. It's in the Central area, by that 2, 3 and 4.

14 Q. Okay. So, for the record, I have the tip of my
15 pen pointing to a 2, 3 and 4 area, and I'm circling
16 it. Is that an accurate capturing of what I just did
17 with my pen?

18 A. Yes.

19 Q. And, that's where you just referred to?

20 A. Correct.

21 Q. Is the area of Jefferson Avenue and West Main
22 Street depicted on Grand Jury Exhibit 13?

23 A. Right. Yes.

24 Q. Where, just giving a general vicinity, is that
25 located?

1 A. More towards the top right.

2 Q. All right. So, for the record, I'm just going to
3 the top right here. It appears that it says West Main
4 Street, is that what is captured along where my pen is
5 going, which is going from, like, left to right and
6 up. Is that accurate?

7 A. Yes.

8 Q. Okay. And then, over on the right side of this
9 map, is something that goes north to south, or bottom
10 to top, is that Jefferson Avenue?

11 A. Yes.

12 Q. So, the intersection of Jefferson and Main, is
13 that right in the area where my pen is, which is the
14 upper right-hand portion of this map?

15 A. Yep.

16 Q. Is the area of Dr. Samuel McCree Way and
17 Jefferson Avenue also depicted on this map?

18 A. Yes.

19 Q. And, where is that?

20 A. That's the bottom right.

21 Q. So, for the record, I'm pointing to a part of
22 this map where the Number 8 is. Is that -- am I
23 accurately describing the right lower portion of the
24 map?

25 A. Correct.

1 Q. And, is that what you were just referring to?

2 A. Yes.

3 Q. Okay. Thank you.

4 MS. SOMMERS: So, just a note about this map
5 to the Grand Jury. There are numbers and addresses
6 noted. Those are subject to connection. They're --
7 they're not a part of the case yet. The only thing
8 that you should be focusing on, factually, is what
9 Mr. [REDACTED] just discussed about location.

10 Does everybody understand that?

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

13 MS. SOMMERS: Okay. Thank you.

14 BY MS. SOMMERS:

15 Q. As the dispatcher assigned to RPD west that
16 evening, were you speaking directly with the 911
17 callers?

18 A. No.

19 Q. Who was doing that?

20 A. The operators.

21 Q. Are you familiar with the role of operators or
22 call takers?

23 A. Yep. I'm also trained as an operator.

24 Q. All right. Who -- I'd like to withdraw that.
25 Could you explain for the Grand Jury, what is a job

1 card?

2 A. A job card is a digital record created by the
3 call takers of a 911 call.

4 Q. Is all the information captured on a job card
5 captured by the call taker?

6 A. Yes.

7 Q. Is -- so, I understand that everything that the
8 call taker does is captured on the job card, but is it
9 continued by anyone else, is the data captured?

10 A. Yes. Dispatchers continue to add information to
11 it.

12 Q. So, in a case like this, that would be you?

13 A. Yes.

14 Q. All right. I'm approaching with what has been
15 marked for identification as Grand Jury Exhibits 14
16 and 15, do you recognize those?

17 A. Yes.

18 Q. What are they?

19 A. They are job cards from that night.

20 Q. Do those job cards relate to a job that you
21 personally were involved in dispatching?

22 A. Yes.

23 Q. Are those job cards made in the normal course of
24 business of the ECD?

25 A. Yes.

1 Q. When is -- the information that's captured on
2 those job cards, when is that coming in?

3 A. You mean what time?

4 Q. Is it coming in at or about the time that is
5 reflected on the job card?

6 A. Yes.

7 Q. So, it's nearly contemporaneous or
8 contemporaneous?

9 A. Yes.

10 Q. And, are these kept in the normal course of
11 business of the ECD?

12 A. Yes.

13 Q. Thank you.

14 MS. SOMMERS: At this time, I will move them
15 into evidence.

16 **(Whereupon, Grand Jury Exhibit Numbers 14**
17 **and 15, were then received into evidence.)**

18 BY MS. SOMMERS:

19 Q. All right. So, in front of you are Grand Jury
20 Exhibits 11, 14 and 15. 11 had already been placed
21 into evidence. Do all three of those relate to
22 incidents that you were involved in dispatching on
23 March 23rd?

24 A. Yes.

25 Q. Thank you. Can you please advise the Grand Jury,

1 what time did -- the call that resulted in Grand Jury
2 Exhibit Number 11, what time did that call come in?

3 A. 2:58:11.

4 Q. What is the nature of that call as reflected in
5 the job card?

6 A. A suspicious person at [REDACTED] Child Street.

7 Q. And, for the record, [REDACTED] Child Street, I believe
8 you stated is up in the upper left corner of Grand
9 Jury Exhibit 13?

10 A. Correct.

11 Q. Thank you. Which -- can you explain to the Grand
12 Jury how Sections of the City are further sectioned?

13 A. Each Section of the City is further divided into
14 specific Beats.

15 Q. Okay. Beats? So, B-E-A-T?

16 A. Yes.

17 Q. Okay. And, backing up a moment, how can you tell
18 what Section a particular RPD car is in?

19 A. The last digit of the car number, their 3 digit
20 car number indicates the Section.

21 Q. For the Genesee Section, which is reflected in
22 Grand Jury Exhibit Number 13, a portion of it, what
23 number is -- do the cars in that Section end in?

24 A. 3.

25 Q. Thank you. When police respond to a job, how --

1 how do they make their presence at that job known? Is
2 there more than one way that they're able to do that?

3 A. Yes. They can call out on scene over the radio
4 and they can indicate on their computers that they're
5 on scene.

6 Q. If they indicate that on their computer, is that
7 another piece of data that's captured on the job card?

8 A. Yes.

9 Q. If they announce it, is that something that you
10 can hear over the air?

11 A. Yes.

12 Q. Thank you. From reviewing Grand Jury Exhibit 11,
13 are you able to see -- I'm sorry. I'd like to
14 withdraw that. First of all, what number car -- what
15 Beat was that [REDACTED] Child Street in?

16 A. It was in Beat [REDACTED].

17 Q. Are you able to see, by looking at that job card,
18 whose Beat that was?

19 A. That was [REDACTED].

20 Q. Are you able to see, by looking at a job card,
21 whether other Officers also responded to that?

22 A. Yes.

23 Q. What cars and last names were those Officers?

24 A. Car [REDACTED], Officer [REDACTED], [REDACTED], Officer [REDACTED], [REDACTED]
25 Officer [REDACTED], and [REDACTED] Officer [REDACTED].

1 Q. Those are all cars within the Genesee Section?

2 A. Correct.

3 Q. Is it unusual to have more than one call -- more
4 than one car respond to a job such as the one that
5 we're going to be discussing?

6 A. No.

7 Q. Does there come a point in time, according to the
8 job card, just looking at a job card only, when the
9 information that was provided about the subject of the
10 call, was updated by an officer?

11 A. Yes. It looks like at 3:07, car [REDACTED], which was
12 Officer [REDACTED]'s, updated that the suspect was on PCP.

13 Q. Okay. Setting that job card aside and going to
14 -- I'm sorry. The next one in front of you, is it 14?

15 A. 14, for 767 West Main Street.

16 Q. Thank you. And, just again, for the record, and
17 correct me if I'm wrong, but for the record, I'm sort
18 of circling here, the area of 2, 3 and 4 on Grand Jury
19 Exhibit 13. First of all, did I do that? Did I
20 circle the area of 2, 3 and 4?

21 A. Yes.

22 Q. Is that the general area of 767 West Main Street?

23 A. Yes, it is.

24 Q. Thank you. Does there come a point in time, when
25 a call comes in, regarding that location?

- 1 A. Yes, at 3:07:59.
- 2 Q. What was the nature of that call?
- 3 A. It was a burglar alarm for 767 West Main Street.
- 4 Q. Does the time that you just referred to -- and
5 again, what was the time?
- 6 A. 3:07:59.
- 7 Q. Does that time correspond to the time that the
8 burglar alarm actually went off or the time that it
9 was called in by somebody?
- 10 A. That's the time it was called in.
- 11 Q. Thank you. Did you also dispatch that call?
- 12 A. Yes.
- 13 Q. How many of the officers from the [REDACTED] Child Street
14 call responded to that call?
- 15 A. Three.
- 16 Q. Which ones?
- 17 A. [REDACTED], Officer [REDACTED], [REDACTED] Officer [REDACTED], [REDACTED]
18 Officer [REDACTED] -- oh, it was actually four. And,
19 [REDACTED], Officer [REDACTED].
- 20 Q. Thank you. So, out of the original officers, who
21 stayed behind at [REDACTED] Child Street?
- 22 A. [REDACTED], Officer [REDACTED].
- 23 Q. Thank you. Now, this time, that you're receiving
24 this information in realtime, did you have any
25 indication that these two calls were related?

1 A. No.

2 Q. Thank you. I'd like to turn to Grand Jury
3 Exhibit 15. What time did that call come in?

4 A. 3:08:40.

5 Q. And, again, you were personally involved in
6 dispatching this call?

7 A. Yes.

8 Q. What was the nature and location -- I'd like to
9 withdraw that. What was the nature of the call?

10 A. It was a 1078, or somebody having a mental health
11 issue.

12 Q. Where was the location of that call?

13 A. Jefferson Ave and West Main Street.

14 Q. So, I'm re-approaching here. And, Grand Jury
15 Exhibit 13, sort of circling up where the Number 6 is,
16 in the upper right-hand corner. So, first of all, am
17 I accurately describing where I'm pointing?

18 A. Yes.

19 Q. And, is that the general area of Jefferson and
20 West Main Street?

21 A. Yes.

22 Q. Thank you. Are you able to tell, by looking at a
23 job card, whether or not EMS was -- I'd like to
24 withdraw that. What is EMS?

25 A. Emergency Medical System.

1 Q. Are you able to tell, by reviewing the job card,
2 whether EMS was advised of this call?

3 A. EMS were staged for this call.

4 Q. And, can you explain for the Grand Jury what it
5 means for EMS to stage?

6 A. They wait nearby the location before going inside
7 while the officers check to make sure it's safe for
8 the EMS crew.

9 Q. Is that a standard or routine practice in cases
10 such as this?

11 A. Yes.

12 Q. In reviewing that job card, are you able to
13 determine what officers went to this next call?

14 A. Yes. Car [REDACTED], Officer [REDACTED], car [REDACTED], Officer
15 [REDACTED], car [REDACTED], Officer [REDACTED], and [REDACTED], Officer
16 [REDACTED].

17 Q. Are you able to then -- kind of doing the math,
18 who stayed behind at the burglar alarm?

19 A. Car [REDACTED], Officer [REDACTED].

20 Q. Thank you. Again, at this point, did you have
21 any indication that these calls that you just
22 described were related?

23 A. No.

24 Q. When you are dispatching matters at the ECD, are
25 they also recorded?

1 A. Yes.

2 Q. Did you have any control over that?

3 A. No.

4 Q. Everything is recorded?

5 A. Yep.

6 Q. I am approaching with what's been marked for
7 identification, Grand Jury Exhibit Number 16. Have
8 you ever seen 16 previously?

9 A. Yes.

10 Q. How do you know?

11 A. Because I've initialed it.

12 Q. All right. What's contained on Grand Jury
13 Exhibit 16?

14 A. The audio from the dispatch channel that night.

15 Q. Is, what's contained on Grand Jury Exhibit 16, an
16 accurate recording of the dispatches from that
17 evening?

18 A. Yes.

19 Q. Thank you.

20 MS. SOMMERS: At this time, I will move
21 Grand Jury Exhibit 16.

22 **(Whereupon, Grand Jury Exhibit Number 16,**
23 **was then received into evidence.)**

24 BY MS. SOMMERS:

25 Q. All right. Before we play this portion, when you

1 listen to the actual dispatches as opposed to 911
2 calls that come in, are you -- is there any type of
3 voice stamp on the recording?

4 A. Yes.

5 Q. Can you explain for the Grand Jury the
6 relationship of the voice stamp relative to what you
7 hear after the voice stamp?

8 A. There'll be a voice stamp giving the time at the
9 end of the -- at the end of the voice stamp, is the
10 time that the voice stamp indicates.

11 Q. So, if it says 12:00 o'clock and one second, does
12 the 12:00 o'clock and one second start when I stop
13 talking or when I start talking?

14 A. When the voice stamp stops talking.

15 Q. Okay. Thank you. Do officers use, as a general
16 practice, their names when they're -- when you're
17 communicating with them or when they're communicating
18 with each other over the air?

19 A. No.

20 Q. What do you and the officers use?

21 A. We use the car numbers.

22 Q. Thank you. And, can you explain for the Grand
23 Jury what -- what it means to back up?

24 A. For an officer to assist another officer, they
25 back them up.

1 Q. And, just before we play it, are there some
2 additional dispatches contained on this Exhibit that
3 do not have to do with the job that are on the job
4 card in front of you?

5 A. Yes.

6 Q. Thank you.

7 MS. SOMMERS: All right. At this time,
8 we're going to go ahead and play it. I'm going to go
9 ahead and pass out an unofficial transcript. Again,
10 what you hear matters more than what's reflected
11 there.

12 All right. At this time, we're going to go
13 ahead and play the -- what's captured in Grand Jury
14 Exhibit 16. Thank you.

15
16 (Whereupon, the recorded 911 dispatch call
17 then was played into the record for the Grand Jury.)

18
19 MS. SOMMERS: Okay. So, I just wanted to
20 note, for the record, if a call is not relevant to
21 these job cards that you heard of, it's not on the
22 unofficial transcript. So, I just wanted to say, for
23 the record, two minutes exactly in, you just heard a
24 transmission. Is that an example of something else
25 going on, on the west side that was not related to

1 these calls?

2 THE WITNESS: Yes.

3 MS. SOMMERS: Thank you.

4

5 (Whereupon, the recorded call continued to
6 play into the record for the Grand Jury.)

7

8 MS. SOMMERS: For the record, we just
9 concluded about 3 minutes and 28 seconds in.

10 BY MS. SOMMERS:

11 Q. Can you explain for the Grand Jury what your
12 comment about two glass break detectors means?

13 A. That's the specific alarm inside the store that
14 went off.

15 Q. Okay.

16 A. So, it indicates that -- possibly that two glass
17 windows were broken.

18 Q. Okay. Would you ever sometimes advise that it
19 was a door that was broken or something along those
20 lines?

21 A. Yes, it would come in as a door break front, a
22 specific door. It could be a -- you know, motion
23 alarms are also pretty common as well.

24 Q. All right. And, just one final thing here. Did
25 this come in as a residential or a commercial

1 burglary?

2 A. A residential.

3 Q. Alarm. I apologize. Burglar alarm.

4 A. A residential.

5 Q. Are you able to -- just based on your knowledge
6 of the area and the location, determine whether that
7 was accurate?

8 A. It was not.

9 Q. And, what exactly -- what should it have been?

10 A. It should have been a commercial alarm.

11 Q. All right. Thank you.

12 MS. SOMMERS: We're going to press play
13 again at 3 minutes and 28 seconds.

14

15 (Whereupon, the recording continued to play
16 into the record for the Grand Jury.)

17

18 MS SOMMERS: For the record, we're 4 minutes
19 and 4 seconds in, and I just asked that the tape be
20 stopped.

21 BY MS. SOMMERS:

22 Q. Could you explain to the Grand Jury what it means
23 to hold the air?

24 A. So, for things like confirmed burglaries or
25 shootings or stabbings --

1 Q. Keep your voice up.

2 A. Oh, sorry. So, for things like, confirmed
3 shootings or stabbings or chases or anything that
4 might involve officer safety, we ask that all cars
5 only talk over the radio if it's involving a certain
6 event.

7 Q. In this case, does a burglary qualify as that
8 type of event?

9 A. Yes.

10 Q. So, by hold the air, what is the practical
11 implication of that, what is the result of that?

12 A. Only the officers who are responding to a
13 burglary will speak over the radio.

14 Q. Who notifies when that period of time is over?

15 A. They notify me.

16 Q. All right. Thank you.

17 MS. SOMMERS: So, go ahead. I ask that it
18 recommence playing.

19

20 (Whereupon, the recording call continued to
21 play into the record for the Grand Jury.)

22

23 MS. SOMMERS: For the record at 4:51, just
24 ask that the tape be stopped again.

25 BY MS. SOMMERS:

1 Q. Are you able to tell who just asked where that
2 location was by looking at the job cards?

3 A. I believe it was [REDACTED]. Yes, [REDACTED].

4 MS. SOMMERS: Okay. Does, I think -- so,
5 I'm going to actually ask that it be rewind about ten
6 seconds or thereabouts.

7

8 (Whereupon, the recorded call continued to
9 play into the record.)

10

11 MS. SOMMERS: All right. So, I'm going to
12 press pause again. Just for the record, rewind about
13 ten seconds, and we went to the place that we were
14 before.

15 BY MS. SOMMERS:

16 Q. Who was it that called in asking where that
17 location was?

18 A. [REDACTED].

19 Q. And, are you able to, by reviewing the original
20 job card, know who [REDACTED] was?

21 A. Yes. That was Officer [REDACTED].

22 Q. Is that also the Officer that had remained behind
23 at [REDACTED] Child Street?

24 A. Yes.

25 Q. Thank you.

1 MS. SOMMERS: I apologize. Go ahead.

2

3 (Whereupon, the recording continued to play
4 into the record for the Grand Jury.)

5

6 MS. SOMMERS: Just stop it for a moment at
7 6:28.

8 BY MS. SOMMERS:

9 Q. Are you able to hear from that, an officer refer
10 to another officer by their first name?

11 A. Yes.

12 Q. And, did you recognize the first name that you
13 heard?

14 A. I believe it was [REDACTED].

15 Q. And, are you able to tell by looking at the job
16 cards, who that Officer is?

17 A. [REDACTED], [REDACTED].

18 Q. Are you able to tell what the last name is?

19 A. Sorry. Officer [REDACTED].

20 Q. Thank you.

21

22 (Whereupon, the recording continued to play
23 into the record for the Grand Jury.)

24

25 MS. SOMMERS: Just stopped the playing at

1 7:56.

2 BY MS. SOMMERS:

3 Q. And, for the record, I believe, there was a
4 dispatch about where to send the rig?

5 A. Yes.

6 Q. Does that sound familiar?

7 A. Yes.

8 Q. All right. Can you explain for the Grand Jury
9 what -- what is a rig?

10 A. It's the ambulance.

11 Q. You had indicated before that the ambulance was
12 staging?

13 A. Correct.

14 Q. What impact would be the asking for the rig to be
15 brought to a particular location; would that be the
16 end of the staging process?

17 A. Yes.

18 Q. Thank you.

19 MS. SOMMERS: So, I'm just going to ask that
20 the recording continue to play.

21

22 (Whereupon, the recording continued to play
23 into the record for the Grand Jury.)

24

25 MS. SOMMERS: Just for the record, I just

1 stopped the recording again at 8:27.

2 BY MS. SOMMERS:

3 Q. Was what's -- what's captured on the recording, 8
4 minutes and 27 seconds in, your first indication that
5 these, at least two of these jobs, were related?

6 A. Yes.

7 Q. Thank you.

8 MS. SOMMERS: I'm going to go ahead and ask
9 that the recording keep playing.

10

11 (Whereupon, the recording continued to play
12 into the record for the Grand Jury.)

13

14 MS. SOMMERS: Okay. Stopping the recording
15 at 10:30.

16 BY MS. SOMMERS:

17 Q. Are you able to tell at that time in the Grand
18 Jury Exhibit, if any of the officers involved in any
19 of these calls, left to go to a different call?

20 A. Yes.

21 Q. And, which ones?

22 A. [REDACTED], Officer [REDACTED], and [REDACTED], Officer [REDACTED].

23 Q. Thank you.

24

25 (Whereupon, the recording continued to play

1 into the record for the Grand Jury.)

2

3 MS. SOMMERS: Okay. So, for the record,
4 what is contained on that Grand Jury Exhibit just
5 concluded.

6 BY MS. SOMMERS:

7 Q. Are you able to tell, based on the dispatch, who
8 the last -- which car, the last dispatch, that the
9 Grand Jury just heard on the recording came from?

10 A. 123.

11 Q. What is the difference between a car that begins
12 with the 1 and a car that begins with a 2?

13 A. 2 are regular patrol cars. The ones that begin
14 with 1 are bosses.

15 Q. Are you able to tell by looking at the job card
16 who was in car [REDACTED] that morning?

17 A. Officer [REDACTED].

18 Q. [REDACTED]?

19 A. Yes, [REDACTED].

20 Q. Okay. Thank you. Mr. [REDACTED], was
21 there any type of crisis intervention team or mobile
22 response team, for instance, social workers, or
23 anything like that, available to be dispatched at 3:20
24 in the morning on March 23rd?

25 A. No.

1 Q. Does that type of team operate at any time of day
2 in Monroe County as of March 23rd?

3 A. FIT does operate during the regular hours.

4 Q. All right. So, you just said FIT?

5 A. Yeah.

6 Q. Did I -- did I -- I want to make sure everyone
7 understands. So, F, as in fashion, I-T?

8 A. Correct.

9 Q. Can you explain for the Grand Jury what FIT is?

10 A. They're the Forensic Intervention Team and they
11 respond to mental health calls.

12 Q. All right. Was -- who is responsible for
13 contacting FIT? Or, can you explain the process of
14 FIT becoming involved in calls?

15 A. Well, if an officer believes that they're needed,
16 they contact us and request a FIT response and we
17 dispatch FIT.

18 Q. Okay. At any time -- well, I'd like to withdraw
19 that. Are you aware whether on March 23rd, FIT or the
20 Forensic Intervention Team was operating beyond 10:00
21 o'clock at night in Monroe County?

22 A. No, they don't operate overnight.

23 Q. In your capacity as a dispatcher, have you ever
24 received any formal training from dispatch, generally,
25 about something called quote, unquote, excited

1 delirium, to your knowledge?

2 A. No.

3 Q. Have you ever received any type of formal
4 training about symptoms manifested by people that
5 include being naked and hallucinating and what that
6 might indicate? Formal training?

7 A. We have -- we do know that if someone is going
8 through something like that, that officers will need a
9 backup for those types of calls.

10 Q. Okay. Any formal training as to what the risks
11 -- not to the officers, but to the actual person might
12 entail?

13 A. No.

14 Q. Okay. Does -- so, thank you. What I'm going to
15 have you do is come right back around to where you
16 entered and -- but, don't leave yet.

17 A. Oh. Okay.

18 (Whereupon, the witness left the Grand Jury
19 room at a time of 10:37 a.m.)

20 MS. SOMMERS: Does anyone have any questions
21 for Mr. [REDACTED]?

22 JURY POOL: (All indicating a negative
23 response.)

24 MS. SOMMERS: All right. Thank you -- oh,
25 I'm sorry.

1 A JUROR: Yeah. The other car, the [REDACTED], it
2 would be [REDACTED], a mixed male with a hoodie, but
3 then -- okay, [REDACTED], 35 what's 35?

4 MS. SOMMERS: Okay. I'll bring him back and
5 ask.

6 A JUROR: That's not relevant to this.

7 MS. SOMMERS: Right. I -- I submit -- so,
8 that -- that was a separate call.

9 A JUROR: But, it took the officers away.

10 MS. SOMMERS: So, we can bring him in for
11 that.

12 A JUROR: You just asked him a question
13 about his training with delirium or hallucinations, is
14 that something he should be questioning? Because
15 there's nothing in the verbal from the officers to the
16 dispatcher about any hallucinations or deliriums, but
17 you asked him that question. Is that something he's
18 supposed to guess at or know already?

19 MS. SOMMERS: Right. I don't want you to
20 speculate other than the question that I asked and the
21 answer that he gave. So, my question to him was, had
22 he ever received any specialized training or any type
23 of training, formal training, as to excited delirium
24 or -- or, at least, I submit that's what my question
25 was, and maybe perhaps it wasn't. That's up to you,

1 but if you want me to further dig into that, I can't
2 -- I just don't want to comment on that at this point.
3 Actually, I just -- the evidence is his answer to my
4 question. Did you want me to --

5 A JUROR: No. I was just wondering why you
6 asked him that. If that's something that they're
7 automatically supposed to be trained instead of the
8 officers or the EMS.

9 MS. SOMMERS: Right. So, again, you may --
10 there may be some, or may not. But there may be some
11 evidence before the end regarding that, but don't
12 speculate that automatically will be. I was simply
13 asking him a question at this point, and his answer is
14 what it was.

15 A JUROR: Okay.

16 MS. SOMMERS: But, I'd be happy to delve
17 into that if you'd like me to.

18 A JUROR: No, that's okay.

19 MS. SOMMERS: Anyone else? Yes?

20 A JUROR: I'm wondering -- so, EMTs, were
21 staged and they were given the okay to go onto the
22 scene. How do we capture what's going on with the
23 EMTs?

24 MS. SOMMERS: So, I anticipate that there
25 will be more evidence that you will hear as this

1 progresses relative to that in particular.

2 A JUROR: Okay.

3 MS. SOMMERS: I'm not commenting on the
4 evidence, but there will be more evidence as to that.

5 Anything else?

6 JURY POOL: (All jurors indicating a
7 negative response.)

8 MS. SOMMERS: Okay. Bring him in for that
9 one.

10 (Whereupon, the witness re-entered the Grand
11 Jury room at a time of 10:40 a.m.)

12

13 [REDACTED] [REDACTED], after having been
14 previously duly sworn was further examined and
15 testified as follows:

16

17 MS. SOMMERS: Mr. [REDACTED], you're still
18 under oath, okay?

19 THE WITNESS: Okay.

20 **EXAMINATION BY MS. SOMMERS:**

21 Q. Thank you. Just one question. One of the grand
22 jurors had a question about one of the dispatch codes
23 that came out. I'm actually going to let the grand
24 juror ask it. Well, I -- I think I might remember it
25 accurately; but, if I don't, please correct me. In

1 one of the dispatches, you indicated to, I submit, car
2 ■■■, that -- that the driver of that car could 35.

3 Did I say that correctly? What does 35 mean?

4 A. Cancel.

5 Q. Cancel. Okay. And, do you recall why car ■■■
6 cancelled?

7 A. Because ■■■ stated they backed ■■■.

8 Q. Okay. So -- just want to make sure I understand.

9 So, ■■■ was going to go --

10 A. Yes.

11 Q. -- to this other call?

12 A. Mm-hmm.

13 Q. And, there were cars that were able to take the
14 call. So, ■■■ did not have to come to the call?

15 A. Correct.

16 MS. SOMMERS: Does that answer that?

17 A JUROR: Yep.

18 MS. SOMMERS: All right. Anybody else?

19 JURY POOL: (All indicating a negative
20 response.)

21 MS. SOMMERS: You're all set. Thank you.

22 THE WITNESS: You're welcome.

23 (Whereupon, the witness left the Grand Jury
24 room at a time of 10:42 a.m.)

25

1 MS. SOMMERS: Okay. For the record, it is
2 about almost quater to 11:00. We're going to take a
3 break about twenty minutes because there's a couple of
4 things we need to do here.

5 So, you've got twenty minutes. You can --
6 there's coffee on the first floor, there's machines in
7 the Commissioner's Office.

8 Please pass your -- pass those transcripts
9 forward. They're not Exhibits, they're just aids.
10 Thank you.

11 (Whereupon, there was a short break off the
12 record.)

13 (Proceeding reconvened.)

14 MS. SOMMERS: All right. I will grab him.
15
16
17
18
19
20
21
22
23
24
25

1 (Whereupon, the witness entered the Grand
2 Jury room at a time of 11:05 a.m.)

3

4 [REDACTED] [REDACTED], after being
5 duly called and sworn, testified as follows:

6

7

EXAMINATION BY MS. SOMMERS:

8

Q. Have a seat and just try to keep your voice up.

9

Keep your face close to the mic. Could you state your
10 name?

11

A. [REDACTED].

12

Q. Could you spell your last name?

13

A. [REDACTED].

14

Q. Mr. [REDACTED], were you working during the early
15 morning hours of March 23rd?

16

A. I was.

17

Q. What were you doing?

18

A. Loading a vehicle, towing.

19

Q. Okay. So, you were working -- so, do you work
20 doing towing?

21

A. Yes.

22

Q. Where, in general, was that vehicle that you were
23 towing located?

24

A. On Jefferson, right across from, I think it's
25 Lappy Place. Almost Jefferson and Main Street.

1 Q. All right. So, I'm going to have you just turn
2 your head here. Up on the screen is Grand Jury
3 Exhibit Number 13 for identification, are you able to
4 see that?

5 A. Yeah.

6 Q. Is the place that you just referred to on this
7 Exhibit?

8 A. Yes.

9 Q. All right. So, for the record, I'm going to run
10 my pen up and down the avenue that's located on the
11 right. Do you see where I just ran my pen?

12 A. Yes.

13 Q. What is that, that I just ran my pen up and down?

14 A. Jefferson Ave.

15 Q. All right. And then, for the record, I'm going,
16 kind of, from left to right, and up a little. Do you
17 see this road?

18 A. Yes, Main Street.

19 Q. Main Street for the record. And, is the place
20 that you just referred to as Lappy Place, I'm kind of
21 circling a place up on the -- over on the far right,
22 like, 4/5th of the way up, is that right?

23 A. Yes.

24 Q. Could you explain for the Grand Jury what your
25 position was relative to Jefferson Avenue and Lappy

1 Place?

2 A. My truck was on Jefferson, facing east,
3 basically, I was blocking all of Jefferson.

4 Q. All right. So, your truck is parked in -- on
5 Jefferson Avenue?

6 A. Yes.

7 Q. And, if you're facing east, are you facing toward
8 Lappy Place.

9 A. Yes.

10 Q. And, what are you doing at that point in time?

11 A. Trying to hook up a vehicle.

12 Q. And, can you explain for the Grand Jury what the
13 weather was like at that point?

14 A. Really cold, and I believe it was either just
15 starting to snow or it's been snowing.

16 Q. Okay. Does there come a point in time when
17 something comes to your attention that you weren't
18 expecting?

19 A. Yes.

20 Q. What happened?

21 A. I was looking for a hook point on the car.

22 Q. What's a hook point?

23 A. Basically, just where we put our -- our chains
24 underneath the vehicle.

25 Q. Okay. And, what comes to your attention at that

- 1 point?
- 2 A. Just somebody yelling behind me.
- 3 Q. Do you then turn to look?
- 4 A. Yes.
- 5 Q. And, what do you see at that point?
- 6 A. I see a man standing there, almost no clothes on.
- 7 Q. What clothes was this person actually wearing?
- 8 A. Just looked like blue night pants.
- 9 Q. A shirt?
- 10 A. No shirt, no shoes.
- 11 Q. All right. What, if anything, did this person
- 12 say to you?
- 13 A. He was very irate, he asked me to, you know, call
- 14 911.
- 15 Q. Did he say why he wanted you to call 911?
- 16 A. He -- he just kept asking me, he was, like, call
- 17 911, and he got down on his knees, he kept saying he
- 18 had the Corona Virus.
- 19 Q. Do you recall at what point in the pandemic this
- 20 was?
- 21 A. Right at the height of it. Right in the
- 22 beginning.
- 23 Q. All right. How far away were you from him at
- 24 this point?
- 25 A. A good 10 to 15 feet.

1 Q. What, if anything, do you do at that point?

2 A. I went around the other side of my truck and
3 tried to keep my distance from him.

4 Q. And, what did you do?

5 A. I -- I retrieve my phone and then called 911.

6 Q. Did the gentleman remain there at that point
7 initially?

8 A. In the time spot, no. He was kind of all over
9 the place.

10 Q. What was he doing as you were on the phone with
11 911?

12 A. He went around the opposite side of my truck that
13 I went, and he was trying to get into a couple
14 vehicles that were there.

15 Q. How was he doing that?

16 A. Basically, like, forcefully, like, pulling on the
17 handles.

18 Q. Was he able to open or get into a vehicle while
19 you were there?

20 A. No.

21 Q. Does there come a point in time when he leaves?

22 A. Yeah.

23 Q. What -- what happened do -- do you --

24 A. He was still asking me to call 911. At that
25 point, I told him I was on the phone with 911, you

1 know, kind of, you know, just wait, and he was kind
2 of, like, oh, shit, and just took off running.

3 Q. So, when you told him you were on the phone with
4 911, is that when he says that -- is that when he's
5 leaving, or is that when he leaves?

6 A. Yeah, yeah. Yeah, basically, once I told him I
7 was on the phone with 911, he kind of started -- he
8 went south on Jefferson, kind of took off.

9 Q. So, referring, again, to Grand Jury Exhibit
10 Number 13 that's on the map there, does he go toward
11 the bottom?

12 A. Yes, bottom right.

13 Q. What do you do?

14 A. I continue hooking up the car.

15 Q. Does there come a point in time when officers
16 respond?

17 A. Yeah, probably within a minute or two with me
18 getting off the phone with 911.

19 Q. How was your truck situated at this point in
20 time?

21 A. Still in the same place, in the middle of
22 Jefferson, facing east.

23 Q. Were you blocking traffic?

24 A. I was blocking the whole road.

25 Q. So, what happens next?

1 A. I seen them come from Main Street, I started to
2 move my bed up and -- so, they can have space to go
3 around my truck.

4 Q. Were you actually able to speak with one of the
5 officers?

6 A. The first officer in the line of maybe 3, 4
7 cruisers. He stopped, rolled down the window, I told
8 him he continued south on Jefferson and they headed in
9 that direction.

10 Q. When you completed your tow job, where did you --
11 what route of travel were you going?

12 A. I forget the street exactly where I had to drop
13 it off, but it was in the vicinity of that area, so I
14 had to go down south on Jefferson.

15 Q. Okay. Were you able to see anything at that
16 point?

17 A. When I got down there, they had Jefferson and
18 Samuel McCree Way blocked off. I took a right on
19 Samuel McCree, and I forget what little side streets I
20 took.

21 Q. Okay.

22 A. But, yeah, basically, had the street blocked off
23 there.

24 Q. Did you ever see that gentleman again after he
25 ran down Jefferson Avenue?

1 A. I seen him -- the cops had him in handcuffs, and
2 I believe at that point, there was, like, a spit mask
3 on his head.

4 Q. Okay. How long were you able to observe that?

5 A. Just for a second.

6 Q. Okay.

7 A. Because I turned the corner and just continued.

8 Q. Okay. I am showing you what's been marked for
9 identification Grand Jury Exhibit Number 17, have you
10 ever seen this before?

11 A. Yes.

12 Q. And, how do you know that you've seen it before?

13 A. I signed it and dated it.

14 Q. All right. So, that does contain your initials?

15 A. Yes.

16 Q. All right. Is what's contained on Grand Jury
17 Exhibit 17 a fair and accurate recording of your call
18 to 911 on March 23rd?

19 A. Yes.

20 Q. Thank you.

21 MS. SOMMERS: At this point, I will offer
22 Grand Jury Exhibit 17 and play it. There is no
23 transcript here.

24 **(Whereupon, Grand Jury Exhibit Number 17,**
25 **was then received into evidence, and played into the**

1 **record for the Grand Jury.)**

2 MS. SOMMERS: So, we just stopped about two
3 second in.

4 BY MS. SOMMERS:

5 Q. Is the voice that we just heard saying, go ahead,
6 stay right there, is that you?

7 A. Yes.

8 Q. And, the voice in the background, is that the
9 individual that you've been talking about?

10 A. Yes.

11 Q. All right. Thank you.

12 MS. SOMMERS: Go ahead. Thank you.

13

14 (Whereupon, the recorded phone call
15 continued to play into the record for the Grand Jury.)

16

17 MS. SOMMERS: Okay. So, for the record, I
18 just paused Grand Jury Exhibit 17 at 1 minute and 9
19 seconds.

20 BY MS. SOMMERS:

21 Q. Is that the point that you were referring to when
22 you indicated that you told him I'm on the phone, and
23 he left?

24 A. Yes.

25 Q. Okay. Thank you.

1 (Whereupon, the recorded phone call
2 continued to play into the record for the Grand Jury.)

3

4 MS. SOMMERS: Okay. For the record, we just
5 concluded playing Grand Jury Exhibit 17.

6 BY MS. SOMMERS:

7 Q. Mr. [REDACTED], can you describe where -- you
8 described to the 911 operator that this gentleman had
9 blood on him?

10 A. Yes.

11 Q. Can you describe what you saw?

12 A. What do you mean?

13 Q. So, where was he bleeding, or where -- where did
14 you see blood and --

15 A. I believe I seen it, like, on his feet but
16 mostly, kind of, like, smeared on his chest, stomach.

17 Q. Okay. And, during this period of time that you
18 were with this gentleman, was he ever physically
19 violent to you?

20 A. No.

21 Q. Did he ever threaten you in any way?

22 A. No.

23 Q. Okay. So, I'm going to ask you to come around
24 and step outside and that might be it, but just hang
25 out for a moment in case anyone has a question.

1 (Whereupon, the witness left the Grand Jury
2 room at a time of 11:22 a.m.)

3

4 MS. SOMMERS: Does anyone have a question
5 for Mr. [REDACTED]?

6 A JUROR: I guess I'd like to know from Mr.
7 [REDACTED], when he saw the subject again as he was
8 leaving, if the subject was standing, sitting, lying?

9 MS. SOMMERS: Okay.

10 A JUROR: If he was being supported?

11 MS. SOMMERS: Okay. All right.

12 Anybody else?

13 A JUROR: I just would like -- there was
14 some broken windows earlier reported, right?

15 MS. SOMMERS: I leave it to you to -- in
16 terms of --

17 A JUROR: I'm not sure if that relates to if
18 he had done it or if it was another -- a different
19 incident or not.

20 MS. SOMMERS: So --

21 A JUROR: I'm just wondering about the
22 blood.

23 MS. SOMMERS: I don't know that -- I don't
24 know that this witness -- I'll ask him if he knows how
25 that person became --

1 A JUROR: Well, I'm not sure. I mean, the
2 blood could be coming from his feet, or other parts of
3 his body because the guy's got no clothes on. I'm
4 wondering if the injuries are upper body, or maybe
5 from him breaking the windows or just from his feet.
6 I guess, I'm wondering if he got a good look at where
7 the blood -- what injuries he may have had or where
8 the blood is coming from.

9 MS. SOMMERS: Okay. I can ask him that.
10 And, you may hear more evidence relative to that
11 later. But, I can definitely ask him if he was able
12 to make any determinations about where his injuries
13 were, or is that just where he saw blood. Anybody
14 else?

15 A JUROR: Can we maybe just ask him, in his
16 opinion, did it look like he was bleeding or did he
17 just have blood on him? Can we ask that?

18 MS. SOMMERS: Sure. I can ask him that.
19 Okay.

20 (Whereupon, the witness re-entered the Grand
21 Jury room at a time of 11:24 a.m.)

22
23 [REDACTED] [REDACTED] after having
24 been previously duly sworn, was further examined and
25 testified as follows:

1 **EXAMINATION BY MS. SOMMERS:**

2 Q. Just a couple of real quick questions and you'll
3 be on your way. Just recall you're still under oath,
4 okay?

5 A. Yes.

6 Q. Thank you. One of the -- or a couple of the
7 grand jurors wanted to know if you were able to tell
8 whether or not this individual was bleeding or just
9 had blood on him?

10 A. I didn't see where the blood was coming from. It
11 was just, kind of, like, smeared on him.

12 Q. Okay. So, based upon that, you're -- if I
13 understand you correctly, you're not able to tell if
14 the blood was placed on him, or if he was bleeding
15 some place?

16 A. Yes.

17 Q. Okay. And, did he mention to you where this
18 blood came from?

19 A. No. I mean, he just said -- he just said he had
20 blood all over him. I mean, as I can see, I can tell,
21 you know, he had it on him.

22 Q. Okay. And, when you came around, as you were
23 leaving and you saw this individual again, you said
24 that, I believe, you called it a spit mask?

25 A. Yes.

1 Q. On him. Are you aware of what a spit mask is?

2 A. Yes.

3 Q. Okay. What was his position? Was he standing,
4 sitting, if you recall?

5 A. He was sitting. I believe it looked like they
6 had him handcuffed.

7 Q. Okay. Do you recall at that point in time, if he
8 was sitting? So, I just want to make sure -- sitting
9 as opposed to kneeling?

10 A. Yes.

11 Q. And, was he sitting on the ground or on something
12 else?

13 A. On the ground.

14 Q. Okay. And, how many -- how long would you say
15 that you actually observed this?

16 A. Before or after he took off?

17 Q. No. When you -- when you came back around and
18 saw him with the --

19 A. Just a couple seconds.

20 Q. A couple seconds?

21 A. Like I said, I was coming up and I took a right,
22 I was turning the corner. The officer kind of waved
23 me -- waved me by.

24 Q. Okay.

25 MS. SOMMERS: Does that answer the grand

1 jurors' questions?

2 A JUROR: (All jurors indicating a positive
3 response.)

4 MS. SOMMERS: Sir, you're all set. Thank
5 you very much.

6 THE WITNESS: Thank you.

7 (Whereupon, the witness left the Grand Jury
8 room at a time of 11:27 a.m.)

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1 MS. SOMMERS: So, just for the record, it's
2 about 11:30. You're going to have a long lunch.
3 We're not going to reconvene until 1:00 o'clock in the
4 afternoon.

5 You can leave the building. There are
6 places to eat in the vicinity. If you want to go down
7 to the Commissioner of Jurors Office, they have, like,
8 a map. The Commissioner of Jurors Office also has
9 vending machines and you can sit there. But, you do
10 not have to be here. You're welcome to stay here, but
11 you don't have to be back here until 1:00 o'clock.

12 So, thank you very much.

13 (Whereupon, the Grand Jury broke for lunch.)

14

15 (Proceeding reconvened.)

16 MR. SMITH: Good afternoon, ladies and
17 gentlemen. It's a few minutes after 1:00 p.m.

18 We are back on the record with the
19 investigation into the death of Daniel Prude. Michael
20 Smith and Jennifer Sommers hearing on behalf of the
21 New York State Attorney General's Office.

22 To confirm, again from this morning, ladies
23 and gentlemen, we do have 23 grand jurors present this
24 morning, and I ask that we do have a quorum. And,
25 with that, I'm going to call Officer [REDACTED].

1 (Whereupon, the witness entered the Grand
2 Jury room at eye time of 1:04 p.m.)

3

4 [REDACTED] [REDACTED], after being duly
5 called and sworn, testified as follows:

6

7

EXAMINATION BY MR. SMITH:

8 Q. Good afternoon Officer [REDACTED].

9 A. Good afternoon.

10 Q. Could you state your name and spell your first
11 and last name for the record?

12 A. [REDACTED]. [REDACTED]. [REDACTED].

13 Q. And, how are you employed, Mr. [REDACTED]?

14 A. By the City of Rochester.

15 Q. And, what is your rank, sir?

16 A. Police Officer.

17 Q. And, how long have you been a Police Officer with
18 the City of Rochester Police Department?

19 A. Five years.

20 Q. And, has your entire law enforcement career been
21 with the Rochester Police Department?

22 A. No. Prior to coming to Rochester, I worked for
23 the Livingston County Sheriff's Office.

24 Q. And, how long did you do that for, sir?

25 A. Two and a half years.

1 Q. And, what is your current assignment for the
2 Rochester Police Department?

3 A. Patrol Officer.

4 Q. What District?

5 A. Genesee Section.

6 Q. And, what shift do you work, sir?

7 A. The overnight shift from 11:00 p.m. to 7:00 a.m.

8 Q. I'm going to draw your attention to March 23rd,
9 2020, of this year, Officer [REDACTED], were you working
10 as a Rochester Police Department patrolman on that
11 date?

12 A. Yes.

13 Q. Were you working on the overnight shift in the
14 Genesee Section?

15 A. I was.

16 Q. Officer [REDACTED], do officers in the overnight
17 shift, in the Genesee Section in particular, are you
18 with a partner or do you work alone on that shift?

19 A. We're a single batch car.

20 Q. You work alone?

21 A. Yes.

22 Q. So, drawing your attention to about 3:00 o'clock
23 in the morning again, on March 23rd, of 2020, did you
24 become aware of a call to [REDACTED] Child Street in the City
25 of Rochester?

- 1 A. Yes, I was.
- 2 Q. And, how did you become aware of that call, sir?
- 3 A. Radio broadcast.
- 4 Q. Heard the dispatch?
- 5 A. Yes.
- 6 Q. And, is [REDACTED] Child Street in the Genesee Section?
- 7 A. It is.
- 8 Q. And, what was the nature of that call at that
- 9 time, sir?
- 10 A. It came in as a missing person.
- 11 Q. Okay. And, did you, in response to that call,
- 12 respond to [REDACTED] Child Street?
- 13 A. I did, yeah.
- 14 Q. Do you know, Officer [REDACTED], about how long it
- 15 took from the time you heard the dispatch to the time
- 16 you arrived at [REDACTED] Child Street?
- 17 A. Three, four minutes, maybe.
- 18 Q. Okay. And, did other officers respond with you,
- 19 as far as you know, Officer [REDACTED]?
- 20 A. Yes.
- 21 Q. And, did there come a point when you, in fact,
- 22 arrived at [REDACTED] Child Street?
- 23 A. Yes.
- 24 Q. And, what, if anything, did you observe when you
- 25 arrived?

1 A. As I was pulling up to the house, the caller,
2 [REDACTED], was standing out in the street.

3 Q. Outside?

4 A. Yes.

5 Q. And, that was -- you made this observation,
6 Officer [REDACTED], while you were still in your patrol
7 car?

8 A. Yes, I did.

9 Q. And, at that point, did you have information that
10 [REDACTED] was the 911 caller?

11 A. Yes.

12 Q. Did you have any conversation with Mr. [REDACTED] at
13 that point?

14 A. I did. Very briefly, I didn't get out my car.
15 He just said that his brother had ran out of his house
16 and gave me a description.

17 Q. Was this conversation through the window of your
18 patrol car?

19 A. Yes.

20 Q. And, what description did he give, and what did
21 he say about his brother?

22 A. He just said that he was wearing, I believe, long
23 johns, no shirt or shoes, and that he was high on PCP.

24 Q. Now, were there any other officers present in the
25 vicinity of that conversation?

1 A. No, it was just me and him.

2 Q. Okay. Did you eventually relay that information
3 to another officer?

4 A. I did.

5 Q. And, whom did you relay that to?

6 A. Officer [REDACTED].

7 Q. And, at what point, after you received that
8 information with [REDACTED], did you relay that to
9 Officer [REDACTED]?

10 A. Pretty much right after that. It was within a
11 few seconds.

12 Q. Was officer [REDACTED] one of the officers that
13 responded to [REDACTED] Child with you?

14 A. Yes.

15 Q. Were you in a separate patrol car?

16 A. Yes.

17 Q. Did Officer [REDACTED] eventually put that
18 information, specifically, that the missing person
19 subject was possibly on PCP over the radio?

20 A. Yes, he did.

21 Q. Did you hear that dispatch over the radio?

22 A. I did.

23 Q. Real quick, Officer [REDACTED], what was the tone,
24 sort of, the tenure of the conversation with Mr.
25 [REDACTED]?

1 A. Um, I guess you could say it was just, like, a
2 very hurried conversation, like, almost maybe, like, a
3 panic, sort of. It was, like, he was upset. That's
4 the way I took it.

5 Q. Understandable considering the circumstances?

6 A. Yeah.

7 Q. But, a brief short conversation, Officer [REDACTED]?

8 A. Yeah, it was a few seconds.

9 Q. Again, from your car to him standing outside?

10 A. Correct.

11 Q. Did you ever tell him to go inside, sir?

12 A. I did not.

13 Q. Did you ever direct him to do anything?

14 A. No.

15 Q. Did -- did you ever threaten Mr. [REDACTED]

16 [REDACTED], in any way?

17 A. No.

18 Q. Outside of [REDACTED] Child Street?

19 A. No.

20 Q. Did you see any other officers do that?

21 A. No.

22 Q. And, Officer [REDACTED], were you wearing a body
23 worn camera during that portion of the incident?

24 A. I was.

25 Q. Was your body worn camera on?

1 A. It was not.

2 Q. Can you tell us why that was, sir?

3 A. I didn't expect him to be standing in the street.
4 When we got there, I was going to turn it on to walk
5 up to the house, but he was already out there. And,
6 there was a brief conversation. The car that was
7 actually -- the primary car for the Beat was coming to
8 handle that call, so I was going to look for his
9 brother while that car handled talking to him so we
10 could get further details so we could find his brother
11 and get him the resources he needed.

12 Q. Fair to say. Sir, if you knew that you were
13 going to encounter Mr. [REDACTED], and you knew you were
14 going to have this conversation with him, would you
15 have activated your body worn camera?

16 A. Yes, I would have.

17 Q. Now, does there come a point, sir, when that
18 conversation with Mr. [REDACTED], outside of [REDACTED]
19 Child Street ends?

20 A. Yes.

21 Q. Now, do you ever get out of your car?

22 A. No.

23 Q. Ever go into [REDACTED] Child Street?

24 A. No.

25 Q. How does that conversation end?

1 A. I just said, okay, we'll go look for him. We'll
2 see if we can find him quick.

3 Q. And, did you, in fact, start to do that?

4 A. I did.

5 Q. And, is Officer [REDACTED], is he with you? Is his
6 patrol car with you at that point?

7 A. Yes, we both pulled off after that.

8 Q. He leaves too?

9 A. Yes.

10 Q. And, what direction do you go from [REDACTED] Child
11 Street, Officer [REDACTED]?

12 A. We head south.

13 Q. Okay. And, what happens as you're starting to
14 patrol -- as you're driving south of [REDACTED] Child?

15 A. Dispatch came across and said that there's a
16 glass burglar alarm at the Metro PCS on West Main
17 Street.

18 Q. And, did you know where the Metro PCS was
19 located, sir?

20 A. Yes.

21 Q. About how soon, after departing [REDACTED] Child Street,
22 did that call come in?

23 A. I remember it was wasn't long after. Maybe about
24 a minute at most.

25 Q. Okay. And, about how far away is that location

- 1 from [REDACTED] Child Street? 767 West Main?
- 2 A. I'd say less than a half a mile.
- 3 Q. Sort of what, generally, what direction is it in
4 relation to [REDACTED] Child?
- 5 A. It'd be like a southeastern direction.
- 6 Q. Okay. And, in response to that dispatch, Officer
7 [REDACTED], did you then proceed to 767 Main Street?
- 8 A. Yes, I did.
- 9 Q. Okay. And, how long did it take to get to the
10 Metro PCS at 767 Main Street from the time you got
11 that dispatch?
- 12 A. Within a minute.
- 13 Q. Do you happen to arrive at the location, sir?
- 14 A. Yes.
- 15 Q. Any other officers on scene when you arrived?
- 16 A. Myself and Officer [REDACTED] pulled up together.
- 17 Q. Did Officer [REDACTED] pull up in front -- did you
18 pull up one car right in front of the other?
- 19 A. Yes.
- 20 Q. Did you make any observations about that building
21 at 767?
- 22 A. The front plate glass window was broken off.
- 23 Q. So, is that a Metro PCS, sir?
- 24 A. Yes.
- 25 Q. What is that?

1 A. It's a cell phone store.

2 Q. Were there any individuals present?

3 A. No.

4 Q. Were you able to tell, sir, was there any
5 evidence at the scene, maybe would give you an
6 indication how the window was broken?

7 A. There was a cinderblock laying on the windowsill.

8 Q. And, while you were on scene, Officer [REDACTED], in
9 addition to Officer [REDACTED], did any other officers
10 eventually, sort of, respond to that location?

11 A. Officer [REDACTED] eventually arrived.

12 Q. Officer [REDACTED]?

13 A. Yes.

14 Q. And, while the three of you were on scene, and
15 even before Officer [REDACTED] got on scene, Officer
16 [REDACTED], was there some conversations between you and
17 Officer [REDACTED] and then all three of you, sort of,
18 about what possibly happened at that location?

19 A. Yes, there was.

20 Q. Did you draw any -- first, did you draw any
21 conclusions about, sort of, how the individual could
22 have entered that building?

23 A. The way it appeared to be is that the individual
24 threw a brick through the window and gained entry.

25 Q. Did you draw any conclusions about the potential

1 perpetrator of that incident?

2 A. We thought possibly it could have been the person
3 missing from [REDACTED] Child Street.

4 Q. And, why is that, sir?

5 A. Given the time and the proximity of the location
6 and the time of night, at 3:0 a.m., there's not a lot
7 of people out on the streets, and it's very close to
8 the [REDACTED] Child Street address.

9 Q. Both from a geographic standpoint, and a temporal
10 in time standpoint?

11 A. Yes.

12 Q. Is that fair to say?

13 A. Yes.

14 Q. And, were those conversations being had with your
15 fellow officers at the scene?

16 A. Yes.

17 Q. And, Officer [REDACTED], were you wearing your body
18 worn camera while you were at 767 West Main Street?

19 A. Yes, I was.

20 Q. And, was your body worn camera on and activated
21 at that time?

22 A. Yes.

23 Q. And, what did you do, sort of, after you made
24 those observations, sir, and you were at 767 West
25 Main?

1 A. We were trying to get ahold of a key holder to
2 respond to see if anyone had made entry and if
3 anything was missing from the building.

4 Q. You say key holder, you mean?

5 A. A store -- store owner, essentially.

6 Q. Okay. And, while you were there, at that time,
7 did a store owner show up?

8 A. No, not at that time.

9 Q. Okay. Did you eventually leave that scene at 767
10 West Main Street?

11 A. Yes.

12 Q. And, what caused you to leave that location, sir?

13 A. There was a call for a person with a knife at
14 West Ave and Fillmore.

15 Q. Did you respond to that location?

16 A. I did.

17 Q. Any other officers respond to that location with
18 you?

19 A. Officer [REDACTED].

20 Q. Did Officer [REDACTED] or [REDACTED] respond to that
21 location with you?

22 A. No.

23 Q. Did you eventually become aware, sir, or hear
24 over the radio, while you were responding to that
25 knife caller or while you were there, that Officer

1 [REDACTED] and other officers had a person in custody at
2 Jefferson and Cady?

3 A. Yes, I was aware.

4 Q. Sir, did you ever personally respond to that
5 scene?

6 A. No.

7 Q. And, you traveled from the Metro PCS directly to
8 the knife call?

9 A. Yes.

10 Q. Did you ever see Daniel Prude in the early
11 morning hours of March 23rd, 2020?

12 A. No.

13 Q. Did you have any involvement, Officer [REDACTED],
14 with detaining or taking him into custody that night?

15 A. No.

16 Q. That time, I'm sorry?

17 A. No, I did not.

18 Q. Officer [REDACTED], can you -- can you see that map
19 okay?

20 A. Yes.

21 Q. I'm showing on the visualizers. On the
22 visualizer, sir, explain for the grand jurors what's
23 in evidence as Grand Jury Exhibit 13. Sir, do you --
24 do you see [REDACTED] Child Street on that Exhibit?

25 A. Yes. I think it is the bottom right corner.

1 Q. [REDACTED] -- [REDACTED] Child?

2 A. Oh, I'm sorry. It's up there, the top left
3 corner.

4 Q. I'm pointing my pen in the top left corner. Is
5 that -- that [REDACTED] Child, sir?

6 A. Correct, yes.

7 Q. Is that where you responded right around 3:00 in
8 the morning on the 23rd?

9 A. Yes, it is.

10 Q. And, I'm asking, sir, if you -- do you see 767
11 West Main Street on the map, or the vicinity of where
12 that would be?

13 A. Yes.

14 Q. And, can you -- can you, sort of, tell me
15 generally?

16 A. It's right here.

17 Q. Sort of -- you've indicated where the 4 is and
18 I'm indicating with my pen. Is that about where 767
19 West Main is?

20 A. Yes, it is.

21 Q. Where, again, was the knife call, sir?

22 A. The knife call was down here, off of West Avenue
23 farther down. It's not -- the cross street is not on
24 this map.

25 Q. And, that -- that's where you responded directly

1 from the Metro PCS store?

2 A. Yes.

3 Q. Okay. Officer [REDACTED], I'm now showing you
4 what's been marked as Grand Jury Exhibit 18, I'm going
5 to ask if you recognize -- recognize that disc, sir?

6 A. Yes, I do.

7 Q. What do you recognize that to be?

8 A. It's the copy of my body worn camera that night.

9 Q. Is this your body worn camera from 767 West Main
10 Street in the early morning hours of March 23rd, 2020?

11 A. Yes.

12 Q. And, this Exhibit is the exact copy of that
13 video?

14 A. Yes.

15 MS. SMITH: At this time, I'm going to offer
16 Grand Jury 18 into evidence.

17 **(Whereupon, Grand Jury Exhibit Number 18,**
18 **was then received into evidence.)**

19 MR. SMITH: We are now going to play Grand
20 Jury Exhibit 18, your body worn camera from the Sprint
21 -- Metro PCS store.

22

23 (Whereupon, the body worn camera was then
24 played into the record for the Grand Jury.)

25

1 BY MR. SMITH:

2 Q. Officer [REDACTED], pausing at a 40 second mark,
3 whose patrol car is in front of you?

4 A. That's Officer [REDACTED]'s.

5 Q. And, up in the middle, sort of towards the right
6 side of the screen, it looks like some purple writing
7 -- lighting, is that the business?

8 A. Yes, it is.

9 MR. SMITH: Okay. Keep playing it.

10 We're going to rewind this a little bit
11 because it appears that the volume was off for part of
12 the first 40 seconds. So, we're going to start from
13 the 25 second mark.

14

15 (Whereupon, the video continued to play into
16 the record for the Grand Jury.)

17

18 MR. SMITH: Pausing at the 59 second mark.

19 BY MR. SMITH:

20 Q. Kind of on the left hand side of the screen,
21 Officer [REDACTED], is that the window that you were
22 referring to?

23 A. Yes, it is.

24 Q. Is that the window that was broken?

25 A. Yes.

1 Q. And, if you'd kind of look below the window on
2 the ground, what is that right there, in front of the
3 word -- or beyond the word parking that's painted on
4 the ground?

5 A. Broken pieces of glass.

6 Q. Where was the cinderblock that you saw, sir?

7 A. Laying right there.

8 Q. On the windowsill?

9 A. Yes, on the inside.

10 Q. I think I said Sprint before. That's the Metro
11 PCS store?

12 A. Yes.

13 MR. SMITH: Okay. Keep playing.

14

15 (Whereupon, the video continued to play into
16 the record for the Grand Jury.)

17

18 BY MR. SMITH:

19 Q. That individual that we see on the screen right
20 now, Officer [REDACTED], who is that?

21 A. That is Officer [REDACTED].

22 Q. Did you just say, should we clear it?

23 A. Yes.

24 Q. And, what were you referring to, sir?

25 A. Seeing if there was anybody still inside because

1 we were not -- we weren't able to make entry yet.

2 Q. Again, did you -- at any point when you were on
3 scene, did you see any other individuals present?

4 A. No.

5 MR. SMITH: Keep playing from the one minute
6 and 11 second mark.

7

8 (Whereupon, the video continued to play into
9 the record for the Grand Jury.)

10

11 BY MR. SMITH:

12 Q. Was that Officer -- I'm sorry, Officer [REDACTED],
13 let me withdraw that. Did you just hear Officer
14 [REDACTED] say that might be that guy?

15 A. I did.

16 Q. Do you know who he was referring to?

17 A. Yes.

18 Q. Who?

19 A. Daniel Prude.

20 Q. And again, the reasons why you knew that?

21 A. Just given the close proximity to everything and
22 the timeframes made it reasonable to believe that it
23 could have been.

24 Q. And, that voice that said, could be, was that --
25 was that you, Officer [REDACTED]?

1 A. Yes.

2 Q. Okay.

3 MR. SMITH: Keep playing from the one minute
4 16 second mark.

5

6 (Whereupon, the video continued to play into
7 the record for the Grand Jury.)

8

9 BY MR. SMITH:

10 Q. Officer, pausing at the two minute and 13 second
11 mark, who is the individual that we see in the screen
12 on the right-hand side?

13 A. Officer [REDACTED].

14 Q. Officer [REDACTED]?

15 A. Yes.

16

17 (Whereupon, the video continued to play into
18 the record for the Grand Jury.)

19

20 BY MR. SMITH:

21 Q. Officer [REDACTED], after dealing with the knife
22 call at West Avenue, did you eventually respond back
23 to 767 West Main Street?

24 A. I did, yeah.

25 Q. And, at that point, did a so-called key holder or

1 property owner show up?

2 A. Yes, somebody did show up.

3 Q. And, as a result of -- did you have a
4 conversation with that individual, Officer [REDACTED]?

5 A. I did.

6 Q. And, as a result of those conversations, were you
7 aware if anything was actually taken from that store,
8 that location?

9 A. No. I was told that nothing was missing.

10 Q. Nothing was taken?

11 A. Yes.

12 Q. And, again, Officer [REDACTED], you didn't have any
13 involvement with the detention of Mr. Prude at
14 Jefferson and Cady?

15 A. No.

16 MR. SMITH: Sir, we're going to excuse you
17 for a second and see if any of the grand jurors have
18 any questions.

19 THE WITNESS: Okay.

20 (Whereupon, the witness left the Grand Jury
21 room at a time of 1:25 p.m.)

22

23 MR. SMITH: Do any of the grand jurors have
24 questions for Officer [REDACTED]?

25 A JUROR: I do.

1 A JUROR: Did they notice any blood, either
2 around the window or on the brick?

3 A JUROR: The Officer said that when he
4 first arrived, initially, at [REDACTED] Child, that in that
5 brief conversation with [REDACTED], [REDACTED] said
6 my brother's on PCP. I would like to put as fine a
7 point on that as possible. Did he -- was there
8 anything beyond that statement, specifically, about
9 the PCP?

10 MR. SMITH: So, how, when? Any other grand
11 jurors have any questions?

12 A JUROR: Following that, he said that he
13 communicated to the other officer that he was on PCP
14 possibly, but didn't get out of his car. How did he
15 communicate that to the other officer?

16 MR. SMITH: Any other questions?

17 A JUROR: Was there any security camera
18 footage from the store of the event?

19 MR. SMITH: Any other grand jurors have any
20 other questions?

21 A JUROR: His camera shutting off right
22 there, was that the end of him at the scene? It was
23 just kind of, abrupt.

24 MR. SMITH: [REDACTED], did you have a
25 question?

1 A JUROR: It was the same thing he said.

2 MR. SMITH: Okay. Any more questions from
3 the grand jurors? All right. Seeing as there are no
4 more questions, we'll bring Officer [REDACTED] back in.

5 (Whereupon, the witness re-entered the Grand
6 Jury room at a time of 1:27 p.m.)

7
8 [REDACTED] [REDACTED] after having been
9 previously duly sworn, was further examined and
10 testified as follows:

11

12 **EXAMINATION BY MR. SMITH:**

13 Q. Officer [REDACTED], just a few more questions from
14 the grand jurors. And, I remind you that you're still
15 under oath.

16 A. Okay.

17 Q. Officer [REDACTED], the first question one of the
18 grand jurors had was whether or not you observed,
19 noticed, or otherwise, saw blood around the window or
20 the cinderblock?

21 A. I did not.

22 Q. Now, Officer [REDACTED], you testified that when you
23 first responded to [REDACTED] Child Street, the conversation
24 with [REDACTED], one of the things that he relayed to
25 you, was that his brother was on PCP?

1 A. Yes.

2 Q. One of the grand jurors wants to know, was there
3 any further information about PCP use, sort of,
4 including but not limited to when -- when -- did [REDACTED]
5 [REDACTED] relate to you, sort of, when Daniel Prude used
6 it or how he knew?

7 A. No, he didn't. He just said he was high on PCP.
8 He didn't get into details.

9 Q. You didn't ask him any follow up at that point,
10 sir?

11 A. No.

12 Q. And, when he relayed that information to you,
13 were you in your patrol car?

14 A. Yes.

15 Q. And Officer [REDACTED] was in his patrol car?

16 A. Yes.

17 Q. One of the grand jurors wants to know, sir, sort
18 of, how, if you were both in your patrol cars, or when
19 did you relay that information to Officer [REDACTED]?

20 A. Right after we pulled off, he pulled up to my --
21 we were car to car and he asked me what he said, and I
22 told him.

23 Q. Through the car windows?

24 A. Yes.

25 Q. Right there -- right there on Child Street?

1 A. Yes.

2 Q. Okay. Officer [REDACTED], one of the grand jurors
3 wants to know, whether or not there was security
4 footage or cameras at 767 West Main Street?

5 A. There was, but it was reviewed by the day shift.

6 Q. You didn't personally secure it?

7 A. No, because the businesses that had it were
8 closed at the time.

9 Q. And, finally, sir, Officer [REDACTED], we saw your
10 body worn camera shut off at the end of that video.
11 One of the grand jurors wants to know why did the body
12 worn camera shut off at that point, and if that -- if
13 that ended your involvement at that scene?

14 A. Basically, because there is no way -- there was
15 no reason -- we don't have to have it on the entire
16 time. Really, it's only supposed to be on -- required
17 to be on the entire time when you're with suspects or
18 doing interviews, things of that nature, but since
19 nobody was there, it's not required to be on.

20 Q. Nobody from the public was there, no suspects?

21 A. Correct.

22 MR. SMITH: Did that answer all the
23 questions? Getting an indication that it did. So,
24 thank you, Officer [REDACTED]. You're all set.

25 THE WITNESS: Okay.

1 (Whereupon, the witness left the Grand Jury
2 room at a time of 1:30 p.m.)
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1 MS. SOMMERS: So we're going to take a five
2 to ten minute break. So, I apologize for that.
3 There's one thing we have to take care of. And,
4 please feel free to use the restroom. But, we will
5 plan on starting again promptly at twenty to 2:00.

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

8 (Proceeding reconvened.)

9 MR. SMITH: Ladies and gentlemen, we're back
10 on the record in the investigation into the death of
11 Daniel Prude. And, at this time, I'm going to call

12  .

13

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1 (Whereupon, the witness entered the Grand
2 Jury room at a time of 1:40 p.m.)

3

4 [REDACTED] [REDACTED], after being duly
5 called and sworn, testified as follows:

6

7

EXAMINATION BY MR. SMITH:

8 Q. Good afternoon, Mr. [REDACTED].

9 A. Good afternoon.

10 Q. Mr. [REDACTED], the woman in front of you is a
11 stenographer, sir. She's got to take everything down.
12 So, if you could just, sort of, speak up and keep your
13 voice up and speak into the microphone as best as
14 possible.

15 Could you state your first and last names
16 and spell your first and last names for the record,
17 please, sir?

18 A. [REDACTED]. [REDACTED]. [REDACTED].

19 Q. How old are you, Mr. [REDACTED]?

20 A. 21.

21 Q. And, what City do you live in?

22 A. Rochester.

23 Q. What's the highest level of education you have,
24 sir?

25 A. GED.

1 Q. And, what do you do for work?

2 A. I do roofing.

3 Q. I'm going to draw your attention to the early
4 morning hours around 3:00 o'clock in the morning of
5 March 23rd, 2020, do you recall where you were, sir?

6 A. Jefferson Avenue.

7 Q. Jefferson Avenue in the City of Rochester?

8 A. Yes, sir.

9 Q. And, what were you doing on Jefferson Avenue?

10 A. On my way home.

11 Q. Were you in the vehicle, sir?

12 A. Yes, sir.

13 Q. What kind of vehicle was it?

14 A. Blue Chevy Cruz.

15 Q. And, [REDACTED], were you alone at that time?

16 A. Yes, sir.

17 Q. A few minutes later, sir, around 3:10, 3:11 in
18 the morning, were you still in the vicinity of
19 Jefferson Avenue in the City of Rochester in the
20 vehicle?

21 A. Yes, sir.

22 Q. And, was your attention drawn to anything while
23 you were driving at that time, sir?

24 A. Yes, sir. There was a tow truck blocking the
25 street.

1 Q. And, was there anything in particular about that
2 that drew your attention, kept your attention?

3 A. I saw a man pleading with the tow truck operator.

4 Q. What -- what did the man look like who was
5 pleading with the tow truck operator?

6 A. He was naked in the middle of the night, freezing
7 cold.

8 Q. Could you tell us, what was the weather like, if
9 you recall, sir, about 3:00 o'clock in the morning on
10 March 23rd, of 2020?

11 A. It was about 30 degrees. It was snowing, floor
12 was wet.

13 Q. Mr. [REDACTED], you said he was pleading with the tow
14 truck driver. Could you tell us, sort of,
15 specifically, what you mean by pleading and what you
16 saw?

17 A. I don't know. From -- from what I saw, it looked
18 like he was asking him for help. But, in my mind, I
19 thought he was asking him to release the vehicle, you
20 know what I mean? But, it wasn't that. He was just
21 outside and needed some help.

22 Q. You thought that perhaps this was the owner of
23 the vehicle that was being towed?

24 A. Mm-hmm.

25 Q. Now, what did you do in response to seeing that,

1 Mr. [REDACTED]?

2 A. I took my phone out and recorded a video, went
3 live on Facebook.

4 Q. What is your -- what's your Facebook user name,
5 your profile name?

6 A. [REDACTED].

7 Q. And, what is -- what is Facebook live?

8 A. Facebook live, um, you can just broadcast
9 anything and they can see it in real time.

10 Q. So, you were recording a video of what you were
11 seeing?

12 A. Mm-hmm.

13 Q. And, at the same time, it was being posted live
14 on the internet on Facebook live?

15 A. Yep.

16 Q. Sir -- sir, what -- what made you pull your phone
17 out and start to broadcast that?

18 A. Um, I don't know.

19 Q. I guess, what happened from there, sir? Did the
20 man leave the tow truck driver?

21 A. Yeah. He went down the street. He went down the
22 street, and there was cars passing by, he was walking
23 in the middle of the street.

24 Q. When you say down the street, was he -- was he on
25 Jefferson?

1 A. Yeah.

2 Q. And, was he headed south on Jefferson?

3 A. Yeah.

4 Q. And, eventually, sir, do you, sort of, loop
5 around the block and then come back down to also start
6 heading south on Jefferson?

7 A. Yep.

8 Q. And again, recording this whole time?

9 A. Yep.

10 Q. And, you have some conversation with this
11 individual?

12 A. Yes, sir.

13 Q. And, what did you say to him?

14 A. I said, do you want me call somebody.

15 Q. Did he respond to you, Mr. [REDACTED]?

16 A. Yes.

17 Q. What was he saying to you?

18 A. He said yes, and then said no immediately after.
19 But then, tried to get close, like, to my car and
20 that's when I drove off.

21 Q. Did that happen a couple more times, Mr. [REDACTED],
22 where he tried to get close to your car?

23 A. Yeah.

24 Q. And, some point, sir, was that the individual
25 when you observed him completely naked?

1 A. Yeah.

2 Q. And, is that different than when you first
3 observed him with the tow truck driver?

4 A. Yes.

5 Q. How?

6 A. He had -- he had pants on up until, like, two
7 minutes into the video, he stopped and started talking
8 about coffee, and then he took his pants off.

9 Q. Did you -- did he do anything when he took his
10 pants off, sir? Were you able to see?

11 A. I couldn't really see that clearly.

12 Q. Was he saying he was doing anything?

13 A. He said he had to use the bathroom. I don't know
14 if he did though.

15 Q. Sir, about how long did this go on for, what you
16 were recording when Mr. Prude was next to your
17 vehicle?

18 A. About five or six minutes. I stayed until the
19 police came.

20 Q. Eventually, does there come a point when you end
21 the video and stop recording, sir?

22 A. Yes, sir.

23 Q. I guess, my question is, what prompted you to
24 stop recording?

25 A. I saw three police cars coming from West Main

1 and Jefferson Avenue and it was well past curfew time
2 and I had to be home.

3 Q. Do you ever see that individual that was naked
4 after you saw the police cars?

5 A. No.

6 Q. Did you see any ambulances, sir?

7 A. No.

8 Q. Did you eventually learn who that individual was
9 that you'd been recording?

10 A. Yes, sir.

11 Q. Did you eventually learn, sort of, what happened
12 to him, sir?

13 A. Yes, sir.

14 Q. Did you learn that was Daniel Prude?

15 A. Yes, sir.

16 Q. Did you learn that he passed away?

17 A. Yes, sir.

18 Q. Mr. [REDACTED], I'm going to show you what's been
19 marked as Grand Jury Exhibit Number 22, and I'm going
20 to ask if you recognize that, sir?

21 A. Yes, sir.

22 Q. How do you recognize it?

23 A. My signature.

24 Q. What -- what is on this disc, sir?

25 A. That's the live video.

1 Q. This is the Facebook live video that you made of
2 the incident that you just described on March 23rd,
3 2020?

4 A. Yes, sir.

5 Q. And, this is a copy of the video?

6 A. The exactly video.

7 Q. And, you reviewed it?

8 A. Yes, sir.

9 Q. And, initial it after you reviewed it?

10 A. Yes, sir.

11 MR. SMITH: At this the time, I'm going to
12 admit Grand Jury Exhibit Number 22 into evidence.

13 **(Whereupon, Grand Jury Exhibit Number 22,**
14 **was then received into evidence.)**

15 MS. SOMMERS: Do you want me to dim the
16 lights?

17 JURY POOL: (All jurors indicating a
18 negative response.)

19

20 (Whereupon, the video was then played into
21 the record for the Grand Jury.)

22

23 MR. SMITH:

24 Q. Mr. [REDACTED], two seconds back, we paused it for the
25 record at the 45 second mark. You talked about

1 dropping off your sneaky leak. What do you mean by
2 that, sir?

3 A. That's the term that we use for -- for girls.

4 Q. Slang term for your girlfriend?

5 A. Yeah.

6 Q. Sir, I think about ten seconds ago in the video,
7 we saw some flashing lights on the screen, did you see
8 that?

9 A. No.

10 MR. SMITH: Back up to the 35 second mark.

11 (Whereupon, the video continued to play into
12 the record for the Grand Jury.)

13 THE WITNESS: That's the tow truck blocking
14 the street.

15 MR. SMITH: Thank you. That's -- we stopped
16 at 34 seconds.

17 BY MR. SMITH:

18 Q. The lights that you see, sir, on the screen,
19 that's the tow truck that you had talked about?

20 A. Yes, sir.

21 Q. The tow truck driver who this individual is
22 having a conversation with?

23 A. Mm-hmm.

24

25 (Whereupon, the video continued to play into

1 the record for the Grand Jury.)

2 BY MR. SMITH:

3 Q. Mr. [REDACTED], you said he almost got hit by a car?

4 A. Yes.

5 Q. Did you -- were you being literal, sir?

6 A. Yeah. That's really what made me, like, get
7 closer to him and see, like, what was his issue
8 because I seen him jump in front of traffic. That was
9 the first thing I saw, and it scared me, it surprised
10 me, you know what I'm saying?

11 Q. When you -- when you just said that, what we just
12 heard in the video, did you observe this individual
13 jump in front of the vehicle, is that what it appeared
14 to you?

15 A. He, like, ran across the street, like, he was in
16 the street, saw the car coming and just -- he just did
17 a close call. I don't know why he did that, but it
18 happened like that. He didn't get hit, but it was
19 close.

20 Q. Okay.

21 MR. SMITH: Keep playing from the 45 second
22 mark.

23

24 (Whereupon, the video continued to play into
25 the record for the Grand Jury.)

1

2 BY MR. SMITH:

3 Q. Mr. [REDACTED], did you -- you made a reference to
4 Corona. On March 23rd, when this happened, do you
5 recall when, sort of, that was in relation to the
6 start of the beginning of the pandemic?

7 A. I believe it was, like, the -- the whole city was
8 on a lockdown because of the pandemic, and it was,
9 like, the same month that it had hit hard. So, I was
10 just being, you know what I'm saying, precautious. I
11 ain't no -- you know what I mean, six feet.

12 Q. Was there anything that specifically prompted you
13 to talk about Corona related to that individual?

14 A. Um, nah.

15 Q. Did you hear the individual say anything about
16 having Corona Virus?

17 A. No.

18

19 (Whereupon, the video continued to play into
20 the record for the Grand Jury.)

21

22 BY MR. SMITH:

23 Q. Did you hear what the -- pausing the video at
24 1:35. Did you hear what the individual just said,
25 Mr. [REDACTED]?

1 A. Yeah.

2 Q. And, is that what you were talking about when he
3 was referring to going to the bathroom?

4 A. Yes.

5 Q. Could you see if he was actually going to the
6 bathroom or not?

7 A. No, I couldn't. I wasn't that close.

8 MR. SMITH: Keep playing from 1:35.

9

10 (Whereupon, the video continued to play into
11 the record for the Grand Jury.)

12

13 BY MR. SMITH:

14 Q. At this point, Mr. [REDACTED], is the individual now
15 clearly naked?

16 A. Yes, sir.

17 Q. Took off the pants that he was wearing when you
18 first observed him?

19 A. Yes, sir.

20 MR. SMITH: We're going to keep playing from
21 the two minute and four second mark.

22

23 (Whereupon, the video continued to play into
24 the record for the Grand Jury.)

25

1 BY MR. SMITH:

2 Q. Did you hear what the individual said right
3 there, Mr. [REDACTED]?

4 A. He had blood on him.

5 Q. Did you get close enough to see whether or not he
6 did, in fact, have blood on him?

7 A. Nah, I ain't seen no blood on him.

8 Q. Okay.

9 MR. SMITH: Keep playing from the two minute
10 and 17 second mark.

11

12 (Whereupon, the video continued to play into
13 the record for the Grand Jury.)

14

15 BY MR. SMITH:

16 Q. Mr. [REDACTED], do you know who this individual is?

17 A. No.

18 Q. Just somebody else who was out at that time of
19 night?

20 A. Yeah.

21 MR. SMITH: Okay. Keep playing.

22

23 (Whereupon, the video continued to play into
24 the record for the Grand Jury.)

25

1 BY MR. SMITH:

2 Q. You just talked about spinning the block,

3 Mr. [REDACTED], do you hear that?

4 A. Mm-hmm.

5 Q. What did you mean by that?

6 A. I was going to do one last -- one last little
7 pass by. I was going to pass by him one more time for
8 the camera.

9 Q. So, fair to say, Mr. [REDACTED], that the first chunk
10 of the video that we just saw, that was all on the --
11 one stretch, that was all while you were traveling on
12 Jefferson Avenue?

13 A. Yeah. That was all going one direction.

14 Q. And, the direction was south?

15 A. Yep.

16 Q. And, sir, do you recall whether or not you were
17 south of Main Street -- of West Main?

18 A. No, I don't.

19 Q. Okay. Do you -- do you know where you were about
20 when you said you were going to flip the block -- spin
21 the block?

22 A. Probably right past McCree. It might have even
23 been -- nah, it was right before McCree, I think. I
24 had turned and came down this alley, and that's when I
25 saw him again for the last time.

1 Q. So, Mr. -- Mr. [REDACTED], about -- about how many
2 blocks on Jefferson Avenue when you were you traveling
3 south were you-- were you traveling with this
4 individual, sort of, with you as we see in the video?

5 A. West Main and McCree, that's, like, six blocks, I
6 think.

7 Q. And, was the individual running at certain
8 points?

9 A. Yeah.

10 Q. And, at certain points, were you, sir, sort of
11 speeding up and slowing down?

12 A. Yeah.

13 Q. When you were speeding up, Mr. [REDACTED], about how
14 fast were you going?

15 A. I was going around 25.

16 Q. And, when you were speeding up and slowing down,
17 was this individual pretty much keeping up with you,
18 Mr. [REDACTED]?

19 A. Yeah.

20 MR. SMITH: Keep playing from the four
21 minute and 18 second mark.

22

23 (Whereupon, the video continued to play into
24 the record for the Grand Jury.)

25

1 BY MR. SMITH:

2 Q. Mr. [REDACTED], I guess, finally, when you filmed that
3 video, did you have any idea what was going to happen
4 to Mr. Prude that night?

5 A. No, sir.

6 Q. Mr. [REDACTED], if you had any idea how things were
7 going to turn out, and what was going to happen to Mr.
8 Prude, would you have filmed and uploaded that video?

9 A. Not at all.

10 Q. Considering everything that happened, sir, and
11 the benefit of hindsight, knowing that Mr. Prude
12 passed away a short time later, do you -- do you
13 regret filming and posting that video?

14 A. Yes.

15 MR. SMITH: I have no further questions for
16 Mr. [REDACTED]. I'll take you out in the hallway for a
17 second and see if any of the grand jurors have
18 questions for you, sir.

19 (Whereupon, the witness left the Grand Jury
20 room at a time of 2:02 p.m.)

21

22 MR. SMITH: Do any of the grand jurors have
23 any questions for Mr. [REDACTED]?

24 A JUROR: I have a question, in general.
25 When he was driving and -- I couldn't hear what Daniel

1 was saying. Is there any way to replay that later?

2 MR. SMITH: Certainly. Yeah. We can do
3 that. I -- I think [REDACTED] was concerned [REDACTED]
4 didn't hear some of what Mr. Prude was saying. If
5 there's a chance that we could maybe replay it louder.

6 MS. SOMMERS: Oh, absolutely. We can do it
7 now if you'd like. Whatever everybody would --
8 whatever folks would like to do.

9 MR. SMITH: Let's come back to that.

10 A JUROR: In the beginning, he said that he
11 heard him pleading with the tow truck driver, but it
12 didn't look like he went down the road that close to
13 him. He was pleading with him when he was running
14 down Jefferson Avenue while he was driving away from
15 him, but he said he thought he heard him pleading with
16 the tow truck driver. Also, second question, did he
17 ever try calling 911 for help for him?

18 A JUROR: Don't know how to ask it. It
19 sounded like he was talking for five or six minutes.
20 I don't know if what we saw along the road is what he
21 meant or -- why did he think that he was near the tow
22 truck, because it looked like he saw him well beyond
23 the tow truck. So, how does that correlate?

24 MR. SMITH: And, I think -- [REDACTED], one
25 of the things I can ask is whether or not there was

1 anything that he observed prior to turning the video
2 on as well. I'll ask that question.

3 Do any of the other grand jurors have any
4 other questions?

5 A JUROR: If it was about the tow truck,
6 then why did he leave the tow truck? Why didn't he
7 stay with the tow truck?

8 MR. SMITH: Mr. [REDACTED]?

9 A JUROR: No, Prude. If he thought if Prude
10 was -- the tow truck was going to take his car away,
11 why would he leave his car with the tow truck and go
12 away?

13 A JUROR: That's what he thought at first.

14 MR. SMITH: I guess I want to make sure so
15 I'm clear. That's not an actual question for
16 [REDACTED]. I want to make sure I'm understanding your
17 question.

18 A JUROR: He said that he thought the tow
19 truck --

20 MR. SMITH: He initially -- I think the
21 testimony was -- and everyone's recollection of the
22 testimony certainly controls here. It isn't mine. I
23 think what you're referring to is Mr. [REDACTED]'s
24 statement that when he initially sees these two
25 individuals, the naked individual and the tow truck

1 driver, and what he sees is pleading, he -- he, I
2 think the testimony would show that he surmises or
3 assumes that the individual is talking to the tow
4 truck driver because -- because the individual's truck
5 is getting towed. And, I think what his testimony
6 was, it's clear that wasn't the case. So, I don't
7 know what the question would be about --

8 A JUROR: I'm all set.

9 MR. SMITH: You're all set with that, sir?

10 A JUROR: Yes.

11 MR. SMITH: So, there's not a question for
12 Mr. [REDACTED] about that.

13 A JUROR: No.

14 MR. SMITH: [REDACTED]?

15 A JUROR: When he was saying that he was
16 speaking into the camera and he was saying, yo, he
17 tweaking, was he assuming that he was high or under
18 the influence of something?

19 MR. SMITH: Okay.

20 A JUROR: I don't know if you already said
21 this, but in the video, when Mr. [REDACTED] was driving by,
22 the truck was -- the tow truck was quite a ways down
23 the street and with some dim lighting. Was that the
24 closest point that he got to the tow truck or was he
25 just doing a drive by that we saw in the video? Was

1 that the closest point?

2 A JUROR: I think he looped around.

3 A JUROR: I don't know if you brought that
4 up already. Did he actually drive up to it without
5 the camera being on?

6 MR. SMITH: I want to be sure I know what
7 you're referring to, sir. Was it when we paused and
8 we saw the lights?

9 A JUROR: Yes.

10 MR. SMITH: Okay. I will ask him about
11 that. If that was the closest he got or was he ever
12 closer.

13 A JUROR: Because -- kind of a follow up
14 because if that's the closest he got to the tow truck,
15 how could he know what was being said between the two
16 individuals.

17 MR. SMITH: Sure.

18 A JUROR: How could he really know what was
19 going on because it looked liked he was quite a ways
20 away. I mean, I could barely see the flashing lights,
21 it was quite a way in the distance.

22 A JUROR: That's what I said.

23 A JUROR: I want to point out that he did
24 say that he had been at the toy truck and he had to go
25 around.

1 A JUROR: And, that's how that guy got so
2 far down the road from the tow truck was because he
3 had done a loop around the block, and then the guy was
4 down there.

5 MR. SMITH: And, again, everyone's
6 recollection of the testimony is what controls here.
7 But, we can ask Mr. [REDACTED] those specific questions
8 about how close he got and the time compared in the
9 video. Does that answer the questions?

10 A JUROR: What was the Exhibit Number?

11 A JUROR: 22.

12 MR. SMITH: 22.

13 MS. SOMMERS: What Exhibit is it?

14 A JUROR: 22.

15 MR. SMITH: 22.

16 MS. SOMMERS: We skipped ahead three.

17 MR. SMITH: Any other questions? All right.
18 Seeing as there are none, lets bring Mr. [REDACTED] back
19 in.

20 (Whereupon, the witness re-entered the Grand
21 Jury room at a time of 2:10 p.m.)

22

23 [REDACTED] [REDACTED], after having
24 previously been duly sworn was further examined and
25 testified as follows:

1

2 BY MR. SMITH:

3 Q. Mr. [REDACTED], we just have a few questions from the
4 grand jurors, sir, and I remind you that you're still
5 under oath. One of the grand jurors wanted to know,
6 sir, in reference to your testimony that you saw the
7 individual pleading with the tow truck driver, it did
8 not -- the question, sir, is that it did not appear
9 that you were close enough to the tow truck at any
10 point during your video to, sort of, hear what would
11 have been being said in that vicinity. Was there a
12 point before you started recording that you made some
13 observations with the tow truck driver?

14 A. Yeah. That's what made me start recording. I
15 seen a naked dude arguing with the truck -- tow truck
16 driver at 3:00 in the morning.

17 Q. So, that initial thing that made you turn the
18 video on is what you're referring to when you saw him
19 pleading with the tow truck driver?

20 A. Mm-hmm.

21 Q. That's not on the video?

22 A. No, it's not on the video.

23 Q. And, at that point, sir, how close do you think
24 you were to the tow truck?

25 A. A block away.

1 Q. And, that's closer than what we saw on the video,
2 sir, is that fair to say?

3 A. Oh, on the video, I was a block away. When I
4 first encountered him, I was, like, ten, fifteen feet
5 away. I was at the corner, he was at the first or
6 second house on the street, towing a car.

7 Q. Thank you for the clarification. Again, just so
8 we're clear, what we saw in the video, that was when
9 you were a block away from the tow truck?

10 A. Yes.

11 Q. Previous to the recording of the video, you were
12 a lot closer?

13 A. Mm-hmm. I heard them talking, all that.

14 MR. SMITH: Did that answer the question?
15 I'm seeing heads shaking yes.

16 Q. Mr. [REDACTED], one of the grand jurors wanted to know
17 whether or not you ever tried to call 911 for this
18 individual whom you later learned to be Mr. Prude?

19 A. No, never.

20 Q. And, finally, sir, there's a point in the video
21 when you're talking into the camera when you're
22 referring to the individual as tweaking. One of the
23 grand jurors wants to know, sir, by tweaking, if you,
24 sort of, assumed that that individual was high or
25 under the influence?

1 A. Yeah. Something along those lines, like, maybe
2 drunk or maybe high.

3 Q. Specifically, what's making you draw that
4 conclusion?

5 A. Just the way he was acting, like, you know what I
6 mean?

7 Q. What we saw on the video?

8 A. Mm-hmm.

9 MR. SMITH: I believe that answers the
10 questions from the Grand Jury. I'm getting an
11 indication that there's no other questions.

12 Mr. [REDACTED], you're all set, sir. Thank you.

13 MS. SOMMERS: We're going to call one more
14 witness, and then we're going to take a short break
15 and finish for the day.

16 (Whereupon, the witness left the Grand Jury
17 room at a time of 2:13 p.m.)

18
19
20
21
22
23
24
25

1 MS. SOMMERS: At this point, we are going to
2 call [REDACTED].

3 (Whereupon, the witness entered the Grand
4 Jury room at a time of 2:15 p.m.)

5
6 [REDACTED] [REDACTED], after
7 being duly called and sworn, testified as follows:

8

9

EXAMINATION BY MS. SOMMERS:

10 Q. Would you please state and spell your first and
11 last names?

12 A. [REDACTED]. Last name, [REDACTED].
13 [REDACTED].

14 Q. Thank you. Where do you currently work?

15 A. The City of Rochester Police Department.

16 Q. As a patrol officer?

17 A. Yes, ma'am.

18 Q. Thank you. How long have you been employed by
19 the City of Rochester as a police officer?

20 A. Approximately two years.

21 Q. Did you work as a police officer prior to joining
22 the Rochester Police Department?

23 A. Yes, ma'am.

24 Q. Where?

25 A. Winchester, Virginia.

- 1 Q. For how long were you a police officer in
2 Winchester, Virginia?
- 3 A. Seven years, ma'am.
- 4 Q. Thank you. So, nine years total in law
5 enforcement?
- 6 A. Yes, ma'am.
- 7 Q. Thank you. Were you working for the City as a
8 patrol officer on March 23rd, 2020?
- 9 A. Yes, ma'am.
- 10 Q. What was your shift that morning?
- 11 A. First platoon, Genesee Section.
- 12 Q. So, what was your shift?
- 13 A. Approximately 11:00 at night to 7:00 in the
14 morning.
- 15 Q. All right. So, 11:00 at night on the 22nd,
16 through 7:00 in the morning on the 23rd?
- 17 A. Correct.
- 18 Q. Thank you. And, you mentioned it, but just
19 again, what Section were you assigned to?
- 20 A. Genesee Section.
- 21 Q. Were you assigned to a specific beat?
- 22 A. Beat [REDACTED], ma'am.
- 23 Q. Does Beat [REDACTED] cover [REDACTED] Child Street?
- 24 A. Yes, ma'am.
- 25 Q. What about 767 West Main Street?

1 A. Yes, ma'am.

2 Q. How about the corner of Main and Jefferson?

3 A. Yes, ma'am.

4 Q. Going down Jefferson, does there come a point in
5 time where that Beat changes to a different Beat or
6 Section?

7 A. Yes.

8 Q. Just, can you give an approximation of where that
9 is?

10 A. I believe it's approximately near Jefferson and
11 Dr. Samuel McCree Way.

12 Q. All right. So, just for the record, Grand Jury
13 Exhibit 13 is back up on the screen. I asked you
14 about [REDACTED] Child Street. For the record, upper left
15 corner of Grand Jury 13, is that [REDACTED] Child Street that
16 I'm touching with my pen?

17 A. Yes, ma'am.

18 Q. And, in the middle of Grand Jury Exhibit 13,
19 there are three numbers, and I'm sort of circling
20 them. Is that correct? Am I circling them with my
21 pen?

22 A. Yes, ma'am.

23 Q. Is that in the general vicinity of 767 West Main?

24 A. Yes, ma'am.

25 Q. Up near the upper right corner, sort of, near a

1 Number 5, am I, kind of -- I'm sorry, 6. Am I, sort
2 of, touching that with the tip of my pen at this
3 point?

4 A. Yes, ma'am.

5 Q. And, you just talked about Dr. Samuel McCree Way
6 and Jefferson. For the record, I'm sort of, circling
7 an area at the bottom right of Grand Jury Exhibit 13,
8 is that what you were referring to?

9 A. That's correct, ma'am.

10 Q. Okay. Thank you. Are there other cars in the
11 Genesee Section other than yours?

12 A. Yes, ma'am.

13 Q. They cover different Beats?

14 A. That's correct.

15 Q. Are you permitted to leave your Beat to go to
16 other areas of the Section?

17 A. Yes, ma'am.

18 Q. And, are they permitted to leave their Beat to
19 cover things that might be happening in your Section?

20 A. Yes, ma'am.

21 Q. I'd like to draw your attention to around 3:00
22 o'clock in the morning, did there come a point in time
23 when you received a dispatch advising you of a call in
24 your Beat?

25 A. Yes, ma'am.

- 1 Q. Where was that call to?
- 2 A. [REDACTED] Child Street.
- 3 Q. Were you the first to arrive, if you recall?
- 4 A. That night?
- 5 Q. Yes.
- 6 A. I believe I was the first to arrive, however,
7 through the investigation, I've learned that other
8 officers had been there briefly before me.
- 9 Q. All right. When you arrived, did you find the
10 individual who had called 911 to be at home?
- 11 A. Yes, ma'am.
- 12 Q. Do you recall his name?
- 13 A. [REDACTED], ma'am.
- 14 Q. Was he outside or inside of the residence?
- 15 A. He was inside.
- 16 Q. Did you speak to him?
- 17 A. I did.
- 18 Q. What was the purpose of speaking to him?
- 19 A. He called concerning his brother, Daniel, had --
20 was under the influence of PCP and had left the
21 residence.
- 22 Q. Okay. Are you aware at this point of whether he
23 had reported something relative to PCP, or do you know
24 if that's what you came to learn throughout the course
25 of this?

1 A. I learned that through the course of the
2 investigation.

3 Q. Okay. At the time you arrived, did you know
4 anything other than his brother was missing?

5 A. Not at the moment I had arrived.

6 Q. Okay. Did Mr. [REDACTED] -- I'd like to withdraw
7 that. Does there come a point in time where you left
8 [REDACTED] Child Street?

9 A. Yes, ma'am.

10 Q. And, where did you travel to when you left [REDACTED]
11 Child Street?

12 A. I went to the -- initially, went to the area of
13 Jefferson and West Main.

14 Q. What was the purpose of you leaving [REDACTED] Child to
15 go to the area of Jefferson and West Main?

16 A. There was a call for a male at that location,
17 which matched the missing person's description and [REDACTED]
18 [REDACTED] advised that had to be his brother.

19 Q. All right. Now, when you say -- you said,
20 there's a call that matched the description, how do
21 you know this?

22 A. Dispatch advised it over the radio that I was
23 carrying.

24 Q. Okay. So, were you able to hear on your radio
25 the call that came out over the dispatch?

1 A. Yes, ma'am.

2 Q. Was Mr. [REDACTED] also apparently able to hear that?

3 A. Yes, ma'am.

4 Q. When you arrived at the area of Jefferson and
5 West Main, did you find what you were looking for at
6 that location?

7 A. No, ma'am.

8 Q. What happened at that point?

9 A. I turned and traveled southbound on Jefferson
10 Avenue. I believe, at some point in my transit there,
11 that other officers had advised over my police radio
12 that they had made contact with a male in the area of
13 Jefferson and Samuel McCree Way.

14 Q. Does there come a point in time when you arrive
15 there?

16 A. Yes, ma'am.

17 Q. So, referring to Grand Jury Exhibit 13, which is
18 up on the Elmo again, over -- is it safe to say that
19 Jefferson Avenue runs from top to bottom on the right
20 hand side of that Exhibit?

21 A. Yes, ma'am.

22 Q. And, did you travel to -- in the area of
23 Dr. Samuel McCree Way by traveling from top to bottom?

24 A. Yes.

25 Q. And, does that translate into north to south?

1 A. Yeah. 6 would be the most northern part, 8 would
2 be the southern part.

3 Q. Thank you. So, by 6, you're referring to a
4 Number that's on the map?

5 A. Yes, ma'am.

6 Q. And, 8 would be also a Number that's on that map?

7 A. Yes, ma'am.

8 Q. Thank you. Did you find an individual matching
9 the description when you arrived there?

10 A. Yes.

11 Q. First of all, were you the first car on scene at
12 this location?

13 A. No, ma'am.

14 Q. Can you explain where you parked, relative to
15 this individual that you, at some point, learned to be
16 Daniel Prude?

17 A. I was on Jefferson Avenue, facing southbound. I
18 was south of the intersection, and I was parked on the
19 west side of the street. There were two patrol
20 vehicles in front of me that were parked on the same
21 side of the street and there was also another patrol
22 vehicle in the middle of the street, next to the most
23 southern vehicle.

24 Q. All right. So --

25 A. If that makes sense.

1 Q. So, again, coming over to Grand Jury Exhibit 13,
2 is my pen at Dr. Samuel McCree Way?

3 A. Yes, ma'am.

4 Q. All right. So, you've indicated that you were
5 parked, and this individual was south of that
6 location?

7 A. Yes, ma'am.

8 Q. All right. So, somewhere -- I'm just --
9 somewhere at the very, very bottom of this map?

10 A. Yes.

11 Q. Okay. And, just by virtue of you saying you
12 parked on the west. So, that would be, if you're
13 looking at Jefferson Avenue, it would be on the left
14 side of Jefferson Avenue?

15 A. That's correct.

16 Q. And then, you've indicated that there was also
17 one vehicle parked in the middle of the street?

18 A. That's correct.

19 Q. All right. So, in front of your two cars, and in
20 front of you and to the left is another vehicle?

21 A. That's correct.

22 Q. All right. Thank you. When you got out of your
23 vehicle, were you able to draw any conclusions as to
24 which vehicle was parked closest to Mr. Prude? So, if
25 there were two vehicles in front of you, were you able

1 to make any -- draw any conclusions about whose
2 vehicle was that first one?

3 A. The first vehicle that was in line with mine, I
4 determined to be Officer's [REDACTED]'s.

5 Q. And, how was it that you became aware that that
6 was Officer [REDACTED]'s vehicle?

7 A. As I was approaching the scene on foot from my
8 vehicle, he was walking back and asked me to
9 administer hand sanitizer and I retrieved that from
10 his vehicle and put some on his hands.

11 Q. So, you stopped on your walk towards whatever was
12 occurring and got hand sanitizer out of Officer
13 [REDACTED]'s car?

14 A. That's correct.

15 Q. Do you recall at what point in the pandemic this
16 occurred?

17 A. Um, right at the beginning.

18 Q. Okay. So, do you keep going forward?

19 A. Yes, ma'am.

20 Q. And, what do you see?

21 A. I see a male later identified as Daniel Prude
22 lying facedown on the -- in the middle of the street,
23 handcuffed.

24 Q. Was he -- did he appear to be conscious?

25 A. Yes, he was conscious.

1 Q. What, if anything, was he saying that you recall?

2 A. He was yelling loudly. I asked him if he was
3 Daniel -- Daniel Prude. He advised he was. He was
4 also speaking about ingesting feces off of his hands,
5 asking for keys, yelling at officers to give him their
6 guns.

7 Q. At this point, did you make a determination as to
8 what was going to happen relative to Mr. Prude in your
9 original reason for being dispatched?

10 A. Yes. I said aloud something to the effect of I'm
11 going to MHA him.

12 Q. Okay. Let me stop you for a second. What does
13 MHA stand for?

14 A. Mental hygiene arrest.

15 Q. What did you mean by I'm going to mental hygiene
16 arrest, or MHA him?

17 A. Essentially, it's a non-criminal incident form,
18 it's its own separate report, where we would take this
19 person to the hospital for psychiatric care.

20 Q. And, you determined that was what was going to
21 happen relative to Mr. Prude?

22 A. Yes, ma'am.

23 Q. What is the protocol at the Rochester Police
24 Department for a mental hygiene arrest? How do -- how
25 do these individuals get to the hospital?

1 A. Per our policy, they need to be transported by
2 ambulance and handcuffed.

3 Q. And, were you aware at this point of whether or
4 not an ambulance had been -- was -- was traveling to
5 the scene?

6 A. I believed that there was one en route.

7 Q. I'm sorry, did you say en route?

8 A. Yes, ma'am.

9 Q. Okay. Thank you. Did you -- what was Mr. Prude
10 wearing?

11 A. Nothing.

12 Q. Did you at any time offer Mr. Prude a blanket?

13 A. No, ma'am.

14 Q. Why?

15 A. I'm not issued one.

16 Q. Okay. I just want you to imagine, I don't like
17 hypotheticals, but I'm going to do it in this case.

18 A. Yes, ma'am.

19 Q. If you had been issued blankets, do you believe
20 you would have provided one in this circumstance?

21 A. No, ma'am.

22 Q. Why?

23 A. Mr. Prude left his brother's residence with
24 clothes on and he voluntarily, at least, to my
25 knowledge at that time took them off himself and

1 there's a reason that he would have done that.

2 Q. Okay. At any time while you were there, did you
3 hear Mr. Prude indicate that he was cold?

4 A. No, ma'am.

5 Q. Was it cold outside?

6 A. I think it was -- it was snowing, so, yes.

7 Q. Okay. Have you ever, in your time at the
8 Rochester Police Department, or before that in
9 Winchester, Virginia, handled calls involving
10 individuals who are alleged to have consumed PCP?

11 A. Yes, ma'am.

12 Q. Here or in Virginia?

13 A. In Virginia.

14 Q. Was this the first call that you had in
15 Rochester, to your knowledge, where you at least had
16 some indication that this person might be on PCP?

17 A. In Rochester, yes.

18 Q. Based upon your experiences in Virginia, what
19 type of manifestations would a person who is consuming
20 PCP exhibit, have you personally observed?

21 A. Erratic and sometimes violent.

22 Q. Okay. What -- where did you -- I'd like to
23 withdraw that. Did you complete the MHA, mental
24 hygiene arrest paperwork?

25 A. Yes, ma'am.

1 Q. Is that required? Do you have to do that before
2 somebody goes to the hospital, or as they're being
3 admitted to the hospital?

4 A. It's as soon as possible. Under normal
5 circumstances, it's done before or soonly thereafter
6 they arrive there.

7 Q. Okay. Where was it that you completed your
8 paperwork?

9 A. In my patrol vehicle.

10 Q. Does there come a point in time, as you're in
11 your patrol vehicle, that the ambulance arrived?

12 A. Yes.

13 Q. When did you first become aware that something
14 had changed relative to Mr. Prude?

15 A. The ambulance had arrived on scene. I don't
16 recall how long it was on scene, but I remember I had
17 -- because I moved my patrol vehicle behind the
18 ambulance in preparation for transport to the
19 hospital; and, as I was working on my paperwork, I
20 looked up and I observed EMS appearing to do CPR on
21 Mr. Prude.

22 Q. EMS, is that who you're referring to, as the
23 people in the ambulance?

24 A. Yes, ma'am.

25 Q. Was Mr. Prude on the gurney at that point?

1 A. I don't believe so. No, ma'am.

2 Q. Okay. Did there come a point in time when Mr.
3 Prude was transported to the hospital?

4 A. Yes, ma'am.

5 Q. Going back, between the time that you leave to go
6 to your car and realize that something has happened
7 relative to Mr. Prude, did you interact with him at
8 all?

9 A. No, ma'am.

10 Q. Were you present when he was restrained?

11 A. No, ma'am.

12 Q. Are you aware of whether or not Mr. Prude had
13 regained a pulse at the time that the ambulance took
14 him to the hospital?

15 A. I believe that they had.

16 Q. Okay. Did you believe that -- is it unusual,
17 based on your experiences as a police officer for nine
18 years, for people to regain consciousness after the
19 application of CPR?

20 A. Yes, ma'am.

21 Q. That's not unusual?

22 A. No, ma'am.

23 Q. Okay. Did you know, at that point, that Mr.
24 Prude was going to ultimately die?

25 A. No, ma'am.

1 Q. Did you believe that he would live?

2 A. I did.

3 Q. After the ambulance left that location with Mr.
4 Prude, did there come a point in time when you were
5 directed to return to [REDACTED] Child Street?

6 A. There was.

7 Q. What was the purpose of you returning to [REDACTED] Child
8 Street?

9 A. To secure the family that was there and to make
10 sure that they were there for -- when Investigators
11 got there to speak to them.

12 Q. So, at this point, the family didn't know if he
13 was still gone for sure or what, is that accurate?

14 A. As far as my knowledge, there was no
15 communication with the family until I got there.

16 Q. Were you -- was part of your duties to advise
17 that Mr. Prude had become unconscious?

18 A. No.

19 Q. Who -- who was -- who was given -- who was --
20 whose duty was that?

21 A. Um, I don't know whose duties it was, but I was
22 instructed not to -- not to tell them. I guess I had
23 assumed that the Investigators would be speaking to
24 them in detail as part of their investigation into
25 this.

1 Q. Okay. At that point, did you go back to [REDACTED] Child
2 Street?

3 A. I did.

4 Q. Did you speak with [REDACTED]?

5 A. I did.

6 Q. Did you advise him of where his brother was?

7 A. I -- I advised him that his brother was at Strong
8 Hospital.

9 Q. Did anyone, other than [REDACTED], join the
10 conversation when you returned to [REDACTED] Child Street?

11 A. Yes, ma'am.

12 Q. Who was that?

13 A. A female, I believed to be his wife, and then
14 there was another, I would say mid to late teenaged
15 male and another female about that same age.

16 Q. Okay. Are you, as a member of the Rochester
17 Police Department, issued body worn cameras?

18 A. Yes, ma'am.

19 Q. Did you -- were you wearing your body worn camera
20 on March 23rd, during the events that we just spoke
21 of?

22 A. I was.

23 Q. I'm going to approach you with what's been marked
24 for identification Grand Jury Exhibit 19. Do you
25 recognize that?

1 A. I do.

2 Q. What is that?

3 A. That is a copy of my body worn camera from the
4 first time I responded there.

5 Q. So, the first time when you spoke to [REDACTED] ?

6 A. Yes, ma'am.

7 Q. And, how do you know that that is a copy of your
8 body worn camera footage?

9 A. My initials and the date.

10 Q. Okay. And, this is an accurate reproduction of
11 the conversation that you had with Mr. [REDACTED] ?

12 A. Yes, ma'am.

13 MS. SOMMERS: Thank you. At this point, I
14 will offer Grand Jury Exhibit 19.

15 (Whereupon, Grand Jury Exhibit Number 19,
16 was then received into evidence.)

17 MS. SOMMERS: Okay. For the record, we are
18 going to play Grand Jury Exhibit 19. All right.

19 (Whereupon, the body worn camera video was
20 then played into the record for the Grand Jury.)

21 MS. SOMMERS: It's playing now.

22 BY MS. SOMMERS:

23 Q. There's no audio. Is that normal?

24 A. Yes, ma'am.

25 Q. Approximately when does the audio kick in?

1 A. They typically will record in visual only for 30
2 seconds prior to my activation of the body cam, and
3 then it will be both visual and audio.

4 Q. Okay. Thank you. And, just for the record, at
5 28 seconds. So, is this the house that -- at [REDACTED] Child
6 Street?

7 A. Yes, ma'am.

8 Q. Thank you.

9

10 (Whereupon, the body worn camera video
11 continued to played into the record for the Grand
12 Jury.)

13

14 MS. SOMMERS: Okay. Did you -- for the
15 record, we're at one minute and 22 seconds.

16 BY MS. SOMMERS:

17 Q. Did you hear a dispatch that was just broadcast
18 over the radio?

19 A. Yes, ma'am.

20 Q. And, what drug did that dispatch concern?

21 A. PCP.

22 Q. Okay. And, did -- did it appear that Mr. [REDACTED]
23 also heard that?

24 A. Yes.

25 Q. All right.

1 MS SOMMERS: We're going to go back a few
2 seconds and then we'll continue on from there.

3

4 (Whereupon, the body worn camera video
5 continued to play into the record for the Grand Jury.)

6

7 BY MS. SOMMERS:

8 Q. So, Officer [REDACTED], you can hear occasional
9 dispatches. Is that what you were referring to
10 regarding what you can hear across the radio?

11 A. Yes, ma'am.

12 Q. And, the way that we can hear it on the Grand
13 Jury Exhibit, is that the same way that it was playing
14 out in person?

15 A. Yes, ma'am.

16 Q. All right. Thank you.

17

18 (Whereupon, the body worn camera video
19 continued to play into the record for the Grand Jury.)

20

21 BY MS. SOMMERS:

22 Q. You're asking him a lot of questions about
23 wanting to harm himself and that type of thing. Can
24 you explain to the Grand Jury why that's relevant?

25 A. So, when we go to missing persons calls, there's

1 two different kinds. There's an extenuating missing
2 person and a non-extenuating missing person. If they
3 have a history, or recent history, or reason to
4 believe that they're trying to hurt themselves, or
5 they may in some other way be in an unsafe situation,
6 it's an extenuating missing person. So, basically,
7 what that means for me is, if we're not able to locate
8 him, I'm looking and anyone with free time is looking
9 for him for the end of the -- until we find him. If I
10 don't find him, then it gets passed on to the next
11 shift and then the next shift and the next shift. If
12 he would have had a cell phone we would try pinning
13 that. That's not applicable here but that's just to
14 kind of explain.

15 Q. And, is the information about potential self harm
16 relevant to mental hygiene?

17 A. Yes.

18 Q. In what way?

19 A. It makes it meet criteria, so that when we find
20 him, we can -- we have justification, essentially, to
21 take him into custody and take him to the hospital, to
22 get him care.

23 Q. Thank you.

24

25 (Whereupon, the body worn camera video

1 continued to play into the record for the Grand Jury.)

2

3 MS. SOMMERS: Okay. We just paused at 7:55.

4 BY MS. SOMMERS:

5 Q. Were you able to hear the dispatch that was
6 broadcast at a time point in the body worn camera
7 video?

8 A. Yes, ma'am.

9 Q. And, it was a little bit muffled, but what was
10 Mr. [REDACTED]'s response upon hearing a description of the
11 person that has been reported in the area of West Main
12 and Jefferson?

13 A. That's my brother.

14 MS. SOMMERS: Okay. Go ahead, please.

15 (Whereupon, the video continued to play into
16 the record for the Grand Jury.)

17

18 BY MS. SOMMERS:

19 Q. Okay. For the record, at about eight minutes and
20 31 seconds you deactivate your body worn camera video,
21 is that correct?

22 A. Yes, ma'am.

23 Q. And what's the reason for that?

24 A. Typically, I don't have it on inside the car
25 unless I'm transporting a prisoner.

1 Q. All right. And, where are you now leaving to go
2 to?

3 A. Jefferson and West Main.

4 Q. And, what's the purpose of going to that
5 location?

6 A. To locate Daniel Prude.

7 Q. Okay. And, you mentioned that you did ultimately
8 go -- end up in the area of Dr. Samuel McCree Way and
9 Jefferson Avenue.

10 A. Yes, ma'am.

11 Q. I am showing you Grand Jury Exhibit 20 for
12 identification, have you ever seen that before?

13 A. Yes, ma'am.

14 Q. How do you know you've seen it before?

15 A. My initials and the date.

16 Q. Thank you. What is captured on Grand Jury
17 Exhibit 20?

18 A. My body cam from the scene of where Daniel was
19 located.

20 Q. Okay. And, what's contained on Grand Jury
21 Exhibit 20, is that a fair and accurate --

22 A. Yes, ma'am.

23 Q. -- capturing of what you -- your body camera
24 footage on that date and time?

25 A. Yes, ma'am.

1 MS. SOMMERS: I will offer Grand Jury 20.

2 **(Whereupon, Grand Jury Exhibit Number 20,**
3 **was then received into evidence.)**

4

5 MS. SOMMERS: All right. We're going to go
6 ahead and play that. So, we're going to go ahead and
7 click play.

8 (Whereupon, the body worn camera video was
9 then played into the record for the Grand Jury.)

10

11 BY MS. SOMMERS:

12 Q. So, Officer [REDACTED], did you activate your --
13 you mentioned the lookback period of 30 seconds?

14 A. Yes, ma'am.

15 Q. Is that why the inside of your vehicle ends up
16 being captured for a period of time?

17 A. That's correct. My body cam wasn't activated but
18 it wasn't off.

19 Q. Understood.

20 MS. SOMMERS: Go ahead.

21 (Whereupon, the body camera video continued
22 to play into the record for the Grand Jury.)

23

24 BY MS. SOMMERS:

25 Q. So, at ten seconds, looking at this Grand Jury

1 Exhibit, you can see, and correct me if I'm wrong, two
2 Rochester Police Department cars on the right, is that
3 correct?

4 A. Yes, ma'am.

5 Q. Is that what you were referring to before
6 relative to two cars parked in front of you?

7 A. That's correct.

8 Q. Then, there also appears to be another car, sort
9 of, traversing the double solid line, is that correct?

10 A. Yes, ma'am.

11 Q. Is that what you meant by another car in the
12 middle of the street?

13 A. It is.

14 Q. And, relative to what the grand jurors are going
15 to be seeing, where is Mr. Prude relative to all these
16 cars?

17 A. He is in front of them. So, right now, we're
18 looking southbound down Jefferson Avenue. He's
19 further south, past the front of those patrol
20 vehicles.

21 Q. Thank you.

22 MS. SOMMERS: We're re-starting the video.

23 (Whereupon, the body worn camera continued
24 to play into the record for the Grand Jury.)

25 BY MS. SOMMERS:

1 Q. All right. It looks like an officer is
2 approaching you. Do you remember or recall who that
3 is?

4 A. You can't see from the video right here, but it's
5 Officer [REDACTED].

6 Q. Okay.

7 (Whereupon, the body worn camera continued
8 to play into the record for the Grand Jury.)

9

10 BY MS. SOMMERS:

11 Q. And, your audio is off. So, at about 20 seconds
12 it appears that you opened his door, Officer [REDACTED]'s
13 car door?

14 A. Yes, ma'am.

15 Q. And, what was the reason for opening up that car
16 door?

17 A. To get him hand sanitizer.

18 Q. Okay.

19 MS. SOMMERS: Go ahead?

20 (Whereupon, the body worn camera video
21 continued to play into the record for the Grand Jury.)

22

23 BY MS. SOMMERS:

24 Q. So, 46 seconds, you just heard some audio on
25 this. Is that what you referred to earlier relative

1 to Mr. Prude talking about eating some type of
2 defecate?

3 A. Yes, ma'am.

4 Q. All right.

5 (Whereupon, the body worn camera video
6 continued to play into the record for the Grand Jury.)

7

8 BY MS. SOMMERS:

9 Q. Okay. At the very end of that video, it appears
10 that you're beginning to turn --

11 A. Yes, ma'am.

12 Q. Is that when you turned the body worn camera off?

13 A. Yes.

14 Q. And, what is the reason for that?

15 A. I had no reason to keep it on. I was going back
16 to my patrol car to type my report.

17 Q. Okay. You indicated that you did end up going
18 back to [REDACTED] Child Street at some point, is that
19 correct?

20 A. Yes, ma'am.

21 Q. And, what was the reason for that?

22 A. To secure the family, make sure that they were
23 still at the location for the Investigators.

24 Q. Okay. Approaching with Grand Jury Exhibit 21, do
25 you recognize that?

1 A. I do.

2 Q. Have you seen that before?

3 A. I have.

4 Q. And, what was contained on that?

5 A. My second trip to ■ Child Street.

6 Q. Okay. And, how do you know that your second trip
7 to ■ Child Street is contained on Grand Jury
8 Exhibit 21?

9 A. It has the Number 2 on it, and also I initialed
10 it and dated it.

11 Q. Okay. So, you have reviewed it?

12 A. Yes, ma'am.

13 Q. And, does it accurately capture -- is it a fair
14 and accurate capturing of your interaction at ■ Child
15 Street when you return?

16 A. Yes, ma'am.

17 Q. Thank you.

18 MS. SOMMERS: At this time, I will offer
19 Grand Jury Exhibit 21.

20 **(Whereupon, Grand Jury Exhibit Number 21,**
21 **was then received into evidence.)**

22 MS. SOMMERS: Okay. We're going to go ahead
23 and start playing Exhibit 21.

24 (Whereupon, the body worn camera video
25 continued to play into the record for the Grand Jury.)

1 BY MS. SOMMERS:

2 Q. So, just to stop real quick. The gentleman at 42
3 on the screen, is that the same person you had been
4 speaking with previously?

5 A. This male?

6 Q. Yes.

7 A. That's [REDACTED].

8 Q. And, who is the individual -- there appeared to
9 be another individual, a female?

10 A. That's the female that I believed was -- was his
11 wife.

12 Q. Okay.

13 MS. SOMMERS: Go ahead, please.

14 (Whereupon, the body worn camera video
15 continued to play into the record for the Grand Jury.)

16

17 BY MS. SOMMERS:

18 Q. Okay. So, for the record, at approximately ten
19 minutes and 56 seconds in, your body cam footage ends,
20 did you turn it off at that point?

21 A. Yes, ma'am.

22 Q. And, what was the reason for that?

23 A. I was going back to my car to make a phone call
24 and work on paperwork.

25 Q. On the footage, there was conversation about

1 blood on Mr. Prude, do you recall hearing that?

2 A. Yes.

3 Q. When you were present at the location where Mr.
4 Prude was taken into custody, do you recall seeing any
5 blood?

6 A. I believe he had minor cuts and abrasions,
7 nothing significant.

8 Q. Okay. Do you remember where they were?

9 A. I don't.

10 Q. Okay. And, at the time that you were there, was
11 Mr. Prude facing up or down?

12 A. When I got there, he was facing down.

13 Q. Okay. Does the City of Rochester or the
14 Rochester Police Department have any type of -- well,
15 I'd like to withdraw that. As of March 23rd, and
16 actually probably still up until today, at 3:00 in the
17 morning, when this occurred, was there, or is there,
18 any type of Response Team that is dispatched to an
19 incident like this?

20 A. No, ma'am.

21 Q. Is there any type of Response Team that operates
22 in the County to your knowledge -- or, in the City to
23 your knowledge at other times of the day?

24 A. I believe there's, like, mental health resources
25 available, but to get them at that time of night, we

1 would have to make a call and, the duration of this
2 call, that's not even enough time for them to get
3 notified, you know, change and drive into the City to
4 respond.

5 Q. So, right. So, there's no team on call and
6 available at 3:30 in the morning, but I'm curious if,
7 you know, at other times during the day. So, if this
8 had happened at 3:30 in the afternoon, instead of 3:30
9 in the morning, and you may not be aware because you
10 work the night shift, but are you aware if there is
11 any type of Mobile Response Team available to respond
12 at times before the end of the day, like, during
13 normal business hours?

14 A. I don't know if there's any team that would be
15 able to respond immediately, if that makes sense.

16 Q. That's fine. This was your regular shift, you
17 normally work the overnight?

18 A. Yes.

19 MS. SOMMERS: So, what I'm going to have you
20 do is step outside, and then we'll see if there are
21 any questions.

22 THE WITNESS: Okay.

23 MS. SOMMERS: Thank you.

24 (Whereupon, the witness left the Grand Jury
25 room at a time of 3:11 p.m.)

1 MS. SOMMERS: Okay. Does anyone have any
2 questions for [REDACTED]?

3 A JUROR: I was curious. And, I don't know
4 if he can answer this question or not, but I heard in
5 there, and I don't know if anybody else did, that
6 [REDACTED] made a comment that Daniel showed up in the
7 cab, and when he got out he tore off his hospital
8 clothes. So, I'm curious as to, if he were discharged
9 from the hospital, why would he have hospital gear on
10 -- hospital clothing. So did -- is there a way of
11 knowing, and maybe he can't answer that question.
12 But, was he released or did he leave?

13 MS. SOMMERS: So, those are all very valid
14 questions. And, I think -- we would like to present
15 this case chronologically but it doesn't always work
16 out that way.

17 A JUROR: Yeah.

18 MS. SOMMERS: I think at some point, there
19 will be witnesses who may be able to answer that. I
20 just don't know if this -- this witness could answer
21 that question.

22 A JUROR: Right. I just wanted to capture
23 it. I was very curious. It's the first time I had
24 heard it's -- it commented on in that way.

25 MS. SOMMERS: Okay. Is there anything that

1 you want me to ask this witness? I'm -- I'm happy to
2 call him in and ask him. I'm not quite sure if he's
3 in the position to know that.

4 A JUROR: I don't know. Again, I agree with
5 you. I don't think he is in the position, but I
6 didn't want to let that go without capturing it. So,
7 maybe it'll show up down the road.

8 MS. SOMMERS: Okay.

9 A JUROR: It sounded like when he got to him
10 the first time, Daniel was on his face, but then the
11 body worn camera showed at some point that he rolled
12 over to his back.

13 MS. SOMMERS: So, again, it is your
14 recollection. I think -- I think he did say, when he
15 initially got there, he was on his face. I don't -- I
16 don't believe -- I'll leave it to you. And, I can
17 call him back in if you wanted to question about that.
18 I don't know if he said he remained there.

19 A JUROR: Right. It seems as though his
20 body camera footage showed feet up. So, I guess I
21 wondered.

22 A JUROR: When he first got there, he was
23 laying down, and then later in the body cam, he had
24 flipped over and that's when he started talking about
25 his large unit.

1 A JUROR: Right.

2 MS. SOMMERS: So, did you want me to ask a
3 question? We can also replay the body camera footage
4 or both.

5 A JUROR: Maybe we can replay the body cam
6 footage at some point.

7 MS. SOMMERS: The stuff that's in evidence,
8 we could even start Grand Jury, like, a half an hour
9 later next time, and replay some of the footage that
10 you've seen that's in evidence if you think that would
11 be helpful because, in a case like this, there's so
12 much stuff that's being provided to you, or we can do
13 it now, and if you have a question I could ask it.

14 A JUROR: Let me think about it.

15 MS. SOMMERS: Think about it, yes.

16 A JUROR: Just wondering, he went back to
17 the car to make a report. It sounded like he was
18 going to go back to the house. Can we ask if he did
19 and what discussions were created then?

20 MS. SOMMERS: Okay. Did he return to the
21 house after he went to his car? Yes.

22 A JUROR: Was he -- so, he -- when he
23 initially went to the scene where Daniel was in the
24 street, he said he pulled up his car behind the
25 ambulance to follow him to the hospital. So, when he

1 went back to [REDACTED] Child Street, was that after he had
2 taken or followed --

3 MS. SOMMERS: Understood. Okay.

4 A JUROR: -- to the hospital. And then,
5 earlier, he had mentioned that he was told not to talk
6 to the people who had called in, like, [REDACTED] and whoever
7 else was there. Is it normal to be told not to talk
8 about a suspect or the victim's status with those
9 people.

10 A JUROR: And, who told him not to?

11 A JUROR: Yeah. And, who told him not to?

12 MS. SOMMERS: Okay. I will ask that.

13 A JUROR: I just was not sure if I'm
14 understanding. So, he showed up at the scene the
15 first time when Daniel was face down, did the MHA,
16 said he was going to do a mental hygiene arrest, went
17 back -- he was fine at that point, went back to his
18 car to fill out the paperwork, and all of the sudden,
19 in that time period, something had happened, where
20 they were trying to resuscitate Daniel.

21 MS. SOMMERS: So, I -- I can't, like, tell
22 you what the facts are, but I believe that is an
23 accurate reflection of what he said.

24 A JUROR: So, did he just follow the
25 ambulance? Did he not ask what happened or noticed

1 something was going on?

2 MS. SOMMERS: I'll get a little bit more
3 specific about that.

4 A JUROR: Okay. Thank you.

5 MS. SOMMERS: You're very welcome. Yes?

6 A JUROR: Do we know from the time where
7 this officer -- when [REDACTED] told him that he had
8 run out the back door, how many minutes was Daniel
9 running outside 'till the time that he was handcuffed
10 on the ground when this officer saw him? What was the
11 duration of him being outside in the elements?

12 MS. SOMMERS: So, I just want to -- a couple
13 things. First of all, I believe there was testimony
14 earlier that the call came in at 2:58, 2:58:11 in the
15 morning. I'm only saying this because I don't know if
16 he knows whether or not he was out in the cold the
17 whole time. He -- he -- so, would you -- do you want
18 me to ask him -- and, you could probably -- by
19 watching the body cam footage of him arriving, you'd
20 be able to see what the time is at that point.

21 A JUROR: Yeah. Because the second visit at
22 the house to talk with [REDACTED] was at 4:00 a.m.

23 MS. SOMMERS: Right. So, do you want me to
24 just real quickly put in the footage of the -- of the
25 --

1 A JUROR: You could tell by the dispatcher
2 timestamp.

3 MS. SOMMERS: I'm just trying to figure out
4 what's the best record of --

5 A JUROR: Is there an actual time on the --

6 MS. SOMMERS: I -- I can give you the job
7 cards from previously that talked about what time the
8 tow truck driver -- I just -- I can't comment on the
9 evidence. But, there is evidence by way of job cards.
10 So, just for the record --

11 A JUROR: I guess -- I guess my question
12 was, from the time that the first call came out that
13 Daniel had run out the back door, 'till this officer
14 got there and he was still upright and breathing, how
15 many minutes had gone by? I don't know the time where
16 the officer actually saw him still breathing, and then
17 was notified that they were doing resuscitation.

18 MS. SOMMERS: So, I'll play the -- I'll play
19 the video when he comes back in. I can ask about that
20 because I don't know if he's going to remember exactly
21 what time his body worn camera footage was, but I can
22 play that when he comes in. For the record, Grand
23 Jury Exhibit 11 is the job card that was created when
24 [REDACTED] initially called 911 the first time. It
25 indicates that a call was received at 2:58:11. It

1 doesn't indicate how, you know, a minute or two.

2 A JUROR: 3:35 is when he arrived.

3 MS. SOMMERS: 3:35.

4 A JUROR: Either take or give ten minutes.

5 I don't know if that would be relevant or not.

6 MS. SOMMERS: So, again, I don't want to
7 comment on the evidence. When he comes in we'll ask
8 him if he remembers exactly what time; and then, if
9 he's says no, which I'm assuming he's probably going
10 to, we'll just -- we'll put Grand Jury Exhibit 20 into
11 the -- into play very briefly and that'll give you
12 some idea of how much time had gone by.

13 A JUROR: Unless we can play it at a later
14 time just to find out what the time was either way.

15 MS. SOMMERS: So, we'll ask him if he
16 recalls, and if not, that's fine. Yes?

17 A JUROR: If they knew that he wasn't --
18 they had him in the hospital and they knew that he
19 wasn't in the right mind, why would they release him?

20 MS. SOMMERS: So, again, I don't know that
21 -- I understand your question. These are good really
22 good questions. I don't know that this witness is the
23 one who can answer that, but we do anticipate,
24 hopefully, calling somebody who can. Not hopefully,
25 we do anticipate calling someone who can.

1 A JUROR: This is specific to this witness.
2 When he walked up to the scene and he saw him on the
3 ground, and then he said he had to leave while he did
4 a report to go. In the report, does it say how long
5 he's been on the ground, laying on the ground. Did he
6 ever find that out or put that in the report. I know
7 he's apparently told not to say anything -- you know,
8 he's been out in the elements moving around, but he's
9 freezing on the ground. So, how long has he been
10 handcuffed when he walks up and there's all these
11 policemen standing around. How long has he been on
12 the ground?

13 MS. SOMMERS: So, I can ask him if he knows
14 -- if he knew at the time if he was made aware of
15 that.

16 A JUROR: Right. And, was that part of the
17 report?

18 MS. SOMMERS: Right. So, I -- I can
19 definitely ask him that. Anybody else? Yes?

20 A JUROR: Based on his --

21 MS. SOMMERS: Well, actually, I have to
22 write these down. I'm sorry.

23 A JUROR: You're fine.

24 MS. SOMMERS: So, I want to go back for a
25 moment. There was, kind of, a question about his

1 knowledge of how long Mr. Prude had been on the
2 ground?

3 A JUROR: Yes, and handcuffed.

4 MS. SOMMERS: Okay. Okay. I'm sorry. Go
5 ahead.

6 A JUROR: Based on his own knowledge and
7 previous experience, are people under the influence of
8 PCP in a state of mind where they can make their own
9 health and wellness decisions?

10 MS. SOMMERS: If he knows that I will ask
11 him. Yes?

12 A JUROR: We all know it was cold that
13 night. Is there going to be evidence later -- is
14 someone going to tell us what the temperature was that
15 night?

16 MS. SOMMERS: So, I'll ask him if he knows.
17 I'm not going to comment on that; but, at this point,
18 I'll ask him if he knows the exact temperature.

19 In terms of -- of somebody asking about him
20 showing up in the medical cab and how could he have
21 been let go, is there an agreement that this is not
22 maybe the witness to ask that of?

23 A JUROR: I think -- like, I said, I think I
24 just want to capture the -- the comment that was made
25 by [REDACTED] that he was -- he took off his hospital

1 clothes.

2 MS. SOMMERS: Okay.

3 Is there anyone else? Okay. We're going to
4 call him in and ask those questions. And then, we'll
5 take a quick break because we have two other witnesses
6 to get in today.

7 (Whereupon, the witness re-entered the Grand
8 Jury room at a time of 3:25 p.m.)

9

10 [REDACTED] [REDACTED], after
11 having been previously duly sworn, was further
12 examined and testified as follows:

13

14 **EXAMINATION BY MS. SOMMERS:**

15 Q. Officer [REDACTED], just recall that you're still
16 under oath?

17 A. Yes, ma'am.

18 Q. Thank you. One of the grand jurors asked if it
19 is normal to be advised not to share details, such as
20 the fact that Mr. Prude had been -- had gone
21 unconscious, pending the Investigators' arrival, is
22 that normal?

23 A. It's not unusual.

24 Q. Do you know why?

25 A. Usually, at least, I assume it has to do with

1 preserving the investigation. So, if I were to tell
2 them an alarming kind of news, it may effect any
3 questions or responses they may or may not give to the
4 Investigator.

5 Q. Okay. And, do you recall -- a grand juror wanted
6 to know, when you left to go back to your car --

7 A. Yes.

8 Q. -- after the second time you went to [REDACTED] Child
9 Street --

10 A. Yes.

11 Q. -- did there come a point in time when you
12 returned back to speak to Mr. [REDACTED]?

13 A. I did not. That was my last contact with them.

14 Q. Did the Investigators arrive?

15 A. They did. As I was working on my paperwork in my
16 car, the Investigators came, spoke to Mr. [REDACTED], and
17 they left and I cleared the scene.

18 Q. Okay. One of the grand jurors asked, based on
19 your description of when you were at the scene at [REDACTED]
20 -- at Jefferson Avenue --

21 A. Yes.

22 Q. -- you were working on MHA paperwork, is that
23 correct?

24 A. Yes, ma'am.

25 Q. And, your original -- you were going to follow

1 the ambulance to the hospital?

2 A. That's correct.

3 Q. Did you end up following the ambulance to the
4 hospital?

5 A. I did not.

6 Q. And, why was that?

7 A. Due to me being the primary Officer on the call,
8 another officer followed Mr. Prude to the hospital to
9 maintain custody, and I was setting up tape around and
10 then, I went back to [REDACTED] Child Street.

11 Q. Once Mr. Prude went unconscious and you observed
12 CPR being administered, did the nature change to a
13 medical emergency as opposed to an MHA call?

14 A. I don't -- can you rephrase the question? I'm
15 not sure what you're asking.

16 Q. So, at that point that Mr. Prude was unconscious
17 and CPR is being applied --

18 A. Uh-huh.

19 Q. -- was it still primarily an MHA call at that
20 point, or was it a straight medical call? And, I know
21 there was blurred lines, I'm just trying to --

22 A. It was still an MHA, but it was also a medical
23 call. He needed medical assistance. So, the MHA
24 paperwork was still completed. Is there -- I guess,
25 does that answer the question?

1 Q. I was -- that was my question, I'm sorry.

2 A. Okay.

3 Q. At the time that you got to the scene where Mr.
4 Prude was on the ground, do you recall what time that
5 was?

6 A. Like, when I actually arrived on -- at Jefferson
7 Avenue?

8 Q. Yes.

9 A. I don't recall what time that was.

10 Q. Okay. And, would reviewing the body worn cam
11 footage give an approximation of what time that was?

12 A. Yes, it should.

13 Q. Okay. Is it time stamped?

14 A. To my knowledge, it is.

15 Q. Okay. And, at the time that you arrived on
16 scene, did you know how long Mr. Prude had been
17 detained?

18 A. No, ma'am.

19 Q. Did you ever learn exactly how much time had
20 elapsed between when he first -- was first detained
21 and on the ground until you left -- left to do the MHA
22 paperwork?

23 A. No, ma'am.

24 Q. Based upon your knowledge of, and experience with
25 PCP, is it -- are people who are, to your knowledge,

1 if you know, on PCP in an appropriate state of mind to
2 make medical and wellness decisions for themselves?

3 A. No, ma'am.

4 Q. When you indicated that you didn't want to put a
5 blanket on Mr. Prude, did you take into consideration
6 that -- that he -- you indicated that he was -- I
7 asked you a hypothetical, which I shouldn't of, but I
8 said if you had a blanket, would you have shared it
9 with him, and you said, if I remember incorrectly,
10 that he had been disrobing, do you recall that?

11 A. He was fully naked when I got there.

12 Q. Okay.

13 A. And, to my knowledge no one had stripped him of
14 his clothes. He had done that by himself.

15 Q. Okay.

16 A. So, there's a reason, at least, in my mind
17 because of that, he would take his clothes off because
18 he was hot.

19 Q. Okay.

20 MS. SOMMERS: Before I ask the witness to
21 leave, I just want by a show of hands, are there any
22 questions I didn't cover?

23 A JUROR: Who -- who instructed him not to?

24 MS. SOMMERS: I'm sorry.

25 BY MS. SOMMERS:

1 Q. Do you recall who instructed you to wait until
2 the Investigators arrived to give any -- to not share
3 with -- with Mr. [REDACTED] the fact that his brother had
4 become unconscious?

5 A. At the time I was instructed to go to [REDACTED] Child
6 Street, there were several supervisors on scene. I
7 don't recall which one specifically told me not to
8 tell them.

9 Q. It was definitely a supervisor?

10 A. Yes, yes.

11 MS. SOMMERS: Anybody else?

12 A JUROR: I was curious, if you were at the
13 scene and then went back to your car to file the
14 paperwork --

15 THE WITNESS: Yes, ma'am.

16 A JUROR: -- and then, you noticed that they
17 were doing CPR. Were you ever able to ask what
18 happened? Is it normal for someone who is on drugs to
19 go into that state? Or, was there any conversation
20 about what happened in that period of time?

21 THE WITNESS: That was --

22 BY MS. SOMMERS:

23 Q. I'm sorry. So, you understand the question.

24 Were you ever -- did you ever ask? Were you ever

25 advised, like, hey, he was okay and now he's not. Did

1 you -- did you --

2 A. I don't think that I had an in depth conversation
3 as far as the specifics of what happened. I believe I
4 knew he was in some sort of restraint. But, I don't
5 know the specifics or I didn't ask the specifics of, I
6 guess, what everything they had done. If that answers
7 your question.

8 A JUROR: Yep. Thank you.

9 MS. SOMMERS: Anybody else?

10 A JUROR: Why did they decide it was safe
11 for him to go back in society?

12 MS. SOMMERS: Right. Again, I don't know if
13 this witness is -- did you have any discussions with
14 the personnel at Strong Hospital about this case?

15 THE WITNESS: No, ma'am.

16 MS. SOMMERS: Okay. I understand what
17 you're saying, I just don't know if this is the right
18 witness.

19 A JUROR: Okay.

20 MS. SOMMERS: Anybody else? You're all set.
21 Thank you.

22 THE WITNESS: Thank you, ma'am. Thank you
23 all.

24 MS. SOMMERS: We're going to take a 15
25 minute break and then we're going to go straight

1 through. So, please, be back here in 15 minutes.

2 Actually, let's do 10 minutes.

3 (Whereupon, the witness left the Grand Jury
4 room at a time of 3:34 p.m.)

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

7

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1 (Proceeding reconvened.)

2 MS. SOMMERS: Everyone is back, right.

3 A JUROR: Yes.

4 (Whereupon, the witness entered the Grand
5 Jury room at a time of 3:50 p.m.)

6

7 [REDACTED] [REDACTED], after being
8 duly called and sworn, testified as follows:

9

10 **EXAMINATION BY MS. SOMMERS:**

11 Q. Thank you. Would you please state your name and
12 spell it?

13 A. My name is [REDACTED]. [REDACTED].
14 [REDACTED].

15 Q. Ms. [REDACTED], where do you work?

16 A. For the Rochester Police Department.

17 Q. And, in what capacity? What is your title, what
18 do you do there?

19 A. I'm a Civilian Police Evidence Technician.

20 Q. How long have you worked at the Rochester Police
21 Department as an Evidence Technician?

22 A. Just about six years.

23 Q. Prior to taking that position, what was your
24 training and education?

25 A. I went to college. I received a four year

1 Bachelor Degree in Applied Forensic Science. When I
2 first got hired on the job, I received six months
3 on-the-job training with a senior technician. He had
4 been in the unit for over twenty years. I also
5 received various additional courses, such as the one
6 week photography course, a two week police evidence
7 technician course and a two week DVR and video
8 retrieval course.

9 Q. That brings me to why you're here today. Is part
10 of your duties to retrieve and extract videos from
11 various civilian -- surveillance cameras?

12 A. It is.

13 Q. How is it that you are directed to various
14 locations? How do you end up going to these places?

15 A. We usually receive the information on where to
16 retrieve videos, either an officer or Investigator
17 who's already involved in the case.

18 Q. What does the process entail of -- of extracting
19 or retrieving a video? Can you just kind of speak
20 very generally about the process?

21 A. Yep. So, when we first arrive at the location,
22 we'll always look at the system to make sure it's in
23 working order. To do that, we just view the live view
24 of the cameras, and we make sure we can see ourselves
25 in the office or see our car in the parking lot to

1 know that the cameras are working and recording. We
2 then, usually look at the time stamp on the system to
3 make sure that the time is accurate to the real time.
4 If not, we'll note the offset so that we know which
5 footage to download. As soon as that's done, we just
6 look for the export function; and, in the export
7 function, you can put in the date and time of the
8 video that you want to retrieve. We retrieve the
9 video by inserting a USB into the DVR system. And
10 then, that footage is on our USB.

11 Q. Thank you. Did you engage in that process and
12 retrieve videos from various parts of the City on or
13 about March 23rd, 2020?

14 A. I did.

15 Q. When you retrieve videos in the manner that you
16 just spoke of, do you complete what's called a video
17 retrieval form?

18 A. I do.

19 Q. So, I am approaching with Grand Jury Exhibits 23,
20 24 and 25. And, I'm just going to ask you to take a
21 brief glance at those. Have you ever seen those
22 before?

23 A. I have.

24 Q. Are those, in fact, video retrieval forms?

25 A. They are.

1 Q. Do they relate to videos that you collected on
2 March 23rd, 2020?

3 A. Yes, they do.

4 Q. Are those forms completed by more than one entity
5 within the Police Department?

6 A. It depends on the case, but usually, yes.

7 Q. Okay. Regardless of -- well, I'd like to
8 withdraw that. Who begins the progress of completing
9 that form, in general?

10 A. The Officer or the Investigator that initially
11 requests the video will fill out the top portion of
12 the form.

13 Q. And then, do you complete that form?

14 A. That's correct.

15 Q. Are those forms made in the normal course of
16 business of the Rochester Police Department?

17 A. They are.

18 Q. Is the information that's contained on the -- on
19 those forms captured at or about the time that the
20 information is gathered?

21 A. Yes.

22 Q. And, are those forms also kept in the normal
23 course of business of the Rochester Police Department?

24 A. Yes, they are.

25 MS. SOMMERS: Thank you. At this time, I

1 will move Grand Jury Exhibits 23, 24 and 25 into
2 evidence.

3 **(Whereupon, Grand Jury Exhibits, 23, 24 and**
4 **25, were then received into evidence.)**

5 BY MS. SOMMERS:

6 Q. All right. Referring, first, to Grand Jury
7 Exhibit 23, where was the place -- what was the
8 address of the location that you retrieved the video
9 from as reflected in Grand Jury Exhibit 23?

10 A. The location at 799 West Main Street.

11 Q. What is -- is there another name for that
12 location?

13 A. There is.

14 Q. What is it?

15 A. It's a Valero gas station.

16 Q. Where is that located relative to Main Street in
17 the City of Rochester? North or South?

18 A. It's located south of Main Street.

19 Q. So, for the record, I'm going to put up on the
20 Elmo here, Grand Jury Exhibit 13. Do you see 799 West
21 Main Street depicted with a particular Number?

22 A. I do.

23 Q. Where is that?

24 A. It's near Number 3.

25 Q. Okay. And, you indicated that that's a Valero?

1 A. Yes, that's correct.

2 Q. I am approaching with what's been marked for --

3 actually, I'd like to withdraw that for a moment.

4 When you compared the timestamp at that location with

5 the actual time what, if anything, did you learn?

6 A. When I compared the -- the times on the system,

7 as well as real time, I noticed that the system time

8 was one hour and three minutes slower than real time.

9 Q. Is it at all unusual for a surveillance video

10 time to not match the actual time that you're able to

11 observe when you arrive?

12 A. No, it's not unusual at all.

13 Q. Okay. Approaching with Grand Jury Exhibit Number

14 26. Have you ever seen what is captured on that video

15 before?

16 A. I have.

17 Q. How do you know that you've seen it before?

18 A. My initials and my IBM Number are on the CD, as

19 well as the date.

20 Q. And, does that disc contain two different vantage

21 points collected from cameras at 799 West Main Street?

22 A. It does.

23 Q. And, is what's captured on that disc a fair and

24 accurate representation of what you extracted when you

25 went to that location on March 23rd?

1 A. It does.

2 MS. SOMMERS: Thank you. I'm going to offer
3 Grand Jury Exhibit 26.

4 **(Whereupon, Grand Jury Exhibit Number 26,**
5 **was then received into evidence.)**

6 MS. SOMMERS: All right. For the record, is
7 it -- is the lighting -- I'm going to turn it down a
8 tiny bit. All right. So, for the record, we're going
9 to go ahead and play the first video.

10

11 (Whereupon, the surveillance video clip was
12 then played into the record for the Grand Jury.)

13

14 MS. SOMMERS: All right. Can you see Main
15 Street? Just for the record, I'm seven seconds in to
16 the first video.

17 BY MS. SOMMERS:

18 Q. Are you able to see Main Street?

19 A. Yes.

20 Q. All right. So I'm going to, using my pen point
21 to two different roads. Okay. So, for the record,
22 I'm, sort of, going to the -- across the -- more the
23 top. It's at a slight downward angle. And then,
24 there's a second street that's more parallel to the
25 top of the -- of the video. First of all, have I

1 described that accurately?

2 A. Yes.

3 Q. Which one of those two is Main Street?

4 A. Main Street is the road towards the top portion
5 that's running diagonally.

6 Q. This way?

7 A. Yes.

8 Q. For the record, I just went back to using my pen?

9 A. Yes.

10 Q. Thank you.

11 MS. SOMMERS: Go ahead. So, restarting at
12 seven seconds.

13 (Whereupon, the surveillance video clip was
14 then played into the record for the Grand Jury.)

15

16 BY MS. SOMMERS:

17 Q. All right. For the record, at 47 seconds, I have
18 my pen sort of around a figure. Based on your
19 knowledge, is that the individual that you were
20 attempting to capture a video of?

21 A. Yes.

22 Q. Thank you.

23 (Whereupon, the surveillance video clip was
24 then played into the record for the Grand Jury.)

25

1 MS. SOMMERS: Okay. For the record, we just
2 concluded the first video titled camera 16. We're now
3 going to click on the second video contained on the
4 disc, which is camera 13.

5 (Whereupon, the surveillance video clip was
6 then played into the record for the Grand Jury.)
7

8 MS. SOMMERS: So, pause it for a second.

9 BY MS. SOMMERS:

10 Q. Okay. Are you able to see where Main Street is
11 in this video?

12 A. Yes.

13 Q. Okay. So, for the record, I'm going to -- can
14 you give the vantage point? In which direction is
15 this video camera facing? East, north, south or west?

16 A. The camera is pointing east.

17 Q. Okay. And, for the record, is this Main Street?
18 I'm, sort of, pointing at something, maybe a third of
19 the way down, starting on the far left side of the
20 video, is that correct?

21 A. That's correct.

22 Q. And, is that Main Street?

23 A. Yes, it is.

24 Q. Okay. Thank you.

25 (Whereupon, the surveillance video clip was

1 then played into the record for the Grand Jury.)

2 MS. SOMMERS: Okay. For the record, we just
3 finished the clip at camera 13.

4 BY MS. SOMMERS:

5 Q. Ms. [REDACTED], is it regular or normal for
6 surveillance videos to move as you saw in that video?

7 A. For those types of cameras, yes.

8 Q. Okay. I am approaching with what's been marked
9 for identification as Grand Jury Exhibit Number 27.
10 Have you seen that before?

11 A. I have.

12 Q. Referring back to the information captured on
13 Grand Jury Exhibit Number 24, what was the next place
14 that you obtained a video from?

15 A. It was 781 West Main Street.

16 Q. And, does that location have a commercial name as
17 well?

18 A. It does.

19 Q. What is the name of that location?

20 A. Hair Biz.

21 Q. When you responded to Hair Biz, were you able to
22 compare the system time with what you were actually
23 observing in real time.

24 A. I was.

25 Q. Did that time match?

1 A. It did not.

2 Q. Can you explain for the Grand Jury what the
3 difference was between the time stamped time and the
4 actual time?

5 A. The system time on the cameras was 47 minutes
6 slower than real time.

7 Q. Okay. Relative to that location of 781 West Main
8 Street, are you able to see that location on Grand
9 Jury Exhibit Number 13?

10 A. I am.

11 Q. And, what Number is that designated by?

12 A. It's indicated by the Number 4.

13 Q. Is that location north or south of Main Street?

14 A. It's south of Main Street.

15 Q. Thank you. Did you go ahead and retrieve the
16 video from that?

17 A. I did.

18 Q. And, you've indicated that you've seen Grand Jury
19 Exhibit Number 27 before?

20 A. That's correct.

21 Q. Does that contain two clips that you obtained
22 from that location?

23 A. It does.

24 Q. And, how do you know that, if I didn't ask you, I
25 can't remember, how do you know that?

1 A. My initials, and IBM, as well as the date are
2 located on the CD.

3 Q. Is what is captured on that CD a fair and
4 accurate representation or duplication of the video
5 that you retrieved from 781 West Main Street on March
6 23rd?

7 A. It is.

8 MS. SOMMERS: Thank you. I will offer Grand
9 Jury Exhibit 27.

10 **(Whereupon, Grand Jury Exhibit Number 27 was**
11 **then received into evidence.)**

12

13 MS. SOMMERS: We're going to start with clip
14 from camera is 11.

15

16 (Whereupon, the surveillance video clip was
17 then played into the record for the Grand Jury.)

18

19 BY MS. SOMMERS:

20 Q. For the record, what direction is this camera
21 facing? Are you able to determine that from looking
22 at the video?

23 A. Yep. The camera in this clip is facing west.

24 Q. And the -- the street that is almost running
25 parallel to the top, what is that?

1 A. That is West Main Street.

2 Q. All right. Thank you.

3

4 (Whereupon, the surveillance video clip was
5 then played into the record for the Grand Jury.)

6

7 MS. SOMMERS: Okay. And, for the record, we
8 finished clip from camera 11. We're going to go to
9 camera 15.

10

11 (Whereupon, the surveillance video clip was
12 then played into the record for the Grand Jury.)

13

14 BY MS. SOMMERS:

15 Q. All right. In this clip, are you able to tell
16 which direction the camera is facing?

17 A. Yes.

18 Q. Okay. And, which direction is it facing?

19 A. This camera is facing east.

20 Q. Let me stop you for a moment. Is a commercial
21 business called Metro Computer visible in this video?

22 A. Yes, it is.

23 Q. Did you actually go to Metro Computer on March
24 23rd to determine if there was any usable video?

25 A. I did.

1 Q. Could you explain for the Grand Jury what you
2 found relative to the outside?

3 A. The location at Metro PCS did not have any
4 exterior cameras.

5 Q. And, what about the inside?

6 A. They did have the interior cameras, however,
7 there was no footage captured during the specific
8 timeframe that I was requested to retrieve.

9 Q. Okay.

10 MS. SOMMERS: So, we're going to restart the
11 video.

12

13 (Whereupon, the surveillance video clip was
14 then played into the record for the Grand Jury.)

15

16 BY MS. SOMMERS:

17 Q. Stopping the video, you indicated previously that
18 you obtained a video from 424 Jefferson Avenue, is
19 that correct?

20 A. I believe it was 422.

21 Q. Yes, it was. I'm sorry. 422?

22 A. Yes.

23 Q. Yes. And, is that information about that
24 contained on Grand Jury Exhibit 25?

25 A. It is.

1 Q. Is that location depicted on Grand Jury Exhibit
2 13?

3 A. Yes, it is.

4 Q. For the record, which Number relates to that
5 location?

6 A. Number 8.

7 Q. All right. So, for the record, I'm way down near
8 the bottom right, is that correct?

9 A. That's correct.

10 Q. Could you just orient the Grand Jury, is that
11 address located on the north, south, east or west
12 corner of that intersection?

13 A. It's located on the southeast corner.

14 Q. Okay. Thank you. Did you compare the system
15 time with the actual time relative to the video that
16 was located at that location?

17 A. I did.

18 Q. Did it match?

19 A. It did not.

20 Q. And, what was the difference between the time
21 stamp time and the actual real time?

22 A. The system time was one hour slower than real
23 time.

24 Q. Thank you. And, what was the name of the
25 business that was located at that address?

1 A. This business is called Bronson Mini Mart.

2 Q. All right. And, did you go ahead and obtain
3 various pieces of footage from that camera?

4 A. I did.

5 Q. Approaching with Grand Jury Exhibit 28, could you
6 look at that? Have you seen that before?

7 A. I have.

8 Q. How do you know?

9 A. My initials, IBM and date are located on the DVD.

10 Q. Does that DVD contain footage that you obtained
11 from that location that you just spoke of on March
12 23rd?

13 A. It does.

14 Q. Are the clips contained on that DVD fair and
15 accurate copies, duplications of the actual video that
16 you retrieved that day?

17 A. Yes.

18 MS. SOMMERS: Thank you. At this time, I
19 will offer 28.

20 **(Whereupon, Grand Jury Exhibit Number 28 was**
21 **then received into evidence.)**

22 MS. SOMMERS: All right. So, we're going to
23 start by -- the first clip is camera 6.

24

25 (Whereupon, the surveillance video clip was

1 then played into the record for the Grand Jury.)

2 MS. SOMMERS: Stop it for a moment.

3 BY MS. SOMMERS:

4 Q. Are you able to tell -- you can see an individual
5 who's going to be walking. Are you able to tell by
6 looking at the clip, which street that individual is
7 walking parallel with or on the sidewalk parallel to?

8 A. Um, you want the street that he's walking down?

9 Q. Yeah.

10 A. That would be Jefferson.

11 Q. Okay. Thank you.

12

13 (Whereupon, the surveillance video clip was
14 then played into the record for the Grand Jury.)

15

16 MS. SOMMERS: For the record, the clip --
17 the clip from camera 6 just finished. Now, we're
18 going to play the clip from camera 4.

19

20 (Whereupon, the surveillance video clip was
21 then played into the record for the Grand Jury.)

22

23 MS. SOMMERS: All right. So, real quick,
24 just stop for a second.

25 BY MS. SOMMERS:

1 Q. Which direction is this camera facing? North,
2 south, east or west?

3 A. This camera is facing west.

4 Q. Okay.

5

6 (Whereupon, the surveillance video clip was
7 then played into the record for the Grand Jury.)

8

9 MS. SOMMERS: Okay. And, finally, we are
10 going to watch camera 4 -- I'm sorry, clip 17 from
11 camera 4. I apologize.

12

13 (Whereupon, the surveillance video clip was
14 then played into the record for the Grand Jury.)

15

16 MS. SOMMERS: So, if we can just stop it for
17 a moment.

18 BY MS. SOMMERS:

19 Q. There is a sign for Sam -- Dr. Samuel McCree Way.
20 So, is the car that's parked in the video, is that car
21 parked on Dr. Samuel McCree Way or is it parked on
22 Jefferson Avenue?

23 A. It's parked on Jefferson Avenue.

24 Q. All right. Thank you.

25 A. You're welcome.

1 (Whereupon, the surveillance video clip was
2 then played into the record for the Grand Jury.)

3

4 MS. SOMMERS: All right. For the record,
5 clip 17 from camera 4 just finished. So, rather than
6 make this witness walk out and come back, if anybody
7 has any questions -- does anyone have any questions
8 that this witness can answer?

9 JURY POOL: (All jurors indicating a
10 negative response.)

11 MS. SOMMERS: You're all set. Thank you.
12 Thank you so much.

13 THE WITNESS: Thank you.

14 (Whereupon, the witness left the Grand Jury
15 room at a time of 4:19 p.m.)

16

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1 (Whereupon, the witness entered the Grand
2 Jury room at a time of 4:20 p.m.)

3

4 MR. SMITH: Final witness of the day, we're
5 going to call [REDACTED].

6

7 [REDACTED] [REDACTED], after
8 being duly called and sworn, testified as follows:

9

10 **EXAMINATION BY MR. SMITH:**

11 Q. Good afternoon, Ms. [REDACTED].

12 A. Good afternoon.

13 Q. Could you state your first and last names and
14 spell them both for the record?

15 A. [REDACTED]. [REDACTED].
16 [REDACTED].

17 Q. How are you employed, Ms. [REDACTED]?

18 A. I'm a Civilian Police Evidence Technician with
19 the Rochester Police Department.

20 Q. And, how long have you been employed in that
21 position?

22 A. Just over ten years.

23 Q. Did you have any other positions with the
24 Rochester Police Department prior to becoming a
25 Civilian Police Evidence Technician?

1 A. I was a Public Safety Aide for about a year
2 before that.

3 Q. And, Ms. [REDACTED], the grand jurors have heard
4 some testimony. But, could you just briefly explain
5 the duties and responsibilities of a Civilian Police
6 Evidence Tech with the Rochester Police Department?

7 A. We respond to various crime scenes where we,
8 generally, take photographs, process for finger
9 prints, collect -- collect and document physical
10 evidence. We also deal with a variety of digital
11 evidence including digital security camera systems,
12 cell phones, computers.

13 Q. Would that include video retrieval, Ms. [REDACTED]?

14 A. Yes.

15 Q. Now, are you assigned to a specific unit, Ms.
16 [REDACTED]?

17 A. The Technicians Unit.

18 Q. And, do you do work for a specific unit or do you
19 do work for the whole Rochester Police Department?

20 A. For the whole Police Department.

21 Q. And, how is it that a Civilian Police Evidence
22 Technician gets assigned to work on a specific case or
23 a specific investigation?

24 A. We'll be assigned by the -- usually the lead
25 Investigator or the Supervisor.

1 Q. And, sometimes, as part of that request, are you
2 given a Rochester Police Department video retrieval
3 form?

4 A. Mm-hmm, yes.

5 Q. And, tell us about that form. Who would fill
6 that form out to start?

7 A. Typically, the requesting Officer or Investigator
8 would fill out the top portion with the case number,
9 the location where they ask us to go retrieve a video
10 camera footage and the date and time of the camera
11 footage they want and which camera views they're
12 interested in.

13 Q. So, you received that form, is that fair to say?

14 A. Yes.

15 Q. And, based on the information contained in the
16 form, you know where to go and what to retrieve?

17 A. Yes.

18 Q. Fair to say, Ms. [REDACTED], that when you go to one
19 of these locations, somebody from the Rochester Police
20 Department has already been there?

21 A. Not necessarily been to the location, but they're
22 familiar with the location and that it has cameras.

23 Q. Let me ask this a better way. To determine that
24 there is video to be retrieved?

25 A. Yes.

1 Q. And, ma'am, I'm go to draw your attention to
2 March 24th, of this year, 2020. Were you assigned to
3 do some video retrieval in the investigation involving
4 Daniel Prude?

5 A. Yes.

6 Q. And, did you on that day, that afternoon,
7 specifically, go to three different locations in the
8 City of Rochester?

9 A. Yes.

10 Q. And, about the video retrieval forms, ma'am, is
11 that something that's filled out as part of the
12 ordinary course of business of the Rochester Police
13 Department?

14 A. Yes.

15 Q. And, the information that's filled out, is that
16 filled out contemporaneous with the request?

17 A. Yes.

18 Q. And, as far as the information that you filled
19 out, is that filled out contemporaneous with the
20 retrieval of the video?

21 A. Yes.

22 Q. And, for the three -- the three locations you
23 went to on the 24th of March, 2020 for this case, did
24 you fill out video retrieval forms while you were at
25 the location?

1 A. Yes.

2 Q. Showing you, Ms. [REDACTED], what's been marked as
3 Grand Jury Exhibits 29 through 31, and starting first
4 with Grand Jury Exhibit 29, do you recognize that
5 document, ma'am?

6 A. Yes.

7 Q. And, what do you recognize that to be?

8 A. This is the video retrieval form I completed for
9 715 West Main Street.

10 Q. Is there some part of that form that was filled
11 out by somebody else?

12 A. Yes.

13 Q. Was that request to you?

14 A. Yes.

15 Q. And, is there some part of that form that's
16 filled out by you, again, while you were retrieving
17 the video?

18 A. Yes.

19 Q. And, I've said this, ma'am, but that -- you
20 filled that out as part of your duties as a Police
21 Civilian Evidence Technician?

22 A. Yes.

23 Q. And, what location -- I'm sorry, Grand Jury 29,
24 ma'am, does that represent the video retrieval that
25 occurred at 715 West Main Street?

1 A. Yes.

2 Q. I'm going to ask you the same questions for Grand
3 Jury Exhibit Number 30, ma'am, do you recognize that
4 document?

5 A. Yes.

6 Q. And, what do you recognize that document to be?

7 A. It's the video retrieval form I filled out for
8 613 West Main Street.

9 Q. And, again, is there some portion of that, that
10 was filled out by somebody else?

11 A. Yes.

12 Q. Who would that have been?

13 A. Sergeant [REDACTED].

14 Q. Is that essentially the request portion?

15 A. Yes.

16 Q. And, is there a portion that you filled out while
17 you were on scene?

18 A. Yes.

19 Q. And, again, Ms. [REDACTED], is that filled out in
20 the ordinary course of your duties as a Civilian
21 Police Evidence Technician?

22 A. Yes.

23 Q. And, again, I'll ask you the same questions for
24 Grand Jury Exhibit 31 for identification. Do you
25 recognize that document?

1 A. Yes.

2 Q. And, what do you recognize that to be?

3 A. It's the video retrieval form I filled out for
4 259 Jefferson Avenue.

5 Q. And, again, you filled that out while you were at
6 259 Jefferson Avenue on March 24th, 2020?

7 A. Yes.

8 Q. Okay. And, that was filled out in the course of
9 your duties as a Police Civilian Evidence Technician?

10 A. Yes.

11 MR. SMITH: At this time, I'm going to offer
12 Grand Jury Exhibits 29 through 31 into evidence.

13 **(Whereupon, Grand Jury Exhibits Numbers 29,**
14 **30 and 31 were then received into evidence.)**

15

16 **BY MR. SMITH:**

17 Q. Ms. [REDACTED], Grand Jury Exhibits 29 through 31
18 are now in evidence. I'm going to leave those up here
19 with you. Let you refer to them throughout your
20 testimony as needed. I'm going to start first, ma'am,
21 with the location at 715 West Main Street. Did you
22 have the occasion to go there at 1:44 on March 24th?

23 A. Yes.

24 Q. And, what is another name for the location at 715
25 West Main Street?

1 A. It's a Family Dollar.

2 Q. And, I should have had you do this, Ms. [REDACTED],
3 but just generally, tell us the process for retrieving
4 videos when you go to a location?

5 A. I'll speak to the employee or contact at the
6 location, he'll direct me to the location of the video
7 system. Then, generally, the first thing I do is look
8 at the monitor if it's connected to the video system
9 and just verify that the system is in working order,
10 the cameras are recording. And then, generally, I'll
11 check the accuracy of the time stamp against my cell
12 phone connected to the Verizon network and make a note
13 of that. And, from there, I plug a thumb drive into
14 the system. DVR's all have some sort of copy or
15 export back-up function. So, I navigate to that
16 function and put the date and times of the footage I
17 wish to download, the camera views, and then follow
18 the prompts to download that footage to my thumb
19 drive.

20 Q. Perfect. Let me ask you those questions about
21 715 West Main Street then, ma'am. On the 24th of --
22 of March, did you follow that process?

23 A. Yes.

24 Q. And, were you asked to retrieve, you know, 25
25 minutes worth of exterior camera?

1 A. Yes.

2 Q. Were those cameras in good working order when you
3 did the check?

4 A. Yes.

5 Q. Did you check the system to see if the time was
6 accurate?

7 A. Yes.

8 Q. And, was the time accurate at 715 West Main
9 Street?

10 A. Yes.

11 Q. And, did you then download those exterior
12 cameras?

13 A. Yes.

14 Q. Showing Ms. [REDACTED] what's in evidence -- I'm
15 sorry, what's been marked as Grand Jury Exhibit 32 for
16 identification. Do you recognize that Exhibit, ma'am?

17 A. Yes.

18 Q. What do you recognize that to be?

19 A. This is the disc containing footage from the 715
20 West Main Street that I downloaded.

21 Q. That's the footage that you downloaded on the
22 24th?

23 A. Yes.

24 Q. Of March -- I'm sorry. And, how do you recognize
25 that as such, ma'am?

1 A. It's labeled with the location and also with my
2 initials and IBM and date that I reviewed the footage.

3 Q. You actually reviewed that disc?

4 A. Yes.

5 Q. And, this is a duplicate copy of the video that
6 you retrieved from 715 West Main Street on March 24th?

7 A. Yes.

8 MR. SMITH: At this time, I'm going to offer
9 Grand Jury Exhibit 32 into evidence.

10 BY MR. SMITH:

11 Q. Ms. [REDACTED], can you look to your left and see --
12 see that screen?

13 A. Yes.

14 Q. I point your attention to Grand Jury Exhibit 13,
15 which is in evidence. Do you see 715 West Main Street
16 on that Exhibit, ma'am.

17 A. Yes.

18 Q. And, approximately where is 715 West Main Street
19 located?

20 A. It's marked on the map with the Number 5, kind of
21 towards --

22 Q. Right here where my pen is indicating?

23 A. Yes.

24 Q. And, is that location north or south of Main
25 Street?

1 A. It's on the south side of West Main Street.

2 **(Whereupon, Grand Jury Exhibit Number 32 was**
3 **then received into evidence.)**

4

5 MR. SMITH: At this time, we're going to
6 play Grand Jury Exhibit 32.

7

8 (Whereupon, the surveillance video clip was
9 then played into the record for the Grand Jury.)

10

11 BY MR. SMITH:

12 Q. Ms. [REDACTED], pausing the video at the seven
13 second marker, do you see an individual, just sort of,
14 appear on the screen on the left hand side?

15 A. Yes.

16 Q. To your knowledge, ma'am, is that the individual
17 that you were trying to capture on the video you were
18 retrieving?

19 A. I believe so, yes.

20 Q. And, if you know, ma'am, do you know what street
21 he's walking along or parallel to?

22 A. That's West Main Street.

23 Q. That's West Main Street?

24 A. Yes.

25 Q. Thank you.

1 MR. SMITH: Continue playing.

2

3 (Whereupon, the surveillance video clip was
4 then played into the record for the Grand Jury.)

5

6 MR. SMITH: Okay. That video just ended.

7 BY MR. SMITH:

8 Q. Ms. [REDACTED], I'm going to now ask -- again,
9 drawing your attention to March 24th, 2020 at around
10 1:10 in the afternoon, did you have the opportunity to
11 respond to 613 West Main Street to retrieve some
12 videos?

13 A. Yes.

14 Q. And, what is -- what is another name for the
15 business located there?

16 A. It's a corner store called Super Star Mini Mart.

17 Q. And, the process that you previously transcribed
18 for checking the video system, did you do that at that
19 address, ma'am?

20 A. Yes.

21 Q. And, were those cameras working?

22 A. Yes.

23 Q. And, were you asked to, again, recover about 25
24 minutes from the exterior camera views?

25 A. Yes.

1 Q. Did you, in fact, do that?

2 A. Yes.

3 Q. Did you check the system time for this camera,
4 ma'am?

5 A. Yes.

6 Q. And, was this time on the system accurate or was
7 that off?

8 A. The system time stamp was approximately ten
9 minutes fast.

10 Q. You documented that?

11 A. Yes.

12 Q. Then, you retrieved that video?

13 A. Yes.

14 Q. I'm going to draw your attention, again, Ms.

15 [REDACTED], to Grand Jury Exhibit 13 and ask if you see
16 613 West Main Street depicted on this Exhibit?

17 A. Yes.

18 Q. Can you just tell me where that is, ma'am?

19 A. It's kind of in the top right corner, it's marked
20 by Number 6.

21 Q. Where my pen is indicating with a 6.

22 A. Yes.

23 Q. And, is that south of Main Street, ma'am?

24 A. Yes.

25 Q. And, West of Jefferson Avenue?

1 A. Yes.

2 Q. Showing you, Ms. [REDACTED], what's been marked as
3 Grand Jury Exhibit 33 in evidence, do you recognize
4 that Exhibit?

5 A. Yes.

6 Q. What do you recognize that to be?

7 A. The disc containing footage I collected from 613
8 West Main Street.

9 Q. And, how do you recognize it to be as such?

10 A. It's labeled with the address and, again, my
11 initials, employee number and the date that I reviewed
12 the footage.

13 Q. When you reviewed that footage, ma'am, is it the
14 exact copy of the three channels that you downloaded
15 from 613 West Main Street on the 24th of March?

16 A. Yes.

17 Q. Thank you.

18 MR. SMITH: At this time, I'm going to offer
19 Grand Jury Exhibit 33 into evidence.

20 **(Whereupon, Grand Jury Exhibit Number 33 was**
21 **then received into evidence.)**

22 THE COURT: We're going to start with
23 channel two, clip eight.

24 (Whereupon, the surveillance video clip was
25 then played into the record for the Grand Jury.)

1 BY MR. SMITH:

2 Q. Pausing this Exhibit at the six seconds, ma'am --
3 I'm sorry eight seconds. Do you see an individual
4 just appear on the right hand -- I'm sorry, left hand,
5 upper left hand, side of the scene?

6 A. Yes.

7 Q. Ma'am, do you know if that was the individual
8 that you were attempting to capture a video of?

9 A. I believe so, yes.

10 Q. Ma'am, the street that we see to the right,
11 running from the, sort of, upper left of the screen,
12 to the lower mid right of the screen, do you see that
13 street?

14 A. Yes.

15 Q. What is that street?

16 A. That's Jefferson Avenue.

17 Q. That's Jefferson Avenue?

18 A. Yes.

19 Q. All right.

20 MR. SMITH: Keep playing the video.

21

22 (Whereupon, the surveillance video clip was
23 then played into the record for the Grand Jury.)

24

25 MR. SMITH: That clip ended. We're going to

1 play clip 9 of channel 6.

2

3 (Whereupon, the surveillance video clip was
4 then played into the record for the Grand Jury.)

5

6 BY MR. SMITH:

7 Q. Pausing at the 14 second mark, Ms. [REDACTED], do
8 you see an individual run across the -- the screen?

9 A. Yes.

10 Q. And, again, is that, to your knowledge, the
11 individual that you were attempting to capture a video
12 of?

13 A. Yes.

14 Q. And, the street that we see, ma'am, running from
15 the top right of the screen to the bottom left of the
16 screen, do you see that street?

17 A. Yes.

18 Q. What street is that?

19 A. West Main Street.

20 Q. That's Main Street?

21 A. Yes.

22 MR. SMITH: Keep playing the video.

23

24 (Whereupon, the surveillance video clip was
25 then played into the record for the Grand Jury.)

1 MR. SMITH: That video is completed for the
2 record. We're now going to play clip 10 from channel
3 3.

4

5 (Whereupon, the surveillance video clip was
6 then played into the record for the Grand Jury.)

7

8 BY MR. SMITH:

9 Q. Ms. [REDACTED], we're pausing the video at the seven
10 second mark, what is the street that is depicted in
11 the middle of the video?

12 A. Jefferson Avenue.

13 Q. That's Jefferson Avenue?

14 A. Yes.

15 Q. And, do you see an individual and, sort of,
16 towards the middle left hand side?

17 A. Yes.

18 Q. And, is that the individual, to your knowledge,
19 you were attempting to capture a video of?

20 A. Yes.

21 Q. Thank you.

22 MR. SMITH: Keep playing.

23

24 (Whereupon, the surveillance video clip was
25 then played into the record for the Grand Jury.)

1 MR. SMITH: That concludes Grand Jury
2 Exhibit 33.

3 BY MR. SMITH:

4 Q. Just a few -- few more questions, Ms. [REDACTED].
5 I'm kind of doing this out of chronological order, but
6 I'm going to ask if at 1:24 in afternoon, again, on
7 that same date of March 24th, 2020, you were directed
8 to go to 259 Jefferson Avenue in the City of Rochester
9 to collect the video?

10 A. Yes.

11 Q. And, what is the -- what is the name of the
12 business located at that address, ma'am?

13 A. It's another corner store called Clifton Food
14 Mart.

15 Q. And, did you check to see if there was a video
16 system in good working order at Clifton Food Mart?

17 A. Yes.

18 Q. And, was it in working order?

19 A. Yes.

20 Q. And, were you, again, asked to retrieve about 25
21 minutes of exterior cameras?

22 A. Yes.

23 Q. And, prior to doing that, ma'am, did you check to
24 see if the system time was accurate?

25 A. Yes.

- 1 Q. And, was the system time, in fact, accurate?
- 2 A. Yes.
- 3 Q. Is that common?
- 4 A. It varies a lot.
- 5 Q. And, did you then retrieve those videos, ma'am?
- 6 A. Yes.
- 7 Q. And, again, finally, drawing your attention one
8 more time to Grand Jury Exhibit 13, do you see 259
9 Jefferson Avenue depicted on that Exhibit?
- 10 A. Yes.
- 11 Q. Can you just, sort of, indicate where it is, Ms.
12 [REDACTED]?
- 13 A. Yes. It's marked, kind of, towards the right of
14 the screen, kind of, towards the middle marked by 7.
- 15 Q. Sort of where I'm indicating with my pen here?
- 16 A. Yes.
- 17 Q. And, is -- Number 7, 259 Jefferson Avenue, is
18 that west of Jefferson Avenue?
- 19 A. Yes.
- 20 Q. And, north of Clinton Street?
- 21 A. Yes.
- 22 Q. Or is that Clifton?
- 23 A. Yes.
- 24 Q. Clifton. Finally, ma'am, I'm showing you what's
25 been marked as Grand Jury Exhibit 34 for

1 identification, do you recognize that Exhibit?

2 A. Yes.

3 Q. Who do you recognize it to be, Ms. [REDACTED]?

4 A. It's a disc containing the footage from 259
5 Jefferson Avenue.

6 Q. And, how do you recognize it as such?

7 A. Again, labeled with the location and then my --
8 my employee info and the date that I reviewed it.

9 Q. So, on the date, you reviewed that video?

10 A. Yes.

11 Q. And, based on your review of that video, is that
12 tape a fair and accurate copy of the video that you
13 retrieve from 259 Jefferson on March 24th, 2020?

14 A. Right. Yes.

15 Q. Thank you.

16 MR. SMITH: At this time, I'm going to offer
17 Grand Jury Exhibit 34 into evidence.

18 **(Whereupon, Grand Jury Exhibit Number 34 was**
19 **then received into evidence.)**

20

21 MR. SMITH: We're going to start with clip
22 11 of camera 7.

23

24 (Whereupon, the surveillance video clip was
25 then played into the record for the Grand Jury.)

1 MR. SMITH: Pausing at the eight second --
2 nine second mark.

3 BY MR. SMITH:

4 Q. Ms. [REDACTED], is there a street depicted at the
5 top of the screen?

6 A. Yes.

7 Q. And, what street is that, if you know, ma'am?

8 A. Jefferson Avenue.

9 Q. Did you just see an individual at the top off the
10 screen?

11 A. Yes.

12 Q. And, to your knowledge, is that the individual
13 who you were trying to capture a video of?

14 A. Yes.

15 Q. Okay.

16 MR. SMITH: We're going to keep playing.

17

18 (Whereupon, the surveillance video clip was
19 then played into the record for the Grand Jury.)

20

21 MR. SMITH: The next clip is clip 12, camera
22 5. Playing that.

23

24 (Whereupon, the surveillance video clip was
25 then played into the record for the Grand Jury.)

1 MR. SMITH: Pausing at the seven second
2 mark.

3 BY MR. SMITH:

4 Q. Ms. [REDACTED], do you see the street that's running
5 from the top to the bottom right of the screen?

6 A. Yes.

7 Q. And, what street is that?

8 A. Jefferson Avenue.

9 Q. Thank you.

10 MR. SMITH: Now, we're going to play clip 13
11 from camera 6.

12

13 (Whereupon, the surveillance video clip was
14 then played into the record for the Grand Jury.)

15

16 MR. SMITH: Pausing at the seven second
17 mark.

18 BY MR. SMITH:

19 Q. Ms. [REDACTED], there's again, a street running from
20 the bottom left corner, up to the -- almost the top
21 right corner of the screen, do you see that street?

22 A. Yes.

23 Q. What street is that?

24 A. That's Jefferson Avenue.

25 Q. And, the street that we can see the sign, there's

1 a street that runs across parallel to the screen from
2 left to right?

3 A. That's Clifton Street.

4 Q. Clifton Street. Thank you.

5 MR. SMITH: Keep playing.

6

7 (Whereupon, the surveillance video clip was
8 then played into the record for the Grand Jury.)

9

10 MR. SMITH: Finally --

11 A JUROR: Is there -- the last two videos
12 are faster.

13 BY MR. SMITH:

14 Q. Ms. [REDACTED], are these videos played at normal
15 speed?

16 A. It does seem to be playing a little -- it might
17 just be the player being used.

18 Q. When you -- when you download these videos, do
19 you observe the videos in the system playing at a
20 normal speed?

21 A. Yes.

22 Q. Download them at a normal speed?

23 A. Yes.

24 Q. Burned at a normal speed?

25 A. Yes.

1 A JUROR: I'm just looking at the timestamp
2 and it's not counting off in one second intervals,
3 it's less than one second.

4 MR. SMITH: I think -- sort of unsworn
5 testimony here. My viewing of looking at the videos
6 is that we're having a slight buffering issue here and
7 I can't tell if it's off the computer or the drive,
8 but it appears to be going slow.

9 MS. SOMMERS: I think it's going fast.

10 MR. SMITH: Fast. Sorry, it's buffering.

11 MS. SOMMERS: Are you able to tell whether
12 this video was playing at normal speed when it was
13 collected, or is -- is it the way it's stored
14 different?

15 THE WITNESS: It might just be something
16 with the player or buffering issue, like he said.

17 MS. SOMMERS: Okay.

18 A JUROR: That's fine.

19 THE WITNESS: It sometimes happens.

20 MR. SMITH: We're going to play 13, clip 6.

21 MS. SOMMERS: Actually, we just did.

22 MR. SMITH: Sorry, we just did that one.
23 We're going to play clip 14, camera 1. Sorry.

24 (Whereupon, the surveillance video clip was
25 then played into the record for the Grand Jury.)

1 MR. SMITH: Pausing at six seconds.

2 BY MR. SMITH:

3 Q. Ms. [REDACTED], there's a street that's running from
4 the upper left hand corner, sort of parallel to the
5 screen and going to the middle right hand of the
6 screen, do you see that street?

7 A. Yes.

8 Q. And, what street is that?

9 A. Clifton, I believe. No, I'm sorry. Jefferson
10 Avenue.

11 Q. That's Jefferson Avenue?

12 A. Sorry. No, that's Clifton.

13 MS. SOMMERS: Would it help to see more of
14 the video?

15 BY MR. SMITH:

16 Q. Would it perhaps help if I keep playing the video
17 more, Ms. [REDACTED]?

18 A. Yeah.

19 MR. SMITH: Okay. We're going to keep
20 playing from the six second mark.

21

22 (Whereupon, the surveillance video clip was
23 then played into the record for the Grand Jury.)

24

25 A. Okay. I'm sorry, that's Jefferson Avenue.

1 Q. Is the individual who's running at the top of the
2 screen, he's running along Jefferson Avenue, ma'am?

3 A. Yes.

4 Q. Thank you. And, do you know what the
5 intersection is, ma'am, the other street that's
6 running up and down?

7 A. That one is Clifton.

8 Q. That's Clifton?

9 A. Yes.

10 MR. SMITH: Keep playing from the nine
11 second mark.

12

13 (Whereupon, the surveillance video clip was
14 then played into the record for the Grand Jury.)

15

16 MR. SMITH: That concludes those Exhibits.

17 BY MR. SMITH:

18 Q. Just a couple final questions, Ms. [REDACTED]. When
19 you collect those videos, do you store them on a
20 server at the Rochester Police Department?

21 A. Yes.

22 Q. And, again, those videos aren't altered or
23 changed in any way?

24 A. No.

25 MR. SMITH: Thank you. I have no further

1 questions for Ms. [REDACTED]. Do any of the grand jurors
2 have any questions for Ms. [REDACTED]? Seeing as there
3 are none, you are excused. Thank you.

4 THE WITNESS: Thank you.

5 (Whereupon, the witness left the Grand Jury
6 room at a time of 4:47 p.m.)

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1 MS. SOMMERS: So, just real quick, and we're
2 actually overtime. I think we were supposed to be out
3 of here by 4:30. So, I apologize.

4 A JUROR: Do we get paid for overtime?

5 MS. SOMMERS: You get paid as much as we do,
6 i.e., zero.

7 So, we are not -- not here next week. All
8 right. So, we are not here the day before
9 Thanksgiving.

10 We are here the following two weeks. I
11 believe that's the 2nd of December and the 9th of
12 December. So, have a wonderful Thanksgiving.

13 Please don't form any opinions. You haven't
14 finished reviewing all of the evidence in this case.

15 Send forth your folders, and have a
16 wonderful day, everyone. Thank you.

17

18 (Proceeding adjourned at 4:48 p.m.)

19

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25

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**

2

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.

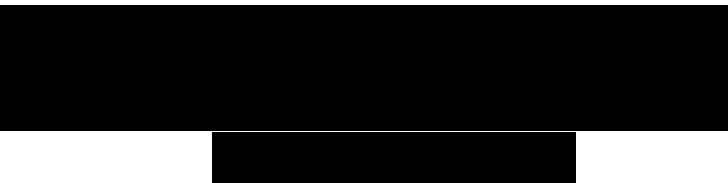
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Notary Public.

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