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A P P E A R A N C E S

Makenzie Lee, Assistant Ramsey County Attorney,
appeared for and on behalf of the State.

Hassan Tahir, Assistant Ramsey County Attorney,
appeared for and on behalf of the State.

Earl Gray, Attorney at Law, appeared with and on
behalf of the Defendant.

Amanda Montgomery, Attorney at Law, appeared with and
on behalf of the Defendant.

MINNESOTA
JUDICIAL
BRANCH

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1 P R O C E E D I N G S

2 THE LAW CLERK: All rise.

3 THE COURT: Good morning, you may be seated.
4 All right. Well, we're here this morning for State of
5 Minnesota versus Kjellberg on the beginning of jury
6 selection. I think the first juror we're going to call
7 up is Juror Number 2, Kiaira Fletcher-Toney, for
8 individual voir dire. Anything before we bring the
9 juror up?

10 MR. GRAY: No, Your Honor. I don't have
11 anything.

12 MR. TAHIR: No, Your Honor.

13 THE COURT: Okay.

14 (The prospective juror entered the courtroom.)

15 THE LAW CLERK: If you want to go up there to
16 the stand right next to the judge.

17 THE COURT: Good morning.

18 PROSPECTIVE JUROR: Good morning.

19 THE COURT: If you can just have a seat in
20 the jury box there in the center. And you are
21 Ms. Kiaira Fletcher-Toney; is that correct?

22 PROSPECTIVE JUROR: Yes, I am.

23 THE COURT: And how are you doing this
24 morning?

25 PROSPECTIVE JUROR: Good. How are you?

1 THE COURT: I'm doing well, thank you. So we
2 asked you up here to speak to you individually because
3 and -- generally because of your response to Number 31
4 which talked about how -- I believe you mentioned that
5 your father was murdered?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay. Well, before we get into
8 that, I'd really like to know what a talent acquisition
9 specialist does?

10 PROSPECTIVE JUROR: So I recruit for UPS. So
11 I deal with their staffing and filling up their centers
12 with package handlers, drivers -- CDL and non-CDL,
13 things like that, and management positions, too.

14 THE COURT: Okay. All right. I thought it
15 was recruiting.

16 PROSPECTIVE JUROR: Yeah, it's the fancier
17 word, so.

18 THE COURT: All right. So would you mind
19 sharing with us what the -- that incident was about?

20 PROSPECTIVE JUROR: Yes. So my dad was
21 killed in 2006 by a -- was a buddy that he grew up
22 with -- a friend but they were also related -- cousins
23 through marriage. Distant cousins I guess you could
24 say.

25 My dad was killed on Thanksgiving day early

1 in the morning I'd say between 2:00 and 4:00 p.m. My
2 dad was an alcoholic, and so was his friend. So they
3 went out drinking one night and -- over at an apartment
4 on Selby Avenue -- I think it's like the 700 -- not
5 block of Selby, but anyway -- in St. Paul. They went
6 to -- after the bar they went to John's girlfriend's
7 house and they got in an argument that, you know, was
8 easily brought on by alcohol, and so they were getting
9 a little mad at each other.

10 John kicked out my dad, because he saw that
11 he was getting too aggressive. My dad went back to the
12 car, you know, whether he walked around or just sat to
13 kind of get a breather in. He came back in, storming
14 in, and started fighting with John and -- starting
15 fighting John and out of fear of losing his life, John
16 stabbed him unintentionally.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR: So John was then charged
19 later with Second-Degree Murder Unintentional.

20 THE COURT: All right. Which is exactly what
21 Mr. Kjellberg is charged with, all right?

22 PROSPECTIVE JUROR: (Nods head.)

23 THE COURT: And what ended up happening in
24 that case?

25 PROSPECTIVE JUROR: John was found guilty. I

1 couldn't give you -- I think his case was in, like,
2 2007 even though it happened in 2005. He was found
3 guilty. He did two thirds of his sentence I want to
4 say. He got out, I want to say in like 2018, but he
5 was supposed to serve until 2022 or 2024. So, yeah, he
6 did his time. He pled guilty and was, you know, found
7 guilty on the charges of Second-Degree Murder
8 Unintentional, and did his time.

9 THE COURT: Okay. So you say he pled guilty?

10 PROSPECTIVE JUROR: Yes, he did.

11 THE COURT: All right. He did not go through
12 a jury trial?

13 PROSPECTIVE JUROR: Um --

14 THE COURT: Or any type of court trial? He
15 didn't have a trial?

16 PROSPECTIVE JUROR: I think he may have pled
17 not guilty at first -- that's a hard one. That's some
18 stuff I -- I don't know a lot of detail. I know a
19 decent amount of details about the case, but no the
20 entire case. I know that he did plead guilty.

21 THE COURT: Okay. And how old were you when
22 this happened?

23 PROSPECTIVE JUROR: I was five.

24 THE COURT: And was your father living with
25 you at the time?

1 PROSPECTIVE JUROR: We lived -- I'm trying to
2 think of our living situation back then. 2005 we had
3 just moved to a house in Hugo, me, my mom, and him.
4 And after him and my mom bought the house, he died
5 not -- not even a month later. So we were all living
6 together in Hugo, Minnesota.

7 THE COURT: All right. Can you share with us
8 how this impacted you?

9 PROSPECTIVE JUROR: Um.

10 THE COURT: And your family?

11 PROSPECTIVE JUROR: Um, well growing up
12 without a father -- just kind of missing some of those
13 key details that you would get from having a father in
14 your home. It's impacted me and my mom financially for
15 sure, not having that other income to take on the load.
16 So, then growing up with a single mother as well.

17 THE COURT: Okay. All right. So those facts
18 almost are -- relate a lot to what is going to be
19 happening here.

20 PROSPECTIVE JUROR: Mm-hmm.

21 THE COURT: I mean to the extent that it
22 was -- the allegation is a stabbing as well in this
23 case. How do you think you'd be able to handle that?

24 PROSPECTIVE JUROR: Um --

25 THE COURT: Do you want to handle it, first

1 of all?

2 PROSPECTIVE JUROR: I'd be willing to because
3 I'm interested to sit on a jury and see what that
4 experience is like, and see what I can learn from it.

5 THE COURT: And emotionally how do you think
6 you'd able to handle that?

7 PROSPECTIVE JUROR: Um, that's a very good
8 question. I think it's doable. Just -- I know some
9 things are -- I guess you could say touchy, as any loss
10 would be to a homicide in someone's family, but --

11 THE COURT: Okay. And, you know that as a
12 juror, I'm going to instruct you at some point if you
13 serve on this jury that you can't consider the
14 punishment or whatever sentence if Mr. Kjellberg were
15 to be found guilty. Is that something you think you
16 can do?

17 PROSPECTIVE JUROR: Can you restate that? I
18 can't -- I forgot the word that you used. My bad.

19 THE COURT: No, no, that's fine. I'm saying
20 this because you mentioned that John was sentenced and
21 served two thirds of his sentence, right?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: So -- but as a juror, as it
24 relates to this case, you can't consider the punishment
25 in your deliberations as to whether or not someone's

1 guilty or not guilty.

2 PROSPECTIVE JUROR: Got you. Yes.

3 THE COURT: All right. Is that something
4 that you can do?

5 PROSPECTIVE JUROR: I believe so, yes.

6 THE COURT: All right. Do you think that you
7 would be able to sit through this trial?

8 PROSPECTIVE JUROR: I think so, yes.

9 THE COURT: You would be able to listen to
10 the evidence?

11 PROSPECTIVE JUROR: Mm-hmm.

12 THE COURT: Is that a "yes"?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: And you'd be able to base your
15 decision just on the evidence in this case that you
16 hear in this courtroom and based on the instructions
17 that I give you?

18 PROSPECTIVE JUROR: I do.

19 THE COURT: All right. Did John -- and I'm
20 just going to refer to him as John. Did he ever say
21 that he was defending himself throughout that process?

22 PROSPECTIVE JUROR: He did.

23 THE COURT: Okay. And obviously whether he
24 pled or he was found guilty in a court trial or a jury
25 trial, that -- should I say, he wasn't able to use that

1 defense, right?

2 PROSPECTIVE JUROR: Correct.

3 THE COURT: So we might have that defense in
4 this case as well.

5 PROSPECTIVE JUROR: Okay.

6 THE COURT: At least it's likely that that's
7 what the Defense may argue.

8 PROSPECTIVE JUROR: Okay.

9 THE COURT: Okay? Based on what you know --
10 I know you were five years old at the time.

11 PROSPECTIVE JUROR: Mm-hmm.

12 THE COURT: But I'm sure that you've
13 attempted to educate yourself through the years --

14 PROSPECTIVE JUROR: I have.

15 THE COURT: -- about this, you know, about
16 these types of cases.

17 PROSPECTIVE JUROR: Mm-hmm.

18 THE COURT: Do you think you can set that
19 aside and just -- if I were to give you the instruction
20 of self-defense that you could follow the instruction
21 as I give it to you?

22 PROSPECTIVE JUROR: I do.

23 THE COURT: Even if you disagree with it?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Even if you think it should be

1 different?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Okay. All right. I'm going to
4 turn it over to the lawyers to ask you a few questions
5 on that. They may have a few questions about some of
6 the other stuff that you have on your questionnaire.

7 PROSPECTIVE JUROR: Okay.

8 THE COURT: But thank you so much.

9 PROSPECTIVE JUROR: Of course. Thank you.

10 THE COURT: And I'm very sorry for your loss.

11 PROSPECTIVE JUROR: Thank you. I appreciate
12 that.

13 MR. GRAY: Thank you.

14 Good morning.

15 PROSPECTIVE JUROR: Good morning.

16 MR. GRAY: How do you pronounce your name?

17 PROSPECTIVE JUROR: Kiaira.

18 MR. GRAY: Kiaira?

19 PROSPECTIVE JUROR: It's like Sierra but with
20 a K.

21 MR. GRAY: And Fletcher-Toney?

22 PROSPECTIVE JUROR: Yep.

23 MR. GRAY: And you were five years old when
24 your lost your father?

25 PROSPECTIVE JUROR: I was.

1 MR. GRAY: And you testified that after that,
2 it was you and your mother living on one income?

3 PROSPECTIVE JUROR: Mm-hmm.

4 THE COURT: Is that a "yes"?

5 PROSPECTIVE JUROR: Yes, it is.

6 THE COURT: And I should have told you this
7 earlier.

8 PROSPECTIVE JUROR: Okay.

9 THE COURT: Because we have a court reporter,
10 I need you to respond in a yes or a no, or a verbal
11 answer and wait until the question is done before you
12 respond, okay? And I know you're nervous, I think
13 maybe a little bit.

14 MR. GRAY: I anticipate in this case that the
15 mother of the deceased is going to testify. And I
16 don't know what she's going to say, but would that
17 cause you any undue feelings of sympathy for her that
18 would interfere with your ability to judge this case on
19 the evidence, what you believe the evidence is, and
20 then apply the law even if you disagree with it, that
21 Judge Castro will give you? Will you be able to do
22 that?

23 PROSPECTIVE JUROR: Yes.

24 MR. GRAY: You mentioned in your
25 questionnaire that a childhood friend was murdered,

1 too?

2 PROSPECTIVE JUROR: Mm-hmm.

3 MR. GRAY: Tell us about that?

4 PROSPECTIVE JUROR: My friend Vanessa from --
5 I've known her since I was about 13, 14 years old. She
6 was killed last year at a street race in Minneapolis.

7 MR. GRAY: In a what? I'm sorry. What kind
8 of race? I'm sorry.

9 PROSPECTIVE JUROR: A street race.

10 MR. GRAY: A street race?

11 PROSPECTIVE JUROR: Yep. She was killed at a
12 street race on June 5, 2021, about four days before her
13 20th birthday. So there was a -- a bunch of people at
14 this race on the intersection of like the 2200 block
15 and Second Street in North Minneapolis, kind of behind
16 Broadway in the industrial area. They have these
17 street races that are called take overs. So all of
18 these people with, you know, nice cars or car
19 enthusiasts take over an intersection and do burnouts
20 and things like that. And she went to that race just
21 as a -- what could you say?

22 THE COURT: Spectator?

23 PROSPECTIVE JUROR: As a spectator, yes. She
24 visited as a spectator. Her car was in one of the
25 first rows of like this circle that all of these cars

1 built up as they're watching what's going down in the
2 middle.

3 There were some people there -- whether it
4 was gang related -- that got into -- or not -- that got
5 into a dispute. It seems like the two gentlemen from
6 the opposing sides left, came back, and they -- they
7 came back and they got it -- not got into it again but
8 just went straight to, you know, using a weapon. And
9 shots rang out and as she was running back to the car
10 with her three cousins and one friend, she was hit
11 three times trying to make it back to the car.

12 MR. GRAY: And did they catch the person that
13 did that?

14 PROSPECTIVE JUROR: They have not to this
15 day.

16 MR. GRAY: They have not?

17 PROSPECTIVE JUROR: (Shakes head.)

18 MR. GRAY: And were you a witness to that?
19 Were you there?

20 PROSPECTIVE JUROR: I was not.

21 MR. GRAY: How close -- you got "close
22 childhood friend," so that would mean this friend was
23 close?

24 PROSPECTIVE JUROR: Yeah.

25 MR. GRAY: So we have two murders in your

1 background that you've experienced in your lifetime?

2 PROSPECTIVE JUROR: Mm-hmm.

3 MR. GRAY: And you think this would -- I
4 mean, there are other cases. You're going to be called
5 up for other cases. Do you think this is the type of
6 case that you should not sit on because of your past
7 experiences?

8 PROSPECTIVE JUROR: I could say that as well,
9 yes.

10 MR. GRAY: Excuse me?

11 PROSPECTIVE JUROR: I said, "I could say that
12 as well," that it may be a little difficult to sit in a
13 courtroom without becoming emotional.

14 MR. GRAY: Thank you, ma'am.

15 THE COURT: All right.

16 Do you have any questions?

17 MR. TAHIR: Yes, Your Honor. Just briefly.

18 THE COURT: Go ahead.

19 MR. TAHIR: Good morning, ma'am.

20 In spite of the fact that you have those two
21 murders in your background, would you be able to base
22 your decision, should you be tasked to do that in this
23 case, based on the evidence presented in this courtroom
24 alone?

25 PROSPECTIVE JUROR: Yes, I do believe so.

1 MR. TAHIR: And in terms of following the
2 Judge's instructions on the law, and how you're to do
3 your job as a juror, do you think you could follow
4 those as well?

5 PROSPECTIVE JUROR: Yes, I do.

6 MR. TAHIR: As a juror, of course you have
7 your background and you especially have experienced
8 murder twice in your life. Do you think you could set
9 aside those emotions and focus solely on the evidence
10 in this case despite how difficult that may be? Do you
11 think you would able to do that?

12 PROSPECTIVE JUROR: Um, I'm unsure of that.

13 MR. TAHIR: Okay. Thank you.

14 I have no further questions.

15 THE COURT: Counsel, anything?

16 MR. GRAY: I have no further questions,
17 but --

18 THE COURT: All right. So what I'm going to
19 ask that you do -- where are they at? 14? 15?

20 THE LAW CLERK: Well, we're on 13 this
21 morning but 14 this afternoon.

22 THE COURT: Okay. So where are they at?

23 THE LAW CLERK: They're on the 13th floor
24 right now, in the jury room.

25 THE COURT: Okay. I'm just going to ask that

1 you return back to the jury room, all right? Thank you
2 very much.

3 PROSPECTIVE JUROR: Yeah.

4 (The prospective juror exited the courtroom.)

5 THE COURT: All right. Any motions?

6 MR. GRAY: I move to challenge her for cause,
7 Your Honor.

8 THE COURT: Any objection?

9 MR. TAHIR: No objection.

10 THE COURT: All right.

11 MR. TAHIR: Your Honor, is it possible to
12 have the jurors sit in the jury -- or excuse me,
13 witness chair?

14 THE COURT: Yeah, I can do that. It would
15 probably be a lot easier for you guys right --

16 MR. TAHIR: Yes.

17 THE COURT: -- so you don't have to turn your
18 back to them?

19 MR. TAHIR: Yes.

20 THE COURT: Yeah, let's do that. It'll
21 probably be a little easier for Colleen, too. All
22 right.

23 All right. So I believe the next juror is
24 Ms. Sandy Kasma. You can let Ms. Fletcher-Toney know
25 that she's going to be excused from service in this

1 case and that she can return downstairs to jury room
2 management to see if there is another case that she
3 will be assigned to.

4 THE LAW CLERK: Sounds good.

5 (The prospective juror entered the courtroom.)

6 THE COURT: We're actually going to have you
7 sit in the witness chair so that it will be easier for
8 us.

9 PROSPECTIVE JUROR: Oh, okay.

10 THE COURT: Good morning, Ms. Kasma. How are
11 you doing?

12 PROSPECTIVE JUROR: I'm great.

13 THE COURT: Watch your step there.

14 PROSPECTIVE JUROR: Yep.

15 THE COURT: All right. I just want to remind
16 you that we have a stenographer taking the record, so
17 your responses should be "yes" or "no" rather than
18 "uh-huh" or "uh-uh," which we tend to do. And also,
19 wait till the question is finished being asked before
20 you respond, okay? She can only take down one person
21 at a time.

22 All right. So we asked you in here
23 individually in response to two of the questions --
24 Question Number 53, "Do you have any special
25 circumstance that would make it difficult for you to

1 sit as a juror in the next two weeks?" You responded
2 yes, that you may need to provide some assistance or
3 some care to an ill friend. Can you share some of that
4 with us?

5 PROSPECTIVE JUROR: Yeah it's -- yes --

6 THE COURT: -- go ahead.

7 PROSPECTIVE JUROR: Okay. Stomach cancer,
8 that he is dealing with.

9 THE COURT: Okay. All right. And does this
10 person -- does this person live with you?

11 PROSPECTIVE JUROR: No.

12 THE COURT: And does he have no one else to
13 care for him?

14 PROSPECTIVE JUROR: Not really.

15 THE COURT: All right. Help me understand
16 what kind of things you would be doing that you need --
17 that you would need to be doing during the day?

18 PROSPECTIVE JUROR: Probably cooking for him,
19 I mean, you know, meal preparation, just basic care.
20 I'm not doing any showering or, you know, that type of
21 thing, but just basic daily care.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR: Other than that, yeah.

24 THE COURT: Okay. All right. Do you feel
25 that's what we will refer to as an undue hardship to

1 him, if you were not available throughout these next
2 two weeks at least during the day?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Okay. All right. Well, let me
5 ask you another question then: As to 57, we asked the
6 general question, is there any matter not covered in
7 this questionnaire that you think we should have asked
8 about or that would affect your ability to be fair and
9 impartial? And you wrote down, "Ask about experiences
10 with LGBTQ." What do you mean by that?

11 PROSPECTIVE JUROR: As I thought about it, I
12 don't recall that there were any questions referring to
13 that and I think with all of the biases that you
14 addressed that we have issues with -- whether it be
15 persons of color or persons of a different gender or
16 among the LGBTQ community that I just think it's an
17 important issue. Because especially these days, I
18 mean, the woman who killed the kids yesterday was a
19 transgender woman. I think those issues need to be
20 brought forth.

21 THE COURT: Okay. And what would be your
22 response if there was a question -- well, let me ask
23 you a question: Do you have any particular bias one
24 way or the other about the LGBTQ community?

25 PROSPECTIVE JUROR: No.

1 THE COURT: But you generally are saying that
2 should be included?

3 PROSPECTIVE JUROR: I do.

4 THE COURT: I will take that note and I may
5 include that in my next one, all right?

6 PROSPECTIVE JUROR: Thank you.

7 THE COURT: Thank you.

8 Mr. Gray.

9 MR. GRAY: Thank you, Your Honor.

10 Good morning.

11 PROSPECTIVE JUROR: Good morning.

12 MR. GRAY: In your questionnaire, on line --
13 Question 52, you're asked, "What did you think when you
14 heard the charges?" And you wrote "Another murder.
15 Current environment of anger and distrust." Could you
16 get into that a little bit and tell me what you meant
17 by that?

18 PROSPECTIVE JUROR: Well, even when I was
19 asked what papers I read, I don't read that many papers
20 because there was so much bad news. So, I mean, I -- I
21 believe that this is -- could possibly just be another
22 one in the long list of cases that are occurring daily
23 with children and with elderly and with other unserved
24 population.

25 MR. GRAY: The Court instructed you about the

1 presumption of innocence.

2 PROSPECTIVE JUROR: Yes.

3 MR. GRAY: And would you be able -- based on
4 what you thought when you heard about the charges --
5 would you be able to presume my client -- our client
6 innocent?

7 PROSPECTIVE JUROR: Yes.

8 MR. GRAY: And what did you mean by "current
9 environment of anger and distrust"? Anger and
10 distrust. What's that about?

11 PROSPECTIVE JUROR: I think that's the
12 general population -- I think that that's what we're
13 seeing among young people. I think we're seeing people
14 who are underserved and are calling out for help.

15 MR. GRAY: You also described your feelings
16 about fairness or unfairness of the criminal justice
17 system. 55.

18 PROSPECTIVE JUROR: Uh-huh.

19 MR. GRAY: And courts are overrun, judges
20 overworked after -- excuse me, often affecting their
21 ability to see blacks and other nonwhites being more
22 wrongly charged. Is that your belief?

23 PROSPECTIVE JUROR: Uh-huh. Yes.

24 THE COURT: Thank you for the shout out for
25 judges being overworked. I appreciate that.

1 PROSPECTIVE JUROR: I know some. So there
2 you go.

3 MR. GRAY: The evidence in this case, the
4 victim -- alleged victim of the charge is black. Of
5 course our client is white. Would you have any --
6 ability to not fairly judge the evidence in this case,
7 because you appear to have a bias -- I'm not -- I'm
8 just going on what you say here. Would you be able to
9 be a fair and impartial juror with that belief?

10 PROSPECTIVE JUROR: Yes.

11 MR. GRAY: Why do you say that?

12 PROSPECTIVE JUROR: Because I think I have to
13 enter the responsibility of being a juror with the
14 underlying, you know, presumption of innocence that
15 everyone is innocent until proven guilty and to not
16 look at the color of the person's skin.

17 MR. GRAY: And you'd be able to do that?

18 PROSPECTIVE JUROR: Yes.

19 MR. GRAY: We have to ask these questions. I
20 don't mean to offend you.

21 PROSPECTIVE JUROR: No offense.

22 MR. GRAY: That's all I have, thank you --
23 one more question?

24 THE COURT: Go ahead.

25 MR. GRAY: What was the sausage business?

1 PROSPECTIVE JUROR: Oh, it was kind of before
2 the -- its time. It was like a natural products,
3 natural casings. My husband and I at that time opened
4 up a -- the sausage factory, worked with a German
5 sausage manufacturer and so forth.

6 MR. GRAY: So you're not involved in that
7 anymore?

8 PROSPECTIVE JUROR: No, no.

9 MR. GRAY: And you're, you were retired as
10 being a college counselor?

11 PROSPECTIVE JUROR: Yes.

12 MR. GRAY: What college?

13 PROSPECTIVE JUROR: I was worked for
14 Lakewood.

15 MR. GRAY: Okay.

16 PROSPECTIVE JUROR: Now -- now Century.

17 MR. GRAY: All right. Thank you, ma'am.
18 That's all I have, Judge.

19 THE COURT: Mr. Tahir?

20 MR. TAHIR: Thank you, Your Honor.

21 Good morning, ma'am.

22 PROSPECTIVE JUROR: Good morning.

23 MR. TAHIR: I just want to follow up on your
24 friend who requires the care. Is it a he or a she?

25 PROSPECTIVE JUROR: He.

1 MR. TAHIR: Okay. I know you stated that
2 there might not be anybody else that could attend to
3 him during the day. If you're selected as a juror in
4 this case, you will be here for most of the day -- for
5 at least from nine to five approximately. Do you think
6 you could focus on the evidence that's presented here,
7 or would your mind drift off to thinking about how your
8 friend is doing? I mean, that's natural.

9 PROSPECTIVE JUROR: Mm-hmm.

10 MR. TAHIR: But do you think you could try to
11 focus on the task at hand and listen to the evidence
12 that's presented to you and do your job as a juror?

13 PROSPECTIVE JUROR: Yes.

14 MR. TAHIR: Okay. Thank you, ma'am.
15 I have no further questions.

16 PROSPECTIVE JUROR: Okay.

17 THE COURT: All right. Thank you. I'm just
18 going to ask that you rejoin the group back in the jury
19 room, deliberation room.

20 PROSPECTIVE JUROR: Okay. Thank you.

21 THE COURT: All right. Thank you.
22 (The prospective juror exited the courtroom.)

23 THE COURT: Any motions?

24 MR. GRAY: I have none, Your Honor.

25 THE COURT: You don't have any?

1 MR. TAHIR: No motions, Your Honor.

2 THE COURT: Do you want to wait to use your
3 peremptories for later?

4 MR. GRAY: Well, I'd move for cause if I
5 think I could win it.

6 THE COURT: Okay. So you're not moving
7 because you don't think you could win it?

8 MR. GRAY: Well, she -- I'll move for cause,
9 but I hate losing.

10 THE COURT: All right.

11 Mr. Tahir?

12 MR. TAHIR: We object to the motion, Your
13 Honor. She appears to be an impartial juror and she
14 said that she'd be able to serve as a juror without any
15 bias for either side.

16 MR. GRAY: But she checked that it would be
17 an undue hardship. What number was that?

18 THE COURT: She did. She did check, but
19 given the circumstances, if all she is doing is
20 prepping meals I think those can get prepped in the
21 evening for throughout the day and then there is always
22 DoorDash.

23 MR. GRAY: I have nothing further.

24 THE COURT: All right. So that motion is
25 denied. And then the next juror is Payton Plasch.

1 (The prospective juror entered the courtroom.)

2 THE COURT: Good morning, Mr. Plasch.

3 PROSPECTIVE JUROR: Good morning.

4 THE COURT: Please have a seat here. And
5 again I'll just remind you that you're still under the
6 oath that you took yesterday. We asked you to come on
7 in just in response to a few of your questions [sic]
8 that you gave on the questionnaire. I will remind you
9 that we do have a stenographer taking the record, so if
10 you can have your responses can be verbal: Yes, no,
11 you know, as opposed uh-huh or uh-uh. And also if you
12 can wait for the question to the complete before you
13 answer.

14 All right. Let me just start out by asking
15 you: Your response to Question Number 22, and that's
16 where I state that at the end of the case, I may
17 instruct you on the law of self-defense. Would you
18 able -- would you believe to follow the instructions on
19 the law of self-defense and not what you believe the
20 law should or should not be? And your answer was "No."

21 And so, sometimes that question is a little
22 confusing, so I'm wondering if your answer is still no,
23 or essentially: Can you follow the law as I give it to
24 you in regards to self-defense?

25 PROSPECTIVE JUROR: Yeah, I didn't really

1 understand the question fully. So now that you word it
2 the way you did, I think I could. If you explain it to
3 me, then I will be able to.

4 THE COURT: Okay. All right. Good. I mean,
5 my job is to rework the question so it's not as
6 confusing as it is. So I'll work on that, okay.

7 PROSPECTIVE JUROR: Okay.

8 THE COURT: And there is a good portion of
9 your questionnaire where you appear to have a
10 significant distrust for law enforcement.

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: And we want to kind of delve into
13 that a little bit. As to -- before I get to that, as
14 to the DWI you got in 2016, was that here in Ramsey
15 County?

16 PROSPECTIVE JUROR: No. I was in Eau Claire,
17 Wisconsin, and it wasn't for alcohol. It was actually
18 for being under the influence of marijuana.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: So, um, that's just --
21 that wasn't the only thing that was my run-in with,
22 like, being pulled over. I've been pulled over plenty
23 of times. And a lot of the times officers were just
24 very forceful and, like, jumping to conclusions and
25 like most of the time I don't really -- I wasn't doing

1 nothing wrong, or I don't even have like anything on
2 me.

3 THE COURT: And before you get into that, let
4 me just quickly ask about that DUI from Wisconsin. So
5 that was in 2016 and did you plead guilty to it, did
6 you have a trial, was it dismissed? What happened?

7 PROSPECTIVE JUROR: Yeah. I pled guilty and
8 I had to do like a couple classes and just like a
9 couple things to get my license back.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR: Yeah.

12 THE COURT: All right. So continue with
13 your -- what your thoughts about law enforcement?

14 PROSPECTIVE JUROR: I just believe that they
15 can manipulate to make people seem in the wrong or make
16 something out to be what it's not. Like in their own
17 interest, like if they realize they're kind of forcing
18 things or making an innocent person seem guilty, they
19 can kind of like frame that person or the law is kind
20 of in that officer's hands at the moment, so.

21 THE COURT: They do have a lot of power.
22 That's true.

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: And you write in Question 36 that
25 you have been pulled over wrongfully and accused of

1 trying to flee when you were only trying to explain
2 your side of the story?

3 PROSPECTIVE JUROR: Yes. It was late that
4 night. Me and my friend were riding around just for
5 nothing really. It was like 1:00, 2:00 in the morning.
6 I got pulled over for -- like, on this exit ramp. And
7 he didn't really explain exactly what I did wrong, but
8 he was behind me and I noticed. So I got -- I made
9 sure I did everything right and then when he took me
10 out. I was like, "What did I do wrong?" And then he
11 was like explaining it and I went to like point at the
12 exit ramp and as I went to point, he slammed me to the
13 ground and was like, "Stop resisting. You tried to
14 run." And so --

15 THE COURT: Okay. All right. And also --
16 that you would believe a police officer less. Okay.
17 Even if they were sitting up there --

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: -- under oath?

20 PROSPECTIVE JUROR: I guess -- I guess it
21 depends on the situation or the police officer, like
22 some -- some police officers might strike you as
23 believable and some might strike you as not. So it's
24 just all based on past experiences and, like, I mean,
25 it says not to be biased. But you're biased in, like,

1 your experiences. And most of the time I find police
2 officers not, like, the most trustworthy when it comes
3 to them, because they're trying to make it seem like
4 they're in the right most of the time.

5 THE COURT: Okay. Let me see. I had a
6 couple more here. You also mentioned that your stepdad
7 has been treated unfairly by law enforcement?

8 PROSPECTIVE JUROR: Yes. He -- my stepdad is
9 a -- is an African American, and there has been a
10 couple of times when I was way younger. So like I
11 don't remember it exactly, but I noticed how they treat
12 him differently. And I have friends who are African
13 American and just like they treat them differently.
14 And like me being around them, they treat me
15 differently.

16 So it's like, I don't know. Basically see
17 them as like a crowd that shouldn't -- just like how
18 society is today in all of the stuff that goes on and
19 how race can depend on how they treat you, or what they
20 believe about you.

21 THE COURT: All right. And well this kind of
22 goes back to Question 22, but in 54 I wrote -- the
23 question is: "Will you be able to apply the law as
24 given to you by the Judge even if you disagree with
25 it?" And your answer was "No. If I disagree I would

1 not think it's right."

2 PROSPECTIVE JUROR: Right. So if I disagree
3 and so -- am I trying to apply the law?

4 THE COURT: Right. So as part of this, you
5 know, jury trial, if you were selected as a juror, at
6 the end of the trial, after you hear all of the
7 evidence then I give you what the law is, all right?

8 PROSPECTIVE JUROR: All right.

9 THE COURT: I give you some preliminary stuff
10 at the beginning, but at the end I give you a lot more
11 of what the law is as it relates to the charge here in
12 this case, Murder in the Second Degree Unintentional
13 while Committing a Felony offense.

14 And you would have -- and so I'd give you
15 some instructions. This is what it means. And you
16 have to make sure that the State's proven their case
17 beyond a reasonable doubt on one, two, three, four, you
18 know, whatever all of the elements are of the offense.
19 And then there might also be an instruction on
20 self-defense that, you know, if you find A, B, C, or D
21 then, you know, the Defendant was not guilty because he
22 was defending himself, something like that.

23 If you disagree with those instructions,
24 right? And you say, "Well, no, that's not the way it
25 really should be," or "that's not the way it really

1 works out in the real world," would you say screw it --
2 screw the Judge's instructions? I'ma go with my gut or
3 my feeling. Essentially is what I'm asking you.

4 PROSPECTIVE JUROR: Um --

5 THE COURT: Just be honest, I mean it's, you
6 know, both the State and the Defendant deserve a fair
7 trial. So if you can't do that, I -- we get it, you
8 know. Nobody is going to hold it against you.

9 PROSPECTIVE JUROR: Yeah, I just -- just on
10 my past experiences and what I believe, I don't know if
11 I would be able to fairly -- fairly -- I don't know how
12 to say it.

13 THE COURT: You do not. On a case like this,
14 you don't think you would be able to be a fair juror?

15 PROSPECTIVE JUROR: I think I'd be fair --

16 THE COURT: -- and would your past
17 experiences effect your ability to apply the law as I
18 give it to you?

19 PROSPECTIVE JUROR: I don't think so because
20 the law is very straightforward, and if you give it to
21 me, I would just follow what -- what is right and what
22 is wrong on what is the law and what is not.

23 THE COURT: Okay. All right. Thank you.
24 Appreciate it.

25 PROSPECTIVE JUROR: Yeah.

1 THE COURT: Mr. Gray?

2 MR. GRAY: I have no questions.

3 THE COURT: All right.

4 MR. TAHIR: Just briefly, Your Honor. Thank
5 you.

6 Mr. Plasch, in your answer to Question 53,
7 the question asked, "Do you have any special issues
8 that would make it difficult for you to sit as a juror
9 for the next two weeks?" You answered, "yes," and went
10 on to explain that you could not miss work because of
11 your bills, and my girlfriend relies on me for rides to
12 work. I just want to ask you if you are selected as a
13 juror, would you be able to pay attention to the
14 evidence and find other means to deal with your
15 girlfriend getting to work, and any bills that you have
16 to pay?

17 PROSPECTIVE JUROR: Um, I mean, it wouldn't
18 be ideal. I wouldn't -- I guess there is always a way,
19 but it definitely would be struggling to find ways to
20 meet my bills and to have her on time to work and stuff
21 like that.

22 MR. TAHIR: Okay. Will that distract you
23 from paying attention to what happens in court?

24 PROSPECTIVE JUROR: Yeah, because it's
25 stressful knowing that you have bills to pay and you

1 don't know how you're going to come up with the money
2 if you're not working.

3 MR. TAHIR: Okay. Well, the question asks
4 "for the next two weeks." How about just the one week?
5 If you had to do it just for a week?

6 PROSPECTIVE JUROR: A week would be better.

7 MR. TAHIR: Okay.

8 PROSPECTIVE JUROR: There still might be a
9 little stress there but not so much as two weeks.

10 MR. TAHIR: I guess the point that I'm
11 getting to is: We want jurors that will be able to,
12 you know, focus on what happens in court and not be
13 distracted. Do you think you'd be able to do that?

14 PROSPECTIVE JUROR: I don't think so.

15 MR. TAHIR: Okay.

16 PROSPECTIVE JUROR: To be honest.

17 MR. TAHIR: Thank you. I have no further
18 questions.

19 THE COURT: All right. Mr. Plasch, I'm going
20 to have you join the other jurors in the jury
21 deliberation room.

22 (The prospective juror exited the courtroom.)

23 THE COURT: Mr. Gray, any motion?

24 MR. GRAY: I'll challenge for cause.

25 MR. TAHIR: No objection.

1 THE COURT: All right. Mr. Plasch is excused
2 for cause.

3 Next juror looks like Juror Number 22,
4 Mr. Brett Cuperus.

5 (The prospective juror entered the courtroom.)

6 THE COURT: And good morning, sir.

7 PROSPECTIVE JUROR: Good morning.

8 THE COURT: If you would just please come
9 forward and watch your step. Have a seat, and I'll
10 remind you that you are under the oath that you took
11 yesterday, and if you can tell me how to properly
12 pronounce your last name?

13 PROSPECTIVE JUROR: Cuperus.

14 THE COURT: Cuperus. All right, Mr. Cuperus.
15 Welcome and how fortunate for you having been solid 19
16 months in Ramsey County you get picked for jury duty,
17 huh?

18 PROSPECTIVE JUROR: That's how it goes.

19 THE COURT: And down from Mary County, are
20 we?

21 PROSPECTIVE JUROR: Ah, yeah. Spent a little
22 bit -- well, I'm originally from Wright County, and
23 then went to school in South Dakota and then moved to
24 Todd County, and now here.

25 THE COURT: Okay. Well, we asked to speak to

1 you individually because -- mainly because of your
2 response to Question 33. I don't know if that was
3 something -- we assumed that this is something that if
4 you were to discuss, it would be outside of the
5 presence of the other jurors -- and whether or not have
6 you or any family members been suspected or arrested or
7 charged with a criminal offense, and you responded that
8 your uncle was charged with something related to a
9 sexual contact with a minor eight to ten years ago.
10 Can you share a little information as to as far as, you
11 know, what happened, where it happened, when it
12 happened?

13 PROSPECTIVE JUROR: Ah, yeah. So it's my
14 uncle. It was in Hawaii or lived in Hawaii at the
15 time, so I don't have a lot of contact with him. But,
16 yeah, he's a math teacher and as far as I understand
17 was sending explicit messages to one of his students.
18 So then he, yeah, was arrested and went to prison
19 for -- I don't know, five years maybe or something.
20 And now he's back living in -- living near where my
21 parents live, so.

22 THE COURT: And where is that.

23 PROSPECTIVE JUROR: So he lives in Marshall,
24 Minnesota, which is like 45 minutes from Fulda, where
25 my parents live and where I grew up.

1 THE COURT: All right. So anything about
2 that experience that knowledge that you have, you know,
3 the -- I'm sure it threw the family into a bit of a
4 twist. Anything about that that might make it
5 difficult for you to serve as a juror in this case?

6 PROSPECTIVE JUROR: I don't think so. I
7 wasn't really very involved with the process at all. I
8 just kind of found out what happened, and then that he
9 was going to jail for a while I guess.

10 THE COURT: Okay. Do you know if he pled
11 guilty, or if he had a trial?

12 PROSPECTIVE JUROR: I'm not sure.

13 THE COURT: All right. This -- your mother's
14 brother, your father's brother?

15 PROSPECTIVE JUROR: My mom's brother.

16 THE COURT: And was there ever a sense that
17 he was not guilty and was kind of railroaded or --

18 PROSPECTIVE JUROR: I don't know, I guess.

19 THE COURT: Okay. But nothing about that
20 would make it difficult for you to serve in this case?

21 PROSPECTIVE JUROR: Correct.

22 THE COURT: All right. One other response
23 that you had was about the treatment of people of color
24 and the justice system, that sometimes you believe
25 people of color are treated unfairly and often causes

1 all people to come back with a crime and live a full --
2 fulfilling life -- to come back from a life of crime
3 and live a fulfilling life. All right. You do think
4 trials as are as fair as they can be. Can you just
5 elaborate on what you were meaning there?

6 PROSPECTIVE JUROR: Yeah. I think more so in
7 the process of -- I don't know. People that come from
8 poverty maybe are more likely to commit crimes because
9 they have to. They may be more likely to be arrested,
10 pulled over, that sort of thing I think. And about,
11 like, coming back from crimes, you know, like felons
12 can't vote, they can have a hard time getting jobs, and
13 stuff like that, applying for a place to live, stuff
14 like that. So that's more what I meant about that
15 aspect of things.

16 But I think -- I don't know. The system that
17 we have where we have all of these people from all
18 over, a diverse crew that comes in and makes a decision
19 on what happens to people, I think that's fair. And
20 the fact that people can be represented and stuff like
21 that, that's -- I think that's good.

22 THE COURT: All right. And by the way, come
23 July 1st, felons who are on probation will be able to
24 in vote Minnesota.

25 PROSPECTIVE JUROR: Cool.

1 THE COURT: As long as they're not in jail.

2 PROSPECTIVE JUROR: Okay.

3 THE COURT: All right. I don't have any
4 additional questions.

5 Mr. Gray?

6 MR. GRAY: I just have Question 52, "What did
7 you think what you heard the charges?" And I
8 wondered -- your answer was, "I wondered what the
9 Defendant was doing at the time of the death that was
10 illegal." Can you explain that a little bit?

11 PROSPECTIVE JUROR: Yeah. So the way I
12 understand the charge is that it's a murder charge, but
13 it's because Mr. Kjellberg was doing something that's
14 worth a felony; is that correct?

15 THE COURT: That's correct. So essentially
16 it's referred to as felony murder: Although you did
17 not intend to kill someone, that while in the
18 commission of a felony -- in this case he's accused of
19 Assault in the Second Degree -- that the person upon
20 whom he committed the assault died.

21 PROSPECTIVE JUROR: Okay.

22 MR. GRAY: So that's why it's felony murder,
23 unintentional.

24 PROSPECTIVE JUROR: Got you. Okay. That's
25 just --

1 MR. GRAY: -- and you'll get an instruction
2 about that at the end of case. You'll also get an
3 instruction about self-defense. Would you be able to
4 follow Judge Castro's instructions on both of those
5 issues?

6 PROSPECTIVE JUROR: Yes.

7 MR. GRAY: And when you heard about the
8 charges you were also told that my client is presumed
9 innocent?

10 PROSPECTIVE JUROR: Mm-hmm.

11 MR. GRAY: So would you be able to presume
12 him innocent?

13 PROSPECTIVE JUROR: Yes.

14 MR. GRAY: Until and if the State proves its
15 case beyond a reasonable doubt?

16 PROSPECTIVE JUROR: Of course, yep.

17 MR. GRAY: All right. Thank you, sir.
18 That's all I have.

19 THE COURT: Mr. Tahir?

20 MR. TAHIR: I have no questions, Your Honor.
21 Thank you, Mr. Cuperus.

22 THE COURT: All right. Sir, you can join the
23 other jurors. Thank you.

24 (The prospective juror exited the courtroom.)

25 THE COURT: Any challenge for cause,

1 Mr. Gray?

2 MR. GRAY: No, Your Honor.

3 THE COURT: Mr. Tahir?

4 MR. TAHIR: No, Your Honor.

5 THE COURT: All right. Our next juror is
6 Mr. Roland Mariette.

7 (The prospective juror entered the courtroom.)

8 THE COURT: Hey, good morning, sir.

9 PROSPECTIVE JUROR: Good morning.

10 THE COURT: Is it Mariette?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Is that pronounced correctly?

13 PROSPECTIVE JUROR: Close enough.

14 THE COURT: Please have a seat and watch your
15 step there, and I'll remind you that you're still under
16 the oath that you took yesterday. And we do have a
17 stenographer taking the record, so if your responses
18 could be yes, no, or verbal rather than uh-uh or uh-uh,
19 which we all tend to do on occasion.

20 PROSPECTIVE JUROR: Okay.

21 THE COURT: And -- in any event good morning
22 and welcome. And we have asked you here to speak to
23 you individually based on a couple of responses to your
24 questionnaire. I first want to have you tell me a
25 little bit more about this experience that you had when

1 you saw somebody robbing a store?

2 PROSPECTIVE JUROR: Ah, come home from work I
3 was living on Aldrich Avenue North, 2600 block -- and I
4 have a beer and go out and sit on my front steps and
5 try to relax. A couple of guys come down the street
6 with ski masks on, a shotgun and handgun.

7 I was going down to the corner store, went
8 inside, called the police. Went back outside to watch
9 the action and they had robbed the store, run across
10 the street, and hid behind a couple of columnar vines.
11 And 15 squads show up and I walked over to one cop and
12 I said, they're across the street behind the columnar
13 vines. And he says, "Thank you. We'll get right on
14 that." And he radioed in, and they surrounded the boys
15 and took them away.

16 THE COURT: Wow.

17 PROSPECTIVE JUROR: Just another day in the
18 neighborhood.

19 THE COURT: Just another day in the
20 neighborhood. I guess. Well, I don't even know where
21 to start with that. Sounds pretty interesting. Were
22 you ever called as a witness in that case?

23 PROSPECTIVE JUROR: No.

24 THE COURT: All right. Do you think those
25 young men -- I'm assuming they were young men. Were

1 they ever convicted?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: All right. And did they -- the
4 police reported back to you?

5 PROSPECTIVE JUROR: They took a witness
6 statement, and after that I never heard from them
7 again.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR: Or anybody else.

10 THE COURT: And how did you know they were
11 convicted?

12 PROSPECTIVE JUROR: The -- my mother is an
13 avid -- she kept track of everything.

14 THE COURT: Your mother is an advocate?

15 PROSPECTIVE JUROR: She likes -- she's the
16 one that sits in front of the police scanner rather
17 than the TV.

18 THE COURT: Oh, okay. Okay. I hear you. So
19 she -- she heard what was going -- she knew what was
20 going on?

21 PROSPECTIVE JUROR: And she kept up on
22 everything.

23 THE COURT: All right. So let me ask you
24 about your interactions with police. You do state that
25 you would tend to believe the testimony of a police

1 officer more than you would that of any other witness;
2 is that right?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR: Well, you have to take
6 everyone's testimony and see what you decide
7 afterwards.

8 THE COURT: Okay. All right. So that's a
9 little different than what you wrote on here. But you
10 would -- we would all like to think that no police
11 officer is going to take that stand and tell a lie,
12 right?

13 PROSPECTIVE JUROR: Right.

14 THE COURT: Okay. But do you believe that
15 it's possible?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: And do you believe that it's
18 actually happened in the past?

19 PROSPECTIVE JUROR: I watch Court TV quite
20 regularly, and I see everyone from the sheriff down to
21 deputies to state troopers. Everyone has a bad day.

22 THE COURT: That's right. Okay. So would
23 you be willing, as you stated, to base your decision on
24 whether they're telling the truth or not -- not on the
25 fact that they're wearing a uniform, okay, or that

1 they're in law enforcement, but based on your
2 experience of how you tell whether people are telling
3 the truth or they're lying, right?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Okay. So we do that based on
6 thinking about whether or not they have a particular
7 interest in the outcome, right?

8 PROSPECTIVE JUROR: Yeah.

9 THE COURT: Or do they have something to
10 lose, do they have something to gain, or based on their
11 story compared to everything else you heard in the
12 case?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Right. Okay. So you'd be
15 willing to -- again, we all want to wish that frankly
16 everybody told the truth who took the stand?

17 PROSPECTIVE JUROR: Yep.

18 THE COURT: We understand that people have
19 different interests, right?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Okay. And I don't think you
22 answered Question 55. You may have just missed it,
23 because it was at the top. But it's: "Please describe
24 your feelings about the fairness or unfairness of the
25 criminal justice system in this country."

1 PROSPECTIVE JUROR: Ah, I really don't have
2 much to say on that.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR: And that's why I just
5 skipped it and went to the next one.

6 THE COURT: All right. Well, the fairness or
7 unfairness of the criminal justice system largely
8 depends on jurors, right?

9 PROSPECTIVE JUROR: Yep.

10 THE COURT: On them being able to set aside
11 their personal --

12 PROSPECTIVE JUROR: And the law.

13 THE COURT: And the law, of course. And
14 jurors being able to set aside their biases and
15 personal beliefs and follow the law?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Even though they disagree with
18 it?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Okay. You'd be willing to do
21 that, sir?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: All right. Thank you.

24 Mr. Gray?

25 MR. GRAY: Good morning, sir.

1 PROSPECTIVE JUROR: Good morning.

2 MR. GRAY: I can't read your -- I'm sorry. I
3 missed your last name?

4 PROSPECTIVE JUROR: Mariette.

5 MR. GRAY: Pardon me. Mariette. Mine's
6 easier. Mine is Gray. So one of your answers to
7 Question 31, the same one that -- no, it's the one
8 before the -- your observation of the robbery. You
9 said that a family or friend was involved in a fight?

10 PROSPECTIVE JUROR: Ah, that was --

11 MR. GRAY: Well, here. I'm sorry to
12 interrupt you, but it says "fight." That's what it
13 says.

14 PROSPECTIVE JUROR: Ah, that was -- my sister
15 had a bunch of crack-dealing friends that would show up
16 to her place and then she would call me or my dad or
17 one of my brothers to come over and sort everything
18 out.

19 MR. GRAY: Okay.

20 PROSPECTIVE JUROR: And that went on for 20
21 years and then we pretty much left her out of the
22 family.

23 MR. GRAY: All right. So your job was --
24 along with your dad was when you got called to go over
25 to her place?

1 PROSPECTIVE JUROR: And find out what the
2 trouble was because there was always police there,
3 always 50 people in one little apartment.

4 MR. GRAY: Did you have an experience at that
5 time to have to defend yourself at all with these
6 crackheads?

7 PROSPECTIVE JUROR: A few times. They're
8 always saying, "Well, you don't belong here. This is
9 her place. You can just go." And I'd say, "Well, she
10 called me to come over and see what's going on."

11 MR. GRAY: Did it go any further than that at
12 all?

13 PROSPECTIVE JUROR: Myself, no.

14 MR. GRAY: Pardon me?

15 PROSPECTIVE JUROR: Myself, no. My father
16 got in a few altercations. My second brother, he was
17 in a few altercations, and my oldest brother would go
18 there and if the police were there, he'd say, they'll
19 handle it, and he'd leave.

20 MR. GRAY: Okay. So the police would be
21 called?

22 PROSPECTIVE JUROR: All the time.

23 MR. GRAY: All the time. Were you ever there
24 when the police were called and didn't show up right
25 away?

1 PROSPECTIVE JUROR: Oh, yeah.

2 MR. GRAY: You yourself, were you involved in
3 any physical fights?

4 PROSPECTIVE JUROR: No.

5 MR. GRAY: But your father was, and one of
6 your brothers?

7 PROSPECTIVE JUROR: Yep.

8 MR. GRAY: Any serious injuries on those?

9 PROSPECTIVE JUROR: A few bloody knuckles,
10 nothing more than that.

11 MR. GRAY: This is a case involving an
12 assault. Would you be able to be a fair and impartial
13 juror on this case and not flash back to these fights
14 that were at your sister's place?

15 PROSPECTIVE JUROR: I would try my best to.

16 MR. GRAY: Okay. That's all we ask. Thank
17 you, sir. That's all I have.

18 THE COURT: Mr. Tahir?

19 MR. TAHIR: Thank you, Your Honor.

20 Just -- I want to clarify, the bloody
21 knuckles. Who had the bloody knuckles?

22 PROSPECTIVE JUROR: My dad, my brother, and
23 some of the people they fought with.

24 MR. TAHIR: And that's as a result of the
25 fighting?

1 PROSPECTIVE JUROR: Yep.

2 MR. TAHIR: I just wanted to follow up on --
3 did you say you watch Court TV regularly, sir?

4 PROSPECTIVE JUROR: I try to do it once a
5 week at least to see if anything interesting is coming
6 up.

7 MR. TAHIR: Okay. Are there any specific
8 shows that you watch on Court TV?

9 PROSPECTIVE JUROR: No. It's just when I get
10 home from work that's more relaxing to me than watching
11 half of the other shows that are up there.

12 MR. TAHIR: Okay.

13 PROSPECTIVE JUROR: Let's Make a Deal. I'll
14 pass on that.

15 MR. TAHIR: Does Court TV have, you know, any
16 actual real-life footage from trials that are going on?

17 PROSPECTIVE JUROR: Yes.

18 MR. TAHIR: I'm just trying to understand
19 what it is that you watch.

20 PROSPECTIVE JUROR: Yes.

21 MR. TAHIR: Was that a "yes"?

22 PROSPECTIVE JUROR: Yes.

23 MR. TAHIR: So you watch it once a week.

24 Have you developed any sorts of opinions as to what you
25 see on Court TV?

1 PROSPECTIVE JUROR: Well, you have to listen
2 to everything they say, and my time that I get to watch
3 it is usually later in the afternoon. So I get maybe
4 an hour of the court time rather than the whole day of
5 it. So I have to make a decision on just a little bit
6 I see and what they talk about when they get all of the
7 lawyer's advice after the show.

8 MR. TAHIR: Okay. And the portions that you
9 watch, have you developed any sorts of opinions on,
10 Hey, this is how the system is functioning. How it's
11 operating.

12 PROSPECTIVE JUROR: Ah, everyone is
13 different. Johnny Depp, I watched that for three weeks
14 and I had my opinion that it was all going to get
15 thrown out and then they give her, I think she won \$5
16 million on her suits and gave Johnny Depp, like 15
17 million on his suit, and I thought they were just going
18 to throw the whole thing out.

19 MR. TAHIR: Overall would you say that, based
20 on what you observed on Court TV, the system is
21 general, is fair or unfair?

22 PROSPECTIVE JUROR: It all depends on the
23 facts. It -- it seems to be fair most of the time.
24 There's always a few things that I question, myself.

25 MR. TAHIR: Okay. All right. Thank you,

1 sir. I have nothing further for you.

2 PROSPECTIVE JUROR: Okay.

3 THE COURT: Thank you, sir. You can join the
4 other jurors.

5 (The prospective juror exited the courtroom.)

6 THE COURT: Any motions?

7 MR. GRAY: I don't have any challenge.

8 MR. TAHIR: None, Your Honor.

9 (The prospective juror entered the courtroom.)

10 THE LAW CLERK: And it will be that black
11 chair right next to Judge.

12 THE COURT: Good morning, Ms. Faulconbridge.

13 PROSPECTIVE JUROR: Good morning.

14 THE COURT: Please have a seat and watch your
15 step.

16 PROSPECTIVE JUROR: Thanks.

17 THE COURT: How are you doing this morning?

18 PROSPECTIVE JUROR: Good, thank you.

19 THE COURT: Good. So just a reminder that
20 you're under the oath that you took yesterday and that
21 the matter is being recorded with a stenographer. So
22 if your answers need to be yes, no, verbal answers, as
23 opposed to uh-huh, and uh-uh.

24 PROSPECTIVE JUROR: Okay --

25 THE COURT: And only one person can speak at

1 a time.

2 PROSPECTIVE JUROR: Okay.

3 THE COURT: I forget my own instructions,
4 okay. All right. And we asked you -- we asked to
5 speak to you individually only because of your
6 significant -- what appears to be a significant
7 relationship with law enforcement.

8 PROSPECTIVE JUROR: Mm-hmm.

9 THE COURT: And that your father -- your
10 husband is, I believe, director of or the president of
11 a foundation?

12 PROSPECTIVE JUROR: He chairs the Roseville
13 Police Foundation.

14 THE COURT: Okay. Which is what?

15 PROSPECTIVE JUROR: As far as I know, they
16 handle fundraising and other things for the Roseville
17 Police Department for, like -- they have like a golf
18 tournament and support for the dogs there and the
19 canines, body armor, and whatever else he needs to do.
20 And they do PR and things like that for the police
21 officers there, to support the police officers in
22 Roseville.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR: He has a business in
25 Roseville, so.

1 THE COURT: Okay. All right. And boy, am I
2 recalling that -- didn't Roseville recently go through
3 a pretty tragic incident with law enforcement?

4 PROSPECTIVE JUROR: I believe so. I don't
5 recall the details, but --

6 THE COURT: And I don't know -- and yeah. I
7 don't know if that was Roseville police or a deputy
8 sheriff or like --

9 MR. GRAY: Judge, I can't hear you.

10 THE COURT: Oh, I'm sorry. Boy, nobody has
11 ever said that to me before. And I was just saying --
12 I was just asking Ms. Faulconbridge that -- recently
13 the Roseville police had gone through a tragic
14 incident. I couldn't remember if it was the Roseville
15 police or the deputy sheriffs. But in any event, your
16 response to Question 38: "Would you tend to believe
17 the testimony of a peace officer either more or less
18 than other witnesses?" I understand your response
19 given your relationship with law enforcement and all of
20 the people that you noted that are friends of yours and
21 your husband's that you might give it more weight
22 depending on the situation. What do you mean by that?

23 PROSPECTIVE JUROR: I guess my -- my
24 relationship with police officers and law enforcement
25 has always been very positive, but I'm not foolish

1 enough to think that there's not positive interactions
2 but the -- the individuals that I know tend to be very
3 honorable and decent. And so I guess because of their
4 experience that they have in the field, and other
5 things, I would probably give them the benefit of the
6 doubt in the beginning unless the facts would show
7 otherwise.

8 THE COURT: All right. So, I mean, what you
9 said is really important. You're giving them that
10 benefit because of their experience?

11 PROSPECTIVE JUROR: Mm-hmm.

12 THE COURT: You're basing -- so you would --
13 so I'll ask you this: When someone initially sits on
14 that chair, you're not going to know who they are?

15 PROSPECTIVE JUROR: Right.

16 THE COURT: Police officer or not?

17 PROSPECTIVE JUROR: Correct.

18 THE COURT: Okay. Are you willing to wait
19 until they're done with their testimony to make your
20 decision as to the weight that you're willing to give
21 their credibility?

22 PROSPECTIVE JUROR: Of course.

23 THE COURT: Okay. And you're not going to
24 give them --

25 PROSPECTIVE JUROR: They don't get a free

1 pass.

2 THE COURT: They don't get a free pass,
3 exactly. That's what I'm asking. All right.
4 Excellent. That's the only question that I have.

5 Mr. Gray, do you have anything?

6 MR. GRAY: No, Your Honor.

7 THE COURT: Mr. Tahir?

8 MR. TAHIR: No, Your Honor.

9 THE COURT: All right. I am going to ask you
10 to please join the other jurors. We'll have other
11 instructions for your shortly.

12 PROSPECTIVE JUROR: Thank you.

13 (The prospective juror exited the courtroom.)

14 THE COURT: So I think we have -- is it two
15 jurors left for individual?

16 MR. GRAY: Yeah.

17 THE COURT: Is Deruyck here?

18 THE LAW CLERK: No.

19 THE COURT: All right. We have a juror that
20 has not shown yet and that's Juror Number 31. Boy, I
21 wish I would have known these were so fast. I would
22 have brought the rest of them to be here this morning.
23 All right. So then I think we'll move on to Ms. Alicia
24 Hochstatter, which is our last juror to individually
25 voir dire.

1 MR. GRAY: So, Judge, this Adrienne Dureuyck,
2 she didn't show up?

3 THE COURT: Yeah, she hasn't shown up yet and
4 so we're going to probably make a few phone calls to
5 make a determination as to whether or not she can be
6 here at 1:00.

7 MR. GRAY: Okay.

8 THE COURT: She is fairly down on the list,
9 so I don't know that it is that crucial. But I want to
10 make sure, first of all that she's okay, and that if we
11 need her that she's here at 1:00, so we'll do that
12 during the break.

13 All right. And you can let Ms. Faulconbridge
14 know that she can return back at 1:00.

15 THE LAW CLERK: Okay.

16 (The prospective juror entered the courtroom.)

17 THE LAW CLERK: You will be coming to that
18 black chair next to the judge.

19 PROSPECTIVE JUROR: Thank you.

20 THE COURT: Good morning.

21 PROSPECTIVE JUROR: Good morning.

22 THE COURT: Please come forward. And you're
23 Ms. Hochstatter. Am I saying that correctly?

24 PROSPECTIVE JUROR: Yeah, yep.

25 THE COURT: All right. Please have a seat.

1 And I'll remind you that you are under the oath that
2 you took yesterday. Okay?

3 PROSPECTIVE JUROR: Right. Mm-hmm.

4 THE COURT: And that we have a court reporter
5 taking the record so only one person can speak at a
6 time. And if you are your answers can be yes or no
7 rather than uh-huh or uh-uh, okay?

8 PROSPECTIVE JUROR: Okay.

9 THE COURT: All right. Excellent. I thought
10 you were going to go "uh-huh."

11 So Ms. Hochstatter, busy time of the year to
12 be an accountant, isn't it?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: All right. So I'm sorry we're
15 taking you away from your work. But I do have some
16 questions in response to your -- well, your responses
17 to Question 30 -- Question 31 in particular. If you
18 were a victim of a crime or that you know someone who
19 was a victim of crime, and I wanted to do that outside
20 of the presence of the other jurors.

21 So you do state that you or someone you know
22 or a friend was a victim of domestic violence. Would
23 you be so kind as to share that with us?

24 PROSPECTIVE JUROR: Yes. It was me. Through
25 a relationship with my children's father. He -- he did

1 drugs, and it was right after high school. I had my
2 first child with him, and there were times -- I did not
3 do drugs. And they were times he wanted his drugs and
4 he would get violent with me. He would dump water on
5 me. He would make me get out of bed to go get them for
6 him.

7 I separated and then I got my own home with
8 my two children by him, and he returned to my home
9 because he was homeless. And there was a time I had
10 him in my home and he started using again and he got
11 violent around my children and I. A babysitter at the
12 time was in the home and had called the police and at
13 that time they escorted him out of the house, and then
14 I got a restraining order on him. So that was one
15 incident.

16 THE COURT: Did he ever violate that order
17 for protection?

18 PROSPECTIVE JUROR: Ah not violently, no, no.
19 He did come around to see the children.

20 THE COURT: Okay, but with your permission?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Okay. And I note that you were
23 also a victim or a friend was a victim of motor theft?

24 PROSPECTIVE JUROR: Was me as well.

25 THE COURT: Okay. Tell us about that.

1 PROSPECTIVE JUROR: That was about 11 years
2 ago, I had started my vehicle about 6:00 a.m. and I ran
3 back inside to get my children ready for daycare. And
4 I had a feeling -- as I looked down the road there was
5 a vehicle parked at the corner with just their parking
6 lights on, and it was a vacant home. And so I thought
7 that was unusual. And so as I went back inside to get
8 my children ready. I opened up my curtains and I kind
9 of looked out, and I no longer saw my headlights on and
10 just that fast my car was gone.

11 And so I did notify the police and they did
12 find my vehicle less than a mile away with three other
13 vehicles and four people rummaging through these
14 vehicles, stealing stuff. And it happened to be some
15 lady who saw this that reported it, and I was able to
16 get my vehicle back and that person that they found had
17 ran.

18 They all ran but the person that they found
19 had my keys on him, and so that was the person that
20 they convicted and served time in prison for that theft
21 and the others.

22 THE COURT: Okay. How long ago was that?

23 PROSPECTIVE JUROR: Ten years -- ten, eleven
24 years ago.

25 THE COURT: Okay. How long it did it take

1 for you to get your car back?

2 PROSPECTIVE JUROR: About an hour and a half.

3 THE COURT: Oh, that's all?

4 PROSPECTIVE JUROR: There was no damage and
5 the windows still had frost.

6 THE COURT: I'd like to say you were
7 fortunate. I'm sure you don't feel fortunate --

8 PROSPECTIVE JUROR: Since then I always have
9 a car starter.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: All right. Well, thank you for
13 sharing that with us. And also, you note that you --
14 someone you know or you had a first time DWI?

15 PROSPECTIVE JUROR: That was also me.

16 THE COURT: And how long ago was that?

17 PROSPECTIVE JUROR: 2017.

18 THE COURT: All right. And was that here in
19 Ramsey County?

20 PROSPECTIVE JUROR: Yes, it was.

21 THE COURT: Okay. Did you plead guilty? Was
22 it dismissed? How did that go?

23 PROSPECTIVE JUROR: I did plead guilty. I
24 was not much over the limit at that time, and I also
25 had seen the police officer sitting there after an

1 event. I felt like I was fine to drive obviously, but
2 he followed me and I was only -- about a mile from my
3 house and by the time he stopped me I was about a half
4 mile from my house. So I did everything but my blow
5 was over. I blew a .10 and obviously my license was
6 taken away, and that was very difficult to have a
7 limited license with three children.

8 So I went and got a lawyer and had my first
9 appearance. I decided to go ahead and plead guilty
10 just so that I could have my license back.

11 THE COURT: Okay. All right. And so all of
12 those experiences that you've had with the criminal
13 justice victim -- I mean criminal justice system,
14 either as a victim or as a defendant, do you -- what's
15 your feeling about the criminal justice system?

16 PROSPECTIVE JUROR: Oh, I believe it's fair.
17 I know with everything has happened -- I don't know. I
18 guess I'm a -- for the most part a rule follower. It
19 makes sense to abide by the law for the best of
20 anybody's ability so I didn't have any -- any issues.

21 THE COURT: Okay. All right. Another
22 question, you know, you are one -- you might be the
23 only person we have in this whole jury panel who's been
24 a juror before.

25 PROSPECTIVE JUROR: Yes. Do you recognize

1 me?

2 THE COURT: I do now that you say that. And
3 what case was that?

4 PROSPECTIVE JUROR: It was a stalking case.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR: Seven years ago.

7 THE COURT: All right. Yeah. And you
8 deliberated in that case and you brought a verdict.
9 You don't need to tell us what the verdict was, but
10 what do you feel about the process, and what do you
11 think about the process? If you thought it was fair?

12 PROSPECTIVE JUROR: That was -- that was very
13 interesting and a great experience honestly. You kind
14 of went into -- as each side goes into discovery of
15 evidence how many times you can change your mind, and
16 we felt that -- is it okay to say how we felt, and then
17 how the verdict was?

18 THE COURT: Sure.

19 PROSPECTIVE JUROR: Okay. Most of us did
20 feel the person was guilty, but as you have to think
21 within reasonable doubt, all of the information brought
22 forward, we found him not guilty.

23 THE COURT: Okay. So you were able -- I
24 guess what that is telling me is that you were able to
25 listen to your fellow jurors, you listened, and you --

1 I mean you took the job seriously.

2 PROSPECTIVE JUROR: Yes, we did.

3 THE COURT: And you didn't go with your gut
4 reaction.

5 PROSPECTIVE JUROR: Correct.

6 THE COURT: And you'd be willing to do that
7 in this case as well?

8 PROSPECTIVE JUROR: Correct. Correct, yes.

9 THE COURT: And not make up your mind until
10 you've had an opportunity to hear all of the evidence
11 and listen to your fellow jurors?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Well, thank you very much.

14 Mr. Gray?

15 MR. GRAY: I have no questions.

16 MR. TAHIR: I have no questions, Your Honor.

17 Thank you, Ms. Hochstatter.

18 THE COURT: All right. So Ms. Hochstatter,
19 we're going to excuse you until 1:00, Okay?

20 PROSPECTIVE JUROR: All right.

21 THE COURT: And I don't know if you have any
22 personal belongings where you came from, but you can
23 stay there if you like, but we're going to ask you to
24 return back to 1440 upstairs, okay, at 1:00. At that
25 time we're going to gather all of the jurors and kind

1 of do our final jury selection questioning, all right?

2 PROSPECTIVE JUROR: Great. Thank you.

3 THE COURT: Thank you very much.

4 (The prospective juror exited the courtroom.)

5 THE COURT: I guess I assumed there was no
6 motion for cause there; is that right?

7 MR. GRAY: Yes.

8 MR. TAHIR: No motions.

9 THE COURT: All right. So I guess we'll try
10 to track down the absent juror and try to get her here
11 at 1:00. If we get her here at 1:00, we'll do her
12 individual right away. Other than that, I guess we're
13 going to sit -- how many are we going to seat? 22?

14 We're going to call the first 22, if you
15 will, and then kind of wrap up with the panel and go
16 from there. Once we're done with those then we can do
17 our peremptory. Of course, there may be challenges for
18 cause from some of those other folks, but the
19 individuals that I have then will be Juror Number 1,
20 Juror Number 3, Juror Number 4, Juror Number 5, Juror
21 Number 6, Juror Number 7, Juror Number 8, Juror Number
22 10, Juror Number 14, 15, 16, 17, 20, 21, 22, 25, and
23 26. I believe that gets us to 22 jurors, so it's our
24 12, our two alternates, and our eight peremptories.

25 MR. GRAY: The alternates are the last?

1 THE COURT: That would be the case. The last
2 two seated will be the alternates. Although I don't
3 inform them of that until the end of the trial.

4 Anything else before we break?

5 MR. GRAY: No, Your Honor.

6 THE COURT: Can we start at 1:00?

7 MR. TAHIR: Yes.

8 MR. GRAY: Sure.

9 THE COURT: Perfect. All right. Excellent,
10 thank you very much. See you at 1:00.

11 MR. GRAY: Once we select the jury this
12 afternoon, is that it or will we do openings?

13 THE COURT: Well, unless you are prepared to
14 do openings, because we might have them ready by, you
15 know, by 3:00 so maybe we could do openings and --

16 MR. GRAY: It's up to you.

17 MS. MONTGOMERY: That's fine with me.

18 MR. TAHIR: We've got some witnesses lined up
19 so we might --

20 THE COURT: Oh, you do.

21 MR. TAHIR: -- get that far. Yes.

22 THE COURT: Okay. All right. Well, let's
23 prepare to do openings this afternoon, because I don't
24 anticipate that the rest of voir dire will take long.

25 MR. GRAY: I wouldn't think so.

1 THE COURT: All right. Neither would I, but
2 you never know. All right, great. We're in recess.

3 (A brief break was taken.)

4 THE LAW CLERK: All rise.

5 THE COURT: Thank you. You may be seated.
6 Calling State of Minnesota versus Brian Kjellberg.
7 We're continuing with jury selection this morning. We
8 just had a check-in on the jurors. We have two jurors
9 that have not arrived yet, and one of those jurors
10 would actually be one of the 22 that would be
11 interviewed in the panel.

12 So I'm wondering: If we want to proceed, we
13 can excuse that juror and replace that juror with the
14 next available juror? That juror is Number 3, Mr. Momo
15 Helb. He would be replaced with Ms. Melissa Shugarman.

16 MR. GRAY: That would be fine with us, Judge.

17 MR. TAHIR: May I just consult with
18 Co-counsel, Your Honor?

19 THE COURT: Yes.

20 MR. TAHIR: No objection, Your Honor.

21 THE COURT: All right. And the other juror
22 that has yet to appear is Juror Number 40, Ms. Honor
23 Linn. Any objection with excusing?

24 MR. TAHIR: No objection.

25 MR. GRAY: I don't object.

1 THE COURT: All right. Then your seating
2 sketch should look like this. I just want to make sure
3 that we all have the same jurors on the same page, and
4 I start seating them in the back from the left to
5 right. Juror Number 1, Lindberg. And Juror Number 25,
6 Jacob Womble. And then Juror Number 33, Melissa
7 Shugarman. And then Juror Number 4, Jennifer
8 Kostroski. Juror Number 5, Sheena Sukhu, Juror Number
9 6, Jerry Zhou. Juror Number 7, Zachary Ogren. That
10 should be your back row.

11 Your middle row should be Juror Number 8,
12 Kasma -- I'm sorry, Sandra Kasma. And then Juror
13 Number 26, Pang Xiong. And Juror Number 10, Jerrain
14 Graun. And then Juror Number 27, Chin Vue. And Juror
15 Number 28, Roland Mariette. And Juror Number 29,
16 Therese Faulconbridge. And Juror Number 14, Justin
17 Fulton.

18 And then in the bottom little row we have
19 Juror Number 15, John Rasmussen. Juror Number 16,
20 Robert Buteyn, and then Juror Number 17, Karen
21 Milcarek. And Juror Number 30, Pong Vang. Juror
22 Number 32, Jennifer Thue. Juror Number 20, Barbara
23 Jones. Juror Number 21, Tim Lor, and then Juror Number
24 22, Mr. Cuperus. And the last two jurors, if they were
25 still on, would still be on. Whoever those two are, by

1 number, would be the alternates. All right? Can we go
2 get the jurors?

3 MR. TAHIR: (Nods head.)

4 MR. GRAY: How do we work this, Judge? Do
5 you question them some more, or do we start off?

6 THE COURT: I question them real briefly. I
7 try to go over the highlights once again and then hand
8 it over to you guys.

9 MR. GRAY: I'd like to use -- because I have
10 all of these things, I'd like to use the podium.

11 MR. TAHIR: Your Honor, there was one thing.
12 On our witness sheet we had just a placeholder for
13 "custodian of records." We finally identified who that
14 individual will be from the communication center. That
15 name is Joseph -- first name Joseph, last name
16 Dillenburg, D-I-L-L-E-N-B-U-R-G. They haven't been
17 exposed to that since it wasn't on the questionnaire,
18 but if Your Honor would like to inquire if any of them
19 know that individual?

20 THE COURT: Can you spell that last name for
21 me again?

22 MR. TAHIR: Yes. It's D-I-L-L-E-N-B-U-R-G.

23 THE COURT: Just the way it sounds. All
24 right. I'll inquire as to Mr. Joseph Dillenburg. Do
25 we have room for someone to just try to squeeze in

1 there? We will be emptying most of those seats here in
2 a minute.

3 (The prospective jury entered the courtroom.)

4 THE COURT: So good afternoon, Ladies and
5 Gentlemen. First of all, thank you for your patience.
6 This next phase of jury selection is going to include
7 me questioning 22 prospective jurors that we will seat
8 in this jury area, and then we'll go through what will
9 likely be a relatively quick process of questioning,
10 given that most of us have already reviewed -- well
11 we've all reviewed your questionnaires, and we've
12 spoken to many of you already.

13 So as I call your name I would ask that you
14 please come forward and start filling the jury box
15 starting with the car -- my far left-hand side and then
16 when that row is full, then the second one, and then --
17 I apologize in advance for those of you who have to sit
18 on these 1932 wooden little benches here, but that's
19 what we have. I'm still aiming on getting cushions for
20 those, but I'm not quite there yet, so I apologize for
21 that.

22 All right. And if I mispronounce your name,
23 please feel free to correct me. Juror Number 1, Sarah
24 Lindberg. Juror Number 25, Jacob Womble. Juror Number
25 33, Melissa Shugarman. Juror Number 4, Jennifer

1 Kostroski. Juror Number 5, Sheena Sukhu?

2 PROSPECTIVE JUROR: That's correct.

3 THE COURT: I got that right.

4 PROSPECTIVE JUROR: Yes, you did.

5 THE COURT: All right.

6 Juror Number 6, Jerry Zhou. Is it Zhou or
7 Zhou?

8 PROSPECTIVE JUROR: Zhou is fine.

9 THE COURT: Juror Number 7, Zachary Ogren.
10 All right. Juror number 8, Sandra Kasma.

11 And Ms. Kasma, you're down on the second row
12 on the far left. Juror number 26, Pong Xiong. Juror
13 Number 10, Jerrain Graun. Juror Number 27, Chin Vue.
14 Juror Number 28, Roland Mariette. Did I miss somebody?
15 All right. Juror Number 29, Therese Faulconbridge.
16 Juror Number 14, Justin Fulton.

17 And then on the bottom row here beginning
18 with Juror Number 15, John Rasmussen. And then Juror
19 Number 16, Robert Buteyn.

20 PROSPECTIVE JUROR: Yes, Buteyn.

21 THE COURT: Buteyn.

22 Juror number 17, Karen Milcarek. Juror
23 Number 30, Kong Vang. Juror Number 32, Jennifer Thue.
24 Juror Number 20, Barbara Jones, Juror Number 21, Tommy
25 Lor, and Juror Number 22, Mr. Cuperus. If there are

1 any jurors remaining on my right side of the courtroom,
2 could you please move over to the left-hand side?

3 Ma'am, you're good there. Okay. All right.
4 I know you're there. I don't need you to move.

5 All right. So, we'll be asking questions of
6 the groups sitting in the jury area, but please, for
7 the other jurors who will be here, please keep an open
8 ear. You will be answering the questions at this
9 point, but if for whatever reason a juror is excused,
10 one of you may be filling in behind them.

11 All right. Again, Ladies and Gentlemen, your
12 contribution to this important and serious matter is
13 best assured by your full and free answers to the
14 questions that are going to be asked. I will ask you
15 questions and again, we've covered most of the
16 questioning thus far with the questionnaires. I am a
17 little repetitive on some of the questions due to the
18 importance that we should apply to each of those.

19 Again, in answering your questions, please be
20 candid and truthful. You are answering under the oath
21 that you took yesterday.

22 All right. If anyone would answer these in
23 the positive, please raise your hands. Would anyone
24 have difficulty accepting the following -- the rule of
25 law that the Defendant is presumed innocent? I see no

1 one. That the State has the burden of proof beyond a
2 reasonable doubt? I see no one. That the Defendant
3 does not have to prove his innocence? I see no one.
4 Do any of you know any other jurors? Other than the
5 time that you've spent together upstairs or so. All
6 right. I see no one.

7 Are any of you presently involved with any
8 matters involving the Ramsey County Attorney's Office?
9 I see no one. Do any of you have any relationships,
10 friend or family, that work at the Ramsey County
11 Attorney's Office? All right. I see no one. And
12 although we've asked this question in the
13 questionnaire, have any of you heard anything regarding
14 the allegations or the subject matter of this case?
15 All right. I see no one.

16 Again, is there anything about the nature of
17 the charge or the nature of the case that would cause
18 you doubt as to whether or not you can be fair and
19 impartial to both the State and the Defendant? I see
20 no one.

21 So Ladies and Gentlemen, I know you've had
22 time to give jury service some thought here in the
23 last, you know, 24 hours or so -- so is there -- I want
24 you to search your minds. Is there anything that you
25 think you need to share with us about your ability to

1 serve as a fair and impartial juror in this case? I
2 see no one.

3 All right. I am going to turn it over now to
4 the Defense to ask you some follow-up questions, and
5 when they're done then the State will have an
6 opportunity to question as well. And then when we are
7 completed with the questioning process, we go through
8 the process of selecting the final jurors who will sit
9 and serve on this jury.

10 Mr. Gray.

11 MR. GRAY: Thank you, Your Honor. Good
12 afternoon, Ladies and Gentlemen of the prospective
13 jury. I'm sure you're all excited to be here. This is
14 a painstaking job to be sitting for a jury and sitting
15 two days now, I guess. But in any event, this is a
16 very serious case and it's important that we get jurors
17 that are not biased in any way and that will follow the
18 law as the Judge gives it to you.

19 And the Judge just took away my last question
20 and that was: Is there anything that we should have
21 asked you that you think is important, and nobody
22 raised their hand. So -- and one question that we have
23 for Jennifer Kostroski. Believe it or not in the
24 questionnaire, it doesn't tell us who you're employed
25 by. I know you're a forensic scientist.

1 PROSPECTIVE JUROR: Correct.

2 MR. GRAY: Who are you employed by?

3 PROSPECTIVE JUROR: Currently or in my
4 career?

5 MR. GRAY: Well, give me a history.

6 PROSPECTIVE JUROR: Ah, currently I'm at the
7 Hennepin County Sheriff's Office Forensic Lab.
8 Previously I was at the Minnesota BCA, and for a short
9 time I was with the St. Paul Police Department Forensic
10 Services Unit.

11 MR. GRAY: And that spans over how many
12 years?

13 PROSPECTIVE JUROR: My career or?

14 MR. GRAY: Yeah.

15 PROSPECTIVE JUROR: About 13 years. Mm-hmm.

16 MR. GRAY: Okay. And right now you're with
17 the Hennepin County Sheriff's Office?

18 PROSPECTIVE JUROR: That's correct.

19 MR. GRAY: Same job, forensic scientist?

20 PROSPECTIVE JUROR: That's correct.

21 MR. GRAY: What is your specialty as a
22 forensic scientist?

23 PROSPECTIVE JUROR: I'm a certified latent
24 prints examiner.

25 MR. GRAY: Okay. That means you check

1 fingerprints?

2 PROSPECTIVE JUROR: I do comparisons of
3 latent prints to known prints, process evidence to
4 recover latent prints.

5 MR. GRAY: And I take it you've had a lot of
6 experiencing testifying in court over the years; is
7 that right?

8 PROSPECTIVE JUROR: A considerable amount.

9 MR. GRAY: Been cross-examined by Defense
10 lawyers, I take it?

11 PROSPECTIVE JUROR: I have.

12 MR. GRAY: And you won't hold it against
13 these defense lawyers, will you?

14 PROSPECTIVE JUROR: No.

15 MR. GRAY: Okay.

16 PROSPECTIVE JUROR: I'll try not to -- do my
17 best.

18 MR. GRAY: The Judge asked this, too, and I'm
19 just going to repeat myself or him. This is a death
20 case. Somebody died, which is always tragic, but is
21 anybody here of a mind that well, because it's a tragic
22 situation, a death case, that somebody should pay for
23 it without hearing the evidence. That you feel biased
24 against our client because the charge is murder?
25 Nobody? Okay.

1 The last question I'm going to ask is
2 rather -- has anybody -- and I don't know how many of
3 you are here, but has anybody through their life
4 experiences -- except Mr. Mariette, we've already
5 questioned him a little. Anybody in their life
6 experiences that has been in a fight where they've had
7 to defend themselves? Okay. We'll start at the back
8 row. That's Zachary Ogren?

9 PROSPECTIVE JUROR: Yep.

10 MS. MONTGOMERY: All right. And one, two,
11 five, ten, how many do you think you've been in?

12 PROSPECTIVE JUROR: About five.

13 MR. GRAY: All right.

14 PROSPECTIVE JUROR: All when I was younger.

15 MR. GRAY: Sure.

16 PROSPECTIVE JUROR: High school.

17 MR. GRAY: And did you ever have to defend
18 yourself in those battles?

19 PROSPECTIVE JUROR: Yes.

20 MR. GRAY: Would any -- anything about your
21 experiences back then cause you not to be a fair and
22 impartial juror in this case?

23 PROSPECTIVE JUROR: No.

24 MR. GRAY: Who else raised their hand in the
25 back, young lady, yes. Sheena Sukhu?

1 PROSPECTIVE JUROR: Sukhu.

2 MR. GRAY: Sukhu. Sheena, who did you get in
3 a fight with?

4 PROSPECTIVE JUROR: Well, when I was a
5 teenager there were three girls that didn't like me in
6 high school and tried to jump me.

7 MR. GRAY: Did you defend yourself?

8 PROSPECTIVE JUROR: Yes.

9 MR. GRAY: With all three?

10 PROSPECTIVE JUROR: Yes.

11 MR. GRAY: Really? Okay. Remember that,
12 people. Okay. And anybody else in the back row?
13 Thank you, ma'am.

14 Anyone in the front row -- or second row,
15 excuse me. Anybody in the second row?

16 Sir, you're Justin Fulton?

17 PROSPECTIVE JUROR: (Nods head.)

18 MR. GRAY: Justin, tell us about your fights?

19 PROSPECTIVE JUROR: It was rather frequent
20 through junior high and a little in high school. I was
21 taken out of the school because of that, because they
22 were bullying me for sounding like a "white boy,"
23 quote-unquote.

24 MR. GRAY: For what?

25 PROSPECTIVE JUROR: Sounding like a different

1 race.

2 MR. GRAY: So you were being picked on
3 because you sounded?

4 PROSPECTIVE JUROR: White.

5 MR. GRAY: Like you're white?

6 THE DEFENDANT: Essentially. I was lighter
7 skinned than than the other people at the --

8 MR. GRAY: What school was that at?

9 PROSPECTIVE JUROR: Higher Ground Academy,
10 Marshall Avenue.

11 MR. GRAY: And I take it you defended
12 yourself? You look like you can.

13 PROSPECTIVE JUROR: Yes.

14 MR. GRAY: All right. As a result of being
15 picked on, they took you out of the school?

16 PROSPECTIVE JUROR: Yes.

17 MR. GRAY: Anything about that that would
18 cause you not to be fair and impartial if you learn in
19 this case that you're a juror?

20 PROSPECTIVE JUROR: No.

21 MR. GRAY: Okay. Thank you, sir. Anybody in
22 that second row except you?

23 The third row? We'll start down here.

24 You. Oh, you didn't raise your hand. Okay.
25 We'll start here.

1 PROSPECTIVE JUROR: Hi.

2 MR. GRAY: And you're John Rasmussen?

3 PROSPECTIVE JUROR: That's correct.

4 MR. GRAY: Mr. Rasmussen, what's your story?

5 PROSPECTIVE JUROR: Okay. I was 20 years
6 old, so it was 45 years ago. I had finished working
7 out in the gym, went up to the club to have some beers
8 with my boys, and I was talking to a gal. Evidently
9 somebody liked her an awful lot, and took exception to
10 me talking to her and jumped me.

11 MR. GRAY: Okay. Did you fight back?

12 PROSPECTIVE JUROR: Oh, yes, I did.

13 MR. GRAY: Okay. In fighting back did you
14 finally win the case, or win the fight?

15 PROSPECTIVE JUROR: Thank you for asking,
16 yes.

17 MR. GRAY: So you didn't back up. You stood
18 your ground and fought him.

19 PROSPECTIVE JUROR: Right. He got tossed and
20 they let me stay.

21 MR. GRAY: Okay. Thank you, sir.

22 Anybody else? All right. You'll be glad to
23 hear that's all my questions. Thank you.

24 THE COURT: Pass for cause?

25 MR. GRAY: Pardon?

1 THE COURT: Pass for cause?

2 MR. GRAY: Yes. Excuse me, Judge.

3 THE COURT: All right. Mr. Tahir?

4 MR. TAHIR: Thank you, Your Honor.

5 Good afternoon. My name is Hassan Tahir. I
6 represent the State of Minnesota in this matter along
7 with my colleague Makenzie Lee. I appreciate your
8 patience here for the past couple of days. The process
9 is moving along and we'll be getting to the actual
10 substance of this trial very soon.

11 I do have some follow-up questions for some
12 of you. We've already talked to a number of you, but
13 not to everyone. So I wanted to take the time to just
14 follow up on some of the responses that I saw in your
15 questionnaire.

16 This case is, as Mr. Gray said, a death case.
17 It also involves -- Mr. Kjellberg, as you can see,
18 happens to be white. As you will learn, the decedent
19 in this matter is of a different race. He is black.
20 Following up on that, some of you stated that you had
21 been treated unfairly as -- on account of your race.

22 Ms. Sukhu, I believe in your questionnaire
23 you talked about experiences that your brother has had?

24 PROSPECTIVE JUROR: Um, no. Actually my
25 first boyfriend.

1 MR. TAHIR: Your boyfriend?

2 PROSPECTIVE JUROR: Yeah.

3 MR. TAHIR: Yes, can you share what happened
4 to your boyfriend?

5 PROSPECTIVE JUROR: Um, well, he was I guess
6 at the wrong place at the wrong time and the police --
7 they were looking for a suspect and thought he was the
8 suspect and shot him and killed him.

9 MR. TAHIR: Okay. Have you had any
10 experiences other than that?

11 PROSPECTIVE JUROR: Um, with -- I've
12 witnessed a few other experiences -- not for myself
13 though, but friends, I have.

14 MR. TAHIR: Is there anything about that that
15 would make it difficult for that you be fair to
16 Mr. Kjellberg or to the State? Any of those
17 experiences that you've witnessed over the years?

18 PROSPECTIVE JUROR: Um, I don't believe so.
19 To be fair -- I don't think so.

20 MR. TAHIR: Okay. Thank you. I just wanted
21 to make sure to follow up on that.

22 Mr. Fulton, I believe you also stated that --
23 I think described your interactions with police in
24 particular have been, I think you used the phrase
25 "upsettingly negative" as a result of maybe the way

1 that you look or certain other aspects of your
2 personality. Can you describe what took place?

3 PROSPECTIVE JUROR: Being followed by police
4 in my car because I happen to be a black man with an
5 afro and a nice car. That's been frequent. As well as
6 just random I.D. "Hey, can I see your I.D.?" Is not
7 something that you can go and say --

8 MR. TAHIR: How often has that happened to
9 you?

10 PROSPECTIVE JUROR: Only a couple of times.

11 MR. TAHIR: Okay. How did that affect you?

12 PROSPECTIVE JUROR: Negatively. I was hurt.

13 MR. TAHIR: And is that something -- how
14 recent was this?

15 PROSPECTIVE JUROR: Years ago.

16 MR. TAHIR: Years ago.

17 PROSPECTIVE JUROR: Mm-hmm.

18 MR. TAHIR: Is that something that you think
19 about a lot?

20 PROSPECTIVE JUROR: No.

21 MR. TAHIR: Would it affect your ability to
22 be fair and impartial to both sides in this case?

23 PROSPECTIVE JUROR: No. I've been tolerant
24 of racism.

25 MR. TAHIR: Okay. Thank you for that.

1 I also wanted to follow up with Mr. Graun.
2 How have your experiences been with law enforcement or
3 society as a whole given the fact you happen to be a
4 minority?

5 PROSPECTIVE JUROR: So law enforcement -- I
6 only had maybe one interaction; that I was getting
7 pulled over with my family and the police officer
8 coming to my window and putting his hands on his gun
9 and just asking me questions even though I was a
10 passenger in the back. But that affecting me
11 personally, it wouldn't have anything do with this, so
12 I hold nothing against anybody.

13 MR. TAHIR: Okay. So you will be able to
14 give Mr. Kjellberg a fair trial?

15 PROSPECTIVE JUROR: Yep, fair trial.

16 MR. TAHIR: Just -- I've got more generalized
17 questions as well.

18 If I could get a show of hands. How many of
19 you have ever had your car towed? A fair number of
20 you. We'll start in the back. Is it Mr. Womble? Can
21 you tell me what happened?

22 PROSPECTIVE JUROR: Um, my car has been towed
23 due to severe rear-ending. It needed to be towed away.
24 I've also had my roommate, his car has been repo-ed a
25 few times.

1 MR. TAHIR: Okay. And when your car was
2 towed, how did that make you feel?

3 PROSPECTIVE JUROR: Well, upset that I had
4 been rear-ended but other than that, I really couldn't
5 say --

6 MR. TAHIR: Sure.

7 PROSPECTIVE JUROR: -- negatively or
8 anything.

9 MR. TAHIR: Have you ever gotten a parking
10 ticket?

11 PROSPECTIVE JUROR: Yes.

12 MR. TAHIR: What was that like?

13 PROSPECTIVE JUROR: Upsetting. I parked in a
14 spot that I -- was not marked as do not park, and I
15 ended up getting a ticket for it and it wasn't
16 necessarily very happy about it.

17 MR. TAHIR: Got it.

18 Ms. Shugarman, did you have your hand up as
19 well?

20 PROSPECTIVE JUROR: No.

21 MR. TAHIR: Okay. So who in the back row?
22 Who else?

23 Ms. Kostroski? Have you had your car towed?

24 PROSPECTIVE JUROR: I have.

25 MR. TAHIR: Can you describe the

1 circumstances?

2 PROSPECTIVE JUROR: Um, it was parked in
3 front of my house probably two twenty years ago with
4 expired tabs. I didn't realize if I was parked and it
5 wasn't being -- I will waiting for my new tabs to
6 arrive, and I had parked down the street and it was
7 towed.

8 MR. TAHIR: What the process like getting
9 your car back from impound?

10 PROSPECTIVE JUROR: Expensive.

11 MR. TAHIR: Did you have to go somewhere to
12 retrieve your vehicle?

13 PROSPECTIVE JUROR: Mm-hmm.

14 MR. TAHIR: And where would that it be?

15 PROSPECTIVE JUROR: The Minneapolis impound
16 lot.

17 MR. TAHIR: Okay. Anything about that
18 experience that would affect your ability to be
19 impartial in this case?

20 PROSPECTIVE JUROR: No.

21 MR. TAHIR: Anybody else in the back row?
22 Mr. Ogren?

23 PROSPECTIVE JUROR: Yeah, I -- I went to
24 Northwestern University, downtown Minneapolis. I had
25 my car towed many a times down there for parking on the

1 wrong side of the street in the winter. No parking
2 zones, so --

3 MR. TAHIR: Sure.

4 PROSPECTIVE JUROR: Just stuff like that. It
5 was very expensive. I was in college, and I had to
6 call home and say I need some money, but other than
7 that.

8 MR. TAHIR: And you don't know the facts of
9 the case yet, but anything about that experience that
10 would affect your ability to remain impartial in this
11 case?

12 PROSPECTIVE JUROR: No.

13 THE DEFENDANT: Okay. Middle row, who had
14 their hands raised? Ms. Xiong?

15 PROSPECTIVE JUROR: Oh, yeah, I had my tow --
16 my rental car towed due to snow removal.

17 MR. TAHIR: All right. Towed to the impound
18 lot?

19 PROSPECTIVE JUROR: No, it was by a private
20 tow.

21 MR. TAHIR: Okay.

22 PROSPECTIVE JUROR: Yeah, because it was in
23 my apartment parking lot, and they have their own
24 private tow.

25 MR. TAHIR: I see. What was that experience

1 like for you?

2 PROSPECTIVE JUROR: Um, just a part of losing
3 the money but it's my fault, because they had posted it
4 and I forgot about it.

5 MR. TAHIR: Okay. Anybody else in the middle
6 row?

7 Ms. Faulconbridge?

8 PROSPECTIVE JUROR: College, being out too
9 late at night in Minneapolis, and it got towed.
10 Totally my fault but very irritating and expensive and
11 not done again.

12 MR. TAHIR: Mr. Fulton?

13 PROSPECTIVE JUROR: One car I got t-boned in,
14 in a parking lot. I had to get that towed, and then
15 another one, seized part, trying to get it off the car.
16 Refused to get it off the car.

17 MR. TAHIR: I'm sorry. Could you say that
18 again.

19 PROSPECTIVE JUROR: There was a part that was
20 seized on the edge that I was trying to repair, and I
21 couldn't get at it. So towed it.

22 MR. TAHIR: Have you ever had your car towed
23 for parking in a spot you're not supposed to?

24 PROSPECTIVE JUROR: My father's. That was
25 when I was 21. I parked on the wrong side of the road

1 in Dinkytown, didn't know.

2 MR. TAHIR: Okay. In the bottom row, who had
3 their hands raised?

4 Mr. Rasmussen?

5 PROSPECTIVE JUROR: Back in college, parked
6 at my girlfriend's place and overnight there was a huge
7 snow event, and I didn't move my car in time and it got
8 towed.

9 MR. TAHIR: All right. Frustrating
10 experience?

11 PROSPECTIVE JUROR: Yeah.

12 MR. TAHIR: Mr. Buteyn, am I saying that
13 correctly?

14 PROSPECTIVE JUROR: You are.

15 MR. TAHIR: What was your experience like?

16 PROSPECTIVE JUROR: I was kind of young and
17 dumb but it was the first vehicle I leased. I wasn't
18 paying attention to the tabs. Apparently the tab
19 notice went to the car dealer. I had paid no
20 attention. I parked somewhere, came back, my vehicle
21 was gone. I assumed it was stolen, so I was relieved
22 when I found out that it had been towed because of
23 expired plates.

24 MR. TAHIR: Got it. Thanks for sharing that.
25 Anybody else in the bottom row? Ms. Thue?

1 PROSPECTIVE JUROR: Thue. Once after an
2 accident, and then once I was with my roommate and her
3 car actually -- it was her car but I was with her at
4 the time and it got towed while we were inside and we
5 came out and the car was gone.

6 MR. TAHIR: Okay.

7 PROSPECTIVE JUROR: We just had to go get it.

8 MR. TAHIR: Ever got a parking ticket?

9 PROSPECTIVE JUROR: Not a parking ticket. I
10 got a jaywalking ticket.

11 MR. TAHIR: Well, thank you for sharing those
12 experiences.

13 And is it Ms. Jones?

14 PROSPECTIVE JUROR: Yes.

15 MR. TAHIR: What was your experience?

16 PROSPECTIVE JUROR: At my apartment we have
17 the plastic tags that go on your mirror that show that
18 you can park there, and somehow overnight my tag had
19 fallen off. So when I came out to go to work, my car
20 was gone. But at the impound lot they said, "If we can
21 find your tag, we'll work with you on the price." So
22 it ended up not being as bad it as it could have been.
23 It was okay.

24 MR. TAHIR: Thanks for sharing that.

25 I don't believe you guys had your hands up.

1 Okay. Thank you.

2 Anybody had a neighbor that they, you know,
3 didn't necessarily get along with all that well that
4 maybe didn't necessarily make you move, but it was just
5 an ongoing issue? Mr. Rasmussen?

6 PROSPECTIVE JUROR: Ah, yeah, gosh it was
7 about 15, 20 years -- about 20 years or so ago. I had
8 been newly divorced and my kids and I moved into a
9 house in Edina and the next door neighbors on both
10 sides were elderly. I built a pool in the backyard
11 because I wanted to draw my kids and their friends in.
12 They didn't like that and so he got in my face a few
13 times and threatened to sue me, but everything was
14 legally built. I told him to "knock yourself out."

15 MR. TAHIR: Okay. Anything about that that
16 you think might affect your ability to remain impartial
17 in this case?

18 PROSPECTIVE JUROR: Oh, no.

19 MR. TAHIR: Mr. Womble?

20 PROSPECTIVE JUROR: Womble.

21 MR. TAHIR: I apologize.

22 PROSPECTIVE JUROR: That's fine. Happens all
23 the time. Our current -- well, now former neighbors.
24 They have since moved. Let their house grow
25 dilapidated to the point where -- since I recently

1 moved up to St. Paul about two years ago, the second
2 day that I was here, there was an electrical fire that
3 started in the upstairs bedroom and burnt half of the
4 house down. It subsequently -- they were living in
5 their garage in the back and let a lot of detritus, a
6 lot of human waste, actually, even pile up near our
7 garage, and we had several complaints from neighbors
8 and from our landowner about just the state of things,
9 and every time that we had spoken with them they
10 wouldn't really do anything, to do any kind of
11 cleaning, any kind of repair work or anything, and --
12 until they were eventually removed by the police.

13 MR. TAHIR: Did it cause any arguments
14 face-to-face or fights or anything like that?

15 PROSPECTIVE JUROR: They caused several
16 arguments with my roommate who would be approached in
17 our the alleyway behind our house several times at
18 night by the older male that was living there, asking
19 for favors, approaching him in the middle of the night
20 when no one can really see very properly in a dark
21 alleyway. Not necessarily -- not necessarily being
22 very conducive to, like, actually being able to tell
23 who you're talking to very easily, so a lot of spooks.

24 MR. TAHIR: Understood. Would you be able to
25 set that experience aside? Do you think it would

1 interfere with your ability to be impartial in this
2 case?

3 PROSPECTIVE JUROR: I don't see why it would.

4 MR. TAHIR: Anybody else want to share an
5 experience with a troubled neighbor? I don't see any
6 hands.

7 Well, I want to thank you all for answering
8 the questionnaire that we handed out to you from the
9 Court and for answering our questions here today.

10 And, Your Honor, I pass the panel for cause.

11 THE COURT: All right. So Ladies and
12 Gentlemen, now we've reached a point where the
13 attorneys get to make their final decisions on who will
14 serve as jurors in this particular case. So, please be
15 patient with us. This takes about five minutes or
16 so -- or is it going to take longer, Mr. Gray?

17 MR. GRAY: I -- perhaps.

18 THE COURT: Should we just -- why don't we go
19 to chambers, or do you prefer to have a recess?

20 MR. GRAY: Yes. I could discuss it easier
21 with my associate counsel.

22 THE COURT: So. Ladies and Gentlemen, this
23 is what we'll do. We'll take a 15-minute recess -- it
24 probably will take us 15 minutes to empty the
25 courtroom, but we'll take a 15-minute recess, just ask

1 you to come back at 2:05 if you will. Well, based on
2 that clock at 2:05, and then we will just have you come
3 right back in and take the same seats that you have
4 right now, okay? All right. Thank you.

5 (The prospective jury exited the courtroom.)

6 THE COURT: All right. And generally the
7 process that I undertake is the Defense takes the first
8 one, Prosecutor takes the second one, the Defense takes
9 the third and fourth one, did I get that right? Second
10 and third one, Prosecutor takes the fourth one, and
11 then you get your last one. Did that add up right?
12 You take two in a row at one point.

13 All right. So do we have the official sheet,
14 and do you have everybody crossed off?

15 THE LAW CLERK: No, I haven't yet.

16 (A brief recess was taken.)

17 THE LAW CLERK: All rise.

18 THE COURT: Thank you. You may be seated.
19 Ladies and Gentlemen, while we're working on that, I
20 did forget to mention there is an additional witness
21 who wasn't known at the time. It's a person who is a
22 custodian of records. The name is Joseph Dillenburg.
23 And I just wanted to make sure if anybody was
24 acquainted with a Joseph Dillenburg, that's
25 D-I-L-L-E-N-B-U-R-G. Is there anybody acquainted with

1 a Joseph Dillenburg? No? Good. Thank you.

2 MR. TAHIR: Your Honor, may I approach?

3 THE COURT: Yes, please. Thank you.

4 Ladies and Gentlemen, I will now call out the
5 names of the jurors who will be serving on this jury.
6 Please listen carefully.

7 Juror number 1, Sarah Lindberg. Juror Number
8 5, Sheena Sukhu, Juror Number 6, Jerry Zhou. Juror
9 Number 8, Sandra Kasma. Juror Number 10, Jerrain
10 Graun. Juror Number 14, Justin Fulton. Juror Number
11 15, John Rasmussen. Juror Number 20, Barbara Jones,
12 Juror number 21, Tommy Lor. Juror Number 25, Jacob
13 Womble, Juror Number 26, Pang Xiong. Juror Number 27,
14 Chin Vue. Juror Number 32, Jennifer Thue, and Juror
15 Number 33, Melissa Shugarman.

16 If I did not call your name -- and this
17 includes you folks as well. Thank you very much for
18 your time and your service to Ramsey County. I can't
19 promise you that your service is complete yet. I'm
20 going to ask you to please report back down to the jury
21 management office to see if they may need you for any
22 other jury trials that might be going on. So again,
23 thank you and you are free to leave. Make sure you
24 take your belongings with you.

25 And if you are seated on the bottom row, I am

1 going to ask you to take one of the empty seats in the
2 box.

3 PROSPECTIVE JUROR: Good. A little bit more
4 comfortable.

5 THE COURT: All right. Ladies and Gentlemen,
6 at this time, I'd like to be able to say that we have
7 two judges in the courtroom. You collectively are the
8 judges of the facts, and I am the judge of the law. So
9 I've already taken my oath to uphold the law, and now I
10 am going to ask you all to please rise and raise your
11 right hand and ask everyone else in the courtroom to
12 please rise.

13 THE LAW CLERK: You do swear that you will
14 attentive during this trial and follow the instructions
15 of the judge so that you may reach a fair and just
16 verdict, that you will not discuss this case with
17 anyone until submitted to you for deliberation, and
18 will keep your verdict secret until it is delivered to
19 the Court, so help you God?

20 JURY: I do (as a whole.)

21 THE COURT: Thank you. You may be seated.
22 So before we begin, I want to share some logistical
23 information and provide with you -- provide you with
24 some rules that you must abide by during the trial.

25 First, logistically, I will attempt to start

1 this trial promptly at 9:00 a.m. and continue until
2 4:30 or 5:00, that will depend on where we are at with
3 witnesses. We will usually recess for lunch at noon
4 and reconvene at 1:00 or 1:30. And we will generally
5 recess at the end of the day, again by 4:30 or 5:00.
6 There will be a 15-minute mid-morning break and a
7 mid-afternoon break. Our start, stop, lunch times are
8 largely dependent, again, on the availability of
9 witnesses, and where it might be appropriate to take a
10 break during the day.

11 I have asked the lawyers to arrive a little
12 earlier. I'll ask you as well to arrive at 8:45. I
13 can meet with them before we start just in case there
14 are any issues that we need to address outside of your
15 presence.

16 It's important throughout the trial that as
17 members of the jury you are able to hear and see
18 everything that takes place during the trial. This may
19 be particularly an issue with you sitting on the far
20 end. But if there is, please let me know if you can't
21 hear or see something.

22 PROSPECTIVE JUROR: Okay.

23 THE COURT: And that of course applies to
24 everyone. If at any time during the trial you cannot
25 see or hear something, please bring that to my

1 attention.

2 Here are some basic rules for you to abide by
3 as jurors: Your job will be to find out what the facts
4 are in this case by considering the evidence that's
5 introduced in this trial. I will apply the rules of
6 evidence and tell you what you should consider as
7 evidence. Evidence is what the witnesses say on the
8 stand, that is obviously called testimony. Evidence
9 can be -- also things like photographs and documents,
10 these are called exhibits. And evidence can be facts
11 that the parties agree upon, that's called stipulation.

12 The following things are not evidence:

13 Nothing the attorneys say during the trial, including
14 opening statements and closing arguments, is evidence.
15 However, listen to their statements as they make them.
16 Those statements may help you better understand the
17 evidence and perhaps connect some of the pieces of the
18 puzzle.

19 The attorneys' questions are not evidence.

20 The witnesses's answers are. Objections are not
21 evidence. The attorneys may object if they think a
22 question or an answer is against the rules. I will
23 sustain the objection if I think it is against the
24 rules and ignore or overrule the objection if it is
25 not. You cannot consider anything you hear or you

1 learn about this case outside of this courtroom. You
2 must follow these instructions on what you are to
3 consider as evidence.

4 You may take notes during trial. We should
5 have some notepads and pens to provide to you along
6 with badges. You do not have to take notes. There is
7 no obligation for you to do so. Do not take notes if
8 those are going to distract you from listening to
9 evidence. The most important thing is that you are
10 able to listen and hear the evidence that's being
11 introduced.

12 Your notes will stay in this courtroom until
13 it is time for deliberation. So during breaks I'll ask
14 you to put the notepad face down on your chair. This
15 courtroom will be locked during the evenings. Nobody
16 will be -- no one will have access to your notes. No
17 one will be reviewing your notes. Of course, when the
18 case is over and you're given instructions to
19 deliberate, then you will be able to take your notes
20 with you into the jury room.

21 Use your notes as an aid to your memory and
22 not as a substitute for it. Fit the notes in with the
23 total recollection of the facts. A written note does
24 not necessarily make a piece of evidence more important
25 or less important, whether it is a note taken by you or

1 one of your fellow jurors.

2 Wait until you've heard all of the evidence
3 before you make up your mind. Your best guide, of
4 course, is your own judgment, your own experience, and
5 your own common sense. You decide what testimony to
6 believe and how much weight to give to that testimony.
7 In deciding this, you may consider: Will a witness
8 gain or lose if the case is decided a certain way?
9 What is the witness's relationship to the parties? How
10 did a witness learn the facts? How did they know,
11 remember, and tell the facts? What was the witness's
12 manner, their age, their experience, their demeanor?
13 Did the witness seem honest and sincere? Were they
14 frank and direct? And whatever other factors you use
15 to determine whether or not someone is to be believed
16 and how much weight ought to be given to that
17 testimony. At the end of the day, Ladies and
18 Gentlemen, again, use your own good judgment, your own
19 experience, and your own common sense.

20 However, must you decide the facts and only
21 you can do that, and do not take anything I say or I do
22 as a sign of what the verdict should it be. Once the
23 facts are decided, you must follow the law and you must
24 follow the law even if you do not agree with it. There
25 are certain principles of law that apply in all

1 criminal cases. Although you may be familiar with some
2 of them, I ask that you keep them in mind during the
3 course of the trial.

4 The fact that the Defendant has been brought
5 before this Court by the ordinary processes of the law
6 and is on trial should not be considered by you in any
7 way as suggesting his guilt. The Defendant,
8 Mr. Kjellberg, is presumed innocent of the charge made.
9 That presumption of innocence remains with him unless
10 and until he has been proven guilty beyond a reasonable
11 doubt by the evidence that is introduced in this case
12 and in this courtroom. The burden of proving his guilt
13 is on the State. The Defendant does not have to call
14 witnesses, introduce evidence, ask questions, or
15 otherwise prove his innocence.

16 The Defendant in this case has been accused
17 of the crime of Murder in the Second Degree without
18 intent to kill but while committing a felony assault.

19 And under Minnesota law, a person causing the
20 death of another without intent to cause the death of
21 any person while committing or attempting to commit a
22 felony offense is guilty of the crime of Murder in the
23 Second Degree.

24 The elements of Murder in the Second Degree,
25 each of which the State must prove beyond a reasonable

1 doubt, are: First, that the death of Arnell Stewart
2 must be proven. Second, that the Defendant caused the
3 death of Arnell Stewart. Third, that the Defendant at
4 the time of causing the death of Arnell Stewart was
5 committing or attempting to commit the felony offense
6 of Assault in the Second Degree.

7 It is not necessary for the State to prove
8 that the Defendant had an intent to kill Mr. Stewart,
9 but it must prove the Defendant committed or attempted
10 to commit the underlying felony. And again, that
11 felony is Assault in the Second Degree. And the term
12 of "assault" as used in this case is the intentional
13 infliction of bodily harm upon another. And "bodily
14 harm" means physical pain or injury, illness, or any
15 impairment of that person's physical condition.

16 "Intentionally" means that the actor either
17 has a purpose to do the thing or cause the result
18 specified or believes that the act performed by the
19 actor, if successful, will cause the result. In
20 addition, the actor must know of those facts that are
21 necessary to make the actor's conduct criminal and that
22 are set forth after the word "intentionally".

23 Second, the Defendant in assaulting Arnell
24 Smith used a dangerous weapon. That's another element
25 that must be proven. A dangerous weapon is any device

1 designed as a weapon and capable of producing death or
2 bodily harm or great bodily harm or any other device or
3 instrumentality that when in any manner is used or
4 intended to be used as calculated is likely to produce
5 the death of great bodily harm of another.

6 And finally, Ladies and Gentlemen, the State
7 must prove that the Defendant's act took place on
8 December 2, 2021, in Ramsey County, State of Minnesota.

9 Now, I'm going to repeat all of those
10 instructions to you at the very end, and I'm also going
11 to provide you with a copy of all of the instructions
12 at the very end, so you can take those with you to the
13 deliberation room.

14 I'm now going to instruct you on the rules on
15 how you should act as a member of the jury. And before
16 I do that, I want to tell you that you must follow
17 these rules in particular. The Minnesota Judicial
18 System has developed a number of rules, including rules
19 of procedure and rules of evidence on how to conduct a
20 trial. The purpose of all of these rules is to ensure
21 that both sides receive a fair trial by an impartial
22 jury.

23 It is your duty to decide the facts of the
24 case at the end of the trial, but you must limit
25 yourself to what you hear and see in this courtroom

1 during the trial. If you do not do so, then you'll be
2 denying one side or the other side the fair trial that
3 is guaranteed by our Constitution.

4 Your failure to follow the rules that I am
5 about to give you may result in an unjust outcome and
6 may require this case to be tried again.

7 So, first of all, do not let outsiders
8 influence you. This includes family members and
9 friends or anyone else who is not actually involved in
10 the trial. Do not discuss the case with other jury
11 members during the trial. You will have plenty of time
12 to do that at the end of the trial. Once you have all
13 of the evidence and once I have sent you to the jury
14 room with the verdict forms, you can discuss the case
15 all you want and I will ask you to please do so.

16 Do not talk to anyone involved in the case,
17 the Defendant, the lawyers, any witnesses. If anyone
18 tries to discuss the case with you outside of this
19 courtroom, please report that to me immediately. When
20 you go home tonight, do not talk to your family,
21 friends, or others about the case. Again, you may tell
22 them that you are serving as a juror in a criminal case
23 and that's all you should tell them.

24 Do not report your experience as a juror
25 while the trial and the deliberations are going on. Do

1 not email, do not blog, do not text, do not tweet. Do
2 not get on social media sites. It is very tempting to
3 get on Google and start searching because you're
4 curious as humans, but I ask you and implore you.
5 Please don't. Do not read or listen to any news
6 reports that may have -- that may be now coming up or
7 have been in the past. Do not do your own
8 investigation. Do not ask people about the case. Do
9 not visit the site of any location mentioned during the
10 trial. And again, do not research anything about the
11 case including issues, evidence, parties, witnesses,
12 locations, and the law.

13 Do not create your own demonstrations or
14 reenactments of the events which are the subject of the
15 case. Again, you certainly will have an opportunity to
16 do that as jurors in the deliberation room if that's
17 something you need to do. These instructions are
18 imposed because jurors must decide without distraction
19 and based only upon the evidence presented during the
20 trial in this courtroom.

21 And I know that for some of you, these
22 restrictions affect your normal daily activities and
23 may require a change in how you function and
24 communicate with your family and friends. But, again,
25 I implore you to do so.

1 I will finally say that these rules apply
2 until I dismiss you from the case. I will also repeat
3 an abbreviated version of these rules during breaks and
4 at the end of the day. I don't do this to insult you,
5 but simply to remind you and keep it on the top of your
6 list of things not to do.

7 All right. We're going to hand out juror
8 badges at this time. I ask you to please wear those
9 badges at all times while you are in the building.
10 It's one of the things that prevents other folks from
11 talking about cases or talking about this case if they
12 see you in the elevator in the hallway. Do we got them
13 tangled up there?

14 Do you have pens?

15 THE LAW CLERK: Yep.

16 THE COURT: All right. Ladies and Gentlemen,
17 I'll ask you to please write your name on the back of
18 the pad. If you need more writing materials, please
19 let us know. We have those available for you. And
20 I'll ask you to please keep your chair, the one you're
21 currently in, throughout the trial. When reporting for
22 jury duty -- what room are we reporting to?

23 THE LAW CLERK: The 13th floor in the jury
24 room.

25 THE COURT: Do we have enough space for 14

1 jurors in the jury room?

2 THE LAW CLERK: Yep.

3 THE COURT: Okay.

4 I'll ask you to please not to linger in the
5 hallways. If you don't want to hang out in the jury
6 room, go to a different floor. Particularly bathrooms,
7 if you're not using the bathroom in the jury room, if
8 you would go to a different floor to use the bathroom.
9 There's floors from 1 to 18, okay -- or there's a
10 bathroom from one to 18, sorry.

11 All right. At this time we'll start opening
12 statements.

13 MR. TAHIR: On December 26, 2021, 27-year-old
14 Arnell Stewart was visiting his friend Marcel McMath at
15 1734 East Seventh Street here in the City of St. Paul.
16 He drove there. His burgundy Mercedes SUV, which he
17 parked in the driveway of his friend's house, 1734 East
18 Seventh. And that vehicle would remain there for a
19 number of hours that day while Mr. Stewart was inside
20 the residence socializing with his friend Mr. McMath
21 and his other brother Mr. Larry McMath.

22 About 6:00 p.m. or so that day, the McMATHS'
23 mother, Larry and Marcel's mother, was arriving back
24 home to 1743 East Seventh and she had her own
25 designated spot in the driveway where she needed to

1 park. So at that point the two McMath brothers told
2 Mr. Stewart: "Hey, you need to move your car. Mom
3 needs to park her car in the driveway."

4 And that's what Mr. Stewart did. He exited
5 the driveway on 1734 East Seventh, backed up to the
6 west in an alley running south of East Seventh Street
7 and parked his vehicle next to an old fire station
8 located at 1720 East Seventh Street. Mr. Stewart did
9 not know that this was no longer an old fire station.
10 It was actually a residence.

11 It was a residence that Mr. Kjellberg had
12 purchased seven years ago, and Mr. Kjellberg had been
13 upset over the years by the number of people that had
14 been parking adjacent to what was now his home.

15 Now, of course, Mr. Stewart didn't know any
16 of this. He parked his vehicle on Mr. Kjellberg's
17 property, next to a no parking sign no less.
18 Mr. Kjellberg had even installed no parking signs, but
19 Mr. Stewart -- it was kind of a dark alley. He did not
20 see this. Parked his car there, went back inside 1734
21 to continue socializing with the McMath brothers.

22 Later that evening, Mr. Kjellberg came out of
23 the old fire station, his house, and saw this burgundy
24 Mercedes parked next to his house. And this was a
25 problem that Mr. Kjellberg had been dealing with for

1 the past six years, and the frustration had slowly been
2 increasing gradually over the years, and tonight he
3 just wasn't going to have it.

4 So Mr. Kjellberg -- he called the police,
5 asked for the vehicle to be ticketed and towed. He
6 remained out next to the vehicle for approximately 20,
7 25 minutes. Nobody showed up during that period of
8 time. He also called two tow truck companies. One of
9 them said, "We don't do private residences." The second
10 one said, "We'll send somebody on -- the way. They
11 will be there shortly."

12 In the meantime, inside 1734 where
13 Mr. Stewart and the McMaths were still socializing, one
14 of the McMaths, Larry McMath, needed to leave so he got
15 into his own vehicle, a white sedan. And again, went
16 east in the alley to get on to a main street and go
17 about his business. He saw Mr. Kjellberg standing out
18 there next to Mr. Stewart's car. What Mr. McMath did
19 is he called the house, let Mr. Stewart know. There is
20 somebody by your car. Something is going on. Maybe
21 you might want to move the car.

22 And that's what Mr. Stewart did. Mr. Stewart
23 ran out of 1734 East Seventh, ran west in the alley
24 towards his car, and all he was trying to do was move
25 his car so it wouldn't get towed. Mr. Kjellberg was

1 not going to allow that. Mr. Kjellberg, as he stood by
2 the Mercedes, could hear Mr. Stewart apologize to him,
3 refer to him as "sir." Tell him, "My bad. I didn't
4 know."

5 Mr. Kjellberg repeatedly told him, "Get off
6 my property. Get off my property." Mr. Stewart told
7 him, "It's my car. It's my car. Move away from my
8 car." But after the past six years Mr. Kjellberg was
9 not going to allow it. And he didn't. He didn't let
10 Mr. Stewart simply get in his car and move it.

11 This caused a fight. Mr. Kjellberg at one
12 point retorted to something that Mr. Stewart said by
13 using the N word with a hard R at the end of it, and
14 that led to punches being thrown. And Mr. Kjellberg
15 retrieved a tool that he had in his pocket of his
16 jacket. It's a tire deflater, as he describes it. I'm
17 not exactly sure what it is, but it has a jagged sharp
18 end at the end of it.

19 And Mr. Kjellberg stabbed Mr. Stewart in the
20 upper left chest, penetrating his body eight
21 centimeters, fracturing one of his ribs, and lacerating
22 the left ventricle of his heart. And in the moments
23 that followed, each pump of that heart of Mr. Stewart
24 ejected blood. And as Mr. Stewart first ran to Larry
25 McMath's car and then ran back into the house where he

1 was socializing all day, he started to lose
2 consciousness. He collapsed on the living room floor
3 of the McMaths and essentially bled to death.

4 This case essentially is about
5 Mr. Kjellberg's unreasonable actions that day. Right
6 now is not the time to talk about the law. You will
7 get plenty of legal instructions at the end of the
8 case, but Mr. Kjellberg's actions that day were
9 unreasonable.

10 MR. GRAY: Judge, I would object to this as
11 argument.

12 THE COURT: That's sustained.

13 MR. TAHIR: I will address you again -- my
14 colleague will address you again at the end of this
15 case, and we'll ask you to find Mr. Kjellberg guilty of
16 the sole count of Murder in the Second Degree without
17 intent. Thank you.

18 THE COURT: Go ahead, Counsel.

19 MS. MONTGOMERY: As you already know, myself
20 and Mr. Gray represent Mr. Kjellberg in this matter. I
21 am going to give you some information on what we
22 believe the evidence is going to show in this case.
23 And remember, as the Judge has already instructed you,
24 what we say in opening statements, both myself and
25 Mr. Tahir, is not the evidence. Listen through the

1 trial and that's what the evidence will be.

2 Mr. Kjellberg is 51 years old. He's a
3 life-long resident of Minnesota, growing up originally
4 on the east side of Minnesota. When his family moved
5 up to the Coon Lake area, he was about five years old.
6 His parents and his sister who is about seven years
7 older. Mr. Kjellberg went to Forest Lake High School
8 and then after high school he went into the Navy in
9 1989.

10 He spent ten years in the Navy where he
11 traveled around on different boats. He was actually
12 the boiler operator, so he worked in the bottom of the
13 boats. He enjoyed his job there, traveling around the
14 world. He got out of the Navy. He's a 100 percent
15 disabled vet. He was honorably discharged from
16 service. When he got out of the Navy in 1999, he found
17 himself in San Diego for a short period of time and
18 then he moved back to the Minnesota area and eventually
19 back to the east side of the St. Paul area.

20 He ended up working at Anderson Corporation.
21 He did a similar job as he did in the Navy, working
22 boilers. He was the chief engineer, and he did that
23 for about 18 years. Also, around the same time when he
24 started at Anderson, he went back to school and got an
25 associate's degree at Century College.

1 Currently he lives at 1720 East Seventh
2 Street, which is the address you've already heard
3 about. It is an old fire station. He's lived there
4 about seven years, and he renovated it to be a single
5 family living space. He -- it's a large space up top
6 and he found himself space to be able to collect things
7 and just live his life there.

8 It does have a large parking area in the back
9 where he parks his own vehicles and it butts up to an
10 alley, and you will see pictures of this throughout the
11 trial so you can better understand the layout of the
12 land.

13 He has, throughout his time living there, had
14 issues with people parking in that back parking area.
15 So he has called tow trucks in the past. He's called
16 police to come and ticket people, but at the time of
17 this case, it had been about six months with him having
18 no issues with people parking back in that area. But
19 he did have signs, multiple signs, even ones that said
20 violators would be towed and ticketed. And again, you
21 will see the pictures of this.

22 But on December 2 of 2021, it was around 7:00
23 p.m. when Mr. Kjellberg was leaving his residence, and
24 you'll learn that he often used the back door to come
25 and leave from his residence. And that's where he was

1 coming out. And it was around 7:00. He was going to
2 visit his girlfriend that evening, and he came across
3 this vehicle that was right outside his back door --
4 within feet of his back door.

5 He decided at that time that he would wait
6 around for a little bit. I think it was around
7 20 minutes before he did anything about it, before he
8 called the police or a tow company, but when nobody
9 came to get the vehicle, he did decide to call the
10 police, and you'll see phone records of this as well.

11 He called the nonemergency line to get the
12 vehicle ticketed and then he called a couple of tow
13 truck companies to get somebody to come out and remove
14 the vehicle from his property that was parked
15 illegally.

16 He was still outside at this time and it was
17 about 20 minutes that had passed since he had called
18 the police and the tow company when Mr.-- who we now
19 know to be Mr. Stewart ran up to the property. He ran
20 up and Mr. Kjellberg was at that time standing in
21 between his home and the vehicle that was still parked
22 there.

23 He ran up and made some comments and
24 Mr. Kjellberg told him, "Stay off my property." He
25 said it more than once. He was standing there. He did

1 notify Mr. Stewart that he had called the police at
2 that time already, and he wanted the police to come to
3 solve this problem. It had happened in the past and
4 if -- if he just kept letting it go, it was going to
5 continue to happen.

6 So he called the police and they were on
7 their way. However, Mr. Stewart at this time was not
8 backing up. He kept approaching the property. He was
9 making comments and becoming more agitated. And you'll
10 hear evidence that Mr. Stewart was, at this time, on a
11 conditional release and he was required to remain
12 law-abiding. Within a second or two of asking what he
13 was doing, Mr. Stewart starts punching Mr. Kjellberg.

14 Now, you'll see a surveillance video of
15 Mr. Kjellberg having his phone out. You can see it lit
16 up and you can hear, "What you doing, boy?" And within
17 seconds of that, the punches -- you can hear them on
18 the audio surveillance, listen carefully. Now,
19 Mr. Kjellberg at that time gets punched in the face
20 two, three, four times, and it's at that time that he
21 removed something in his pocket and one-time hit
22 Mr. Stewart in the abdomen-chest area.

23 Now, you'll also learn that that
24 Mr. Kjellberg had a prior traumatic brain injury in
25 2018, which caused him to fear for his life. The

1 punches weren't stopping and he put out this object and
2 hit Mr. Stewart once and you'll learn that even after
3 Mr. Stewart was hit with this object, he continued to
4 punch Mr. Kjellberg at least one more time. It's at
5 this time that Mr. Kjellberg fell back after getting
6 hit one more time, he dropped his phone at one point,
7 he dropped his glasses, and also this tire deflator
8 landed in a rock pile where he was.

9 At that time Mr. Stewart ran down the alley
10 to the end of the alley where a white car was
11 positioned. It was a friend of his. I think you will
12 hear more evidence relating to that. And Mr. Kjellberg
13 reached back to find his belongings, picked up his
14 phone, and he was on the phone with 911. Because he
15 had called 911 is prior to getting hit, so the phone
16 had connected but had fallen in the rock pile.

17 So he picked up his phone and you'll hear
18 this on the surveillance video -- but you'll also hear
19 a statement of our client. He gave a statement to the
20 police officers that night and it will corroborate
21 what's heard in the 911 call and what's heard on the
22 surveillance video, so listen closely to all of that.

23 So he picks up his phone. The 911 operator
24 is on there saying, "Hello? Hello?" And he picked up
25 it up and immediately says, "I need help now." He

1 said, "He's fighting me. I would suggest you bring
2 somebody soon." When he was asked if an ambulance was
3 needed. He continued to say, "He attacked me. He hit
4 me about four times in the face. He just came up and
5 started beating on me." This is within seconds of the
6 assault on Mr. Kjellberg. You'll see pictures
7 throughout the trial of the bruising on Mr. Kjellberg's
8 face. And at this point in the encounter,
9 Mr. Kjellberg had gone back inside his residence and
10 was waiting for the police officers to arrive as he
11 knew they would be there soon.

12 You'll see that after Mr. Stewart runs down
13 to the white car within a minute or so he runs back
14 down the alley to where he came from, the house down
15 the alley. And you'll also see the tow truck car does
16 arrive shortly after that, and then the police.

17 Immediately when the police officers arrive
18 Mr. Kjellberg exits the residence and goes to tell
19 them what happened. And you'll see and hear audio and
20 video of him telling the police officers what happened
21 at that time.

22 And that is more a more brief statement, but
23 after that you'll hear the lengthy statement of him
24 explaining how this encounter happened.

25 The evidence will establish that our client

1 acted in self-defense. I'm also not going to go into
2 the law right now, but I believe that the Judge will
3 likely instruct you at the end of the case on what
4 self-defense is from a legal standpoint.

5 The evidence will establish that
6 Mr. Kjellberg struck him one time with this object, and
7 even after that he was again hit in the face by
8 Mr. Stewart. He did have the traumatic brain injury
9 which caused him to fear for his life. He still goes
10 to the V.A. weekly to seek care from that traumatic
11 brain injury.

12 Now, the State will present all of its
13 evidence and they go first. As we all know, they have
14 the burden of proof, but please keep an open mind and
15 at the end of the trial we'll be able to speak with you
16 again before you come to any conclusions. Thank you.

17 THE COURT: Any witnesses?

18 MR. TAHIR: May we approach, Your Honor?

19 THE COURT: Yes.

20 (A bench discussion was held off the record.)

21 THE COURT: All right. Ladies and Gentlemen,
22 we actually have some witnesses -- we're are a bit
23 ahead of the game -- that are available. So we'd like
24 to present witness testimony beginning in about 20
25 minutes or so.

1 So what I'd like to do is just take a recess,
2 have you report back to the jury deliberation room in
3 20 minutes, and then we'll come get you when we're
4 totally ready. Remember, keep your badges on at all
5 times when you're in the building. Do not discuss the
6 case amongst yourselves. Do not discuss the case with
7 anyone else. Do not do any research about the case.
8 All right. Great. All rise. The jury is excused.
9 Please leave your notepads face down on your chair.

10 (The jurors exited the courtroom.)

11 THE COURT: All right. We're in recess.
12 We'll start up again at 3:15.

13 (A brief break was taken.)

14 THE COURT: All right. Is there anything we
15 need to address before we bring in the jury?

16 MR. TAHIR: No, Your Honor.

17 THE COURT: And who is the first witness
18 going to be?

19 MR. TAHIR: Ms. Tabatha Lewis.

20 THE COURT: All right. We can go get the
21 jury.

22 THE LAW CLERK: All rise for the jury.

23 (The jurors entered the courtroom.)

24 THE COURT: You may be seated. The State may
25 call their first witness.

1 MR. TAHIR: Your Honor, the State calls
2 Tabatha Lewis to the stand.

3 THE COURT: Ms. Lewis, if you would please
4 come forward, ma'am. And please have a seat. I'm
5 sorry. I'm going to ask you to please stand there and
6 please raise your right hand.

7 TABATHA LEWIS,
8 was called as a witness and, being first duly
9 sworn, was examined and testified as follows:

10 THE COURT: All right, ma'am. Please have a
11 seat. If you would state your full name for me and
12 spell it.

13 THE WITNESS: My name is Tabatha Lewis,
14 T-A-B-A-T-H-A L-E-W-I-S.

15 THE COURT: Thank you. And you may want to
16 pull that microphone just a little lower, closer to
17 you, all right? Thank you.

18 Mr. Tahir, go ahead.

19 MR. TAHIR: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. TAHIR

22 Q. Good afternoon, Ms. Lewis. What's your date of birth?

23 A. December 3rd, 1976.

24 Q. Okay. Do you have any children, Ms. Lewis?

25 A. Yes, I do.

1 Q. How many children do you have?

2 A. I birthed -- I have six kids, counting A.J. still.

3 Q. By A.J. are you referring to Mr. Arnell Stewart?

4 A. Yes.

5 Q. And is Mr. Arnell Stewart deceased?

6 A. Yes.

7 Q. He was one of your sons?

8 A. He was my first one, my first son.

9 Q. And what was his date of birth?

10 A. A.J.'s birth date is March 19th --

11 MR. GRAY: Your Honor, could she speak closer
12 into the mic?

13 THE WITNESS: March 19th, 1994.

14 MR. TAHIR: Okay.

15 BY MR. TAHIR

16 Q. And when did Mr. Arnell Stewart, when did he die?

17 A. I was told of him being stabbed on December 2nd.

18 Q. Okay. Did you raise Mr. Stewart?

19 A. Yes, sir, I did.

20 Q. Where did he grow up?

21 A. He was born and raised in Chicago, Illinois, and then
22 later in St. Paul, Minnesota.

23 Q. And he lived with you?

24 A. Yes.

25 Q. Where did he go to high school?

1 A. He went to Highland.

2 Q. And he graduated?

3 A. Yes, he graduated high school.

4 THE COURT: Can everybody hear Ms. Lewis?

5 All right. Thank you.

6 BY MR. TAHIR

7 Q. What did he like to do for fun? Just generally, what
8 were his hobbies?

9 A. He liked sports. He liked to watch movies. He liked
10 bowling and family activities.

11 Q. At the time that he passed away, what was -- did he
12 have any children?

13 A. Um, at the time, no. We knew of a couple of females
14 that was expecting, but we didn't know exactly yet.

15 Q. Okay. Does he have children now?

16 A. Um, that I know of yes, two.

17 Q. Okay. They were in the womb at the time that he passed
18 away?

19 A. Yes.

20 MR. TAHIR: May I approach the witness, Your
21 Honor?

22 THE COURT: Yes, you may.

23 BY MR. TAHIR

24 Q. Ms. Lewis, I'm showing you what's marked as Exhibit 1
25 for purposes of identification. Could you please take

1 a look at that and tell me if you recognize it?

2 A. Yes.

3 Q. What is Exhibit 1, ma'am?

4 A. That's my son.

5 Q. Is that a photo of Arnell Stewart?

6 A. Yes, it is.

7 MR. TAHIR: State offers Exhibit 1.

8 THE COURT: Any objection?

9 MR. GRAY: No objection.

10 THE COURT: Exhibit 1 is admitted. You may
11 publish.

12 MR. TAHIR: Thank you, Your Honor.

13 BY MR. TAHIR

14 Q. Ms. Lewis, I am publishing Exhibit 1. Is that a photo
15 of your son Arnell Stewart?

16 A. Yes, it is.

17 Q. Do you know when that photo was taken?

18 A. In 2021.

19 Q. Okay.

20 MR. TAHIR: Thank you, ma'am. I have no
21 further questions.

22 THE COURT: Any questions?

23 MR. GRAY: Maybe a couple.

24 CROSS-EXAMINATION

25

1 BY MR. GRAY

2 Q. Ma'am, at the time of your son's death you were living
3 in Georgia; is that right?

4 A. Yes, sir, I was.

5 Q. And how long had you lived there?

6 A. At the time we were already residing there for eight
7 years.

8 MR. GRAY: That's all I have. Thank you.

9 MR. TAHIR: Nothing, Your Honor.

10 THE COURT: Thank you, ma'am. You can step
11 down. Watch your step there.

12 THE WITNESS: Thank you.

13 THE COURT: You may call your next witness.

14 MR. TAHIR: Your Honor, the State calls
15 Dr. Victor Froloff.

16 THE COURT: Good morning, sir. Please come
17 forward, watch your step there. I'd ask you to please
18 raise your right hand.

19 VICTOR FROLOFF,
20 was called as a witness and, being first duly
21 sworn, was examined and testified as follows:

22 THE COURT: Please have a seat, sir. State
23 your full name and spell it for us.

24 THE WITNESS: Thank you, Your Honor. My name
25 is Victor Froloff V-I-C-T-O-R, last name Froloff,

1 F-R-O-L-O-F-F.

2 THE COURT: You may proceed, Counsel.

3 MR. TAHIR: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. TAHIR

6 Q. Dr. Froloff, where are you employed?

7 A. I'm employed by Dr. Mills, who is Ramsey County Medical
8 Examiner.

9 Q. And Dr. Mills, she employs a number of medical
10 examiners to assist her in her line of work?

11 A. Yes, she's employed two other doctors.

12 Q. Including yourself?

13 A. Yes.

14 Q. What's your official job title?

15 A. My official position is an Assistant Medical Examiner
16 for Ramsey County.

17 Q. Okay. What does a medical examiner do?

18 A. Well, assistant medical examiner is basically forensic
19 pathologist. Medical examiner involved investigation
20 of the death, death in unusual circumstances. My job,
21 number one -- and my work prior to perform autopsy
22 examination of the dead people. We have multiple
23 responsibilities. We sign death certificates for all
24 cremation in our jurisdiction. And we evaluate unusual
25 deaths and deaths of unusual circumstances.

1 Q. Okay. And we'll talk about the specifics of that in a
2 second. What education or training have you received
3 in order to do this for a living?

4 A. Sure. I am kind of getting old. I graduate medical
5 school in 1985. I trained in internal medicine, and I
6 practice emergency medicine for many years -- not here.
7 And I emigrate to the United States -- this year is
8 going to be 30 years. So in order to practice medicine
9 you have to start over. So I pass all tests and
10 requirements and in order to -- and I decided I wanted
11 to do forensic pathology.

12 In order to do forensic pathology, you need
13 to graduate from residency in pathology and I graduate
14 here at the University of Minnesota, and I took two
15 fellowships in forensic pathology. Medical College of
16 Wisconsin and Milwaukee Family Medical Examiner's
17 Office and I don't know. Come back to Minnesota, I
18 don't know why, but --

19 Q. Okay. And how long have you been specifically at the
20 Ramsey County Medical Examiner's Office?

21 A. Well, just too long. For -- this year is going to be
22 17 years.

23 Q. That office is -- does it have to go through any sort
24 of accreditation or anything of that nature?

25 A. Yeah, we -- in fact, we just successfully pass our

1 accreditation for International Organization of Court
2 Medical Examiners. But also certified by name with
3 National Organization of Medical Examiners. It's
4 actually -- we're kind of in a unique position. It
5 used to be just two, three offices. Now it's probably
6 no more than a dozen office that holds double
7 certification in the United States.

8 Q. All right. You stated that you conduct investigations
9 of deaths. More specifically, you conduct autopsies of
10 dead people. Is that localized just here in Ramsey
11 County, or does it go beyond that?

12 A. No, Dr. Mills, she's a medical examiner for -- I
13 believe it's over 15 counties for the State of -- I'm
14 sorry 15 counties over the State of Minnesota including
15 big counties like Ramsey County and Washington, but we
16 accept cases from other smaller counties. They don't
17 have capabilities to do like autopsy. But we perform
18 autopsies for -- I don't know, I guess around 50
19 counties for State of Minnesota and State of Wisconsin.
20 I did -- I perform autopsy for, you know, for FBI. I
21 review autopsy for South Dakota and North Dakota.

22 Q. And could you give me an estimate of the number of
23 autopsies you perform per year?

24 A. I'm sorry. I don't count autopsy anymore. I know it's
25 over 4,000 was a couple of years ago. It was -- very,

1 very busy right now. Now it's rate over 300 autopsies
2 per year.

3 Q. And what exactly is an autopsy?

4 A. Autopsy, it's have complex procedures, like you come
5 to -- I would -- like with a normal doctors, we need to
6 know what happened and notice we have really limited
7 information, but we need to know what happened the
8 circumstances of the death, and that's one part. And
9 when I get body in my office, I exam body externally.
10 I do external examination. I document all of my
11 findings, I take maybe too many pictures to document my
12 findings and we perform evisceration of the body --
13 just take the organs out and look for problems,
14 diseases, injuries, anything.

15 And another large, big part of the autopsy is
16 performing toxicology. At the time of the autopsy, we
17 collect trace evidence like fingernail clipping, you
18 know, gunpowder. But I also collect blood, urine,
19 sometimes I collect fluid from eyes. It's called
20 vitreous fluid. If I have to, I collect some fluid or
21 other exhibits, or toxicology.

22 Q. How does a body make its way to you in order to perform
23 an autopsy?

24 A. It's different ways. Most important, it's a secure
25 facility. Nobody can come, you know, to our office.

1 We have special cars, but usually the body transported
2 inside a bag by special transport people, and if we
3 have to pick up a body from the hospital, we have 24/7
4 death investigators. They're always on call, at least
5 two of them, and they pick up body from the scene or
6 from the hospital.

7 Q. Okay. And I wanted to just touch base on -- you
8 mentioned external exam and toxicology. What was the
9 third aspect?

10 A. External examination, evisceration, looking inside of
11 the body, and then toxicology.

12 Q. Okay. So you actually look inside the body by cutting
13 it open?

14 A. Always. You know, if I -- if it's full autopsy, not
15 just external examination, we will always open the body
16 and look.

17 Q. All right. Do you recall conducting an autopsy on an
18 individual by the name of Arnell Stewart, your internal
19 file number would be 20212562?

20 A. Yes. I perform examination on this gentleman two years
21 ago, and -- December 3rd.

22 Q. December 3rd of 2021?

23 A. 2021, yes.

24 Q. What were the circumstances of you getting involved in
25 examining Mr. Stewart's body?

1 A. I -- I had really limited information. I had
2 information he was involved in some kind of
3 altercation. He was stabbed. He was transported to
4 the hospital, and he died during the procedure --
5 surgical procedure, you know, doctors trying to save
6 him, repair the damage, and he died in the O.R. at
7 Regions Hospital.

8 Q. Okay. So Mr. Stewart's body was then transported to
9 you from Regions Hospital?

10 A. Yes. Initially, we had information that he passed, but
11 it takes some time, you know, like he had some
12 relatives and, you know, we informed that body is ready
13 to be moved and then our investigators pick up the body
14 from the hospital, yes.

15 Q. All right. And once Mr. Stewart's body arrived at your
16 facility, when -- how did you begin your examination of
17 his body?

18 A. I think he passed on 2nd of December, the same year he
19 was pronounced dead officially. We pick up the body,
20 and I don't perform autopsy at night. And body was
21 stored in a fridge. We have a big fridge size of
22 the -- of this room probably.

23 And I know it's my turn to perform autopsy.
24 So I came, you know -- I call in the morning just to
25 see what my workload? So I came, you know, and I

1 opened the bag. I was the one who was the first to
2 open the bag, and I start full examination of the body.

3 Q. Okay. And the first step of that would to conduct an
4 external examination?

5 A. Ah, before I conducted external examination, I, again,
6 I opened the bag, I photograph body, body was taken
7 from the O.R. It was, you know, tubes and some
8 evidence. We call "medical intervention", doctors
9 trying to save him.

10 So I started my examination by photographing
11 his body. And then we collect trace evidence because
12 it was suspicious death. We collect trace evidence in
13 this case, blood for DNA, and buccal swab, sexual
14 assault kit, nails, and --

15 Q. And do you do that in all suspicious death cases?

16 A. Ah, not all suspicious -- it's different kinds of
17 suspicious. In this case I was informed that he was
18 stabbed through the chest by medics. And when I look
19 over his body, I observed some wound on his left side
20 of the chest, so, we -- it's different kind of
21 suspicious.

22 Q. Okay. I guess my question to you is: How much
23 information did you have about what occurred? It
24 sounds like it was rather minimal?

25 A. That's all of the information I have.

1 Q. Okay. After collecting that trace evidence, what did
2 you do next?

3 A. We collect trace evidence. I remove all his medical
4 intervention, and I exam his body externally, document
5 all, you know. He had just stab wound to his left
6 chest, there is no other major injuries. He had
7 evidence of medical intervention. He underwent a
8 procedure of thoracotomy.

9 Basically, surgeon opened his chest from neck
10 to his abdomen, and they tried save him. And I know
11 they tried to repair his heart wound, because they
12 sutured. So I perform external examination. And then
13 I continue and start to do -- perform internal
14 examination.

15 Q. Okay. And what did you find when you conducted that
16 internal examination?

17 A. When I finish external examination, I was able to
18 document and observe that this gentleman suffered a
19 stab wound, and it was a small kind of puncture-type
20 wound on the left side of the chest. This one was
21 continuous to hit his fifth rib on the left side.
22 There was some small fracture.

23 And then I examine the body after a surgical
24 procedure. His pericardium -- the pericardium, it's a
25 sack around the heart -- was opened by surgeons. They

1 didn't suture. They just leave it like it is. I
2 observe that he had a repaired wound on his heart, and
3 I describe everything in the final autopsy protocol.

4 And he had condition called hemarthrosis,
5 it's just blood in the chest, not large amount but
6 small amount of the blood in each chest cavity.

7 Q. Okay. And where was the wound on the heart of
8 Mr. Stewart?

9 A. I describe wound in a left ventricle. Human heart is
10 supposed to have four chambers, two ventricles, right
11 and left ventricle, and two atriums, but there was a
12 wound of the left ventricle.

13 Q. Is there any way for you to measure -- for lack of a
14 better term -- the length of that stab wound?

15 A. That's part of my responsibility, and -- I need to
16 express my opinion about potential weapon or whatever.
17 I tried to measure and to my best knowledge, and I just
18 follow track of the wound. And we'll have like body
19 fat, of course. I'm trying to measure the depth of the
20 wound.

21 In my opinion, approximately, the depth of
22 the wound was eight centimeters, which is little bit
23 more than three inches.

24 Q. In your opinion, that type of injury to the left
25 ventricle of the heart, what would that cause the heart

1 to do?

2 A. Well, I have to deal with people who are -- not
3 survive. They're dead basically. So that's a mortal
4 wound for him. And again, a hole in a heart, basically
5 a defect or whatever you name it, will cause bleeding.
6 So heart is constantly pumping the blood. You know,
7 approximately rate like 70 beats per minute. So
8 it's -- every, you know imperfection of the heart,
9 blood is squeezing and going outside.

10 Q. Okay. So if I understand that correctly, every beat of
11 the heart blood would be squeezed out of the heart out
12 of the hole that was caused in it?

13 A. Yes, you are correct.

14 Q. Okay. Were you able to make any sort of determination
15 about the direction of the wound? Did that it come
16 front to back or back to front?

17 A. In my opinion, the direction of the wound was front to
18 the back.

19 Q. And how were you able to determine that?

20 A. I always do. I look, exam, you know, his entrance
21 wound, stab wound located in the front of the chest,
22 and then I follow wound track. And sometimes, you
23 know, I'm trying to use a probe. It's front to the
24 back. If you ask me to find a degree of angulation,
25 it's really hard to measure and redirect on the body

1 because, you know, heart is constantly moving, but in
2 my final report I said front to the back.

3 Q. All right. Can you tell me a little more about the
4 fracture that you found on the left anterior fifth rib?

5 A. I called it fracture but there was like, you know, like
6 chip-type fracture. One of the -- instrument or weapon
7 basically went through his chest plate or anterior
8 chest. And it was small. I called it a chip fracture.
9 Just small fracture of inferior part of the rib, which
10 is meaning lower part of the rib.

11 Q. Okay. Did you also conduct toxicology then on
12 Mr. Stewart?

13 A. Yes, I did.

14 Q. And that revealed that Mr. Stewart had THC in his body
15 and metabolites in his body?

16 A. When I perform toxicology. Toxicology was possible for
17 active and inactive metabolites of the marijuana or THC
18 and it was small amount of the isopropanol.
19 Isopropanol, it's one of the alcohols.

20 Q. Okay. Are you able to make any sort of determination
21 whether the amount of the THC and the isopropanol would
22 have been toxic to Mr. Stewart?

23 A. Um, in my opinion, the amount of the THC, I don't know,
24 it's probably from one cigarette. It's low. It's
25 described in our books. It's not huge amount. And

1 isopropanol, it's rubbing alcohol. I don't have clear
2 explanation how it's get in his system. People who
3 suffer from, you know, like freezing or once they cool
4 down they might have some isopropanol, but
5 isopropanol -- people who starve or people who died or
6 like kids with diabetes they might develop
7 ketoacidosis. People who have diabetes, they might
8 have isopropanol, but again it's a very small amount.

9 Q. A very small amount of both the THC and the
10 isopropanol?

11 A. Um, in my opinion, it's not toxic. He didn't die from
12 isopropanol toxicity or THC toxicity.

13 Q. Okay. When you were conducting your autopsy, the
14 internal examinations, are you taking photos then as
15 well?

16 A. Yeah, I usually take maybe too many photos.

17 Q. So the external examination has photos and then the
18 internal examination has photos as well; is that true?

19 A. Yes.

20 MR. TAHIR: May I approach the witness, Your
21 Honor?

22 THE COURT: Yes, you may.

23 BY MR. TAHIR

24 Q. Dr. Froloff, I'm showing you Exhibits 8 through 13.

25 And Exhibits 16 through 21. If you could take a look

1 at all of them individually, and just let me know when
2 you're done.

3 A. (Witness complies.) Okay. Exhibits from 8 to 13 and
4 then Exhibits from 16 to 21. It's a hard copy of the
5 images I took at that time of my examination.

6 Q. And these copies fairly and accurately represent what
7 you yourself saw when you were conducting your autopsy;
8 would that be true?

9 A. Yes.

10 MR. TAHIR: The States offers Exhibits 8
11 through 13 and 16 through 21, Your Honor.

12 MR. GRAY: No objection.

13 THE COURT: Those exhibits are admitted.

14 MR. TAHIR: May I publish, Your Honor?

15 THE COURT: Yes, you may.

16 BY MR. TAHIR

17 Q. Dr. Froloff, I am displaying Exhibit 8 on the screen
18 here in the courtroom. Can you describe to the jury
19 what we're looking at?

20 A. I can try to describe. Do we have any laser pointer?
21 Or I'll need to get up and just show. What's the best
22 way to?

23 MR. TAHIR: Let's see. I will give you my
24 mouse and you can just use the cursor. Unfortunately
25 it's a flat screen TV.

1

2 A. Okay. Perfect. Thank you.

3 THE WITNESS: Your Honor, may I use this
4 mouse?

5 THE COURT: Yes, you may.

6 THE WITNESS: Thank you. I don't know.
7 Maybe I'm too old. It doesn't work for me.

8 MR. TAHIR: Maybe if you try clicking once.

9 THE COURT: It might be too far. That might
10 be the reason. It might be too far from your computer.

11 MR. TAHIR: Hold on, sir. I'm sorry.

12 BY MR. TAHIR

13 Q. There it goes.

14 A. Ah, hah. See, I'm getting old. Take me a for a while
15 to figure out. Exhibit 8, this is gentleman, that's
16 how I got body from the hospital. Again, doctors
17 trying to save him. He had a medical intervention. He
18 had an IV here in his right side of the neck.19 On the top you can see it's a sutured
20 incision. That's not me, it's surgeon. They open his
21 chest and then close his chest. He has small amount of
22 the blood. I will just give you some orientation.
23 That's his left nipple. What I observe looks like
24 brown areas of discoloration here, that's the stab
25 wound. Very small.

1 Q. Okay. Next, if you could describe what we see in
2 Exhibit 9, please?

3 A. Exhibit -- Exhibit 9, that's another shot. When I
4 process the body we collect all trace evidence. We
5 wash the body to show you what's going on. And again,
6 that's the neck area, that's the abdominal area.
7 That's not me. That's the surgeons. That's as they
8 perform thoracotomy.

9 And in the left side you can see small
10 brownish discoloration. I describe, like a C-shape
11 damage, C-shape because looks like C, letter C, but
12 it's very small. And a stab wound to his left chest
13 area.

14 Q. What do we see in Exhibit 10, Doctor?

15 A. Exhibit 10. I'll just giving you the orientation. His
16 head located in the right side. Abdomen right here.
17 Right in the middle you can see defect or hole, and I
18 said C shape from forensic point of view was -- I
19 describe, you can see these like reddish discoloration.
20 I describe it as a marginal abrasion. I need to,
21 again, express my opinion of what kind of object he
22 used. Just giving you information. This is marginal
23 abrasion, because sometimes when -- skin is very tough
24 organ, not for sharp force injury but for other
25 objects, and it can give certain marks.

1 Q. So, the marginal abrasion, what does that indicate to
2 you in your opinion?

3 A. It just -- they're trying to document my findings. It
4 just was some friction between skin and between maybe
5 object used.

6 Q. And the object which left this C-shaped stab wound then
7 on the body?

8 A. In my opinion, yes.

9 Q. Okay. What do we see in Exhibit 11?

10 A. Yeah, that's -- it's Exhibit 11. It's close-up picture
11 of the stab wound. I said C shape because if you look
12 right here (indicating) it's more like an oval, and
13 here it's flat. So that's why I said C shape.

14 You can describe, you know, so many other
15 ways how to describe, I just describe this way.

16 Q. Essentially like a half, circle would that be correct?

17 A. It's more than half circle but yes.

18 Q. Okay. Exhibit 12, what are we looking at here?

19 A. Exhibit 12, he was undressed by medics. His clothes
20 was cut off by medics. But I request his clothes and
21 it was delivered to me by police officers. And he had
22 white T-shirt with right here brownish area, that's
23 spots of the blood. But he also had the same C-shaped
24 defect on his T-shirt, and I'm not sure if you can
25 magnify it or not. I'm sorry. That's me. Can we

1 magnify this or no? Okay. It's again hard to see, I
2 can't see from my bench. It's a C-shaped defect and
3 this defect onto his T-shirt correspond with his stab
4 wound.

5 Q. Exhibit 13, are you able to see it better now?

6 A. Oh, I have double eyes, but -- I believe right here you
7 can see again C-shape defect and it's a little blood.
8 Blood spot around this defect.

9 Q. That's kind of towards the center of the exhibit; is
10 that true?

11 A. That's correct, yes.

12 Q. Exhibit 16, what do we see there?

13 A. Exhibit 16. It's part of the examination. Even before
14 I process a body, we photograph back and front of, you
15 know, hands just to document any trauma on his hands.
16 So this is back of his right hand.

17 Q. Did you find any evidence of trauma on his hands?

18 A. I did not observe any trauma.

19 Q. Exhibit 17?

20 A. Exhibit 17 it's, again, that's front or palm of his
21 right hand.

22 Q. Any evidence of trauma?

23 A. There is no trauma, just some blood spots.

24 Q. Do you have an opinion as to where those blood spots
25 came from?

1 A. It's probably from his chest wound, because I believe
2 he initially was dressed. It's December in Minnesota.
3 People don't run naked in the State of Minnesota when
4 it's December. So -- and his clothes was covered --
5 not covered but there was blood spots.

6 Q. Okay. Exhibit 18?

7 A. Exhibit 18 is, again, just trying to document my
8 findings. There is no damage to his palm or front of
9 his hand.

10 Q. And out of all of the autopsies you've conducted over
11 your career, if a hand strikes another object do you
12 see it leave signs of trauma?

13 A. Yes. Not always. But sometimes you can see some
14 damage, but not always.

15 Q. Got it. Exhibit 19, are we looking at the other hand
16 now?

17 A. Exhibit 19, that's the back of his left hand.

18 Q. Any evidence of trauma on that?

19 A. No.

20 Q. Exhibit 20, sir?

21 A. Exhibit 20. It's the front or palm of his left hand.

22 Q. Any evidence of trauma?

23 A. No.

24 Q. And finally Exhibit 21?

25 A. Exhibit 21, it's, again, just -- they're trying to take

1 multiple pictures and shots from different angles.

2 There is no trauma.

3 Q. All right. Doctor, as part of your job, after
4 conducting an autopsy, do you have to express an
5 opinion as to a cause and manner of death?

6 A. Yes, I do.

7 Q. Can you describe the distinction between the two? What
8 does cause of death mean, and what does manner of death
9 mean?

10 A. Sure. I'll try to be very simple. Like, if you take
11 like a natural death like heart attack, heart attack we
12 might call an infarction. It's going to be the cause
13 of the death.

14 Q. Did you render an opinion as to the cause of death in
15 this case? What was the cause of Mr. Stewart's death?

16 A. Yes. In my opinion cause of the death in this case
17 it's a stab wound to his chest -- exsanguination,
18 basically meaning bleeding to the death due to stab
19 wound in his chest.

20 Q. And did you render an opinion as to the manner of
21 Mr. Stewart's death?

22 A. Yes.

23 Q. And what is that?

24 A. In my opinion, manner of the death in this case is a
25 homicide.

1 Q. And that's used in the medical sense, correct, as
2 opposed to the legal sense? You're not making any sort
3 of determination as to legal culpability or anything
4 like that, are you?

5 A. Yes, nothing to do with legal sense. It's only because
6 we have homicide, basically meaning it's life taken by
7 another person.

8 Q. And that's all that signifies?

9 A. Right.

10 Q. All right. Thank you, sir. I have no additional
11 questions for you.

12 A. You're welcome.

13 THE COURT: Cross-examination?

14 MR. GRAY: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. GRAY

17 Q. Starting with the hands that we had seen up there of
18 the deceased, you said that sometimes but not always
19 you might see trauma on the hand; is that right?

20 A. Yes. Good afternoon, counsel. Yes, you're right.

21 Q. And when a person is stabbed and he runs a block, half
22 block, does that cause the blood to pump more than if I
23 were lying down?

24 A. When people -- yes, when people are excited, you know,
25 more adrenaline and any physical exercise make heart

1 fast, you know, it pumps blood faster, yes.

2 Q. Pumps more blood?

3 A. Right.

4 Q. And as far as external injuries on the deceased
5 Mr. Stewart, there were no bruises; is that correct?

6 A. I did not observe any other significant injuries, yes.

7 Q. And no -- besides the C hole in his chest, there were
8 no bruises on his shoulders or chest?

9 A. I did not observe any significant injuries, yes.

10 Q. Okay. And you're the one that's looking for them,
11 right?

12 A. Yes.

13 Q. I'm little bit confused about this isopropanol. Could
14 you explain that? How is that found on a person?

15 A. Sure. I had a question, too -- questions, too.

16 Isopropanol, it's rubbing alcohol. Drinkable alcohol
17 is ethanol. Rubbing alcohol, that's used to swab skin,
18 that's isopropanol. It could be externally consumed or
19 it could be part of the internal metabolism.

20 When people, as I said -- for example, have
21 diabetes ketoacidosis, when they're starving, when they
22 suddenly cooling, and when they're really, really cold,
23 body can produce some ketones and part of the ketones
24 is isopropanol.

25 Q. You didn't detect any diabetes in this person, did you?

1 A. We did not check him for diabetes, but I did not have
2 any information that he was suffering from diabetes.

3 Q. Okay. And on the isopropanol, as I understand what you
4 just testified to, it could be caused by drinking
5 rubbing alcohol, correct?

6 A. It's could be. It's exogenetic isopropanol.

7 Q. And with respect to the marijuana found -- in his
8 blood, was it? That it was found?

9 A. Yeah, we always check the blood, not other tissues.

10 Q. And you're not a toxicologist, correct?

11 A. I'm not a toxicologist, but --

12 Q. So your opinion as to how much marijuana he had
13 consumed, that's just your opinion. It's not based on
14 any toxicology doctorate that you have, correct?

15 A. Um, not exactly. We deal with toxicology on an
16 everyday basis, so I have to interpret toxicology and
17 testify about toxicology.

18 Q. Did -- but did you interpret this blood, this marijuana
19 in this case?

20 A. I just already stated that it was small amount of the
21 marijuana.

22 Q. What was a small amount?

23 A. And again it's --

24 Your Honor, may I refresh my memory?

25 THE COURT: Yes. You need to look at your

1 reports?

2 THE WITNESS: Yes, I just need to go over
3 those numbers. He had Delta-9-THC, 11 nanogram per
4 mill, that's active metabolite of the marijuana. It's
5 a small amount. He had Delta-9-THC -- I'm sorry.
6 11-Hydroxy-Delta-9-THC 1.6 nanogram per mill, that's an
7 inactive metabolite of marijuana. That he had
8 Delta-9-carboxy-THC which is 23 nanogram of per
9 milliliter. This is, again, a small amount of the
10 inactive metabolite.

11 BY MR. GRAY

12 Q. And have you -- are you familiar with any studies about
13 when a person dies, that it's difficult to determine
14 how much marijuana is in his system because of the
15 blood testing?

16 A. Toxicology is very complicated. We use, again,
17 toxicology book. You're probably familiar with that,
18 it's a postmortem redistribution of the drugs in the
19 human body.

20 Q. So when you're saying one cigarette, you're pretty
21 much -- that's a guess on your part, correct?

22 A. Well, I don't guess. I just refer to this book, which
23 is well-known book, and all forensic pathologist and
24 toxicologist use this book.

25 Q. And did you make a determination as to when that one

1 cigarette was smoked? Was it smoked right before the
2 incident or two days or what?

3 A. That I cannot tell you, Counselor. It's impossible to
4 say, yes.

5 Q. You don't know?

6 A. No, I don't.

7 Q. And with respect to the external injuries, there were
8 none, correct?

9 A. Um, I observed just stab wound his left chest.

10 Q. And the stab wound was as you described it a small C
11 right below his chest?

12 A. You're correct, Counselor. Yes.

13 MR. GRAY: May I have a second, Your Honor?

14 THE COURT: Yes.

15 BY MR. GRAY

16 Q. Yes. In your autopsy do you have a weight and height
17 of Mr. Stewart?

18 A. We measure body -- the body weight was 171 pounds and
19 he -- we measure body in lengths. It's not heights
20 because body on the table sometimes is some
21 discrepancies; we measure body, 5'11". Why
22 discrepancies? Because the spinal column is kind of
23 curvy when people are flat on the table. There's going
24 to be some discrepancy between our measurement and
25 driver's license.

1 Q. Okay. And what -- so it's a length, it's not the
2 height. Is that what you're saying?

3 A. Yes, Counselor. Yeah.

4 Q. What was his length --

5 A. -- it's not the exactly, okay. I already stated that
6 his length was 5'11", but can I look and refresh my
7 memory.

8 Q. Sure?

9 A. Yeah, we measure body 5'11, yes.

10 Q. Okay. So that's 5 feet 11 inches?

11 A. You're absolutely correct.

12 MR. GRAY: Thank you, sir.

13 THE WITNESS: You're welcome.

14 MR. TAHIR: Nothing -- no additional
15 questions, Your Honor.

16 THE COURT: Thank you, Doctor.

17 THE WITNESS: Am I excused?

18 THE COURT: You are excused.

19 THE WITNESS: Thank you.

20 THE COURT: Do you have another witness?

21 MR. TAHIR: Yes, Your Honor. The State calls
22 Joseph Dillenburg.

23 THE COURT: Mr. Dillenburg, will you please
24 come forward, sir. Watch your step there. I'd ask you
25 to please raise your right hand.

1 JOSEPH DILLENBURG,
2 was called as a witness and, being first duly
3 sworn, was examined and testified as follows:

4 THE COURT: Please have a seat and state your
5 full name and spell it for us.

6 THE WITNESS: Joseph Dillenburg, J-O-S-E-P-H
7 D-I-L-L-E-N-B-U-R-G.

8 THE COURT: Thank you.

9 Go ahead, Mr. Tahir.

10 MR. TAHIR: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MR. TAHIR

13 Q. Mr. Dillenburg, where are you employed, sir?

14 A. Ramsey County Emergency Communications Center.

15 Q. What is the emergency -- excuse me. What is the
16 emergency communications center?

17 A. It's a 911 center for all of Ramsey County.

18 Q. And what do you do there?

19 A. I'm an administrative manager there.

20 Q. What does an administrative manager do at the ECC?

21 A. I oversee several functions, budgets, accounting,
22 records management. I do some hiring and promotion,
23 liaison with human resources, things like that.

24 Q. Okay. Are you also -- well, let me ask you this: If a
25 person calls 911, either by calling 911 or using the

1 nonemergency number, are all of those calls routed
2 through your facility?

3 A. Yes. Any -- if anybody dials 911 in Ramsey County, it
4 will come to us, generally speaking. If they call from
5 a landline 99-plus percent will come to us. If they're
6 calling on a cell phone, it just depends on their
7 geographic location.

8 Q. And what does the Emergency Communications Center do in
9 terms of preserving these calls for future use?

10 A. Under state statute we're required to hold recordings
11 for 31 days of 911 calls and the radio traffic
12 associated with them.

13 Q. And how is -- how are those calls stored?

14 A. They're stored on a secure server in our building.

15 Q. Okay. And are you a custodian of records for those
16 calls that are stored on your server?

17 A. Yes.

18 Q. Okay. Did law enforcement request certain calls that
19 came through to your facility approximately 7:30 p.m.
20 to 8:30 p.m. on December the 2nd of 2021?

21 A. Yes. I believe there were four calls that were
22 requested, and those recordings were sent on.

23 Q. Those recordings were safely preserved on your system
24 and then were provided to law enforcement. Would that
25 be accurate?

1 A. Correct.

2 Q. You've had a chance to review those recordings in
3 preparation for your testimony here today?

4 A. Yes.

5 Q. Have you also had a chance to review verbatim
6 transcripts that have been prepared of those four 911
7 calls?

8 A. Yes.

9 MR. TAHIR: May I approach the witness, Your
10 Honor?

11 THE COURT: Yes, you may.

12 BY MR. TAHIR

13 Q. Sir, I'm showing you Exhibit 2, 3 and 4. Do these
14 contain the four 911 calls that we've been discussing?

15 A. Yes, they do.

16 Q. All right. Now I'm going to show you Exhibit 2A and
17 2B. Are these verbatim transcripts of the two 911
18 calls that are saved on Exhibit 2?

19 A. Yes, I believe so, yes. I reviewed these.

20 Q. Okay. And finally I'm going to show you Exhibit 3A and
21 4A. Does 3A -- excuse me, is 3A a verbatim transcript
22 of the audio call saved on Exhibit 3?

23 A. Yes. When I was listening, yes.

24 Q. And 4A, is that a verbatim transcript of the call saved
25 on Exhibit 4?

1 A. Yes.

2 Q. The State offers, 2, 3, and 4 into evidence and 2A, 3A,
3 4A -- excuse me. Let me start that over. 2A, 2B, 3A,
4 and 4A as Court Exhibits.

5 THE COURT: Any objection?

6 MR. GRAY: Can I take a look at them?

7 MR. TAHIR: Yeah, absolutely.

8 MR. GRAY: No objection.

9 THE COURT: Those exhibits are admitted.

10 MR. TAHIR: May I publish these exhibits,
11 Your Honor, starting with Exhibit 2? It contains two
12 911 calls.

13 THE COURT: And we'll pass out 2A and 2B?

14 MR. TAHIR: Yes.

15 THE COURT: All right.

16 We will hand out some transcripts, Ladies and
17 Gentlemen, of what purports to be on Exhibit 2. As you
18 move along with these transcripts, these transcripts
19 are used to assist you in hearing what is being said on
20 the exhibit. They are not a substitute for it. If you
21 hear something different than what is -- what you hear
22 should control not what you read on the document. All
23 right?

24 And we'll start out with 2A, Mr. Tahir?

25 MR. TAHIR: Yes, Your Honor. On the disk

1 this is labeled B dot Kjellberg call one.

2 (Exhibit 2 was played in open court.)

3 THE COURT: One second. All right. Go
4 ahead.

5 (Exhibit 2 was played in open court.)

6 THE COURT: All right. If you can pass all
7 of those down to your left.

8 And now we'll and out Exhibit 2B.

9 MR. TAHIR: And I'm now playing.

10 THE COURT: One second.

11 MR. TAHIR: Oh. All right.

12 THE COURT: Go ahead.

13 MR. TAHIR: And this is saved on the disc as
14 B dot Kjellberg call 2, transcript Exhibit 2B.

15 (Second call of Exhibit 2 played in open court.)

16 THE COURT: And if you could please pass
17 those transcripts down. And if there is a phone on in
18 the courtroom, you need to shut your phone off and
19 certainly not answer your phone if it rings.

20 MR. TAHIR: Your Honor, may I publish Exhibit
21 3?

22 THE COURT: Yes, you may. Pass the
23 transcripts out.

24 MR. TAHIR: Yes.

25 THE COURT: And what are we hearing here?

1 MR. TAHIR: This is a call made by Marie
2 Gagnon, G-A-G-N-O-N, and that's how it's labeled on the
3 disc.

4 THE COURT: Does everybody have a transcript?
5 All right.

6 (Exhibit Number 3 is played in open court.)

7 THE COURT: All right. Please pass those
8 transcripts down, please.

9 MR. TAHIR: May I publish Exhibit 4, Your
10 Honor?

11 THE COURT: Yes, you may.

12 MR. TAHIR: This is a call made by Marcel
13 McMath.

14 (Exhibit 4 is played in open court.)

15 THE COURT: Please pass the transcripts down.
16 All right. You may continue, Mr. Tahir.

17 BY MR. TAHIR

18 Q. Sir, I just have a few final questions for you. On
19 Exhibit 2, the first call that was made, that was
20 actually to the nonemergency number. Do you agree with
21 that?

22 A. I do.

23 Q. And the second call was to 911. The second call on
24 that disc, which was Transcript 2B. Do you agree?

25 A. That's correct, yes.

1 THE DEFENDANT: All right. Thank you. I
2 have no further questions.

3 THE COURT: Anything from the Defense?

4 MR. GRAY: Yes, I'll ask a couple questions.

5 CROSS-EXAMINATION

6 BY MR. GRAY

7 Q. Do you have the time when the first call by Brian
8 Kjellberg was made?

9 A. I would have to refer to the computer-aided dispatch
10 report, I think.

11 Q. Do you have that?

12 A. I think it was like -- I don't, no. Not with me. I
13 think it was shortly after 7:00. I can't remember.

14 Q. And once you got that call, what -- did you get it or
15 did somebody else get the call? You didn't get it, did
16 you?

17 A. I did not take the call. I haven't taken calls in
18 quite some time.

19 Q. Okay. So somebody else took the call?

20 A. Correct.

21 Q. Do you know what time she notified somebody to go out
22 to tag that car?

23 A. Oh, to tag the car?

24 Q. Yes?

25 A. I do not know that, no. I do not think an officer was

1 dispatched until after the call came in as an
2 emergency.

3 Q. So in other words, when Mr. Kjellberg called at
4 approximately 7:00 and asked for a police officer to
5 come out and ticket this car and he was going to call
6 the tow company to tow --

7 A. Mm-hmm.

8 Q. -- that was never called to a cop, was it?

9 A. It was not dispatched to an officer because it's a
10 lower priority call. A parking complaint would be
11 lower priority.

12 Q. So did the person that he called tell him that? "Well,
13 we're not even going to let the police know about
14 this"?

15 A. That would be incorrect. If she would have said that
16 that would be incorrect, because when the 911
17 telecommunicator takes the call, they enter the
18 information into the computer-aided dispatch computer.
19 That information goes to a pending queue for the
20 dispatcher, and the dispatcher dispatches those calls
21 according to priority.

22 Q. Okay. But you just testified that this call was not
23 sent to a police car, to have the police car drive out
24 to Mr. Kjellberg's residence --

25 A. Mm-hmm.

1 Q. -- and tag the car?

2 A. Mm-hmm, yes.

3 Q. Is that correct?

4 A. Yes, that's correct. I did say that. But to put it
5 into context, sometimes lower priority calls will take
6 20 minutes, half an hour. If it's a busy Friday night
7 those calls will take hours.

8 Q. Well, I have the transcript here that -- and I don't
9 see anything in this transcript or in the conversation
10 that he had that they tell him that; is that right?

11 A. I didn't hear that either, no.

12 Q. In fact the dispatcher said, "We'll get someone out
13 there to you. If anything changes just give us a call
14 back, okay?" That's what the dispatcher said?

15 A. Yes.

16 Q. But that dispatch -- that call was never sent to a
17 police officer to come out and tag that car; is that
18 right?

19 A. Correct.

20 Q. Is the public expected to know that if you call the
21 police on a nonemergency 911 call that maybe the cops
22 will never come? Are they expected to know that?

23 A. I would anticipate that if someone -- you said a 911
24 call. I would anticipate that if someone called 911
25 for a response, they would expect someone to come.

1 Q. But in this case, nobody was alerted, right?

2 A. Not until the emergency call came in.

3 Q. And that was 20 minutes later, correct?

4 A. I don't know. I don't remember the time.

5 Q. Well, you would have had the time. You could have
6 gotten that time before you came here to testify,
7 correct?

8 A. Absolutely. I could have looked that up. You bet.

9 Q. And why didn't you?

10 A. I didn't anticipate that question.

11 Q. So you got two 911 calls, separate. You didn't
12 anticipate what times they would be?

13 A. I was more concerned about the contents of the call and
14 understanding what happened during the call I guess.

15 MR. GRAY: That's all I have. Thank you.

16 THE COURT: Anything on that, Mr. Tahir?

17 MR. TAHIR: Just briefly, Your Honor.

18 REDIRECT-EXAMINATION

19 BY MR. TAHIR

20 Q. Sir, you stated that you're not sure what times these
21 calls came in. Would it refresh your recollection to
22 take a look at the incident detail report?

23 THE WITNESS: Sure.

24 MR. TAHIR: May I, Your Honor?

25 THE COURT: Yes, you may.

1 BY MR. TAHIR

2 Q. Please take a look at that, and please let me know when
3 your memory is refreshed. And then I'll ask you a
4 question.

5 A. Okay (Witness complies.) On the --

6 Q. Is your memory refreshed, sir?

7 A. No, it's not.

8 Q. Okay.

9 A. And I can explain why.

10 Q. Well, let me ask you, after looking at that, do you now
11 know about when the first call came in?

12 A. I don't.

13 Q. Okay. Why is that?

14 A. Because multiple calls came in and multiple calls were
15 associated with the same incident in the computer. So
16 sometimes that confuses the times on it. We could look
17 again and if we were -- if I was allowed some time, I
18 could do some analysis on when each call came in based
19 on the notes from the call takers, because there's
20 multiple call takers that are taking these calls --

21 Q. Good.

22 A. -- and they're entering information into the computer,
23 the computer is recording the time, and so if we were
24 to take a close look at it line by line, we would be
25 able to answer those questions.

1 Q. Well, you agree it's approximately around 7:00 p.m. in
2 the evening?

3 A. Yes.

4 Q. When that first call name came in?

5 A. Right.

6 Q. I guess the real question is: When you say that police
7 were never notified after that nonemergency call came
8 in, why is that? Could you provide some context to
9 your answer, please?

10 A. Sure. We prioritize calls according to -- I would say
11 to make it as simple as possible, according to danger,
12 life, safety, property. If someone is calling to
13 complain about a parking complaint, snow in front of
14 their fire hydrant, things of that nature, that will
15 take a lower priority response.

16 If someone is calling because they are
17 injured, that's going to take one of the highest
18 responses. Somewhere in between -- it just depends on
19 the danger to the caller and the potential danger to on
20 others.

21 Q. So what actually happens to the details that are
22 collected from a call that has a low priority? Are
23 they just added to a queue of some kind?

24 A. When a call taker takes a call, they enter the
25 information -- and all of the information that they're

1 gathering they enter it into a computer. The computer
2 sends that information to a dispatcher, and it shows up
3 in a pending queue. And the pending queue is lined up
4 according to priority. It goes from one to five --
5 basically one to five. Two being, generally speaking,
6 the highest priority. One being if an officer is down,
7 that type of thing.

8 So this was -- when this call came in as an
9 injury call, someone called and said that someone was
10 stabbed, that call was immediately changed from a lower
11 priority to a priority two. And officers were
12 dispatched very quickly and the call taker transferred
13 the call to the fire dispatchers and they dispatched an
14 ambulance quickly.

15 Q. Okay. But earlier on when it was a lower priority
16 call --

17 A. Mm-hmm.

18 Q. -- it was still added to the system. It's not like it
19 was complete ignored, was it?

20 A. Oh, absolutely not. It's never ignored.

21 Q. So when the question was asked of you, "Well you never
22 told the police about this, isn't that true?" It's
23 actually not true because it's added to the system,
24 it's just lower priority?

25 A. That's correct.

1 Q. That would be correct, all right, I just wanted to
2 clarify that, thank you, sir.

3 RE-CROSS-EXAMINATION

4 BY MR. GRAY

5 Q. Sir, didn't you just testify that the first call -- a
6 police officer was not notified of that?

7 A. A dis- -- a police officer was not dispatched.

8 Q. Well, what's the difference between not being notified
9 and not being dispatched? Is there a difference?

10 A. I think your inference that not being notified means --
11 or is inferring that no one would ever be dispatched,
12 and that's not true. It would be handled according to
13 priority and according to resources available.

14 If an officer became available for that
15 priority -- of that low priority of a call, then they
16 would be dispatched.

17 Q. Sure. And do you tell your dispatchers to say, "Okay,
18 we'll get someone out there to you. If anything
19 changes just give us a call back?"

20 A. Yeah, I wish they would have said that -- something on
21 the order -- I don't know if they were busy that night,
22 but if they were, I would have appreciated a 911 call
23 taker saying, "We're busy. It might it be a little
24 while," which they do do often, but they did not do in
25 this instance.

1 Q. So that would leave the person that made the call
2 standing out in the cold as long as possible waiting
3 for a squad car, correct?

4 MR. TAHIR: Objection; calls for speculation.

5 THE COURT: And argumentive, sustained.

6 BY MR. GRAY

7 Q. Just one last question: You don't know and you can't
8 find out unless you go to some computer what time the
9 call was made by Mr. Kjellberg the first time and what
10 time the call was made by Mr. Kjellberg the second
11 time; is that right?

12 A. Yes. I would have to take a look at the incident
13 recall on the computer. And if I took a little time
14 and looked at it line by line, I would be able to
15 answer that question.

16 Q. And no one asked you to do that before you came here
17 today?

18 A. Mm-mm.

19 MR. GRAY: That's all I have.

20 MR. TAHIR: Nothing, Your Honor.

21 THE COURT: Thank you, sir.

22 THE WITNESS: You bet.

23 THE COURT: You're excused.

24 Ladies and Gentlemen, we're going to recess
25 for the evening. Again, I'll kindly remind you not to

1 discuss this case amongst yourselves or with anyone
2 else. When you go home, as you do, tonight if anyone
3 asks you, please let them know that you're serving as a
4 juror in a criminal matter and that's all you should
5 let them know. Do not do any research of any kind
6 about this case or communicate about this case at all.

7 Please be here tomorrow morning no later than
8 8:45 in the jury deliberation room. Please make sure
9 you have your badges on when you come into the
10 building, and leave your notepads face down as you
11 leave today. All right. Thank you, everyone. All
12 rise. The jurors are excused for the evening.

13 (The jury exited the courtroom.)

14 THE COURT: You may be seated.

15 Anything we need to address before we recess
16 for tomorrow?

17 MR. TAHIR: Nothing from the State, Your
18 Honor.

19 MR. GRAY: I have nothing.

20 THE COURT: All right. Do you know what
21 witnesses, or at least have you informed the Defense
22 what witnesses you plan on calling tomorrow?

23 MR. TAHIR: I will. I've given them a
24 pared-down witness list, but I will email them with the
25 specific witnesses for tomorrow morning and afternoon.

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THE COURT: All right. Thank you.

MR. GRAY: Make sure they know the times.

THE COURT: We are in recess.

(The proceedings concluded at 4:25 p.m.)



MINNESOTA
JUDICIAL
BRANCH

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

I, Colleen Maloney, an official court reporter for the Second Judicial District, in and for the County of Ramsey, State of Minnesota, do hereby certify that the foregoing pages are a true and accurate transcript of my original stenograph notes which were transcribed into writing by computer-aided transcription, taken relative in the aforementioned matter on March 28, 2023, in the City of St. Paul, County of Ramsey, and State of Minnesota before the Honorable Leonardo Castro.

Signed this 7th day of October, 2023.

s:/ Colleen Maloney

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