

1 STATE OF NEW YORK
2 MONROE COUNTY GRAND JURY

3 _____

4 DAY 2:

5

6 Investigation into the death of Daniel T. Prude

7

8 _____

9 Transcript of the Proceedings held before
10 the Attorney General of New York State before the
11 Monroe County Grand Jury, at the Monroe County, Hall
12 of Justice, 99 Exchange Blvd., Rochester, New York,
13 14614, on November 4th, 2020.

14

15 APPEARANCES: Letitia James, ESQ.

16 New York State Attorney General

17 Appearing for the People

18 BY: JENNIFER SOMMERS, ESQ.

19 Deputy Chief of Special Investigations

20 BY: MICHAEL SMITH, ESQ.

21 NYS Office of the Attorney General

22

23 REPORTED BY: 

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I N D E X T O W I T N E S S E S

FOR THE PEOPLE:		PAGE
OFFICER	[REDACTED]	6
	[REDACTED]	23
OFFICER	[REDACTED]	47
INVESTIGATOR	[REDACTED]	62

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

FOR THE

PEOPLE	DESCRIPTION	ID	EVD
GJ 6	[REDACTED] Body camera video		15
GJ 7	AMR PCT report		27
GJ 8	[REDACTED] Body camera video		50
GJ 9	[REDACTED] Body camera video		55
GJ 10	Video compilation		67

1 (Proceeding reconvened.)

2 MS. SOMMERS: Okay. We are back on the
3 record in the investigation into the death of Daniel
4 Prude.

5 I actually was wondering if the secretary
6 would agree -- I just want to read who you heard from
7 last week. [REDACTED] testified, [REDACTED]
8 testified, [REDACTED] testified, and [REDACTED].

9 I believe [REDACTED] worked at the
10 Office of Emergency Communications. [REDACTED]
11 and [REDACTED] were members of the Rochester Police
12 Department, although, I always add, it's your -- it's
13 your memory, or your -- yeah, your memory of these
14 things that governs. I just wanted to read that since
15 this is a long-term investigation. I just want to,
16 kind of, start each one by talking about what you've
17 already heard. Did I accurately -- I'm asking the
18 secretary if I accurately recounted that?

19 JURY SECRETARY: Yes.

20 MS. SOMMERS: I think we were going to speak
21 generally to an issue before we start.

22 MR. SMITH: We -- yes, I was. And, before I
23 start, I'll just place on the record, that as much as
24 we do have 22 grand jurors present here this morning,
25 we do have a quorum.

1 I was going to call Officer [REDACTED]
2 this morning, and I intend to do that first. But,
3 before I do that, I did want to give a brief
4 cautionary instruction to the grand jurors. Last time
5 we were here, last Wednesday, you heard some testimony
6 about potential or possible drug use by Mr. Prude
7 prior to the incident, and I anticipate that you may
8 hear similar testimony today regarding potential or
9 previous drug use by Mr. Prude. Again, prior to this
10 incident.

11 I want to warn the grand jurors, while drug
12 use, intoxication, may become relevant at some point,
13 to some issue in this case, I would warn the grand
14 jurors that the mere fact that someone or a person who
15 may have ingested drugs previously, or may be under
16 the influence, does not render them without the
17 protections of the law. It does not mean that another
18 individual, specifically, including a police officer,
19 can do whatever they want to that person. Because
20 someone has previously, or is under the influence of
21 drugs, again, it does not mean that they are not
22 entitled to the protections of the law, just as
23 anybody is.

24 I just want to make sure that's clear. And,
25 again, I just give that cautionary and let the grand

1 jurors know it may become relevant and that's for you
2 to decide.

3 MS. SOMMERS: Yeah. We mentioned that last
4 week as well, but really want to reiterate it again
5 this week. So, with that, I think we're ready to
6 start.

7 MR. SMITH: Thank you, Ms. Sommers. With
8 that in mind, we'll call Officer [REDACTED].

9 MS. SOMMERS: I'll get him.

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1 (Whereupon, the witness entered the Grand
2 Jury room at a time of 9:37 a.m.)

3

4

O F F I C E R [REDACTED] [REDACTED]

5

after being duly called and sworn, testified as

6

follows:

7

8

EXAMINATION BY MR. SMITH:

9

Q. Good morning, Officer [REDACTED].

10

A. Morning.

11

Q. Could you state and spell your first and last
12 names, and spell your first and last names for the
13 record, please, sir?

14

A. [REDACTED]. My first name is [REDACTED]. Last
15 name is [REDACTED].

16

Q. How are you employed, Officer [REDACTED]?

17

A. I'm a Police Officer with the Town of Cheektowaga
18 Police.

19

Q. Could you tell the Monroe County grand jurors,
20 here, sir, where Cheektowaga is?

21

A. Cheektowaga is a suburb of Buffalo, right outside
22 the City.

23

Q. Is Cheektowaga, kind of, right to the east of the
24 City, Officer [REDACTED]

25

A. It is.

1 Q. How long have you been working with the
2 Cheektowaga Police Department?

3 A. About a year at Cheektowaga.

4 Q. What is your rank, sir?

5 A. I'm a patrolman.

6 Q. Did you have any law enforcement experience prior
7 to joining the Cheektowaga Police Department?

8 A. I did. I was at -- a University Police at UB for
9 about a year.

10 Q. Again, as a patrolman?

11 A. Yep.

12 Q. What shift -- let me -- let me withdraw that. I
13 want to draw your attention to March 22nd of 2020,
14 were you working for the Cheektowaga Police Department
15 on that day.

16 A. I was.

17 Q. And, what shift were you working?

18 A. Day shift, patrol.

19 Q. What is the day shift patrol?

20 A. I was working 8:00 to 4:00.

21 Q. 8:00 in the morning to 4:00 in the afternoon?

22 A. That's correct.

23 Q. Officer [REDACTED], do you recall what the weather
24 was like on March 22nd of 2020?

25 A. It was sunny but it was cold.

1 Q. Okay. And, were you working that 8:00 to 4:00
2 shift on that date, sir?

3 A. I was.

4 Q. Were you alone or with a partner?

5 A. I was alone.

6 Q. In a marked patrol car?

7 A. Yes.

8 Q. I want to draw you attention to sometime around
9 11:30 that morning, Officer [REDACTED] did you -- were
10 you patrolling in the area of Union and Red Leaf in
11 the Town of Cheektowaga?

12 A. I was.

13 Q. And, sir, when you turned onto Red Leaf, did you
14 -- was your attention drawn to anybody?

15 A. It was, yes. It was drawn to an individual in
16 the middle of the road.

17 Q. And, sir, is Red Leaf a -- sort of a residential
18 side street?

19 A. It is.

20 Q. And, your -- let me back up. You said your
21 attention was drawn to someone in the middle of the
22 road?

23 A. Yes, correct.

24 Q. Was the person walking in the middle of the road?

25 A. Yes, he was walking in the middle of the road

1 with a large duffle bag with him.

2 Q. Did he seem unusual to you, sir?

3 A. Yes, he seemed out of place.

4 Q. Did you get out of your car and engage that
5 individual in conversation?

6 A. I did.

7 Q. Did you learn that individual's name?

8 A. I did.

9 Q. And, what was that individual's a name?

10 A. Daniel Prude.

11 Q. And, did you ask Mr. Prude to produce some ID?

12 A. Yes, I did eventually. He pulled his license out
13 of his wallet.

14 Q. You confirmed that the person you were talking to
15 was Daniel Prude?

16 A. That's correct, yes.

17 Q. Did you know -- did Mr. Prude appear to be where
18 he was supposed to be?

19 A. No. He seemed very confused and kind of lost.

20 Q. Did you ask him where he was trying to get to,
21 sir?

22 A. I did, yes.

23 Q. And, what did he say, sir?

24 A. He said he was trying to get to Rochester from
25 Chicago.

1 Q. And, did he tell you how he got to Cheektowaga?

2 A. He said he was on the train, but he had been
3 kicked off the train.

4 Q. Did he tell you, actually, where he got kicked
5 off the train?

6 A. He was kicked off at the Depew station for
7 Amtrak.

8 Q. Did he tell you why he was kicked off, Officer
9 [REDACTED]?

10 A. He had a couple of different reasons. One of
11 them, he said his cellphone was stolen, and that was
12 the reason that he was kicked off the train. And
13 then, he had also mentioned that he was smoking and
14 that he was kicked off because of that.

15 Q. How far from where you encountered Daniel Prude,
16 Officer [REDACTED], is that Amtrak station?

17 A. It's quite a walk, at least five miles or so.
18 It's a decent walk.

19 Q. It would have taken some time to walk there?

20 A. Absolutely.

21 Q. Okay. Could you describe Mr. Prude's demeanor
22 during that conversation, Officer [REDACTED]?

23 A. He seemed confused, and kind of lost. He kept,
24 kind of rambling on about stuff that didn't really
25 make a whole lot of sense.

1 Q. Did he seem to understand what you were saying?

2 A. Yes.

3 Q. Did you understand what he was saying?

4 A. Yes.

5 Q. Sort of engaged in an appropriate conversation?

6 A. Yep.

7 Q. Is that fair to say?

8 A. Yeah, absolutely.

9 Q. Was he violent, sir, in any way?

10 A. No.

11 Q. Did he appear to be intoxicated at all to you?

12 A. He wasn't intoxicated. I could smell a slight
13 odor of alcohol on him, and he stated he was drinking,
14 but nothing, like, fall down drunk or anything like
15 that.

16 Q. Did you ask him if he was drinking, Officer

17 

18 A. Yes.

19 Q. And, precisely, what did he say, sir?

20 A. He answered honestly and said he was drinking
21 some beers.

22 Q. Well, did he appear intoxicated to you?

23 A. Not quite, no. Not intoxicated.

24 Q. Did he make any statements about any other
25 potential drug use?

1 A. Yeah, we had -- prior to taking him to the
2 shelter, we had asked him if he had used any drugs, he
3 stated he regularly smokes marijuana and PCP, but not
4 that day.

5 Q. And, sir, did he appear to be under the influence
6 of PCP or marijuana?

7 A. No.

8 Q. And, you didn't smell that on him?

9 A. Nope.

10 Q. You said you saw Mr. Prude with something in the
11 street?

12 A. Yes.

13 Q. What did he have with him?

14 A. He had a large duffle bag with him.

15 Q. At any point during this interaction, did you
16 have the opportunity to search the duffle bag?

17 A. I didn't search through it, but he did dump it
18 out when we asked him what was in it, he just flipped
19 it upside down and it was all paperwork that went
20 flying everywhere and we were chasing it in the middle
21 of the street.

22 Q. Did you search his person at all, sir?

23 A. We patted him down for weapons, nothing.

24 Q. Nothing on him?

25 A. No, just a wallet.

1 Q. At some point, sir, do you make a decision on
2 what to do with Mr. Prude?

3 A. We decided we had to take him somewhere, that we
4 couldn't leave him out in the middle of the street
5 with nowhere to go. So, we decided to take him to a
6 shelter.

7 Q. Was he amenable to that, sir?

8 A. What's that? I'm sorry.

9 Q. Was he amenable to that? Did he agree to do that
10 with you?

11 A. Yes.

12 Q. Was he looking for help, essentially?

13 A. Yes. He was requesting a ride down -- somewhere
14 to go.

15 Q. Where do you take him, sir?

16 A. Originally, I took him to the City Mission, but
17 due to the COVID and some complications, they were not
18 taking people. So, he went to the Harbor House in
19 downtown Buffalo.

20 Q. Is the Harbor House another sort of mission
21 style?

22 A. Yes.

23 Q. Okay. Who specifically transported him, Officer

24 

25 A. I did.

- 1 Q. In your patrol car?
- 2 A. Yes.
- 3 Q. Were you alone?
- 4 A. Yep.
- 5 Q. And again, was the bag with Mr. Prude?
- 6 A. Yes, it was in the trunk of my car.
- 7 Q. During the interaction on Red Leaf, specifically,
8 Officer [REDACTED], were you -- did any other officers
9 eventually arrive on scene?
- 10 A. Yes, there were a couple Cover Officers that
11 arrived.
- 12 Q. And, who were those Officers?
- 13 A. Officer [REDACTED] and Officer [REDACTED]
- 14 Q. Did those -- did Officer [REDACTED] specifically, have
15 body worn camera on during that time, Officer [REDACTED]?
- 16 A. He did, yes.
- 17 Q. Did you have any body worn camera on at that
18 time?
- 19 A. I did not.
- 20 Q. Just tell us about the Cheektowaga body worn
21 camera policy, at that point, sir?
- 22 A. So, at that point, we were in the process of
23 obtaining body worn cameras. We had purchased them,
24 but they were not installed in all the patrol vehicles
25 and my vehicle did not have one yet, but Officer

1 [REDACTED] did, so he had his camera on.

2 Q. Sir, I'm going to approach at this time, and show
3 you what's been marked as Grand Jury Exhibit Number 6,
4 sir, and ask if you recognize that?

5 A. I do.

6 Q. And, what do you recognize that to be, sir?

7 A. That's Officer [REDACTED] body worn camera video.

8 Q. Is that a portion of the body worn camera --

9 A. Yes.

10 Q. -- from the incident in the street with Mr.
11 Prude?

12 A. Yes.

13 Q. And, how do you recognize it as such, sir?

14 A. Signed with my initials and my badge number on
15 it.

16 Q. And, did you do that after reviewing that body
17 cam?

18 A. I did.

19 Q. And, after reviewing that body cam video, sir,
20 does it fairly and accurately depict the interaction
21 with Mr. Prude on Red Leaf on March 22nd of 2020?

22 A. It does.

23 MR. SMITH: At this time, I'm going to offer
24 Grand Jury 6 into evidence.

25 (Whereupon, Grand Jury Exhibit Number 6,

1 body worn camera disc, was then received into
2 evidence.)

3 **MR SMITH:** Okay. At this point, we are
4 going to play Grand Jury Exhibit 6 on the video.

5 (Whereupon, the body worn camera video, was
6 played into the record for the Grand Jury.)

7 MS. SOMMERS: Can you hear that? It's not
8 playing through the speakers.

9 A JUROR: We can't.

10 MR. SMITH: Ladies and gentlemen, we're
11 going take a five minute break and go off the record
12 while we figure out this volume issue. Thank you.

13 (Whereupon, there was a short break, off the
14 record.)

15
16 (Proceedings reconvened.)

17 MR. SMITH: Ladies and gentlemen, we are
18 back on the record after a brief, five minute break,
19 here. We did fix the audio issues, so we are going to
20 proceed and play from the top, Grand Jury Exhibit 6.

21 (Whereupon, the body worn camera video was
22 played into the record for the Grand Jury.)

23 BY MR. SMITH:

24 Q. Officer [REDACTED] I'm going to -- can you see the
25 screen, sir?

1 A. Yes.

2 Q. I'm just going to pause it right there at the
3 eight second mark around the bottom. Is that Mr.
4 Prude leaning against your patrol car?

5 A. It is.

6 Q. Is that your patrol car? I should have asked you
7 that?

8 A. It is.

9 Q. And, to -- looking at the screen, to our left,
10 sir, to Mr. Prude's right, what is that item on the
11 ground?

12 A. That's his duffle bag.

13 Q. That's the black bag that he had with him?

14 A. Yes.

15 Q. And, that bag you transported in your car?

16 A. Yes.

17 Q. And, again, did you ever -- was there ever a full
18 search of that bag, sir?

19 A. No, just feeling to make sure there was nothing,
20 no weapons, in there.

21 Q. And, I want to direct your attention to the top
22 corner, the time, sir, it says 15:37?

23 A. Yes.

24 Q. Without getting into the weeds of the UTC time
25 with the grand jurors is, in fact, that 11:37 in the

1 morning, sir?

2 A. It is, yeah.

3 MR. SMITH: We can keep going.

4 (Whereupon, the video continued to play into
5 the record for the Grand Jury.)

6 BY MR. SMITH:

7 Q. Officer [REDACTED] that video just concluded with
8 you placing Mr. Prude in your patrol car. Did you
9 transport him immediately to City Mission after that,
10 sir?

11 A. Yes.

12 Q. And, when there was no -- when he couldn't be
13 accepted at the City Mission, did you take him to
14 Harbor House?

15 A. Yes. They gave me directions right from City
16 Mission to Harbor House.

17 Q. Did the issues at City Mission have to do with
18 the Corona Virus and COVID?

19 A. Yeah.

20 Q. Okay. Sir, did any point, Mr. Prude appear to
21 you, to be in need of immediate medical assistance?

22 A. No.

23 Q. Did he appear to be in any kind of acute
24 psychiatric crisis?

25 A. No.

1 Q. He needed a ride to a shelter?

2 A. Yes.

3 Q. And, you gave him a ride to a shelter?

4 A. Yep.

5 Q. It appeared to you, Officer [REDACTED], that he could
6 understand you and you could understand him?

7 A. Yes.

8 MR. SMITH: I have no further questions for
9 Officer [REDACTED] Sir, if you could step out in the
10 highway and I'll see if the grand jurors have any
11 questions.

12 THE WITNESS: Okay.

13 (Whereupon, the witness left the Grand Jury
14 room at a time of 9:58 a.m.)

15

16 MR. SMITH: Ladies and gentlemen, do any of
17 the grand jurors have questions for Officer [REDACTED]

18 A JUROR: Why was he in the middle of the
19 street?

20 MR. SMITH: Do you want me to ask him if he
21 knows why?

22 A JUROR: Did he ask -- did he ask Daniel
23 Prude why he was walking down the middle of the
24 street?

25 A JUROR: For -- for the Officer, they said

1 they dumped the bag -- they said that Daniel dumped
2 the bag, but obviously he's in the car. So, I mean, I
3 guess, that he put it in the trunk of the car, did
4 they ask if anything was in it, and dumped it. I
5 guess, what happened with the dumping of the bag?

6 MR. SMITH: Yes, [REDACTED].

7 A JUROR: I'd like to know if this is kind
8 of a routine procedure to transport this type of case,
9 if you will, to a shelter?

10 MR. SMITH: Do any of the other grand jurors
11 have any other questions? Seeing as there are none,
12 we will bring back Officer [REDACTED]

13

14 (Whereupon, the witness entered the Grand
15 Jury room at a time of 10:00 a.m.)

16

17 **O F F I C E R** [REDACTED] [REDACTED]
18 after having been previously duly sworn, was examined
19 and further testified as follows:

20

EXAMINATION BY MR. SMITH:

21 Q. Just a few questions of you, Officer [REDACTED].

22 A. Okay.

23 Q. One of the grand jurors wanted to know, sir,
24 whether you asked Mr. Prude, or whether you found out
25 why, or came to know why Mr. Prude was walking in the

1 middle of the street?

2 A. I don't know why that was his place of walking.

3 Q. One of the grand jurors wants to know, Officer
4 [REDACTED], if you could, sort of, explain the process for
5 how and when the bag was dumped? Did that happen
6 prior to the video?

7 A. It did.

8 Q. Could you tell us, sort of, how that happened,
9 sir?

10 A. I asked him what was in the bag because it didn't
11 appear to be closed or anything, it was kind of very
12 loose for being a full duffle bag, and his response
13 was just to dump it completely out. He didn't really
14 tell me why or give me any reason to do so.

15 Q. Right there, in the middle of Red Leaf?

16 A. Yes.

17 Q. And, did he kind of put the contents back in the
18 bag, sir?

19 A. He did, with our assistance. We were trying to
20 pick up all the paperwork for him.

21 Q. Sir, one of the grand jurors wants to know,
22 whether or not if it's routine procedure to transport
23 similarly situated individuals to -- to like a mission
24 or a shelter?

25 A. If they're willing to go and we have the ability

1 to do so, yes. Especially, in the cold weather.

2 MR. SMITH: Thank you, Officer [REDACTED].

3 You've answered the questions, and there are no more
4 questions from the grands jurors. You are excused,
5 sir.

6 THE WITNESS: Okay. Thank you.

7 (Whereupon, the witness left the Grand Jury
8 room at a time of 10:02 a.m.)

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1 MS. SOMMERS: At this time, we would like to
2 call [REDACTED] [REDACTED].

3

4 (Whereupon, the witness entered the Grand
5 Jury room at a time of 10:03 a.m.)

6

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

9

10 **EXAMINATION BY MS. SOMMERS:**

11 Q. Good morning.

12 A. Good morning.

13 Q. Would you please state your name and spell your
14 last name?

15 A. [REDACTED].

16 Q. [REDACTED], what is your occupation?

17 A. EMT.

18 Q. What does EMT stand for?

19 A. Emergency Medical Technician.

20 Q. And, what is that?

21 A. Um, you call 911, and I show up for medical
22 emergencies.

23 Q. Okay. I was going to say, you don't show up if
24 my house is being burglarized, right?

25 A. Oh, no.

- 1 Q. All right. So, medical emergencies?
- 2 A. Yes, ma'am.
- 3 Q. All right. When did you become an EMT?
- 4 A. Two and a half years ago.
- 5 Q. Was that after a training and certification
6 process?
- 7 A. Yeah, you do it through the Public Safety
8 Training Facility, off Scottsville Road.
- 9 Q. That's here, in Monroe County?
- 10 A. Correct.
- 11 Q. And, have you been continuously certified as an
12 EMT, since first becoming certified?
- 13 A. Yes.
- 14 Q. Where have you worked since becoming an EMT?
- 15 A. Monroe Ambulance, currently at AMR, in the City,
16 and at North Seneca, in Seneca County.
- 17 Q. Okay. Thank you. AMR, do you know what that
18 stands for?
- 19 A. American Medical Response.
- 20 Q. Okay. And, are you aware of who handles the
21 calls within the City of Rochester, medical calls?
- 22 A. Yeah , AMR does.
- 23 Q. AMR. All right. Were you working on March 22nd,
24 of 2020?
- 25 A. Yes.

- 1 Q. Do you recall your shift?
- 2 A. Certain parts of it.
- 3 Q. Okay.
- 4 A. Not the full thing.
- 5 Q. No, I'm asking you, what was your shift?
- 6 A. Oh, 18:15 to 06:15.
- 7 Q. So, just for the benefit of people that might not
8 know --
- 9 A. 12 hours, overnights.
- 10 Q. Okay. But, when -- when does that begin and end
11 in layperson terms? P.m., a.m.?
- 12 A. Begins in p.m. and ends in a.m.
- 13 Q. All right. 6:15 p.m.?
- 14 A. Mm-hmm.
- 15 Q. Okay. And, ends at what time?
- 16 A. 6:15 a.m.
- 17 Q. All right. Did there come a point in time when
18 you responded to an incident on Child Street in the
19 City of Rochester?
- 20 A. Yes.
- 21 Q. Can you explain for the Grand Jury, what is a
22 patient care report?
- 23 A. Patient care report is, any time we have patient
24 contact, we have to write a chart on them. Even if
25 you get called to a scene and you don't have patient

1 contact, you have to document you were there, people
2 refused. Or, it's also, you put all your vitals in,
3 anything you're told and that's about it.

4 Q. Okay. Approaching and you, and handing you, what
5 has been marked for identification purposes as Grand
6 Jury Exhibit Number 7. So, can you just identify,
7 broadly, what that is that I just handed you?

8 A. This is my chart relating to Daniel Prude.

9 Q. Okay.

10 A. Has my narrative, everything that I saw, I put in
11 here about him.

12 Q. Okay. And, is that also the patient care report?

13 A. Yes, it is.

14 Q. That we just talked about?

15 A. Yes, ma'am.

16 Q. Okay. Thank you. Are patient care reports made
17 by employees of AMR, such as yourself, in the regular
18 course of business?

19 A. Yes. Whenever you get dispatched to a job, it
20 has a number associated with it. And then, through
21 our program, you open up your chart, and then you can
22 start, and it will always have the same number, the
23 run number.

24 Q. Okay. Is the data that's contained within that
25 patient -- PCR, entered at or about the time of the

1 event that it relates to or a reasonable time
2 thereafter?

3 A. Yes.

4 Q. And, is the regular course of AMR and its
5 employees to generate and maintain records, such as
6 the PCR that's in front of you?

7 A. Yes.

8 Q. Thank you.

9 MS. SOMMERS: At this time, I will move to
10 admit Grand Jury Exhibit 7.

11 (Whereupon, Grand Jury Exhibit Number 7, PCR
12 report, was then received into evidence.)

13 MS. SOMMERS: For the record, I'm handing it
14 to the witness. So, it's in evidence now, if you need
15 to actually read from it or refer to it.

16 THE WITNESS: Okay.

17 BY MS. SOMMERS:

18 Q. All right. Once again, what was the name of the
19 patient that was the subject of that call?

20 A. Daniel Prude.

21 Q. And, during the course of your dealings with Mr.
22 Prude, did you come to learn his age?

23 A. Yes. He's 41-years-old.

24 Q. When -- approximately, when did that call come
25 in?

1 A. Right around probably 7:00 o'clock.

2 Q. By 7:00 o'clock, you mean p.m.?

3 A. P.m.

4 Q. All right. Can you explain to the Grand Jury
5 what the term staging means?

6 A. So, any type of violence or drug uses or
7 shootings or stabbings, we do something called staging
8 because we do not have anything to protect ourselves
9 on scene. So, we'll stage within a half mile of the
10 house, let RPD or Sheriff's or Troopers, whoever it
11 is, go and make sure the scene is actually safe for us
12 to be there. And then, when they clear the scene,
13 and deem it safe, we're allowed to come in.

14 Q. Did you stage in this case?

15 A. Yeah. We staged about a half mile from the
16 house.

17 Q. All right. Were you directed to stage in this
18 case?

19 A. Yes, by dispatch.

20 Q. Okay. What was it -- was there any indication
21 that a weapon was involved in this case?

22 A. I can't remember.

23 Q. All right. Do you recall why you staged?

24 A. Well, just -- dispatched for a psychiatric male,
25 so we had to stage. It's a general practice for us,

1 because they're good 'till they're not.

2 Q. All right. You responded to Child -- or, to the
3 area of Child Street when you staged?

4 A. Yes, ma'am.

5 Q. And, did there come a point in time, when you
6 were advised that you could enter the scene?

7 A. Yes. Our dispatch let us know that RPD was
8 clearing us in.

9 Q. Where did you respond?

10 A. To [REDACTED] Child Street.

11 Q. Who was -- were you with a partner that day?

12 A. Yes, I was with [REDACTED].

13 Q. All right. You're going to probably have to
14 spell that one.

15 A. [REDACTED].

16 Q. Thank you.

17 A. Yep.

18 Q. Who was driving the ambulance?

19 A. He was driving at the time.

20 Q. Thank you. When you got to the area of [REDACTED] Child
21 Street, what did you do?

22 A. We parked about three houses back, on the right
23 side. And then, walked up into the house. RPD
24 informed me they had the guy handcuffed on his
25 stomach, and I walked in, I saw that. And then, we

1 started to escort him out of the house into the
2 ambulance.

3 Q. Did you, at any time, ask that the handcuffs be
4 removed?

5 A. No, because it is a standard procedure for us to
6 leave them handcuffed, because I'm in a six foot by
7 four foot metal box.

8 Q. And, by that, you're referring to the ambulance?

9 A. Correct.

10 Q. Where was Mr. Prude going? Where were you
11 transporting?

12 A. We were going to Strong Memorial Hospital.

13 Q. As part of your overall assessment of Mr. Prude,
14 did you ask him any questions concerning, what, if any
15 substances he had consumed that day?

16 A. Yes. He admitted to PCP, drinking liquor and
17 smoking marijuana.

18 Q. Was that any time in the past or specific to that
19 day?

20 A. Specific to that day.

21 Q. Can you explain for the Grand Jury -- I'd like to
22 withdraw that. Did a member of the Rochester Police
23 Department ride with you to Strong Hospital in the
24 ambulance?

25 A. No, they followed behind us.

1 Q. Is that standard?

2 A. That's standard procedure for that.

3 Q. Okay. Can you explain for the Grand Jury, how
4 Mr. Prude was physically?

5 A. Yeah. He was shirtless, he was handcuffed behind
6 his back, he had a small abrasion on his left knee and
7 shin.

8 Q. Did he appear to be alert and oriented?

9 A. Yes. He was able to answer all my questions
10 appropriately.

11 Q. What types of questions would you ask in this
12 type of situation?

13 A. Do you know what today is, do you know what your
14 name is, how many quarters are in a dollar, what's the
15 color of a school bus. You're asking simple questions
16 that it should not take a long time to answer. And
17 then, also, I said, do you know where we're going, he
18 said, yes, going to the hospital, and yeah.

19 Q. Okay. And, he was able to answer those types of
20 questions?

21 A. Yes.

22 Q. During the transport, did Mr. Prude make any
23 unprompted comments in terms of --

24 A. Yes. Patient started stating during transport,
25 that he is Jesus and he is sorry.

1 Q. Could you slow down a bit? I'm going to stop you
2 for a second.

3 A. All right.

4 Q. Go back a second. I just -- I'm guessing the
5 stenographer's having a hard time keeping up with you.

6 A. Start over?

7 Q. What unprompted comments did he make?

8 A. Patient started stating during transport that he
9 is Jesus and he is sorry. Patient then started saying
10 Jesus is good and he wants to see his grandson.

11 Q. What was Mr. Prude's heart rate? Did -- did you
12 ever measure that during the transport?

13 A. Yes. The first heart rate we got was 126 and
14 then, the second one, taken eight minutes later, was
15 116.

16 Q. Based on your training as an EMT, what is a
17 normal heart rate in -- for an adult of Mr. Prude's
18 age, approximately?

19 A. Normal heart rate with no drugs or any
20 intoxicants would be 60 to 100.

21 Q. Were you able to learn from Mr. Prude, whether or
22 not he lived locally?

23 A. He said he's now staying at his brother's house,
24 but he's from Chicago, and came from Chicago that day
25 that we had the interaction with him.

1 Q. All right. Had you ever seen him before?

2 A. No.

3 Q. Can you please explain for the Grand Jury what
4 the drop off of a patient, such as Mr. Prude is, like,
5 at Strong Hospital? What happens once you get to
6 Strong Hospital?

7 A. So, we go in two sets of doors, and then on the
8 left, you have the thing called EDAS. That's where
9 you register your patient. You give them the name,
10 the birth date, make sure you have the right person.
11 And then, we go up to a thing called triage, where you
12 talk to an RN, you tell her everything that's going
13 on, all your vitals, what the patient's complaining
14 of, whether they're MHA'd or not.

15 Q. Let me stop you. You just said, whether they are
16 MHA'd or not?

17 A. Mental hygiene arrested.

18 Q. And, are you aware of what that is?

19 A. Yeah. It's a legal hold put on you for -- it
20 could be suicidal statements, homicidal statements,
21 unable to take care of yourself.

22 Q. Was that your understanding of why you were
23 taking Mr. Prude to Strong Memorial Hospital?

24 A. Yes.

25 Q. Thank you. Keep going.

1 A. Okay. So, then, you have the triage nurse right
2 here, and then, you have the hallway. And then, right
3 over here, to the right, you have security.

4 Q. Let me stop you a second. You're motioning with
5 your hands right here, so you motioned --

6 A. So, I'm right here, at the triage nurse.

7 Q. For the record, he's using his left hand to -- to
8 point downward on the desk. Go ahead.

9 A. So, you have the hallway, right here.

10 Q. To the right of your left hand?

11 A. Yep. And then, there's a hallway like this. And
12 then, you have security right here, and any psych
13 patient gets put in front of security.

14 Q. I'm going to stop you a moment. So, Mr.

15 [REDACTED] you used a lot of hand signals. And, I just
16 -- hold on, please. All right. So, are you basically
17 saying that security is in the vicinity of --

18 A. Yeah.

19 Q. -- where the psychiatric patients are?

20 A. Peace Officers are. Public Safety.

21 Q. Okay. From Strong Memorial Hospital?

22 A. Correct.

23 Q. Okay. Is that where your connection with the
24 matter ended?

25 A. Yes. When we dropped him off, he was left in

1 hospital's care, and then we left.

2 Q. Do you recall, if during the time that you were
3 with Mr. Prude, he became more or less animated or
4 anything of that sort?

5 A. He calmed down a little bit, that's why he was
6 restrained when we transferred care over at the
7 hospital.

8 Q. What would be a way that he would have been
9 restrained if that -- if that had not been the case?

10 A. He could have been chemically restrained, so
11 sedated with medications, or he would have been tied
12 down to a bed with self restraints.

13 Q. And, that did not happen?

14 A. No.

15 Q. Okay. Does AMR -- at this point in time, did AMR
16 have thermometers in the ambulance?

17 A. No. That's not something we do in the ambulance.

18 Q. Where -- I apologize. When was this, relative to
19 the COVID situation?

20 A. This was like, right at the start of it.

21 Q. For that reason, were you concerned about whether
22 or not Mr. Prude had any signs that were believed, at
23 that time, to be consistent with COVID, such as
24 coughing, lungs,

25 A. Lung sounds were clear, but patient did have a

1 cough, and I put a mask on him.

2 Q. Okay. But, his lungs were clear?

3 A. Yes. All four lobes were clear.

4 Q. At any time, during your transport of Mr. Prude,
5 did he become violent?

6 A. No.

7 MS. SOMMERS: All right. So, we're going to
8 have you come around here, and step outside, and we're
9 going to see if any of the grand jurors have any other
10 questions for you.

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

13 MS. SOMMERS: Does anybody have any
14 questions for Mr. [REDACTED]

15 A JUROR: I actually have two. He made a
16 statement about Daniel being handcuffed on the ground.
17 Was that inside of the house, or was it outside on the
18 ground?

19 MS. SOMMERS: Okay.

20 A JUROR: And, the second one was, he was
21 -- they asked questions, like, what color is a school
22 bus, or how many quarters are in a dollar, do they ask
23 all patients these questions when they first get them,
24 or was it because of the 911 call?

25 MS. SOMMERS: Okay.

1 A JUROR: Can I ask for it to be read back,
2 or ask him again because I didn't hear him. But, you
3 asked him what Daniel might have said that they didn't
4 ask him, he was, like, he said that he's Jesus, he's
5 sorry, but I didn't hear what he said about a
6 grandson.

7 MS. SOMMERS: So, it's up to you. We can
8 either have it read back or we can ask him. Would you
9 like it to be read back or --

10 A JUROR: Yes. It might answer my
11 question.

12 MS. SOMMERS: Okay. Would you mind reading
13 that back?

14 (Whereupon, a read back was read into the
15 record from page 32, line 7, to page 32, line 10)

16 MS. SOMMERS: Would you like me to answer
17 any other question about that, or did that answer your
18 question?

19 A JUROR: I guess I'd like to know whose
20 grandson?

21 MS. SOMMERS: I can ask the witness if he
22 knows what that meant.

23 A JUROR: Okay. I'm sorry.

24 MS. SOMMERS: So, did you want me to follow
25 up with him about -- so, for the record, you shook

1 your head no?

2 A JUROR: I'm fine with the read back.

3 Thank you.

4 MS. SOMMERS: So, you're all set?

5 A JUROR: Yes.

6 A JUROR: At what time did they realize he
7 might need medical attention?

8 MS. SOMMERS: Okay. I -- I will ask him
9 that. So, I just want to note for the record, that a
10 grand juror who asked that question was not here last
11 week. So, some of that might have been covered by
12 last week's testimony. We can -- well, I'll ask the
13 grand jurors -- I'm sorry. I'll ask the witness a
14 little bit about that. And, again, some of the
15 testimony and evidence that came in last week may end
16 up being reiterated, and you may hear and see some of
17 that, even this morning, after this witness.

18 A JUROR: Was it the EMT, or was it the
19 Cheektowaga Police who realized he might need medical
20 attention?

21 MS. SOMMERS: So, again -- so, first of all,
22 this EMT works in Rochester.

23 A JUROR: Okay.

24 MS. SOMMERS: But, again, some of this, I
25 think was covered by the testimony last week that you

1 were not here for.

2 A JUROR: Okay.

3 MS SOMMERS: Some of that may be answered
4 though, as we continue to go through some evidence
5 this morning.

6 A JUROR: Okay. Thank you.

7 A JUROR: He mentioned that he put the mask
8 on Mr. Prude, what kind of mask?

9 MS. SOMMERS: Okay. Thank you. Anything
10 else? Yes?

11 A JUROR: I'd like to know if he's familiar
12 with the symptoms of PCP use; and, beyond that, I'd
13 like to know if he has any vitals in the PCR that
14 indicate that he may have been under the influence of
15 PCP.

16 MS. SOMMERS: Okay. Anyone else? Yes?

17 A JUROR: I would like to know if it's
18 standard for AMR to transfer a handcuffed patient
19 without an officer in the ambulance with them?

20 MS. SOMMERS: Okay. Thank you. Anyone
21 else? Okay. For the record, no further hands are
22 raised. We're going recall Mr. [REDACTED].

23 (Whereupon, the witness entered the Grand
24 Jury room at a time of 10:25 a.m.)

25

1 [REDACTED] [REDACTED] after
2 having been previously duly sworn, was examined and
3 further testified as follows:

4 MS. SOMMERS: Mr. [REDACTED], if you could
5 remember, you're still under oath. Go right ahead and
6 have a seat where you were.

7

8 **EXAMINATION BY MS. SOMMERS:**

9 Q. Thank you, Mr. [REDACTED]. One of the grand jurors
10 would like to know, you indicated that patient was
11 handcuffed and on the ground. Was that inside the
12 residence or outside of the residence?

13 A. Inside the residence, in the back of the house.

14 Q. Okay. Thank you. One of the grand jurors wanted
15 to know, the questions that you were asking Mr. Prude
16 about what color a school bus is, and those types of
17 questions, are those questions that you ask every
18 patient who's transported to the hospital for any
19 reason, or was there -- is it specific to this?

20 A. It's situational. If it's -- take someone
21 possibly having a stroke, or did drugs or alcohol, I
22 want to make sure they're still mentally capable to
23 answer future questions also at a hospital.

24 Q. So, it was the nature of this --

25 A. Yes.

1 Q. -- call? Okay. One of the grand jurors asked,
2 when you indicated that you put a mask on Mr. Prude,
3 what kind of a mask was that?

4 A. Surgical mask, just like this.

5 Q. For the record, you just pointed at the one
6 you're wearing?

7 A. Correct, yeah.

8 Q. Did -- at any time during the transport, did Mr.
9 Prude attempt to spit or anything like that?

10 A. No.

11 Q. If he had, is there any other type of mask that
12 you carry in the ambulance?

13 A. Yeah. We carry a thing called a spit sock. It
14 is --

15 Q. What is a spit sock?

16 A. It's mesh. It just stops the spit from coming at
17 us because, unfortunately, we have a lot of people
18 that like to spit on us.

19 Q. Okay. But, that did not happen in this case?

20 A. No.

21 Q. If it did happen in this case, what would you
22 have done?

23 A. I would have asked him to stop, if he would have
24 done it again, I would have spit socked him.

25 Q. Okay. One of the grand jurors asked if you are

1 familiar with the signs and symptoms of PCP use?

2 A. Yes and no, because PCP can act as a stimulant, a
3 depressant, a hallucinogen. It all depends on what
4 exact form they took and how it interacts with their
5 body.

6 Q. So, are you -- well, you just -- you just kind of
7 recited some things about PCP. Is that -- are those
8 characteristics that you're familiar with.

9 A. Yes. With having worked in Rochester, we see
10 multiple people.

11 Q. Okay.

12 A. That I've dealt with that have taken PCP.

13 Q. Okay. And, are you -- was there anything about
14 Mr. Prude's presentation, be it, his vital signs, or
15 anything else that you observed that, based on your
16 experience was consistent with PCP use?

17 A. Yes. When he started -- Jesus and he's sorry and
18 wants to see his grandson.

19 Q. And, why do you say that that was consistent?

20 A. Because from my previous experience I've dealt
21 with, they'll say remarks that are just off the wall
22 for -- for no reason.

23 Q. Okay. Did you have -- had you been discussing,
24 prior to that, Mr. Prude's family members or his
25 grandson?

1 A. No.

2 Q. Had you been engaged in conversation with him
3 about Jesus?

4 A. No.

5 Q. Any other vital signs that you took, a grand
6 juror has asked, that were consistent with drug use,
7 and PCP use in particular?

8 A. Just the heart rate because his oxygen set was 95
9 percent to 97 percent, which we -- anything over 94 is
10 good for us. Respirations were 18. One of his
11 pressures was 144 on 88, which is a little high, but
12 due to not knowing his full medical history, I can't
13 tell you if he had hypertension and just didn't take a
14 medication that day.

15 Q. So, in terms of the vitals signs, it would be --

16 A. Be the heart right.

17 Q. All right. Thank you. One of the grand jurors
18 wanted to know, at what point in time were you made
19 aware, or was the determination made that this was --
20 that Mr. Prude was somebody that was going to be
21 transported to the hospital, if you know that?

22 A. I don't know when RPD decided. But, when they
23 cleared us in, that's usually when I know, okay, we're
24 transporting after we stage.

25 Q. Okay. Was there anything in Mr. Prude's

1 presentation that caused you to question whether he
2 should go to the hospital?

3 A. No.

4 Q. Okay. Is it -- one of the grand jurors asked, is
5 it standard procedure for individuals to be
6 transported to the hospital in handcuffs without a
7 Rochester Police Department Officer in the ambulance?

8 A. Yes.

9 Q. And, when you say yes, does this happen -- is
10 this frequent --

11 A. For MHAs, yes.

12 Q. I'm sorry, I've got to finish the question.
13 Sorry. Okay. So, is this something that -- let me
14 withdraw that. Do Rochester Rochester Police
15 Department members ever go in the rig with you?

16 A. Yes, if someone is under -- under arrest and we
17 pick them up from the jail at 140 South Plymouth, and
18 they haven't been fully transitioned over to the
19 Sheriff's, and they're still with RPD, they will ride
20 with us.

21 Q. Okay. In situations like this, where you're
22 transporting someone for a mental hygiene arrest, is
23 the situation that you just described with Mr. Prude
24 being handcuffed, and the Rochester Police Department
25 following behind you, is that normal?

1 A. That is normal.

2 Q. Routine?

3 A. Yeah.

4 MS. SOMMERS: Does anyone, just by show of
5 hands -- did I miss anyone's question? Does anyone
6 know if they have further questions?

7 GRAND JURY POOL: (All indicating a
8 negative response.)

9 MS. SOMMERS: All right. Mr. [REDACTED],
10 you're all set. Thank you.

11 THE WITNESS: Thank you.

12 (Whereupon, the witness left the Grand Jury
13 room at a time of 10:32 a.m.)

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1 MS. SOMMERS: So, just a couple things.
2 Number one is, the PCR that Mr. [REDACTED] referenced in
3 a few times, you could sort of tell that he was
4 actually reading from it. It's in evidence. You're
5 welcome to look at it. We'll keep it up here, at the
6 front of the room.

7 Second thing is, we're going to take a ten
8 minute break and then call our last two witnesses for
9 the day, and then you'll be done. All right.

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

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1 (Proceedings reconvened.)

2 MS. SOMMERS: So, we're back on the record
3 in the investigation into the death of Daniel Prude.
4 And, at this time, we will be calling [REDACTED]

5

6 (Whereupon, the witness entered the Grand
7 Jury room at a time of 10:45 a.m.)

8

9

O F F I C E R [REDACTED] [REDACTED]

10 after being duly called and sworn, testified as
11 follows:

12

13

EXAMINATION BY MS. SOMMERS:

14 Q. Good morning.

15 A. Good morning.

16 Q. Could you please state your name and spell your
17 last name.

18 A. My name is [REDACTED]

19 Q. And, [REDACTED], where do you work?

20 A. Rochester Police Department.

21 Q. In what capacity?

22 A. Patrol.

23 Q. A Patrol Officer?

24 A. Yes.

25 Q. How long have you been employed by the City of

- 1 Rochester as a Patrol Officer?
- 2 A. Will be seven years this February.
- 3 Q. Thank you. Were you working on March 22nd of
- 4 this year?
- 5 A. Yes.
- 6 Q. Did there come -- actually, I'd like to withdraw
- 7 that. What was your shift that day?
- 8 A. 3:00 p.m. to 11:00 p.m.
- 9 Q. Is that your regular shift?
- 10 A. Yes.
- 11 Q. What Section were you assigned to?
- 12 A. Genesee Section.
- 13 Q. Just generally, is that on the east or westside
- 14 of the City?
- 15 A. Westside.
- 16 Q. And, north or south?
- 17 A. South.
- 18 Q. So, southwest part of the City?
- 19 A. Yes.
- 20 Q. Thank you. Did there come a point in time when
- 21 you were dispatched to a call at ■ Child Street?
- 22 A. Yes.
- 23 Q. Just roughly, what time were you dispatched?
- 24 A. Roughly, 7:00 p.m.
- 25 Q. 7:00 p.m.?

- 1 A. Yes.
- 2 Q. Approximately, what time did you arrive?
- 3 A. Roughly, five or six minutes after.
- 4 Q. Thank you. Were you the only Officer who
5 responded to that call?
- 6 A. No.
- 7 Q. Do you recall who else responded to that call?
- 8 A. Officer [REDACTED]
- 9 Q. Was Officer [REDACTED] there before or after you?
- 10 A. Slightly before.
- 11 Q. Did any other Officers arrive for that call after
12 you?
- 13 A. Yes.
- 14 Q. Do you recall who those Officers were?
- 15 A. Yes.
- 16 Q. Who were they?
- 17 A. Officer [REDACTED] and Officer [REDACTED]
- 18 Q. Can you spell that?
- 19 A. [REDACTED] Last name, [REDACTED]
- 20 Q. Thank you.
- 21 A. Or -- [REDACTED], I believe. Sorry.
- 22 Q. Were you wearing a body worn camera when you
23 responded to this location?
- 24 A. Yes.
- 25 Q. Did you activate it?

1 A. Yes.

2 Q. I am approaching with what's been marked for
3 identification, Grand Jury Exhibit Number 8. What is
4 Grand Jury Exhibit Number 8, just generally, what is
5 that, that I just handed you?

6 A. That's my body worn camera footage of this
7 incident.

8 Q. So, just to break it down a little bit. Did I
9 just hand you a DVD or a CD?

10 A. Yes.

11 Q. And, you mentioned your body worn camera footage
12 is on that?

13 A. Yes.

14 Q. Did you have the opportunity to actually review
15 the contents of that CD?

16 A. Yes.

17 Q. How can you tell that that's the CD that you
18 reviewed?

19 A. I initialled it and dated it.

20 Q. Thank you. Are the contents of Grand Jury
21 Exhibit Number 8 an exact duplicate and a fair and
22 accurate representation of the events that you
23 observed inside of [REDACTED] Child Street on March 22nd, when
24 you responded?

25 A. Yes.

1 Q. Thank you.

2 MS. SOMMERS: At this time, I'll offer Grand
3 Jury Exhibit 8.

4 (Whereupon, Grand Jury Exhibit Number 8,
5 body worn camera disc, was then received into
6 evidence.)

7 MS. SOMMERS: At this time, we're going to
8 play Grand Jury 8. I can dim the lights again if you
9 think it's helpful. Maybe show the picture for a
10 moment and then we'll make the decision. So we can
11 either leave it as is.

12 MR. SMITH: It's getting better.

13 MS. SOMMERS: All right. For the record,
14 we're going to go ahead and play it.

15 (Whereupon, the body worn camera footage was
16 played into the record for the Grand Jury.)

17 MS. SOMMERS: I'm going to ask that the --
18 can you play the video again. I want to fast forward
19 to about 45 seconds.

20 (Whereupon, the video was fast forwarded and
21 played for the Grand Jury.)

22 MS. SOMMERS: Okay. So, can you go back
23 about 35 seconds. I'm sorry.

24 Okay. So before we play this -- so, for the
25 record, it's -- it's rewound to about 31 seconds.

1 BY MS. SOMMERS:

2 Q. Officer, do you recall having any type of
3 conversation with the female that was at the house?

4 A. Yes.

5 Q. Do you recall her name?

6 A. [REDACTED].

7 Q. And, what was the sort of overall subject matter
8 of what she was describing do you?

9 A. She told me that Daniel dips his cigarettes or
10 blunts in embalming fluid.

11 Q. Okay. Was this in an effort to determine what he
12 might possibly be on?

13 A. Yes.

14 Q. Have you ever heard of this?

15 A. Not embalming fluid, specifically, but I've heard
16 of people dipping cigarettes or blunts in fluid. They
17 call it a -- a laced blunt.

18 Q. Okay.

19 MS. SOMMERS: Can you go ahead and press
20 play and I'll tell you when to stop.

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

23 MS. SOMMERS: So -- so, for the record, we
24 just pressed pause at 40 seconds.

25 BY MS. SOMMERS:

1 Q. Is what the Grand Jury just heard, what you were
2 just referring to, that portion of the conversation?

3 A. Yes.

4 Q. Okay. Do you recall the name of the individual
5 who you can see in the background of that Grand Jury
6 Exhibit -- so, for the record, he's sort of to the
7 right and has no shirt on?

8 A. Yes.

9 Q. Do you recall that person's name?

10 A. Yes, [REDACTED]

11 Q. Does there come a point in time when [REDACTED]
12 offers anything relative to the conversation that
13 you've been having with [REDACTED]

14 A. Yes.

15 MS. SOMMERS: So, I'm going to go ahead and
16 ask that it -- maybe back up two seconds. All right.
17 We're going to go ahead and press play at 37 seconds.

18 (Whereupon, the video was played for the
19 Grand Jury.)

20 MS. SOMMERS: Press pause.

21 BY MS. SOMMERS:

22 Q. Okay. Were you able to hear that?

23 A. Yes.

24 Q. And, what was it that [REDACTED] indicated?

25 A. Well, he says that's the bullshit they smoke in

1 Syracuse.

2 Q. Now, as an Officer with the Rochester Police
3 Department, were you familiar with -- with what they
4 were consuming in Syracuse, relative to this type of
5 cigarette?

6 A. No.

7 Q. Okay. Thank you. Did -- which Officers arrived
8 after you?

9 A. [REDACTED], and [REDACTED].

10 Q. What was the second one?

11 A. [REDACTED].

12 Q. Okay. Thank you. Did you -- in addition to
13 reviewing your own body worn camera footage, did you
14 have an opportunity to review Officer [REDACTED]?

15 A. Yes.

16 Q. Were you present the entire time, at that call,
17 that Officer [REDACTED] was present?

18 A. Yes.

19 Q. Thank you. Showing you what's been marked for
20 identification, Grand Jury Exhibit 9, do you recognize
21 that?

22 A. Yes, I do.

23 Q. What's contained on that?

24 A. This is Officer [REDACTED]'s body worn camera footage.

25 Q. Did you have the opportunity to review the CD/DVD

1 disc that's contained in Grand Jury Exhibit Number 9?

2 A. Yes.

3 Q. How do you know that you reviewed that?

4 A. My initials are on it, and I dated it.

5 Q. Thank you. Is the footage that is on Grand Jury
6 Exhibit Number 9, a fair and accurate duplication of a
7 video that took place in that house?

8 A. Yes.

9 Q. And, does it fairly and accurately depict what
10 you observed to be happening in the house?

11 A. Yes.

12 Q. Thank you.

13 MS. SOMMERS: At this time, I'm going to
14 offer, but not play Grand Jury Exhibit Number 9.

15 (Whereupon, Grand Jury Exhibit Number 9,
16 body worn camera disc, was then received into
17 evidence.)

18 BY MS. SOMMERS:

19 Q. Officer [REDACTED], at what point during the
20 pandemic did this call take place? Was it the
21 beginning, near the end, near the middle?

22 A. It was right at the peak, right at the beginning.

23 Q. Okay. Do you recall speaking with your -- the
24 other officers on scene after this -- after Mr. Prude
25 was in the ambulance about your ability to smell or

1 not smell things in the house?

2 A. Yes.

3 Q. What made you -- what was it that generated that
4 conversation?

5 A. It was one of the first few days that we were
6 issued the N-95 masks, so we weren't sure if we were
7 going to be able to smell certain things.

8 Q. So, was it a surprise or -- or, kind of a
9 validation as to whether or not you were going to be
10 able to smell -- the fact that you could smell things?

11 A. Yes.

12 Q. And, do you recall, generally, what you could
13 smell?

14 A. Cigarette smoke.

15 Q. Okay. Thank you.

16 A. You're welcome.

17 MS. SOMMERS: So, I'm going to have the
18 witness just step out the back door, see if there are
19 any questions. So, don't leave yet. Thank you.

20 (Whereupon, the witness left the Grand Jury
21 room at a time of 11:02 a.m.)

22

23 MS. SOMMERS: So, one thing for the record,
24 just because you might be wondering, the video that
25 was moved into evidence, but not played yet, will be

1 played, it -- by the next witness. But -- so, if that
2 was one of the questions, I just wanted you to know
3 that that's coming. But, in terms of Officer
4 [REDACTED], does anyone have any questions.

5 A JUROR: I guess, is it normal to have that
6 many officers show up for that kind of a call? I saw
7 four or five officers.

8 MS. SOMMERS: Thank you. Anything else?

9 A JUROR: In the video, I heard [REDACTED]
10 [REDACTED] relay a phone number to him that he -- and she
11 said, specifically, so we can pick him up, if I heard
12 correctly. How is that information recorded and then
13 relayed? What's the standard procedure for that to
14 relay to EMT or to Strong? I don't know if that's
15 something he can answer.

16 MS. SOMMERS: Sure. I also -- just the PCR
17 is in evidence, which may or may not have that type of
18 information on it, but I'm happy to ask.

19 A JUROR: Okay.

20 MS. SOMMERS: Anything else? Yes?

21 A JUROR: I just have a question about the
22 timeline. So, I'm wondering if it was the Officer's
23 understanding by talking to the brother, [REDACTED] that he
24 had actually smoked something earlier that morning in
25 Syracuse before arriving. The timeframe.

1 MS. SOMMERS: Okay. I can ask the witness
2 if he knows that. Okay. Anything else? Yes?

3 A JUROR: Not for Officer [REDACTED], but for
4 a second -- I looked down for a second. How did
5 Daniel get from his knees, with his brother patting
6 his head, to being on his stomach. Do we need to
7 replay it, or can you just tell me? What happened?

8 MS. SOMMERS: So, about the -- well, I can't
9 tell you what the facts are. So, you guys can -- you
10 can re-watch any video that is in evidence. And, the
11 next witness, there will be another opportunity to
12 watch the video. If it doesn't answer your question,
13 then, please, by all means. Anything else? Okay.
14 All right. You can ask him to come back in. Thank
15 you.

16 (Whereupon, the witness entered the Grand
17 Jury room at 11:05:00 a.m.)

18 MS. SOMMERS: Officer, you're still under
19 oath. Thank you.

20

21 **O F F I C E R** [REDACTED] [REDACTED]
22 after having been previously duly sworn, was examined
23 and further testified as follows:

24 **EXAMINATION BY MS. SOMMERS:**

25 Q. Thank you. Officer [REDACTED], one of the grand

1 jurors wanted to know if it's normal to have that
2 number of police officers respond to this type of a
3 call?

4 A. Yeah.

5 Q. Was this sort of average, above average, below?
6 Is it always four? Just kind of curious if you could
7 elucidate that or clarify that?

8 A. No, it's not always four. I would say that [REDACTED]
9 and [REDACTED] arrived because that's their area. So, they
10 just came by because we call it beat integrity.

11 Q. Okay. Was there anything specific to this call
12 or about this call that would have generated a more
13 robust police response?

14 A. Yes, possibly.

15 Q. What -- what would that have been?

16 A. Just an individual under the influence of a
17 narcotic drug.

18 Q. Okay. And, by that, what drug are you referring
19 to?

20 A. PCP.

21 Q. In the video, it sounds like -- and, just based
22 on what one of the grand jurors' question was, it
23 sounded to -- to that grand juror like [REDACTED]
24 [REDACTED], was providing a phone number at the
25 beginning of the video, do you kind of recall that?

1 A. Yes.

2 Q. Okay. Is there -- can you explain for the Grand
3 Jury, how does information like that, get then relayed
4 to, for instance, Strong Hospital? Well, let me ask
5 you this, were you the Officer that -- that did the --
6 the mental hygiene arrest paperwork for this case?

7 A. No.

8 Q. Would it be normal, as a part of the mental
9 hygiene arrest paperwork, to include information about
10 the individual?

11 A. Yes.

12 Q. Would that include his or her address and phone
13 number?

14 A. Yes.

15 Q. And, do you have any idea, based on your
16 conversation with [REDACTED] -- [REDACTED], and [REDACTED]
17 [REDACTED], regarding [REDACTED] comments about what they
18 were smoking in Syracuse, were you given any
19 information as a whether or not Daniel Prude had been
20 in Syracuse, or was this just a general -- based on
21 your understand of the conversation, a statement about
22 what they are smoking in Syracuse, if you know?

23 A. Could you ask it one more time?

24 Q. Yep. Did [REDACTED] ever indicate during your
25 time on scene that Daniel Prude had actually been in

1 Syracuse?

2 A. No.

3 Q. Okay. What were his comments relative to
4 Syracuse about?

5 A. About what they smoke in Syracuse.

6 Q. Okay. At no time did he indicate that his
7 brother had been there?

8 A. No.

9 MS. SOMMERS: So, does that answer the grand
10 jurors questions? If -- if not, I'm happy to ask the
11 witness to leave and come back. Does anybody have
12 other questions?

13 GRAND JURY POOL: (All indicating a negative
14 response.)

15 MS. SOMMERS: Okay. You're all set. Thank
16 you.

17 (Whereupon, the witness left the Grand Jury
18 room at a time of 11:09 a.m.)

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1 (Whereupon, the witness entered the Grand
2 Jury room at a time of 11:10 a.m.)

3

4 [REDACTED] [REDACTED] called herein:
5

6

EXAMINATION BY MS. SOMMERS:

7 Q. Good morning.

8 A. Good morning.

9 Q. How are you?

10 A. Well, and better for your asking, thank you.

11 Q. Could you please state your name and spell your
12 last name?

13 A. My name is [REDACTED]

14 Q. Mr. [REDACTED] where do you work?

15 A. I work right now for the Attorney General's
16 Office.

17 Q. In what capacity?

18 A. I'm a supervisor in the Special Operations Unit.

19 Q. What is the Special Operations Unit?

20 A. It's a technical unit of the Attorney General's
21 Office, and we conduct primarily electronic assistance
22 in the way of eavesdropping, video, audio,
23 surveillance, covert, surreptitious entry. And, a
24 part of that is also audio and video processing and
25 editing.

1 A JUROR: Was he sworn in?

2 A JUROR: I was wondering that myself.

3 MS. SOMMERS: Could you swear the witness
4 in?

5 A JUROR: So, that's all off the record,
6 right?

7 MS. SOMMERS: Well, we're going to -- we'll
8 come back again. We'll do it over again. Thank you,
9 by the way.

10

11 [REDACTED] [REDACTED], after being duly
12 called and sworn, testified as follows:

13

14 MS. SOMMERS: I'm very grateful to the grand
15 jurors. Thank you.

16

17

EXAMINATION BY MS. SOMMERS:

18 Q. Investigator [REDACTED], could you state your name and
19 spell your last name?

20

A. [REDACTED]

21 Q. Where do you work?

22 A. The Attorney General's Office.

23 Q. In what capacity?

24 A. As supervisor with the Special Operations Unit.

25 Q. Prior to the Attorney General's Office, where did

1 you work?

2 A. I worked for the Onondaga County Sheriff's
3 Department.

4 Q. For how long?

5 A. For 20 years.

6 Q. How long have you been with the New York State
7 Attorney General's Office?

8 A. About 16 years now.

9 Q. Thank you. And, just very basically, your
10 position with the New York State Attorney General's
11 Office, what does that entail?

12 A. I'm a supervisor in the Special Operations Unit.

13 Q. And, have you acquired any type of expertise in
14 audio, visual, technical matters?

15 A. Yes, in both employments, I attended numerous
16 schools. Worked with the Rome Labs, utilizing various
17 software for such purposes, as well as Delaware, where
18 I trained in the oceans systems system.

19 Q. All right. Thank you. Are you familiar with a
20 -- an investigation or a case involving an individual
21 by the name of Daniel Prude?

22 A. I am.

23 Q. Relative to that, did there come a point in time
24 when some information or data or material was provided
25 to you?

1 A. Yes.

2 Q. Who provided that?

3 A. You did.

4 Q. Okay. What was the material that was provided?

5 A. It was four body worn cameras and you requested
6 some editing compilation with them.

7 Q. Okay. So, first of all, do you recall what the
8 names of the Officers, whose body worn cameras you
9 provided, what their names were?

10 A. Officers [REDACTED].

11 MS. SOMMERS: All right. And, I'm just
12 going to the note for the record here, the body worn
13 cameras of all four of those have been offered into
14 evidence before you.

15 BY MS. SOMMERS:

16 Q. You -- what did you do specific to the body worn
17 camera footage that was provided to you?

18 A. At your request, I overlaid the Officer's names
19 on each separate video. And then, also, arranged them
20 by time, using the audio file, so that they all
21 coincided and then produced them together on a single
22 screen.

23 Q. So, did this make it possible to view all the
24 different body worn cameras at one time?

25 A. Yes.

1 Q. In doing that, did you edit out any footage from
2 any of the body worn cameras' footage that was
3 provided to you?

4 A. No.

5 Q. Showing you -- thank you -- what has been marked
6 for identification as Grand Jury Exhibit 10, do you
7 recognize that?

8 A. I do.

9 Q. What is that?

10 A. This is the DVD that I made and turned over to
11 you at your request.

12 Q. Whose handwriting is actually on that DVD?

13 A. This is my handwriting, my initials, and it says
14 I compiled this on October 27th of this year.

15 Q. Does the footage that's contained on that DVD, is
16 that an exact duplicate of the compilation that you
17 produced relative to the body worn camera footage that
18 we just spoke about?

19 A. It is.

20 Q. Has anything been edited in or out of that?

21 A. No, ma'am. Other than the names of the Officers
22 being overlaid on them.

23 Q. Okay. Thank you.

24 MS. SOMMERS: At this time, I will offer
25 Grand Jury Exhibit Number 10.

1 (Whereupon, Grand Jury Exhibit Number 10,
2 the compilation video, was then received into
3 evidence.)

4 MS. SOMMERS: And, at this point, we're
5 going to play Grand Jury Exhibit Number 10.

6 (Whereupon, Grand Jury Exhibit Number 10,
7 the compilation video, was then played into the record
8 for the Grand Jury.)

9 MS. SOMMERS: Can you press pause?

10 BY MS. SOMMERS:

11 Q. So, I just want to point out, for the record, at
12 about seven seconds, the footage that's playing right
13 now has PO [REDACTED] in the upper left corner, is that
14 correct?

15 A. Yes.

16 Q. Is that what you were referring to in terms of
17 overlaying the Officer's name?

18 A. Yes, it is.

19 Q. Okay. So, in any other video that comes up, will
20 the Grand Jury see that similar type of designation?

21 A. Yes.

22 Q. Thank you.

23 (Whereupon, the video was resumed for the
24 Grand Jury.)

25 BY MS. SOMMERS:

1 Q. Investigator [REDACTED] when footage ends, does that
2 correspond to when it ended in the footage that was
3 provided to you?

4 A. Yes.

5 Q. Okay. So, you didn't cut things off before --

6 A. No.

7 Q. So, they weren't truncated?

8 A. No.

9 MS. SOMMER: Thank you. Does anyone have
10 anyone questions for this witness? I'm just going to
11 ask now. He -- he can only testify about the -- the
12 actual video and that process. Does anyone have any
13 questions? Thank you. You're all set.

14 THE WITNESS: Thank you.

15 (Where upon the witness left the Grand Jury
16 room at a time of 11:26 a.m.)

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1 MS. SOMMERS: Okay. We are done presenting
2 for today. We said at the beginning, and we're saying
3 again now, please don't form any opinions about this
4 case until it is concluded. I know that's a lot
5 easier said than done. But, don't share anything with
6 any of your fellow grand jurors. Obviously, you're
7 bound by secrecy. You may not discuss this with
8 anybody outside of this Grand Jury room.

9 There will not be Grand Jury next week
10 because of Veteran's Day. The following week is going
11 to be a full day. So, like I told you before, today
12 is going to be a half day. But, we're telling you
13 now, two weeks from today is going to be a full day.
14 So, please bring lunch or whatever you need. We'll
15 take a break, but --

16 MR. SMITH: And, the date is Wednesday,
17 November, 18th, everybody. So, write that down.
18 Wednesday, November, 18th.

19 MS. SOMMERS: All right. Thank you.

20 MR. SMITH: Thanks, everybody.

21 (Proceedings adjourned.)

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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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