

C53904

SUPERIOR COURT OF JUSTICE
(Toronto Region)

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B E T W E E N :

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HER MAJESTY THE QUEEN

15

- and -

NICOLE KISH

Accused

20

TRIAL PROCEEDINGS

25

JANUARY 31, FEBRUARY 1 AND 2, 2011

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VOLUME II

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(TORONTO REGION)

B E T W E E N :

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HER MAJESTY THE QUEEN

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---heard before THE HONOURABLE MR. JUSTICE

NORDHEIMER, on January 26-28, 31, February 1-3,
8-10, 14-16 and 22, 2011, in courtroom 4-9
at 361 University Avenue, Toronto.

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TRIAL PROCEEDINGS

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APPEARANCES:

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Mr. W. Thompson and
Ms. E. Middlekamp

Appearing for the Crown

Mr. J. Scarfe and
Ms. V. Simpson

Appearing for the Accused

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---MONDAY, JANUARY 31, 2011

5

---UPON RESUMING (10:05 a.m.)

MR. THOMPSON: Good morning, Your Honour.

10

THE COURT: Good morning.

MR. THOMPSON: Our next witness is Molly
Stopford. S-T-O-P, I believe.

15

---MOLLY STOPFORD: AFFIRMED

---EXAMINATION IN-CHIEF BY MR. THOMPSON:

MR. THOMPSON:

Q. Good morning, Molly. Do you mind if I
call you Molly?

20

A. Yes, that's fine.

Q. Molly, you flew in yesterday from Ottawa,
is that correct?

A. Yes.

25

Q. And you provided a -- and you had an
opportunity when you flew in yesterday to review the

interview that you did with the police officer,
there was a video of that at which time you also had
an opportunity to look at the transcripts from the
preliminary inquiry?

5

A. Yes.

Q. As well as the transcript from the actual
interview.

A. Yes.

10

Q. And in addition to that you also provided
an independent statement to the defence?

A. Yes.

15

Q. And I just think probably the best thing
to do is just get right to the events that happened
on August 9, 2007. And can you just briefly tell us
what you were doing at that point in time and what
-- and why you were at that location?

A. I had gone for dinner with some friends
on that evening and was travelling eastbound on
Queen West.

20

Q. Tell me approximately what time?

A. It was approximately 12:30.

Q. Okay.

A. And --

25

Q. And when you were out with friends, was
Mr. Paget with you at that time as well?

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A. Yes. So I was out for dinner at the Drake with Jonathan Paget and two other friends, and then Jonathan and I were travelling on the Queen West streetcar.

5 Q. Okay? And can you, um, just without going into too many details, I gather at that time you and Mr. Paget had a relationship?

A. We had just ended our relationship. Yes.

10 Q. And is -- it has not been rekindled in any event.

A. No. We remain friends but we are not in a relationship.

15 Q. And in terms of the relationship, in any event, did you have any discussions about the events that transpired that night with him?

A. Yes.

Q. And just roughly, can you give us an idea what you discussed with him?

20 A. Um, it would have been just after the events. We don't really -- we have mutual friends but since I would say the end of August, 2007, or -- did it happen in 2007? We haven't really discussed it after that. It would have been just shortly thereafter.

25 Q. Let me ask you this in any event. Have

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you seen Mr. Paget since this event in 2007?

A. Yes, at a couple parties.

Q. Are you aware that he's testifying in these proceedings?

5 A. I assumed that he was, yes, but we haven't talked about it. Oh. Actually, we did send an e-mail a couple of months ago but we didn't know when this was, and he hadn't been contacted by the detective.

10 Q. Court' indulgence. Now, I understand also, with respect to the statement that you provided to the defence, and I believe that was back in August of this year?

A. Yes.

15 Q. Okay. Just can you tell us what the purpose of that was?

A. Yeah. Um, when I had testified the first time, I forget what it's called, at the preliminary hearing or something?

20 Q. Yes?

A. I had been asked by the defence if I had seen any media regarding the event.

Q. Yes?

25 A. And I actually at that point really couldn't remember that I had. Like, I was newly

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pregnant. I don't know if that was why I --

Q. Sorry. You just have to pick up your voice a bit.

5 A. Sorry. I said that I hadn't really or I didn't remember seeing any media about it, and then right after I realized that I had seen media about it and, um, I don't know why I didn't remember that when I was on the stand or if I was -- I don't know, so I contacted him saying that I actually had seen
10 media and that I had felt that the media misrepresented what had gone on.

Q. Okay. You said "the media misrepresented what had gone on"?

15 A. I felt that they had, and that was the reason why I had contacted the Toronto Police, to say that I was a witness and felt that I hadn't made that clear enough when I was on the stand the first time.

20 Q. Okay. And just so it's clear, what pieces of media did you see?

A. Um, some in the newspaper and some online. Um, and online newspapers.

25 Q. And did you ever, what's been filed as an exhibit on these proceedings, referred to as the City TV video, did you ever see that?

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A. Yes, I think I have seen it.

Q. Do you remember when you saw that?

A. Um, I think at work on the internet.

Like, on the computer. Definitely not on TV.

5 Q. And can you -- do you remember having --
did you see it once? Did you see it a number of
times? Or --

A. Maybe once or twice.

10 Q. And do you have any idea when it is that
you saw that?

A. Oh. Shortly after the event.

15 Q. Okay. I'm going to take you back now to
the August event again, and you say you are on the
streetcar, you are going eastbound about 12:30 in
the evening?

A. Yes.

20 Q. And I'm going to show you exhibit --
Exhibit Number 8. And can you -- is there a laser
pointer around? Okay. Well, what I'm going to ask
you to do, because our laser pointer's not around,
can you just mark on, or show me on Exhibit Number 8
where it was that you were seated on that streetcar?
First of all, can you just give us a little bit
about the streetcar. Whereabouts in the streetcar
25 did you say you were seated?

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A. I was seated five or six seats back from the front of the streetcar, on the right-hand side.

Q. Okay. So that would be the passenger side?

5 A. On the passenger side.

Q. All right. And I'm going to show you this exhibit now. Could you perhaps point -- I don't know how I'm going to do this on the monitor.

A. Do you want me to get down?

10 Q. Well, actually that pen, try that pen. Sometimes it works and sometimes it doesn't. No. It's not going to work. Okay.

A. No.

15 Q. On this Exhibit Number 8, can you just describe to us, in terms of the windows that are on the south side, can you tell us how many windows back you were roughly?

A. I was roughly the third window back.

20 Q. Okay. And there appears to be, well, there appears to be one seat there, so is that the seat that you were at? There's a seat sort of at the front of the window and a seat towards the back of the window?

25 A. I believe I would be toward the back of the window.

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Q. All right.

THE COURT: Mr. Thompson?

MR. THOMPSON: Thank you.

THE WITNESS: Oh.

5 THE COURT: I don't guarantee how long the
batteries will last.

MR. THOMPSON:

Q. All right. If you could just point that
out?

10 A. So right around here.

Q. All right. Thank you very much. Okay.
I'll -- you can give that back to His Honour. And
there's -- there's an inner seat and outer seat, or
it's all one seat. Were you closest to the window or
15 the aisle?

A. I had the window seat.

Q. And who had the aisle seat?

A. Jonathan.

20 Q. And just so, for the record, Jonathan's
last name is?

A. Paget.

Q. So at that location, just so it's clear,
you'd be looking south on to Queen Street?

A. Yes.

25 Q. Do you know roughly what intersection it

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was at?

A. I do not. I don't know Toronto very well.

Q. Okay. Well, the evidence has been so far that the streetcar was parked at a place called

5 Niagara Street?

A. Yes.

Q. All right? I'm pointing --

A. Okay.

10 Q. -- now to Exhibit 1, and there is a shelter there just on the south side of the street.

A. Yes.

Q. All right. And can you tell us, did the streetcar come to a stop?

A. Yes, it had.

15 Q. And can you tell us at that point in time what it is you saw?

A. Um, I, looking out my window to my right and ahead, noticed, um, two men having a pushing fight.

20 Q. Okay. And I'm just going to --

A. A scuffle between two men.

Q. Okay. I believe what is up there is Exhibit Number 6. I'm referring to Exhibit Number 6. Can you tell me where it is that you saw these two
25 men in a scuffle?

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A. Do you want me to point?

Q. Please.

A. Right around here.

5 Q. Okay. So just for the record, you're pointing to the south side of the street and you're pointing to the west side on the sidewalk but to the west side of the shelter of the streetcar. Okay. And what is it -- let me ask you, on an August night, were the windows on the streetcar open at all, or
10 not?

A. Yes, they were open.

Q. So what drew your attention to the two gentlemen?

15 A. Both noise and movement. Yelling and pushing.

Q. And did you actually see them there or did you see them arrive there?

20 A. I don't think I understand what you mean. When I looked out the window, that's where they were.

Q. Okay. Do you know where they came from?

A. No, I do not.

25 Q. And can you just briefly describe to us the kind of movements that you saw between these two gentlemen?

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A. Yes. There was pushing and shoving and yelling, punches being thrown.

Q. And at that point in time, were you able to actually -- what was the lighting like at that location?

A. Um, well, it was dark out but there were lots of lights. Streetlights, store lights.

Q. And so did you, in your mind, do you have a rough description of the two people involved in the fight?

A. Yes.

Q. Can you relay that to us, please?

A. They were, um, definitely of different groups. One was a jock-ish type of male with, um, who was white, wearing a dark fitted t-shirt, and the man that he was fighting with was much smaller and scruffy with longer hair and baggy clothing, also white.

Q. Does the fight stay there or does it move?

A. No, the fight travelled, um, to right underneath my streetcar window, up against the streetcar.

Q. Okay. So when you say -- you pointed earlier to that third window. When you say right "up

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against the streetcar", are you saying it's right
beside it or directly underneath it or --

5 A. Um, a lot of the fight occurred beside
it, underneath it not touching the streetcar, but at
times the jock was punching the smaller male right
up against the streetcar. I could feel the
vibrations in my seat.

10 Q. Okay. And in terms of the location of
both the jock and the other gentleman, can you tell
us, and I'm now showing you Exhibit Number 8 which
is a picture of the streetcar, actually it was
probably better on there. The jock would be where on
your pointer?

15 A. Um, right about here most of the time.

Q. And was the other gentleman to his left
or to his right?

A. Um --

Q. In other words, the east or the west or
however you want to mark it on there.

20 A. Um, so the other gentleman was more
directly underneath my window, so I guess north of
him, and slightly west of him.

25 Q. Okay. And is there an indication, in your
mind at least, who's getting the better of the
fight?

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A. Yes. The jock was definitely winning and was -- had beaten up the kind of more street kid I guess you would call him, um, to the point that he was not responding. He was no longer fighting back.

5 Q. Okay. When you say he was not fighting back, did you -- were you able to determine whether he was conscious at all at the time?

A. Well, I had believed that he had lost consciousness at that point.

10 Q. Now, you are seated in the seat at that point in time. Are you looking out the window or --

A. Yes. At that point I had my head right out the window.

15 Q. Okay. So just so it's clear, your head is entirely out the window?

A. Yes, at certain points.

Q. Okay. And when your head is out the window, I'm going to ask you to go over that again. What movements do you see between the two of them?

20 A. Punching primarily, maybe kicking.

Q. Do you -- now, you indicated you hear the vibration against the side of the streetcar.

A. Yes, I felt it.

Q. Do you know what caused that?

25 A. I thought at the time that it was the

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jock pushing the street kid up against the streetcar with his punches.

5 Q. So let me ask you, when you have the two of them right at the streetcar, are they facing the streetcar? Looking east? Looking west? Or how are they --

A. The jock was facing the streetcar because the kid that he was beating up had his back to the streetcar.

10 Q. Okay. So if you're -- if your head is out the window at that point in time, and I'm going to walk towards, you tell me how close you are to actually seeing what is going on and tell me when to stop.

15 A. Okay. Ah, stop.

Q. So I'm going to say roughly that's three and-a-half to four feet? Any issue with that? Are you going to say yes?

20 MS. SIMPSON: I apologize. No issue with that.

MR. THOMPSON: All right.

Q. Do you ever get a good look at the other individual who is being -- the other, as you call him, scruffy individual?

25 A. Yes.

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Q. Do you ever see any blood on him?

A. Yes.

Q. And where was that blood?

A. On his face.

5 Q. Now, I also want you to, just in your mind, think about when -- the first time you saw the fight --

A. Mm-hm.

10 Q. -- and the time in which you saw what you -- he appeared to be unconscious or against the side of the streetcar, and what I want to do -- basically is get a time-frame. I'm going to start my watch and then you tell me when to stop when -- in terms of the duration of the time between when you

15 first see it and the time when he becomes unconscious.

A. Okay.

20 Q. And if I start -- just so it's fair, so I can see the hand here, now, you the tell me when to stop.

A. Maybe now.

25 Q. Okay. And I've got 54 seconds on that. So just call it roughly 55, all right? So that's the length of time that you see that fight going on until the time he becomes unconscious. Is there any

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issues about the times?

MS. SIMPSON: None. Thanks.

MR. THOMPSON: Okay.

5 Q. At any time during that scuffle do you
see either one of the individuals with a weapon in
their hands?

A. No.

Q. Okay. And I mean a weapon, a stick,
anything at all in their hands.

10 A. No.

Q. And I just want you to focus a little bit
as well on the fight again. When you say it moved
around, is the position of the -- does -- does the
victim ever go down? Or I shouldn't say "the
15 victim". The individual who you call the scruffy
individual, does he ever go down to the ground.

A. Yes, he does.

Q. Is there any -- any punches or blows
administered while he's on the ground?

20 A. Yes, there were.

Q. So while that's happening, what is the
actual positioning of the jock?

A. Um, he's bent over --

Q. He's bent over?

25 A. -- the person that he's punching.

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Q. And is his back exposed to you or his side exposed to you, or how --

A. Side and back.

5 Q. So when he's bent over, is he actually facing the streetcar or is he looking towards east or west side?

A. He was facing the streetcar but angled a little bit toward the west, so I saw his right side and top of his head I guess.

10 Q. Now, at that moment, do you see anybody else --

A. Yes.

Q. -- in the picture?

A. Um, yes. Do you want me to continue?

15 Q. I do. Please.

A. There -- there seemed to be several people but I specifically noticed two women.

Q. Okay? And can you tell me when you first noticed those two women?

20 A. Um, I noticed them shortly after I noticed the scuffle between the two men.

Q. Okay. And so when you first noticed them, can you once again take your pointer and show to us where you noticed them?

25 A. In this area.

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5 Q. Okay. And so you just have to mark --
that is south of -- sorry. It's on the south side of
the street, basically partially on the sidewalk and
partially on the pavement, and it is also west of
the TTC stand. Where are they in relationship to the
fight that's going on then?

A. They were surrounding the fight. I had
assumed that they were friends with the scruffier
gentleman.

10 Q. What made you come to that conclusion?

A. Um, they were also wearing baggy clothing
and they seemed to be yelling at the jock, trying to
get him to stop fighting with their friend, who I
assumed was their friend.

15 Q. Okay. So in terms of that 55 seconds that
we went through, can you tell me, at that point
roughly in that 55 second time-frame, did you see
the women there?

A. Probably about ten seconds in.

20 Q. Okay. Now, I want you to describe roughly
the two women that you saw, just if you can?

A. They were both white, of medium height,
slim build. Um, maybe light brown hair. I didn't
really differentiate between the two of them too
25 much in my mind in terms of looks. Um, they were

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yelling and screaming and trying to get the jock to stop beating their friend. Or beating the other man.

5 Q. Can you tell me what made you think they were -- do you remember what they said? What kind of words they said?

A. I don't remember any exact words but there was swearing and yelling.

10 Q. Okay. But just in terms of the words that were used, aside from swearing and yelling, what made you think they were trying to get him to stop? To do that? What was it about their -- either their words or their movements that made you feel that way?

15 A. Oh, they were pulling and -- pulling on the jock and pushing him and punching him.

20 Q. And I'm just going to ask you to envision in your mind again, we have the jock and as you refer to the scruffy individual, at that point in time, within ten seconds, are they right at the streetcar at that time or was there pushing and shoving --

A. There was pushing and shoving that resulted in them being right up against the streetcar.

25 Q. But when the women were engaged, were

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they engaged where you've located or were they engaged somewhere else?

5 A. They became engaged where I first indicated, and then they continued being engaged right up as it was against the streetcar.

10 Q. Okay. And I'm going to ask you, you said they were pulling and punching. Can you just be a little bit more descriptive in terms of that? When they were pulling, first of all, were both of them pulling?

A. Well, I think that at times both of them were but there was one woman that was more involved than the other one.

15 Q. And so when you say "pulling", what was she doing to --

A. Pulling at his shirt and --

Q. Okay?

A. -- punching his back and shoulders.

20 Q. Okay. When you're saying "punching", is it an overhead punch like this? A direct out punch?

A. Both I would say.

Q. Okay.

A. Pummeling.

Q. Sorry?

25 A. Pummeling.

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Q. Okay. So pummeling, just so it's clear, pummeling means to you, is that a lot of hits or --

A. Yes, in consistent different motions.

Q. All right. And you're saying one woman was more persistent than the other I guess is the proper term?

A. Yes.

Q. And of the two women, and I'll refer to that woman as the persistent woman in any event, the persistent woman, where is she in relationship -- I know you said they were pummeling on the back but were they both beside him at the time? That's the jock? Or was one at a different location while this was going on?

A. They were I guess you could say circling him or -- but they were mostly to his back.

Q. Okay. Were they together at the times or --

A. Sometimes together and sometimes separated.

Q. The persistent woman, was she in closer contact?

A. Yes.

Q. And just so we're on the term of contact, when you were saying the pummeling, did you actually

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see any of the blows land?

A. Yes.

Q. And what was the jock doing when the
blows were landing?

5 A. He continued beating up the street kid.

Q. Let me ask you this: Did it appear one
way or the other that the blows were having any
effect?

10 A. Um, I think he knew that it was happening
but he wasn't very reactive to it.

Q. And when you indicated that you felt
vibrations on the streetcar, do you know what --
that was from the scruffy guy you said being hit
against the streetcar?

15 A. Yes.

Q. Do you know what part of his body came
into contact?

A. His back I believe.

20 Q. And just so it's clear, at that point in
time, what were your thoughts about the jock and the
scruffy guy?

25 A. Um, I was really scared of the jock, and
I felt that their sizes were not equal, and the jock
-- or the scruffy man was much smaller and incapable
of fighting back.

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Q. In terms of your feelings towards the jock, were you -- did you have any emotion toward him at all? Were you mad at him?

A. Yes.

5 Q. So I have now the two women who were sort of circling as you say, the one persistent woman and the other woman. Just can you give me a little bit more rough idea in terms of how much more persistent she was than the other woman?

10 A. She I would say had more contact with him and was yelling more.

Q. Okay. Did you ever see their faces in terms of their expressions?

A. Yes.

15 Q. And what were their expressions -- what was the expression of the persistent woman?

A. Um, despair and, um, disbelief and I guess anger and frustration.

Q. Okay. Do you ever see that look change?

20 A. No.

Q. Do you ever -- what does that persistent woman do next then?

25 A. Well, when I stopped -- I stopped looking out the window when I noticed that she had a knife in her mouth.

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Q. Okay. So just explain that to me. You stopped looking out the window?

A. So I was looking out the window watching the whole fight.

5 Q. Yes?

A. And then I noticed that the more persistent woman had a knife in her mouth, and at that point I became scared because I realized it wasn't just a normal street fight, and I closed my window and the window ahead of me in the seat ahead of me.

10 Q. Okay. Just stop there for a second. When you say she had a knife in her mouth, can you describe, first of all, how far away -- were you the same distance that I said, about four feet away?

15 A. Yes.

Q. Were you the same distance away from her at that point?

A. Yes.

20 Q. And were you able to actually see the knife?

A. Yes.

Q. And can you tell us how it was that she had it in her mouth?

25 A. She had the knife in her mouth so that

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the blade was sticking straight out, so I guess she had the handle in her mouth.

5 Q. All right. And you actually, when you gave your statement to the police on August 15, 2007, you actually provided a picture to -- or a drawing of the knife to the police officers, did you not?

A. Yes, I did.

10 Q. And I'm going to show you -- can I just -- I'm going to show you a picture. Do you recognize that?

A. Yes, I do.

15 Q. Okay. And can you I guess just kind of explain that picture to us? Because there seems to be a number of lines through there. So just explain it to --

A. So when I first drew the knife I drew this image here.

20 Q. And just so --

A. The inside image.

Q. All right?

25 A. And then the detectives or police asked me to draw -- make a life-sized image, so I drew the second line around here to show the actual size of the knife.

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Q. And just so I'm clear, the squiggly lines through there, what is that for?

A. The squiggly lines are to indicate that this is an image of all one knife.

5 Q. Okay. So the inner size is --

A. Was just my first drawing.

Q. Okay. And just so I'm clear, the date beside your August 15, 2007, do you remember doing that diagram then?

10 A. Yes.

Q. And you have one other thing there on the knife. Can you just explain to us what that is?

A. I thought that there was a hole or something on the dull side of the knife.

15 Q. Okay. And so in terms of the -- Court's indulgence. Sorry, Your Honour. Oh. You've got it on there. It's Exhibit 11. That is Exhibit 11. All right. Have you ever -- have you ever seen that knife before?

20 A. In real life or a picture?

Q. A picture.

A. I saw a picture of it yesterday.

25 Q. And can you just basically, first of all, tell me whether or not that looks like the knife that you saw?

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A. Yes.

Q. Okay. And can you tell us, you said the little hole there, can you point out to us what it is that you saw as the little hole?

5 A. This right here I would say.

Q. Okay. And you, just for the record, you've pointed to what appears to be it looks like a peg with a little hole in it, which is actually on the blade portion of the knife. And you were -- just so it's clear, you were close enough to see that little peg there were you?

A. Yes.

Q. All right. And when you say she had the knife in her mouth, do you have any idea how far the knife was in her mouth? In other words, on that picture, can you show me where her teeth would have been on?

A. Well, I did not see any of the blade so I guess all of that.

20 Q. All right. Sorry. You --

A. All of the handle. Sorry. I only saw the blade. I didn't see any of the handle.

Q. All right. Fair enough.

25 THE COURT: Mr. Thompson, just for the sake of the record, it's not Exhibit 11. Exhibit

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11 is the CTV video. So --

MR. THOMPSON: Oh, I'm sorry.

THE COURT: The knife itself is Exhibit 22.
There is a photo board of the knife which is
5 Exhibit 28 and there is a CD of photos of the
knife which is Exhibit 21.

MR. THOMPSON: My apologies. I got the
information wrong. So in any event that's
clear on the record that that's the exhibit
10 number. So it's Exhibit 21, JPG 006 I believe
that depiction is.

THE COURT: Thank you.

MR. THOMPSON: Sorry. All right. That
probably is an appropriate time to put the
15 drawing in I guess. I'd ask ask that this be
the next exhibit.

THE COURT: 45 I believe.

MR. THOMPSON: Identified as the picture or
the drawing of the knife.

20 THE REGISTRAR: 45, Your Honour.

---EXHIBIT 45: Drawing of knife - produced and
marked for identification.

25

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MR. THOMPSON:

Q. Okay. You've indicated at that point in time that you shut all the windows?

5 A. Yes.

Q. All right. And after seeing the knife in her mouth --

A. Yes.

Q. -- what did -- where did you then look?

10 A. Um, I then turned my attention to the inside of the streetcar.

Q. Okay. And why was that?

15 A. Um, at that point, Jonathan had indicated -- just shortly before that he had indicated that he wanted to get off the streetcar to separate the fight, and I -- once I saw the knife, closed the windows and was like, That's why I don't want you to get off the streetcar, and there were -- I noticed there were people talking to 911 on their cell
20 phones and I guess I was scared so I -- that's why I closed the windows.

Q. Okay. So do you ever then go -- ever look back and see what happens with the woman with the knife at the south side of the streetcar?

25 A. I did look back out the window. Um, at

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that point I don't -- I didn't see the woman. I just
-- I noticed that the street kid had blood on his
face.

5 Q. What -- how was -- where was the street
kid at that time?

A. Um, I believe that someone had helped him
to the sidewalk.

10 Q. And do you know what happened -- did you
see what happened to the jock?

A. I saw him walking toward the back of the
streetcar.

Q. Now, did you actually -- did he just go
out of your view or do you know where he went?

A. He went out of my view at that point.

15 Q. And the woman with the knife in her
mouth, do you ever see that woman again?

A. Yes.

Q. Where do you see that woman?

20 A. I saw her on the opposite side of the
street to --

Q. That would be the north side?

A. The north side of the street, slightly
ahead of the streetcar, I was able to see her out of
the north windows. The driver's side windows.

25 Q. So I'm showing you again Exhibit Number

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6, and roughly can you point with a pointer there where it is that you see him?

A. Right here.

Q. Okay. So you've indicated somewhere
5 around the area where the two posts are?

A. Yes.

Q. And somewhere partly on the sidewalk and partly on the pavement on the north side, and it's right where the, basically, the overhead lights are.

10 A. Yes.

Q. Streetlights. Or the traffic lights. And when you see her there, can you just give us what you see her doing or what transpires there?

15 A. There were several people in a little group, um, but her friend had taken her shirt off and was wrapping her shirt around the woman who had the knife in her mouth, around her arm.

Q. So I'm just going to ask you, first of all, how do you know it was her friend that was
20 wrapping it around?

A. Well, it was a woman that I thought had also -- had been the less involved woman during the fight between the jock and the street kid.

Q. Okay. And can you tell me, do you know
25 what she was wrapping her hand for?

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A. I had thought that her arm was cut. Had been cut.

Q. Did you hear anything at that point in time from them?

5 A. They were still yelling and acting distressed but I don't remember any specific words.

Q. All right. And the jock, do you ever see him again?

A. Yes.

10 Q. Can you just tell us where you see him?

A. I saw him on the north side of the streetcar.

Q. Can you just roughly point once again to Exhibit Number 6 there as to where he is?

15 A. Right here.

Q. Okay. So you've marked there somewhere on -- between the streetcar tracks and the pavement on the north side of the street, and it would be roughly at the -- where the folds are or the accordion portion of the streetcar is.

20 A. Yes.

Q. Okay? And what is he doing there?

A. He is lying on the hood of a cab.

Q. Okay.

25 A. And yelling, um, at the cab driver it

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seemed to me.

Q. Okay. Did you hear what he was yelling?

A. No.

Q. Did you see anything in his hands?

5 A. Yes, he was holding a knife in his right hand.

Q. And can you tell me if you were able to see the knife in detail?

A. Yes.

10 Q. And can you just roughly describe that knife for us?

A. It looked like the same knife I had seen in the woman's mouth previously.

15 Q. So it looked like the knife that you had identified in exhibit number is it 21? Okay. Exhibit 21. And do you know what the next -- do you actually see what happens to that individual? Or not. The jock.

20 A. Yes, he got off the hood of the streetcar and that's when I noticed that he had been -- must have been bleeding, because there was blood on the hood of the -- not the streetcar. Sorry. There was blood on the hood of the cab, and then he walked over to -- the cab driver had an open window and he
25 started punching the cab driver in the head, and I

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thought at that time that he was stabbing him in the head because I had seen the knife, but he wasn't.

Q. Now, first of all, you say he was punching that cab driver in the head?

5 A. Yes.

Q. What made you think that he was doing that?

A. I saw him doing it.

10 Q. Okay. But can you tell us what his movements were?

A. Oh, he was making punching motions at the cab driver's head.

Q. So where was the knife when he was doing this?

15 A. Um, I guess still in his hand, but aiming like this, so when he punched --

Q. You indicated, for the record, the blade being pointed upwards and he was in a fist type of formation?

20 A. Yes.

Q. Do you know whether or not the actual fist was making contact with the cab driver?

A. Um, no. I guess -- I do not know 100 percent that it was.

25 Q. Do you know whether or not the window was

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opened or closed?

A. Yes, the window was opened.

Q. And do you see anything else after that?

A. Um, the cab drove away. After I saw

5 that, I think I directed my attention toward the two women again.

Q. Okay?

A. And then, um, a cab approached travelling eastbound, which is the opposite direction of the cab whose hood he was on, and Jonathan Paget thought that he, the jock, had been hit by the --

10

Q. Well, you can't tell me what Jonathan --

A. Oh.

Q. -- had said, so just tell me what it is that you observed.

15

A. The next thing I knew, the jock was gone. I didn't know -- I don't know what happened to him.

Q. Okay. And just so it's clear, what -- did the streetcar move after that? Or what happened?

20

A. The streetcar started moving, yes, shortly after that and travelled a couple of blocks and then let us off.

Q. Do you remember how many people actually -- was there a large amount of people that got off or a small amount, or do you remember?

25

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A. Maybe around 20 or 25.

Q. Did you know anybody else on the streetcar?

A. No.

5 Q. Court's indulgence. I just may take you back a little bit again. When you had indicated that you had saw the jock walk towards the back of the streetcar. Do you have -- do you remember how he was walking?

10 A. He was staggering slightly and I thought that, at that time, that he was drunk.

Q. Did you see any injuries on him?

A. No, not at that time.

15 Q. All right. I have no further questions.
Thank you.

THE COURT: Cross-examination?

---CROSS-EXAMINATION BY MS . SIMPSON:

20 MS. SIMPSON: Your Honour, I haven't been paying attention so far. What time do you prefer to take the morning break?

THE COURT: 11:30.

MS. SIMPSON: Thank you.

25 THE COURT: Thank you.

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MS. SIMPSON:

Q. Good morning.

A. Hi.

Q. I understand when the streetcar stopped
5 you assumed it had been at a red light.

A. Yes.

Q. When it stopped, you saw, perceived,
nothing unusual.

A. When it -- I don't remember the exact
10 moment that it had stopped. I don't know if I sat
there not noticing something or if I noticed right
away.

Q. Do you recall hearing anything unusual --

A. Yes.

15 Q. -- that drew your attention outside?

A. Yelling.

Q. And was the yelling starting at the same
time as you saw the scuffle? Or did it precede it?

A. I don't recall exactly.

20 Q. The yelling from outside, do you remember
it being male or female voices?

A. Um, male.

Q. And do you recall what they said?

A. No.

25 Q. It starts with this little scuffle to the

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right of the streetcar, out your right window, is that correct?

A. Yes.

Q. And I understand it's pretty well directly out your window at that point.

A. Yes.

Q. Not directly in front of the streetcar but south of you.

A. Yes.

Q. And you've indicated this morning with a pointer, it starts over at the sidewalk to the west of that bus shelter.

A. Yes.

Q. You testified before at the preliminary hearing. Do you recall that?

A. Yes.

Q. And I understand the language you used then was that the fight kind of has two rounds. Do you recall that?

A. Yes. I believe I said that in my first statement.

Q. You might have. I can't say either way. I do recall at some point previous today you --

A. Yes.

Q. -- described the fight as having a round

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one and a round two.

A. Kind of, yes.

Q. Round one of the fight was the pushing and shoving part, is that correct?

5 A. Yes.

Q. Back when the two gentlemen are over on the sidewalk, you didn't see any punching yet.

A. No, there was contact between them but, um, there may have been a little bit of punching but it was mostly shoving. Pushing and shoving.

Q. I understand there's also wrestling over there on the sidewalk, is that right?

A. I don't specifically remember wrestling but -- I would say pushing between the two guys.

15 Q. It's a lower level of violence than --

A. Yes.

Q. -- you encountered. And it's not just two men isolated in the fight, is that correct?

A. Yes.

20 Q. There are more people around them.

A. That's right.

Q. They're not necessarily involved in the physical contact however, is that right?

A. That's correct.

25 Q. The jock guy that we've referred to this

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morning, I understand he has a quite muscular build,
is that right?

A. Yes.

Q. He's the one in a fitted t-shirt?

5

A. Yes.

Q. Short sleeves?

A. Yes.

Q. Dark clothing?

A. Yes.

10

Q. And he is at the sidewalk at this initial
phase, fighting with someone you describe as a
street kid, is that right?

A. Yes.

Q. I understand much skinnier?

15

A. Yes.

Q. So he doesn't have the same kind of big,
stocky, muscular build that the jock guy has.

A. That's right.

Q. He's much smaller than the jock?

20

A. Yes.

Q. But perhaps a bit taller? Is that
correct?

A. I don't remember their heights.

Q. You recall him having kind of scruffy
appearance, is that right?

25

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A. Yes.

Q. And can you help us at all with respect to the colour of his clothing and what he's wearing?

5 A. Um, I don't remember what he was wearing but it was baggy and I think lighter in colour than the jock guy's clothing.

Q. Again, focusing on this very initial phase, I understand you had the sense that the jock had an ally with him, is that right?

10 A. Um, yeah, I think I had noticed that there was somebody dressed similarly to him and that I assumed was his friend.

Q. And that's amongst the group that was surrounding that fight?

15 A. Yes.

Q. You got the sense that he was not in this fight alone, is that right?

20 A. He was the only one that I saw involved in the fight but I did think that he had a friend with him, yes.

Q. Did you also have a sense that the street kid had allies?

A. Yes.

Q. Can you explain that?

25 A. Um, the two women that I specifically

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noticed that I thought were friends of the street kid were actively involved not in the first round, I suppose, but in the second when the jock started punching the street kid more aggressively.

5 Q. If I could focus still on just this first round?

A. Okay.

Q. Round one. Did you see any girls in that group that were surrounding the fight?

10 A. Yes.

Q. Can you describe them from that stage?

A. Describe their looks? Or --

Q. Yeah. Describe their appearance. What you remember of them being in that group?

15 A. Um, they were white, baggy clothing, longer hair.

Q. And do you remember it being two or more?

A. There may have been more than two. I'm not certain.

20 Q. So again, in round one, we have the fight between the two men alone, other people around yelling, and you have the sense that both of the participants in the fight have allies --

A. Yes.

25 Q. -- amongst the group, is that correct?

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A. Yes.

Q. It's not yet a one-sided fight.

A. That's right.

Q. I understand round one is short. Is that
5 correct?

A. Yes.

Q. It very quickly escalates past that
pushing and shoving stage?

A. Yes.

10 Q. And is it fair to describe the jock as
the attacker? The one that initiated things or was
more of the force behind the escalation?

A. I don't know if he originated the
original scuffle but it seemed to me that he had
15 initiated the escalation of the fight.

Q. At this point it moves out from the
sidewalk closer towards the streetcar, is that
right?

A. Yes.

20 Q. Is there -- the jock then progressing
towards you with the street kid backing up?

A. Yes.

Q. And the jock is punching more?

A. Yes. Yes.

25 Q. He starts significantly winning this

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fight?

A. Yes.

Q. So round two is more one-sided.

A. Yes.

5 Q. It's in fact not a fair fight at all, is
it.

A. No.

Q. That "no" means you're agreeing with me,
it's not a fair fight.

10 A. Sorry. No. It was not a fair fight.

Q. Sorry. Too many negatives. It's a very
severe beating that's being inflicted on the street
kid by the jock, is that right?

A. Yes.

15 Q. And I think you described it at one point
as the most extreme beating you've ever seen.

A. Yes.

Q. The jock was beating the living day
lights out of the street kid.

20 A. Yes.

Q. You saw the jock punch the face and the
side of the head of the streetcar?

A. Of the streetcar?

Q. Of the street kid. Of the street kid.

25 A. Yes.

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Q. Thank you. I understand he's possibly
also kicking the street kid, is that right?

A. Yes.

Q. And your reaction was one of fear of this
5 fellow, is that correct?

A. Yes.

Q. He is full of rage.

A. Yes.

Q. While you're on the streetcar and you're
10 observing this, you actually were scared at one
point that he was going to come onto the streetcar,
start beating up other passengers on the streetcar,
is that right?

A. Yes.

Q. It sounds ridiculous but that captures
15 some of your feeling and your emotional reaction, is
that right?

A. Yes.

Q. And what you're seeing from the jock guy.

A. Yes.

Q. Full of rage. Yes?

A. Yes.

Q. Out of control?

A. Yes.

Q. And I also understand that your
25

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perception was that this was well more than necessary. That he could have stopped long before he did, is that right?

A. Yes.

5

Q. It looked like he was potentially seriously hurting the other man?

A. Yes.

10

Q. The street kid was down on the ground from what you could see and the jock guy was still punching at him and kicking him.

A. Yes.

15

Q. And when the street kid is lying down on the street, and I understand he is below your window, facing up at that point so you can see his face.

A. Yes.

Q. Did you see him curled up on the ground trying to defend himself? Trying to get away?

A. Um, yes.

20

Q. And while he might have been pushing and shoving back at the beginning, I understand the street kid didn't land any punches that you saw.

A. Not that I saw.

25

Q. So to describe this as a fight even is a bit generous. This is a beating.

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A. Yes.

Q. Your reaction is one of tremendous concern for the street kid.

A. Yes.

5 Q. You wonder if he's going to be okay.

A. Yes.

10 Q. Once he's down on the ground, and the beating is continuing, I understand the jock is kind of bent over, so he has an arm that reaches down to punch, is that right?

A. Yes.

Q. And he's punching over and over and over.

A. Yes.

15 Q. The two women that you saw that then intervened in the fight, was your perception, your understanding, that they shared your concern about how the street kid was doing, if he was going to be okay?

A. Yes.

20 Q. They were intervening on his behalf.

A. That's right.

Q. Trying to help the street kid.

A. Yes.

Q. Trying to stop this beating.

25 A. Yes.

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Q. And they're trying to get the jock off of the fellow that's down on the ground.

A. Yes.

5 Q. And the expression you described before that, you saw, was one of despair, desperation --

A. Yes.

Q. -- from the women?

A. Yes.

10 Q. You described one as more involved and one as somewhat less involved, is that right?

A. Yes.

Q. So starting with the more involved woman, how can you describe her? What's your best go at describing what she looked like?

15 A. White, average height, slim build, um, light brown hair, brown hair, that's really all I remember.

Q. What average height do you --

A. Oh. Five five.

20 Q. Five five. I understand you recall her having somewhat longer hair?

A. Yes.

Q. And it's not stick straight hair.

A. No. I thought it was wavy.

25 Q. Messy clothing, messy hair.

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A. Yes.

Q. And you recall baggy pants, if any clothing, is that right?

A. I thought so, yes.

5 Q. What's her age range?

A. Um, at the time I guessed that she was in her late teens or early 20s.

10 Q. Now, turning to the second girl, I understand you're going to have a harder time with the descriptions here, is that right?

A. Yes.

Q. You didn't notice her as much?

A. No.

15 Q. And in fact even when you spoke to the police within a week or two of the incident, you suggested you didn't remember her very well at all, even then, is that right?

A. That's right.

Q. It's not improved since.

20 A. No.

Q. Okay. You also think she had long hair?

A. I thought so, yes.

25 Q. With respect to clothing, can you help His Honour at all with respect to the clothing of the second girl?

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5 A. I just knew that it wasn't fitted. That it was -- I thought that it was slightly baggy. She at -- one of the women, when they were across the street on the north side of Queen west, took her shirt off and she was wearing a white bra.

Q. Do you remember anything about the shirt she took off?

A. No.

10 Q. I understand these two women, one of the reasons that you might be less specific or, you know, less detailed in your description of the second woman, that they're actually very similar in appearance, aren't they?

A. I thought so, yes.

15 Q. Roughly the same age?

A. Yes.

Q. Roughly the same build?

A. Yes.

20 Q. Both kind of scruffy or messy appearances, both more like street kids, is that right?

A. Yes.

25 Q. So there's nothing actually in the descriptions of the two women that you can point to to distinguish between the two of them.

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A. No.

Q. The only way you were differentiating between them, either then or now, is the role that each of them played in that fight.

5

A. That's right.

Q. One's more active, one's less active.

A. Yes.

Q. You're not saying, for example, the one with the red curly hair --

10

A. No.

Q. -- versus the one with the blue pants.

It's based on their activity.

A. That's right.

15

Q. The way that they were trying to stop the fight, to get the jock off of the street kid on the ground, involved pulling at him? Pulling at his clothes --

A. Yes.

Q. -- from behind, is that right?

20

A. Yes.

Q. So they're trying to sort of lift off his torso and lift it off?

A. Yes.

Q. They also try and push him off?

25

A. Yes.

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Q. And in the yelling they're trying to distract him a bit from his beating, is that right?

A. Yes.

5 Q. What you saw was them -- them hitting at his back consistently as he's bent over, is that correct?

A. Yes. Back and side.

Q. Nowhere near his front? Nowhere near his stomach?

10 A. No, I didn't see that.

Q. And I understand they're also sort of trading roles as they're intervening in the fight, is that correct?

15 A. Yes, they both were at times punching and pulling at him.

Q. They're crisscrossing?

A. Yes.

Q. So one doesn't always stay left and one doesn't always stay right.

20 A. That's right.

Q. They're moving around?

A. Yes.

25 Q. And the knife you saw in the mouth of the one girl, you saw that in the mouth of the more involved of the two girls, is that right?

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A. Yes.

Q. And it was your perception at the time that she is carrying it in her mouth so that her hands are free.

5 A. That's right.

Q. Because she's still pushing and grabbing and shoving.

A. Yes.

10 Q. She's not using the knife, she's using her hands.

A. That's right.

Q. Which is why she had perhaps the knife in her mouth.

A. Yes.

15 Q. You never saw a knife in her hand, did you.

A. No.

Q. Never saw anyone stab anyone.

A. No.

20 Q. And I understand you hear her yelling even with that knife in her mouth, is that right?

A. Yeah. I thought -- yes. Yes.

25 Q. She was gripping the handle kind of between her teeth, holding it, and still yelling even as she's holding that knife in her mouth.

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A. Yes.

Q. The first time you saw the knife was when the street kid was already down on the ground, is that right?

5

A. Yes.

Q. And the girls are trying their best to --

A. Yes.

Q. -- help him?

A. Yes.

10

Q. The girls are trying their best but I understand it was largely ineffective.

A. That's right.

Q. They weren't really making much of an impact on the jock that you saw. He wasn't really reacting to that. Is that fair?

15

A. Yes.

Q. Didn't really matter what they did?

A. Right.

20

Q. They certainly weren't successful in pushing or pulling the jock off. You never saw him tumble over --

A. No.

Q. -- because of the force of their injury.

A. That's right.

25

Q. He's very focused on beating up the

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street kid.

A. Yes.

Q. And he's not too bothered by any efforts of any of the people around him?

5

A. No.

Q. Yelling, screaming or physical, is that right?

A. That's right.

Q. He's not going to be interrupted in his task.

10

A. No.

Q. I understand you saw them enter in and try and get him off not just once, but several times. Many times.

15

A. That's right.

Q. It wasn't just a momentary interaction where one or two girls runs over and then the fight stops. They're trying for a while.

A. Yes.

20

Q. The while, however, is brief, because I think what you told my friend --

A. It was around a minute.

Q. If I could?

A. Sorry.

25

Q. I think what you told my friend this

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morning is that you only saw the girls for about ten seconds. The fight as a whole might have been a minute or 55 seconds, is that right?

5

A. No. No. I saw them become involved about ten seconds after the scuffle began.

10

Q. Ah. Thank you. So if the scuffle as a whole, and this is where my friend was timing on his watch, it was about 55 seconds from when you saw it start to where you saw the street kid down and over? Or where was the end time that you marked that 55 seconds at?

A. Um, I guess when I stopped paying attention. Or when I stopped looking out the window.

15

Q. Okay. So that 55 seconds, it may or may not relate to what the people on the street are doing because you're obviously not able to say anything if you're not paying attention, you're looking inside, you don't know, is that correct?

A. Yes.

20

Q. The size difference between the jock and the girls was quite noticeable, wasn't it?

A. Yes.

Q. He's taller, bigger, more muscular?

A. Yes.

25

Q. And describing him as quite a significant

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presence on the street.

A. Yes.

Q. He's controlling the situation?

A. Yes.

5 Q. And as they're trying to stop the fight,
the attention that he paid to them was quite
minimal, wasn't it.

A. Yes.

Q. He didn't need to fight them off.

10 A. No.

Q. It was as if he didn't really notice that
they were there.

A. Yes.

15 Q. He tried to push them away every now and
then, but it wasn't a significant interruption in
his actions at all, is that correct?

A. Right.

Q. It didn't take him much effort to get
them away either.

20 A. No.

Q. The word that you've used before to
describe it is swatting them away.

A. Yes.

25 Q. He'd stop beating up the street kid and
turn around and swat at them or take a swing at

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them.

A. Yes.

Q. Is that fair?

A. Yes.

5 Q. Now, swatting, that's a word we use when we're describing being annoyed by a fly or mosquito buzzing around. It doesn't suggest a great deal of effort, is that right?

A. Yes.

10 Q. And that's the word that you chose to describe the lack of effort that he had to expend to get them away from him.

A. Yes.

15 Q. The efforts are, if anything, more annoying to him than actually having a physical impact on what he's doing or interfering with him, is that right?

A. Yes.

20 Q. The end of the fight between those two gentlemen, I understand it stops because the street kid is just non-responsive.

A. Yes.

Q. He's being punched in the face and he's not reacting, is that right?

25 A. Yes.

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Q. He's down on the ground, he's not moving, he's not fighting back, he's not resisting.

A. Yes.

Q. I understand the beating continued even then for a while, is that right?

A. Yes.

Q. But finally the jock decided that that was enough, and he left the fight.

A. I believe so, yes.

Q. From what you observed, nothing the girls had done stopped that fight.

A. Not from what I saw.

Q. And once the jock was finished, or the fight was finished between those two, I understand the street kid was removed from the roadway, is that right?

A. Yes.

Q. So the fight ended in that first lane --

A. Yes.

Q. -- in the street, the first lane to the south of Queen, is that right?

A. Yes.

Q. And so the street kid was left in the road and he had to be moved up back onto the sidewalk, is that right?

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A. Yes.

Q. Do you remember how many people were helping him? Or tending to him?

A. No.

5

Q. Do you remember how many people were helping to drag him up onto the sidewalk off of the road?

A. Um, no.

10

Q. And so you can't give us any descriptions about those people, is that correct?

A. Well, I did see one of the girls running across the street from the location of the fight to the north side of Queen West underneath the streetlights, as I indicated before.

15

Q. Is that happening at the same time as the dragging? You can't be looking at the two things at once.

A. No, I think it happened just shortly after.

20

Q. Is it possible one of the two girls that you'd seen was involved in dragging the street kid out to the sidewalk?

A. It's possible, yes.

25

Q. Your first reaction when you spoke to the police was that you thought one of the girls had

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gone to help the street kid, but you couldn't be sure. Is that right?

A. That's right.

5 Q. Do you recall the people that were helping the street kid on the road, the people that were dragging, you can't describe anybody but do you have the sense that they're also in that kind of scruffy gear?

A. I have no idea.

10 Q. Okay. The two girls that we've spoken about involved in the fight, is it fair to say there might have been more girls present?

A. Yes, it's possible.

15 Q. And when you first provided that lengthy statement to the police in Ottawa, they came out to interview you there, is that correct?

A. Yes. Yes.

20 Q. You said there were two or three girls around screaming and yelling.

A. Yes.

Q. Is that correct? That were particularly worked up about what was going on as that fight was breaking out?

A. Yes.

25 Q. The two you remember more clearly being

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in the fight but there is at least, or potentially,
a third in the area, is that right?

A. Yes.

5 Q. There are in fact a lot of other people
on the scene.

A. Yes.

10 Q. And involved, yelling and screaming. Not
just passersby watching from the far side but
actually close to the fight and involved in one side
or the other, is that right?

A. Yes.

15 Q. So you've spoken about the four - the two
men fighting and the two girls - but there are
definitely other people there involved.

A. Yes.

20 Q. I understand there is a lot of activity,
particularly after the fight and when you look to
the north side, is that right?

A. That's right.

25 Q. After the fight ends, your attention
shifts more to the north, is that correct?

A. Yes.

Q. So at that point, in terms of your angle
of view, are you standing up or are you still
seated?

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A. Standing up.

Q. And I presume other people on the streetcar are as well?

A. Yes.

5 Q. And so you're looking through their bodies and Jonathan would be off to your left also.

A. Jonathan was to my left but there was nobody blocking my view.

10 Q. Okay. I understand your perception, your feeling was that there were things to look at in every direction.

A. That's right.

Q. It was complete chaos happening around your streetcar.

15 A. Yes.

Q. And you described it as kind of a street brawl breaking out all around you.

A. That's what I thought, yes.

Q. The yelling continues?

20 A. Yes.

Q. You have the two women yelling, you have male voices that you remember from before, it's a lot of yelling and I understand it's from all sides now, is that correct?

25 A. Yes.

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Q. And you still can't describe particular content, exact words?

A. That's right.

Q. Is that right? They were swearing.

5

A. Yes.

Q. Bad language.

A. Yes.

Q. No words, no quotes?

A. No, I have no quotes.

10

Q. And as this scene of chaos breaks out on all sides of your streetcar, you don't really have a concept of what's going on or why.

A. That's right.

Q. There are a number of distractions that you've had all the way through the incident, and while your descriptions can't be absolutely perfect, it's just natural, is that correct?

15

A. Yes.

Q. At a certain point, the beating is so severe that you just don't even want to look.

20

A. That's right.

Q. Is that right?

A. Yes.

Q. Your attention shifts at various points and various different locations?

25

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A. Yeah. I mean, I wasn't watching the same thing the whole time, but yes, my attention was drawn elsewhere at times.

Q. And you're distracted at various points. When you spoke this morning about closing your own window, shutting the window in front of you, it must have drawn your attention away from tracking the specific events outside, is that correct?

A. Yes.

Q. You have to figure out how to move that little lever on the bottom of the streetcar windows and slide them, is that correct? It's actually not an easy enterprise.

A. No, I just slid them closed. It wasn't difficult.

Q. Okay. You -- you are seated next to Jonathan and you're exchanging words with him throughout?

A. Yes.

Q. You make comments about what you see, you hear his remarks about what he sees?

A. Yes.

Q. And he stands up at one point because he's going to go out and break up the fight himself.

A. Yes.

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Q. And then there is an exchange of words between you both initially that you think that's a really bad idea?

A. Yes.

5 Q. And also once you see the knife, that this is why it's a really bad idea.

A. Exactly.

10 Q. So there are at least two conversations with Jonathan about whether he's going to head out --

A. Right.

Q. -- and be the hero and help the people on the street, is that right?

A. Right.

15 Q. He has some training. He obviously -- I don't mean to belittle him at all.

A. Oh, no.

20 Q. Okay. And this quick discussion that you have with Jonathan centres on whether or not it's safe for him to go outside, is that right?

A. Yes.

Q. Others on the streetcar eventually are standing, they're also moving about?

25 A. Um, they were standing. I don't know if anybody was really moving around.

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Q. You remember hearing people on cell phones also.

A. Yes.

Q. Did either of you or Jonathan make a cell phone call?

A. No.

Q. Do you remember hearing the driver communicating with his dispatcher, with anyone else about what was going on?

A. Not specifically, no.

Q. So I'm going to return then to the narrative.

THE COURT: We'll take the morning recess then.

MS. SIMPSON: Thank you, Your Honour.

---RECESS

(11:28 a.m.)

---UPON RESUMING

(11:47 a.m.)

MS. SIMPSON:

Q. After the fight ended and your attention

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was focused on the street kids, is that correct?

A. For a moment, yes.

Q. The one who had been beaten up.

A. Yes.

5 Q. You want to make sure that he's okay.

A. Um, I don't know if that was my primary concern, but yes.

Q. You noticed him as he returns to his feet at a certain point?

10 A. No, I didn't see that happening.

Q. You noticed his face had blood on it?

A. Yes.

15 Q. And you noticed him getting back up, if not actually up on his feet and walking around, is that correct?

A. At this time I don't remember seeing him stand up, no.

Q. You see the jock fellow leaving and moving westward, is that correct?

20 A. Yes.

Q. He's moving along the side of the streetcar in that first lane on the south side of Queen?

A. That's right.

25 Q. And I understand he's not moving in an

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arrow straight line, is that fair?

A. Yes.

Q. You said his manner was like he was
drunk.

5 A. That's right.

Q. Weaving a bit.

A. Yes.

Q. He's not actually having a hard time
walking, he's just wobbling a bit as he goes, is
10 that right?

A. Yes.

Q. Just not in a straight line.

A. Right.

Q. I understand he's not holding his torso,
15 he's not holding himself?

A. No.

Q. You don't perceive him to be injured at
all?

A. No.

Q. And your recall is that his hands are
20 down to his sides --

A. Yes.

Q. -- as he's walking?

A. Yes.

Q. So he's walking away from you and behind
25

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you at this point, is that correct?

A. Yes. Yes.

Q. You stop paying attention once he's out of your field of view.

5

A. That's right.

Q. That happened relatively soon, wouldn't it? As he moves past the midway point of the streetcar?

A. Yes.

10

Q. So you can't see him reach the end of the streetcar, make a right turn or anything like that.

A. No.

Q. And in terms of your view, from where you are inside the streetcar, you can't see directly down the side either, can you.

15

A. Well, at times I could because I've stuck my head out the window, but at that moment that he was walking toward the back of the streetcar, no, I cannot see directly down.

20

Q. I thought you closed the windows by now because you --

A. That's what I'm saying. Like, earlier on when the windows were open I could stick my head out, but at that moment when he was walking backward, the window was closed.

25

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Q. So you weren't sticking your head?

A. No.

Q. You couldn't see directly down anymore.

A. No. I guess not.

5 Q. So you saw him heading westwards, towards
the back of the streetcar?

A. Yes.

Q. And that's the last you saw him on this
side of the streetcar.

10 A. Yes.

Q. You also can't say for sure, can you,
because he could have come back up, you don't know?

A. Um, that's right.

15 Q. I understand you spent quite a bit of
time, a fair amount of attention on the street kid
as he was being dragged over the street to the
sidewalk and being tended to, is that right?

A. Um, no, I wouldn't say that I spent a lot
of time looking at him.

20 Q. Do you remember using the language that
you got stuck watching him for a while?

A. Um, yes.

Q. So that suggests more than a moment's
glance, is that fair?

25 A. I guess so, yeah.

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Q. And then your attention switches north after that, is that right?

A. Yes.

5 Q. And you'd mentioned just very quickly now that you saw a woman running across to the north side?

A. That's right.

Q. And that must have been towards the front of the streetcar?

10 A. Yes.

Q. In the eastern end, is that right?

A. Yes.

15 Q. And in terms of which woman that is from descriptions, I understand you can't help us with that?

A. No, I can't.

Q. Could have been either of the two women in the fight?

A. Yes.

20 Q. It could have been the woman who was cut?

A. Yes.

Q. It could have been the woman that was wrapping her arm in the shirt?

A. Mm, I don't know.

25 Q. It could have been another woman from the

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scene.

A. I -- yes.

Q. And I understand she, this woman who's running, is also yelling?

5 A. Mm, yes.

Q. Screaming and freaking out. And you can't give exact words but --

A. Yes.

Q. -- she's vocal as she goes.

10 A. Yes.

Q. And you perceive something of a kerfuffle on the north side, is that right?

A. Yes.

15 Q. And to try and make more specific what you mean by kerfuffle --

A. I remember thinking that it was another fight going on, but it wasn't.

Q. But it wasn't.

A. No.

20 Q. So you saw a big group of people over on the north side?

A. There was a commotion and yelling, and originally I thought that another fight had broken out, but then when I looked more carefully there was nobody fighting.

25

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Q. So you couldn't see any actual fights. No fists connecting on the north side.

A. No.

Q. But you, again, heard a lot of noise.

A. Yes.

Q. And you see one woman on the north side who indicated, between those two lampposts --

A. Around that area, yes.

Q. In that area? She's seriously injured, is that right?

A. Ah, she had a cut on her arm.

Q. Did you see that? What exactly did you see of her arm and of the injury?

A. Um, I, to be honest, don't remember if I just assumed that her arm was cut or that I saw a cut, but I don't think I actually did see a cut on her arm.

Q. You recall another woman removing her shirt to wrap it around her arm, is that right?

A. Yes.

Q. You recall her standing in her bra.

A. Yes.

Q. White bra.

A. Yes.

Q. Do you remember if it was straps and was

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it her back you were looking at, or do you remember seeing the front and seeing the cups of the bra? Do you remember which way she was going?

A. No, but I think I saw her from the front.

5 Q. From her face?

A. No.

Q. So it really could have been any of the women in the mix.

A. Yup.

10 Q. So the woman that you thought was cut and the woman who was tending to the injury may or may not have been the same two that you had seen in the fight.

15 A. Yes. I thought they were but it's possible that I was wrong.

Q. I gather your first instinct was that the girl who was cut was also the girl who'd had the knife in the fight, is that right?

A. Yes.

20 Q. And I also understand that you've examined that idea closely, is that right?

A. Mm, yeah, I guess so.

Q. It's possible you're interchanging the two women that are in the fight in your mind?

25 A. Yes, it's possible.

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Q. The two girls just looked so similar.

A. I just didn't focus closely enough on their faces I guess to keep them in my memory.

5 Q. You just agreed with me earlier this morning that the way you distinguish them was by their roles, not by their appearance, is that correct?

A. Yes.

10 Q. So once they're over on the other side of the street and they're not playing that role in any fight anymore, you can't distinguish them.

15 A. I suppose at the time I may have been able to distinguish them, but now or in retelling the story, I'm unable to explain how I was distinguishing them at that moment.

20 Q. I understand when you were interviewed by the police, you indicated to them you could be interchanging the women in your memory. You're not sure.

A. Yes.

Q. Between the two girls, you're not even 100 percent sure which one took the shirt off, which one was cut.

A. That's right.

25 Q. Do you recall being asked by the police,

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Do you think you can tell them apart, and answering,
Honestly, I don't know. I have no idea.

A. Yes.

Q. You agree with that again today?

5

A. Yes.

Q. You're not 100 percent positive that the
girl who was cut was the girl with the knife?

A. That's right.

Q. You're not 100 percent positive that the
girl who took her shirt off was the second girl?

10

A. That's right.

Q. You are 100 percent positive of other
things. It's not just a figure of speech for you.

A. That's right.

15

Q. When you're asked about the fellow on the
hood of the cab, for example, you are 100 percent
positive that was the jock from the fight.

A. Yes.

Q. So there are areas where you have
certainty and you're sure about things?

20

A. Yes.

Q. And this area you just can't be.

A. That's right.

Q. So your first reaction on the north side
to the kerfuffle was that you thought there was

25

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fighting, but now you can't recall any or can't describe any. Was that also your impression then?

5 A. Yes. That was -- I at first thought that there was another fight going on, and then upon closer examination I realized that there was not a fight.

Q. So the only fight that you saw and you can describe is this one on the south side of the streetcar, is that right?

10 A. That's right.

Q. You had the sense at first that it was something of a street brawl, and you wondered to yourself, why are all these people fighting, but then, as you looked more closely, realized you couldn't actually see any fighting.

15 A. That's right.

Q. So the only physical contact that you saw with the jock guy was at that fight on the south side, is that right?

20 A. Yes, and then there was a contact between him and the cab driver that I saw.

Q. I understand it's possible there was other contact with the jock that you just didn't see, is that right?

25 A. Yes.

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Q. As he moved towards the rear of the streetcar and then you start looking out the other side, you have no idea what's happening on the south?

5 A. That's right.

Q. Further back on the streetcar.

A. That's right.

Q. If he comes further towards the front of the streetcar again?

10 A. Yes.

Q. You can't say, you can't assist with --

A. No.

Q. -- what happens to him further.

A. No, I cannot.

15 Q. And I understand, apart from the woman holding the knife in her mouth, and apart from the jock guy holding the knife at the end --

A. Yes.

Q. -- you saw no weapons?

20 A. That's right.

Q. And you saw no weapons actually used in any fights, is that right?

A. That's right.

25 Q. The very last thing you see before that streetcar pulls out finally is the jock fellow

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leaving the scene going west, is that right?

A. Mm, yes.

Q. You hesitated there. Did he leave west?

5 A. I just couldn't remember for a moment
when the last -- if I saw him after -- after I saw
him on the hood of the cab.

Q. Did you?

A. I believe so, yes.

10 Q. You saw him interacting with the second
cab.

A. Um, no, I didn't see him interacting with
the second cab. I saw a second cab and then I
believe I saw him walking westward.

15 Q. You saw him lying across the hood of a
taxi that was headed westbound, is that right?

A. That's right.

Q. You didn't see him actually jump up onto
the hood?

A. No, I did not.

20 Q. You just saw him once he was there.

A. That's right.

Q. And then you recall seeing blood on the
hood of that taxi?

A. Yes.

25 Q. And you saw his efforts to punch at the

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driver, he was yelling and screaming, you recall him hitting the windshield, is that right?

A. Yes.

Q. You recall him swearing then?

5

A. Yes.

Q. Do you see him come down off the hood?

A. Yes.

Q. And then a second taxi comes along which is heading the opposite direction?

10

A. That's right.

Q. You didn't see any interaction between the jock guy and the second taxi?

A. Not that I can recall, no.

15

Q. So after all of this interaction with the first taxi and the first taxi driver, he walks west?

A. At this moment I don't remember. I just remember him interacting with the taxi driver and that's the last I remember seeing him.

20

Q. As he's interacting with the taxi driver, that's when you saw the knife in his hand, is that right?

A. I saw the knife in his hand while he was on the hood of the cab.

Q. Fair enough. You saw only the blade?

25

A. That's right.

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Q. And to see that, you'd be looking to the north side and somewhat behind your seat, is that right?

5 A. No, it was straight out my window, so across the opposite window.

Q. Directly across north?

A. That's right.

Q. You never saw how he got that knife.

A. No.

10 Q. And at the time, you thought it was the same knife.

A. That's right.

Q. You thought, Now he has the knife?

A. That's right.

15 Q. It's your assumption he got the knife?

A. Yes.

Q. You don't know where it came from?

A. No.

Q. You just assumed it was the --

20 A. It looked the same so I assumed it was the same.

Q. And you're comparing the blade you see in his hand with the blade you saw emerging from the woman's mouth.

25 A. That's right.

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Q. It's actually not the knife as a whole that is the same?

A. No.

Q. It's the two --

5

A. Just the blade.

Q. Okay. And so after he heads off west, your streetcar eventually continues east?

A. Yes.

10

Q. You stop and get off the streetcar within two or three blocks, is that right?

A. Yes.

Q. And I understand you left with Mr. Paget.

A. That's right.

15

Q. His house is somewhere east of where this took place, right?

A. Yes.

Q. And so you had to take a different bus or streetcar to get home?

A. Yes.

20

Q. You were staying at his place that night.

A. That's right.

Q. You were visiting from Ottawa.

A. Yes.

25

Q. Did you take another Queen Street streetcar or did you move north or south to get a

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different streetcar? Or bus?

A. I remember walking north but I honestly don't remember how we got home. Like, if we used more transportation or if we just walked. Oh. We took a bus. I do remember. We took a bus.

Q. And you spoke to him of course --

A. Yes.

Q. -- about what you'd seen --

A. Yes.

Q. -- that night, and once you got back to his house.

A. Yes.

Q. Pretty extraordinary experience and pretty upsetting one, is that right?

A. Absolutely.

Q. Do you remember how long it was that you were walking up to the bus stop and then on the bus before you got to his house?

A. Um, probably about 20 minutes.

Q. And then do you remember how long you stayed up talking?

A. No.

Q. You headed back to Ottawa the next day.

A. Yes, I did.

Q. Did you guys head out for brunch? Did

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you talk in the morning? Or did you just pack and go?

A. I just packed and left actually.

5 Q. Did you talk that night once you got back to his house about what had happened?

A. Yes, we probably would have.

Q. And you had been talking in fact all the way through the events actually on the streetcar.

A. Yes.

10 Q. You told him, for example, when you saw the knife.

A. That's right.

Q. You told him that you did not want him going outside.

15 A. That's right.

Q. Then you had an exchange about whether the jock guy was punching or stabbing the taxi driver.

A. That's right.

20 Q. So not only did you speak later, but you spoke during it as you are narrating the events back and forth, is that right?

A. Yes.

25 Q. And I understand you also spoke to your mother very soon after?

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A. Yes, on my way back to Ottawa I stopped at my mom's house.

Q. Ah, you stopped there. You actually saw her.

5

A. Yeah.

Q. And you told her about this sort of crazy experience the night before?

A. Yes.

10

Q. And she had also then forwarded you some information about the event.

A. Well, when I was telling her about it I didn't know that anyone had died.

Q. You were telling her the next day?

A. I was telling her the next day.

15

Q. So you were then provided some information when it was learned that the fellow had passed away, is that right?

A. That's right. Jonathan told me.

Q. Jonathan told you that.

20

A. Yes.

Q. So it wasn't immediate but it was within several days of the event.

A. That's right.

25

Q. And speaking about the media coverage that you've seen, you said that you've seen both

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newspapers and coverage online, perhaps online
versus the newspaper article.

A. That's right.

Q. You've seen the footage we've described
as CTV footage?

A. Yes.

Q. And I understand you've watched that more
than once, is that right?

A. Ones or twice, yes.

Q. Do you think that that exposure has
influenced your memory at all about what you saw?

A. It's possible I suppose.

Q. And do you remember if you saw that
footage before you met with the police in Ottawa?

A. Yes.

Q. Yes, you remember --

A. Yes, I remember seeing it before.

Q. Okay. One of the exercises that the
police in Ottawa took you through was looking at a
great pile of photographs of people that might be
involved, is that right?

A. That's right.

Q. And I understand it was four separate
sets of photographs that they showed you. Two of
men and two of women, is that correct?

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A. Yes.

Q. Now, I'm going to focus on the women, if I may.

A. Sure.

5 Q. The photo line-up reviewed, I presume my friend wouldn't have objection, is 07-002692, which is the same that was shown to Mr. Dranichak, is that correct? Do you remember seeing a bunch of photos of women at the start?

10 A. Yes.

Q. And I'm wondering if I can see that exhibit. It's going to take just a second to sort out.

A. Sure.

15 Q. And I apologize for this.

A. No.

Q. And it's not in fact the identical line-up so I need to correct --

20 THE COURT: I would have been surprised if it was.

MS. SIMPSON:

Q. So each of the sets of photographs that you inspected had 12 photographs in them, do you recall that?

25 A. I don't remember that it was exactly 12,

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but yes.

Q. Do you remember the officer asking you to identify anyone that you thought looked familiar or anyone who had any role in the incident that evening, is that correct?

A. Yes, it is. Yes.

Q. And the first photographic line-up that I'm making reference to is number 07002692.

A. Okay.

Q. You didn't select anyone from this photographic line-up, did you.

A. No, I did not.

Q. You were shown another set of photographs of women?

A. Yes.

Q. And I understand you also didn't make any definitive selections of any second set of women either, did you.

A. No, I did not.

Q. The photographs we spoke of before, the first line-up, I showed you one image. For the record, it's photograph 8 that I put up on the screen.

A. Okay.

Q. The second set of photographs of women,

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the envelope's marked number 407-006289, and you said you didn't make any definitive selections out of the second set of photographs either, did you.

A. No, I did not.

5 Q. And that included this photograph, number eight, is that correct?

A. Um, I don't remember but I guess -- I believe you that it was there.

10 Q. You also were shown photographs or sets of photographs involving the men? And I understand you weren't successful in selecting anyone out of those photographs either, is that correct?

A. No, I wasn't. That's correct.

15 Q. If these two envelopes could be the next exhibit?

THE COURT: You want them marked together or separately?

MS. SIMPSON: Perhaps A and B?

THE COURT: 46A and 46B.

20 THE REGISTRAR: Thank you, Your Honour 46A and 46B.

25 ---EXHIBIT 46A: Photo line-up - produced and marked

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for identification.

5
---**EXHIBIT 46B**: Photo line-up - produced and marked
for identification.

MS. SIMPSON: Thank you. Those are my
questions.

10 THE WITNESS: Thank you.

THE COURT: Re-examination?

MR. THOMPSON: Yes. Few questions, Your
Honour, if I may.

15
---RE-EXAMINATION BY MR. THOMPSON:

MR. THOMPSON:

20 Q. When I was asking you questions about the
fight that you observed on the south side between
the jock and the -- what you referred to as the
scruffy individual, you gave a description of it.

A. Yes.

25 Q. When you responded to the questions of my
friend, you used a number of adjectives to describe
the type of fight as opposed to describing it. It

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was a horrendous fight, it was quite serious. I'm asking you, what frame of reference are you using to determine the nature of the fight. In other words, have you ever seen a fight before?

5 A. No, I haven't. Well, maybe an occasional bar fight but I've never witnessed anything like that.

 Q. No, no. But at the time that you observed this fight, had you ever seen a fight before?

10 A. Not that I can remember, no.

 Q. Okay. The other thing, I just want to clarify this, it was put to you that -- let's use the words. The fight ends when the street kid is non-responsive. And I just want to make sure, your evidence is you look away at some point in time. You really don't know when the fight ends, do you.

15 A. That's correct.

 Q. You look away at the time in which you see the knife in the woman's mouth.

20 A. That's right.

 Q. So you have no idea if that knife was ever used at the south side.

 A. That's correct.

25 Q. And in terms of you not seeing a fight on the north side, at the time that you provide a

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statement to the police officers, had you thought about how or had you seen how the woman that you indicated was cut, did you know how she got cut?

A. No.

5 Q. So did you know if she got cut on the south side?

A. Oh, I don't know.

Q. And you don't know whether she got cut on the north side.

10 A. That's right.

Q. And my friend put a question out there which -- which was -- let me just get it specifically. And that's to do with the media. And her question was, Does that exposure influence your evidence, and you indicated, "It's possible...". Do you remember that question?

15 A. Yes. Yes.

Q. So I want to specifically ask you, do you know whether or not the media that you saw influenced whether or not you saw a woman with a knife in her mouth.

20 A. Oh. No. That did not influence -- the media did not influence that at all.

Q. Did the media influence whether or not you saw the jock individual on top of the vehicle

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with the knife in his hand?

A. No, it did not.

Q. Did the media influence you as to whether
or not you saw a fight there on the south side?

5 A. No, it did not.

Q. And so just so it's clear, what influence
did the media have?

10 A. I specifically tried to not let the media
influence any of my memory. But I suppose that -- I
hope that it didn't but I guess it's possible that
it created -- it filled in some of the blanks, but I
very strongly believe that I am only saying exactly
what I saw.

15 Q. Okay. Okay. I have no further questions.
Thank you.

THE COURT: Thank you for coming, ma'am. You
may step down.

THE WITNESS: Thank you.

20 MR. THOMPSON: I'm just checking if our other
witness is here. They're supposed to be
waiting in the... all right. I'm going to
suggest -- my information is he will be here
in about ten minutes. So --

25 THE COURT: All right.

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---RECESS (12:21 p.m.)

5 ---UPON RESUMING (12:45 p.m.)

MR. THOMPSON: Our next witness is here, Your Honour.

10 THE COURT: Thank you.

MR. THOMPSON: I just want to put something on the record, Your Honour, and I'm sure that it's all trite to you, but nonetheless, with respect to organizing witnesses, just as an example, Ms. Stopford was two days at the preliminary in terms of her evidence, so when the Crown is organizing witnesses we're trying to line them up as best we can, bearing in mind that they also are losing work and whatever, so I understand Your Honour may be somewhat concerned but nonetheless, we have to use the preliminary inquiry as a rough idea of how long my friend is going to be in cross-examination so as opposed to two days, it's 45 minutes.

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THE COURT: I appreciate, Mr. Thompson, it's not exactly a science.

MR. THOMPSON: All right. So I'll call Mr. Paget.

5

---JONATHAN PAGET: AFFIRMED

---EXAMINATION IN-CHIEF BY MR. THOMPSON:

MR. THOMPSON:

10

Q. Just so it's clear, Mr. Paget, where are you today?

A. I'm currently on duty.

Q. Okay. When you were called to come down, what were you doing?

15

A. I was with a patient in their house when I received the initial phone call.

Q. You made it down as soon as possible and I hope the patient's okay?

A. Ah, yeah.

20

Q. Okay. All right. So just so it's clear, in terms of preparation for the case today, you had an opportunity to review your statement, is that correct? Video statement?

A. That's correct.

25

Q. And you also had the opportunity to look

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at the transcript of your statement as well as the transcript from the preliminary hearing?

A. That's correct.

Q. And you did that in an interview with the Crown Attorneys and an officer present?

A. Yeah.

Q. And can you tell me briefly what it is you do for a living and what you were doing for a living back in 2007?

A. Ah, currently I'm, and back in 2007, I'm a paramedic with the City of Toronto. Toronto EMS.

Q. Okay. And back in August of 2007, how long had you been with EMS?

A. Approximately three or four months at that time.

Q. Just so it's clear, you're not being called in a capacity as someone who is working for EMS, are you?

A. I was off-duty when the incident occurred.

Q. All right. So let's actually go to that August 9th date, 2007, and just briefly explain to me what you were doing?

A. Ah, well, that evening I was with a friend. We had met up with some other friends.

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Q. Who was the friend you were with?

A. Ah, the person that I was with was Molly Stopford.

Q. Yes?

5

A. Okay? And, ah, yeah, we had had an evening with some friends and we were on our way home on the streetcar.

Q. Where had you been that night?

10

A. We were in the Queen West area. Ah, we went to a friend's place and would you like the full details of --

Q. No, just roughly. Were you drinking any alcohol that evening?

15

A. Yes. We got to our friend's house at about seven o'clock or so and I had I believe one beer at my friend's house, we went out for dinner, had a two course meal at dinner, I had two Guinness pints at dinner and then after dinner we went back to my friend's house, had one beer and made our way home.

20

Q. So in total, how long -- you consumed that amount of alcohol in how many hours?

A. It was between the hours of around 7:00 p.m. to close to 12:30 a.m.

25

Q. Now, I understand at that time that -- or

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just prior to that that you and Ms. Stopford, you were going out.

A. Prior to that, yeah. We had been broken up at that point.

5 Q. All right. And how long had you been broken up?

A. Oh, it would have been a matter of months.

10 Q. So when is the last time you see her in 2007 roughly?

A. The last time that I saw her in 2007?

Q. Yes.

A. I saw her briefly at my mother's funeral.

Q. Okay. Sorry to hear that.

15 A. And that was in, sorry, in September.

Q. Okay. So in terms of talking to her about the events that happened that night, can you just briefly tell us if you did and when those opportunities would have arose?

20 A. Sorry. I missed that question.

Q. In term of the events that happened that night, you were with Molly, okay?

A. Mm-hm.

25 Q. Can you tell us if in fact you did have any conversation with her about what happened that

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night and if it -- number one, if in fact you did, and if you did, what the extent of it was?

5 A. That night we had some conversation regarding what we had seen. Um, we, you know, just generally went over the events, you know, what I saw, um, we probably discussed, you know, the matter.

10 Q. Okay. Do you know roughly how long you discussed it for?

10 A. No.

Q. Let me ask you this: Is there anything that she said to you that changes your recollection at all?

15 A. I don't believe so, no. It was very brief that evening, ah, after the fight had occurred that we had talked about it, just saying, you know, just general things.

20 Q. And was there any other opportunity that you had to speak to her about the events?

20 A. Ah, we probably discussed it on the telephone after we found out that somebody had died in the -- that evening.

Q. Now, filed as an exhibit here is a City TV video, and are you familiar with that video?

25 A. I can't say that I am.

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Q. So let me ask you this: Did you ever see a video done by City TV of the events?

A. I don't believe I saw a video done by City TV.

5 Q. And let me ask you, was there anything in terms of any of the media or anything on the internet that you may have seen with respect to this matter?

10 A. Um, yeah. I'm pretty sure that I read something about it in a newspaper. Ah, and I did see a clip on CP24 I believe, um, that evening or the next day. And since then I've seen other, you know, articles, ah, pertaining to the events.

15 Q. Okay. And that August night, you were coming back from your friend's. Did you take a streetcar back?

20 A. Ah, we were taking a streetcar back, yes. And sorry. I'd like to go back. Your earlier question about the last time I had seen Molly in 2007, that wasn't in 2007, that was in 2008, what I had referred to. After that in 2007 I'm not sure if I ever saw her, you know, again but I don't recall.

Q. Okay.

A. After that weekend.

25 Q. So you are referring to September 2008.

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A. That's right. Sorry about that.

Q. That's okay. So in terms of just so it's clear, you live in Toronto do you?

A. That's correct.

Q. And Molly lives in Ottawa.

A. I believe so.

Q. Let's get back to the streetcar. Where -- who boards the streetcar, just so it's clear? Who boards the streetcar with you?

A. Molly and I both boarded the streetcar.

Q. Your friends are no longer with you?

A. No, they stayed at their house.

Q. Okay. So when you get on the streetcar, where do you get on? What location do you get on?

A. It was the front door's by the driver that we got on.

Q. No, no. But what stop do you get on?

A. Unfortunately I don't know the name of the streets that we were at.

Q. Okay.

A. The intersection.

Q. And when you get on the streetcar, do you remember where you sat on the streetcar? Or if in fact you sat?

A. Yes, we did sit approximately seven rows

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or so back on the passenger side of the vehicle,
which would be the south facing side of the vehicle.

Q. Okay. Just relax, sir. Okay. So I'm
showing you Exhibit 8 that's on the board there. And
there should be a pointer up there.

A. I have a pointer.

Q. Okay. Can you mark on that pointer where
it was on the streetcar that you were seated?

A. It would have been around this area here.

Q. Just so it's clear, there's three windows
there. Would it have been first, second, or third
window? Do you know?

A. I don't know which window it would have
been at. I believe it was just, like, in front of
the -- this -- these set of doors here so it would
be right in this area probably.

Q. Okay. And so your hand's moving a little
bit there, but just so it's clear on the record,
when looking at Exhibit 8, okay? You have pointed
to the side doors that are just in front of the
accordion or the centre piece of the streetcar, and
you were pointing to the window that is directly in
front of that, but you're pointing at the -- at the
furthest portion of that away from the doors, and I
was going to say if this is easterly direction, it's

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the furthest east direction of that fourth window.

So you say roughly how many seats back were you?

5 A. It was roughly seven. Seven seats back, give or take.

Q. Okay. So whereabouts on the streetcar did you, in terms of the aisle, did you have the aisle seat or did you have the window seat?

A. I had the aisle seat.

10 Q. And can you tell me, was the streetcar very busy at that time of the night? Or not.

A. Um, there were -- there were a few people on the streetcar for sure. I wouldn't be able to tell you exactly the number, but it wasn't an empty streetcar by any means.

15 Q. Would you be able to give me the information as to whether or not anybody had been standing or whether they were all able to find seats? Is that something you could recall?

20 A. At that time, people would have probably been able to have all found seats. There were definitely not -- it wasn't a full train.

25 Q. And as that streetcar approaches Niagara Street, and it's going in an eastbound direction, can you tell us what it is you observe?

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A. Ah, I believe at this time the vehicle was at a stop, and I first was --

Q. Okay. So just so it's clear, you were at what stop?

5 A. Um, I -- it was either stopped at the intersection for a traffic signal or it was stopped at the stop. I'm not sure if --

Q. So am I correct when I put it to you it was Niagara Street?

10 A. I don't know the name of the street it was at.

Q. So it was at a -- do you know whether or not it was actually at a physical stop or whether or not he had stopped for a light?

15 A. I don't recall if it was at the TTC stop or at an intersection.

Q. Let me ask you this: Does anybody ever get on and off the streetcar?

A. While we were there?

20 Q. Yes.

A. I don't recall.

Q. Okay. All right. So you're at the -- the streetcar is at least -- is stopped at a location, you can say it's at least Queen Street?

25 A. Oh definitely Queen Street.

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Q. Okay. Queen Street. And what's the first thing that you see?

5 A. Ah, the first thing that I actually notice is there is some noise coming from outside. There is yelling. It sounds like there is a skirmish happening. So that sort of alerted me to the fact that something might have been going on, and I -- then I noticed that there were --

10 Q. Just slow down, please. Can I ask you whether or not you knew whether or not the window of the streetcar was open?

A. I believe at that time the window was open, yeah.

15 Q. So you heard some noise and you saw there was a skirmish?

A. Yeah, we had noticed there was something happening.

20 Q. Just so it's clear, when you say "we", I assume you are referring to Molly?

A. Molly and I.

Q. But can I just get your observations please?

A. Certainly. I was alerted to the fact that something was happening outside.

25 Q. Okay. Your Honour, not to leave one in

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abeyance here, but I think this is probably a good
time to break.

THE COURT: All right. We'll take the lunch
recess.

5

---LUNCHEON RECESS (1:00 p.m.)

10

---UPON RESUMING (2:17 p.m.)

THE REGISTRAR: Witness, please.

MR. THOMPSON:

15

Q. Okay. Mr. Paget, before we broke for
lunch you were talking about noise and a skirmish
that you heard on the south side of the street. Can
you continue from there please?

20

A. Yeah. Um, as I was saying, we were seated
on the streetcar. I heard some noises coming from
the front area of the streetcar outside.

Q. And I'm just going to stop you. You heard
noises from the front. Okay. And continue. Go ahead.

25

A. So that piqued my attention and I started
looking outside at what was going on.

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Q. And where did you look?

A. Ah, I would have been looking forward of the -- of the train.

5 Q. Okay? And I'm just going to show you Exhibit Number 8. Okay? I'm just going to -- it's going to flash on the screen. You've got the pointer. There. Can you tell me where it is you were looking? Number 9. Yes. Number 9. Okay. Can you tell me roughly where you're looking?

10 A. I would have been looking ahead of the train. I don't know exactly where I first saw the parties involved, but it was in front of the train, and I first noticed them, you know, more on the street.

15 Q. Okay. So just for the record, you've marked out an area which is east of the streetcar, because it's going in an easterly direction, and it is south of the streetcar and it's probably about five to eight feet ahead of the streetcar on the pavement portion of the road, is that fair to say?

20 A. That's fair to say that that's where I pointed. Again, I don't remember exactly where they were.

Q. Okay. And what's the first thing you saw?

25 A. The first thing that I can remember that

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I saw, um, was there were two -- two male parties involved, basically in a fight. Um, there was one person who was more in commando fight and one person that was sort of in a more defensive posture.

5 Q. Okay. Can you give me a brief description of the two people?

10 A. One gentleman was, um, had long hair, ah, was dressed in more of a street fashion, um, and the other gentleman had shorter hair and he was dressed in more of a, ah, like, I don't know, preppy fashion or I guess --

Q. Okay. And which of the two of them was -- you were saying was the aggressor?

15 A. That would have been the shorter haired gentleman.

Q. So just for the purposes of your evidence, and why don't we call one the short haired gentleman, the other the long haired gentleman, okay?

20 A. Okay.

Q. What -- what were they doing physically at that point?

25 A. Ah, the first thing that I noticed was they seemed to be involved in a fight. What I can recall is the long haired gentleman was sort of

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backpedaling as the short haired gentleman was, ah, being quite aggressive, um, you know, fighting with him.

5 Q. Okay. And he was backpedaling towards which location?

A. They ended up pretty close to being right underneath us while we were sitting on the streetcar, up against the streetcar.

10 Q. So when you say they were "backpedaling", they were backpedaling towards the streetcar?

A. The long haired gentleman was backpedaling towards the streetcar and the short haired gentleman was walking forward.

15 Q. So that would be also in a westerly direction.

A. That would have been westerly.

Q. And were there many blows struck by the time they got to the streetcar?

20 A. Um, I cannot recall exactly if there were many blows before they got to the streetcar. Um, no, I cannot recall.

Q. Okay. And then I'm not sure if I specifically asked you, but I will now. You were in the aisle seat were you?

25 A. I was in the aisle seat.

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Q. And can I ask you, Ms. Stopford testified earlier. Did she in any way obstruct your view?

A. Um, you know, I don't recall my view being obstructed.

5 Q. Okay. So the fight's going towards the streetcar, and where does -- where does it eventually move to?

10 A. Um, I believe that it's -- it ended up it was either right below us, like just below our window, or just a little bit, ah, west of our window but right up against the streetcar.

Q. And now I'm going to -- you referred to Exhibit Number 8. And can you show us with the pointer?

15 A. Yeah, as I had pointed out earlier, I believe I was sitting in this area right here and so the fight would have ended up either right below us or just a little bit west of us.

20 Q. Okay. And what's the position of the two parties involved in the fight?

A. The, ah, the long haired gentleman had been backed up with his back against the, um, the streetcar.

Q. Yes?

25 A. And he was out of my field of view up

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against the streetcar. The short haired gentleman was walking forward -- sorry. Towards him and his -- he would have been facing the streetcar.

5 Q. Okay? And was either one east or west of the other or were they directly in line, or can you give us a better description of that?

A. Unfortunately, no, I wasn't able to see straight down.

10 Q. Okay. So how long does the fight go on?

10 A. Um, that's very difficult for me to recall. I know that it did occupy my attention for some time. I wouldn't be able to tell you if it was, you know, how long in minutes or seconds. I don't recall.

15 Q. Well, if you play it back in your mind, if I gave you, if I counted -- if I was able to time it on my watch, would that assist you at all? Or not.

20 A. I'm not sure. I'm a poor -- I can't really tell you if that would assist or not.

25 Q. Okay. So let me ask you this then: When they're at the streetcar, what is the view that you have. You indicated you saw -- you were able to see the face of the short haired gentleman, he was looking at you in any event. Were you actually able

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to see the entirety of his face?

A. No. I wouldn't, ah, as they were walking towards the streetcar, ah, I wouldn't have been able to have seen him. While they were up against the streetcar, if I was able to see the short haired party at all it was the top of his head.

Q. All right. So you don't know how long it goes on, but can you tell me, does anything stop the fight?

A. Ah, yeah. A -- a female approached the fight and ended the fight.

Q. When is the first time you see that female?

A. It would have been while the two parties were fighting up against the streetcar. Ah, I overheard some yelling and screaming coming from this general direction that the two men had first appeared from, and there were two females standing up in that location, um, yelling at the fighters.

Q. And I'm going to ask you to go back to Exhibit Number 9 again, and perhaps you can point to us again where it was that you saw the two females.

A. I wouldn't be able to tell you with any certainty, but it was from the same area that I had seen the gentleman come in, so right around the same

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spot that I had pointed to earlier.

Q. Do you know which direction they were walking in?

A. They were walking in a westerly direction on the -- on the south side of the streetcar.

Q. And could you tell whether or not, as they were walking, they were coming directly down there or were they coming on an angle? Or how were they coming?

A. Um, I believe that they were more in the centre of the -- of this lane of traffic here. And one of them ended up approaching, I don't know, it must have been on -- I wouldn't be able to tell you if it was on an angle or if it was straight. I don't know.

Q. And as this woman approached, did you notice -- can you give us a brief description of her, please?

A. Ah, unfortunately I do not recall what the female looked like. She was dressed more in a street fashion than -- than not, but that's pretty much the only description that I'd be able to give you.

Q. Well, can you tell me, do you ever see the woman again?

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A. Yes, I do see her a little bit later on during that same -- same stop.

Q. And where did you see her?

5 A. She would have been on the north side of the streetcar, ah, a little bit east of it and she was very upset, ah, about having been cut in the arm.

10 Q. We will get into more detail of that. So you're saying in any event that the woman who is approaching the streetcar is the same woman who was on the north side with the cut on her arm.

A. Yes.

15 Q. Okay. So this woman approaches, and what is it that you are able to observe about her in any event.

20 A. Ah, well, I clearly recall that she was yelling at the parties that were fighting, sort of -- I don't remember the exact words that she said but the general idea was basically for the one party to stop beating on the other party essentially.

25 Q. And just so it's clear, when they are beating each other below the window, do you actually -- can you actually see what's happening between the two of them?

A. No, I cannot see what's happening.

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Q. Do you hear any noises inside the streetcar?

A. Ah, well, I do hear, um, a banging noise up against the side of the streetcar. It sounded like something was hitting the side of the streetcar.

Q. Are you able to observe what was causing that?

A. I am unable to observe that.

Q. So as this woman approaches, you say she's -- she's yelling something to do about stopping the beating?

A. Yeah. That's the general idea of what she was yelling about.

Q. And can I at least ask you, do you know -- I know you indicated you weren't able to tell the time exactly, but at what point in time, by -- when they had gone out of your view, does this woman arrive?

A. Um, I wouldn't be able to recall. Um, yeah.

Q. So she's coming towards the streetcar. Do you see her when she approaches the streetcar? Do you lose view of her at all?

A. Ah, I would say that I was -- her view

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was obstructed, for sure. Um, she wasn't out of my field of view for very long, if at all.

Q. Well, let's deal with what it is you do see with her while she is in your view, all right?

5 A. Okay.

Q. So I've got her coming towards the streetcar, you are still able to see her?

A. Correct.

10 Q. Okay. And what is she doing when she's approaching you?

A. She is approaching, ah, with intent, it appeared to me, as to stop the fight. Um, she was moving towards them very briskly. Ah, I believe that her arms were out and yeah, you could tell that she was -- was ready to help stop the fight.

15 Q. And what's the next thing you're able to observe unobstructed?

A. Ah, the female was able -- was able to stop the fight. Um, she had been able to get the shorter haired fellow off of the long haired fellow.

20 Q. And do you --

A. And they moved into the street just behind where I was sitting. A little bit west of where I was sitting.

25 Q. And do you see how she's able to get him

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off him?

A. I wasn't able to actually visualize that.

Q. Okay. And when you say the fight went
back out into the street, can you just roughly point
to me on that Exhibit Number 9 where she goes --

A. Um...

Q. -- when you say it goes back to the
street?

A. Yeah, well, it would have been into this
lane just a little bit west of where I was sitting,
and I don't recall her being in my -- in my field of
view for very long because I was then focused on the
long haired gentleman, um, that would have been, you
know, pulled towards the sidewalk.

Q. Let's just deal with that for a short
period of time. The long haired gentleman. Can you
tell me how he gets pulled to the sidewalk?

A. There were either one or two people that
were able to drag him by his shoulders. He was, ah,
in a -- sort of a supine position. He was lying on
his back. And they were able to drag him towards the
sidewalk and his head ended up resting on or near
the sidewalk, and his legs were into the street.

Q. Now, do you -- the people that are
dragging him over, do you know what -- if they're

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male or female?

A. I don't recall the sex of them. Or their gender.

Q. Let's go back to the female again you said that came in with intent.

A. Mm-hm.

Q. Do you ever see anything in her hand?

A. At some point during the events I did see that she was holding a knife in her right hand.

Q. Do you remember giving an interview to the police on the 14th of August in 2007?

A. I do.

Q. Do you remember providing a diagram of that knife?

A. I do remember that, yeah.

Q. Okay. I'm showing you a picture and it seems to have your name on it. Can you just indicate whether or not that's your --

A. That would be my art.

Q. Okay. I'm just going to put this on the Elmo here. So when you said you saw the knife in somebody's hand, what portion of the knife did you see?

A. I was only able to visualize the blade.

Q. Okay. So you've got a handle on there,

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and I'm just curious why it is you drew the handle
the way you did?

A. That would be more fingers than a handle.
I'm a very poor artist.

5 Q. Sorry. Those are fingers as opposed to
the handle?

A. Yeah.

Q. Okay. So did you actually see the handle
at any given time?

10 A. No.

Q. I'm going to file this as the next
exhibit, please?

THE COURT: 47.

THE REGISTRAR: 47, Your Honour.

15

---EXHIBIT 47A: Diagram - produced and marked for
identification.

20

MR. THOMPSON: And it may be, Your Honour,
there's two other exhibits I'm going to put
to him that were taken at the same time and
my friend is going to be using them, so
perhaps A, B and C may be appropriate?

25

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THE COURT: All right. 47A then.

THE REGISTRAR: 47A, Your Honour.

MR. THOMPSON: Court's indulgence.

5 Q. And obviously, well, first of all, is
that knife drawn to-scale?

A. Um, I would say that no, it's not drawn
exactly to-scale because of my complete lack of
artistic capabilities.

10 Q. Fair enough. But in any event, can you at
least give us your best estimate as to, number one,
the length of the knife, or the portion that you did
see?

A. Yeah, I believe the length of the blade
was somewhere around three inches or so.

15 Q. And when you see the knife, first of all,
approximately how long -- for what period of time
did you see the knife. Did you see it once? Did you
see it numerous times or --

20 A. I saw the knife on two occasions during
the events. Um, the first time that I had seen it in
the female party's hands, or hand, it was a very
brief amount of time.

25 Q. Okay. Now, the first time you saw it, is
it possible for you to indicate for us where it is
that you, if I put up the diagram, where it was that

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you saw her having it at the time? Or no.

5 A. Unfortunately I've been having a lot of difficulty recalling the sequence and when I was able to see the knife in her hand. Ah, I do believe that it was in her hand at the front of the streetcar, approaching me, where I was sitting, but I don't know if it was before the altercation with the long haired gentleman and the short haired gentleman or if it was afterwards that I had seen
10 the knife.

Q. You said you saw it two times.

A. The other time I saw it in a gentleman's hand while he was lying on a taxi on the north side of the streetcar.

15 Q. You say "a gentleman". Which gentleman?

A. It would have been a gentleman with short hair and I believe that it was the gentleman that was involved with the long haired gentleman.

20 Q. Okay. But let's go back to the time that you saw it in the woman's hands. The woman that you said is the woman who eventually gets cut.

A. Mm-hm.

Q. Um, first of all, do you remember how the knife was positioned in her hand?

25 A. She would have been holding it, and if I

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use the laser pointer, she would have been holding it in this position with the blade sort of down.

Q. So for the record, you've indicated knuckles down and blade pointing out towards the front portion of the fist that's holding it. Do you know how high it was? In other words, was it being held at her waist? At her shoulder, at --

A. I don't recall for certainty. It was in front of her. I'm not sure at what level.

Q. And just once again, although you can't tell me in terms of sequence when you saw it, do you have any idea roughly how long you saw it for?

A. Ah, I wouldn't be able to answer that. It was a brief period of time.

Q. While she is there involved in a fight, is there any other women that you see in the area?

A. Ah, when she first approached she was with, um, a female that I also noticed her with at the end of the altercation tending to her cut arm.

Q. Can you give us a brief description of what that woman looks like?

A. Unfortunately I'm not very good right now at remembering what she looked like. I do recall her wearing a red -- I believe it was a t-shirt. She was a little bit taller than the first lady with the cut

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arm. Um, apart from that, I don't recall.

Q. Court's indulgence, if I may. Sorry, Your Honour. So this other woman, did you see her -- any involvement that she had in the fight?

5 A. No, I never saw her actually fighting.

Q. When you first saw her you said she was where the woman with the cut came in?

A. That's correct.

Q. Were they together?

10 A. They were close to each other and they were both -- I believe they were both yelling at the fight.

15 Q. And after the gentleman with the long hair was pulled to the curb, do you know whether or not that woman was there at all at that point?

A. I don't recall seeing her.

Q. I'm just going to ask you a little bit more description of the knife. You indicated it had a -- how long was the blade you said again?

20 A. Around three inches. It wasn't a very long blade.

Q. Okay. Had you ever seen a knife like that before?

25 A. Yeah. I used to own a similar knife. Um, it was a -- like a folding blade, or a blade that

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folded into the handle type thing.

Q. That's commonly referred to as a
jackknife, is it?

A. I -- I think so. I'm not sure.

5 Q. Okay. During the fight, when you see the
short haired gentleman stop fighting, do you see
where that individual goes?

10 A. Um, I believe -- all right. Again, this
is another instance that I'm having a hard time
remembering the time-frame of.

Q. Okay. Well, I don't want you to guess. If
you don't know just tell us you don't know, and if
you have an idea or if you have some recollection,
fine, but I don't want you to guess.

15 A. Okay. The last time I saw him on the
south side of the streetcar he was a little bit west
of me in the road, and then after that I don't see
him until he's on -- if it's the same person, on the
north side.

20 Q. All right. Do you ever see him in the
area where the -- just beside where the long haired
gentleman is being pulled over?

A. He would have been west of him.

25 Q. Do you ever see the short haired
individual make a posture of anything towards the

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crowd?

5 A. The short haired -- okay. Yeah. So at some point during the altercation, he had his arms outstretched, he was, um, very animated, saying, you know, something along the lines of, Who's next, bring it on, that sort of a thing. I don't remember his exact words. I do recall him saying, Who's next, a few times, um, and he was extremely agitated at that point.

10 Q. All right. Do you see him just shortly thereafter or can you give us a time-frame of when he did that?

15 A. See, that's what I was having a hard time with the time-frame of. I believe it was right after the long haired gentleman was pulled away from the streetcar, um, but I don't 100 percent know. But it was around that period of time.

20 Q. Let me ask you, do you ever see him again on the south side and where the fight was?

A. No.

Q. When I say "him", I'm referring to the short haired --

A. The short hair --

25 Q. -- gentleman. Just so it's clear, when I'm referring to "he", is it the short haired

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gentleman?

A. The question was was that the last time that I saw him, the short haired gentlemen, on the south side, and my answer was yes.

5 Q. Okay. Court's indulgence. Okay. And I'm just going to go back to the area where you said that the woman comes into the fight. That's not the woman who gets the cut eventually but the other woman. Do you -- what is the closest that she gets
10 to the fight?

A. Um, as far as I was able to see, I will point it out, I saw her in this location.

Q. Okay?

A. And I also saw her, at the end of the
15 sequence of events, up in this area. I don't see her at any other time.

Q. And just for the record, the first area that you pointed to is approximately eight feet ahead of the streetcar, an easterly direction and
20 south of it, and the second one you pointed to would be north of the streetcar about 12 feet away in the other side of traffic, going in a westerly direction of traffic on the portion which is concrete which is for the streetcar.

25 A. I would say that, yeah, if she was on the

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streetcar area it would have been right, you know, on the far north side of it or she was in the western lane of traffic.

5 Q. Okay. Now, when you were watching this take place, at that point in time you were trained with the EMS, were you?

A. That's correct.

Q. Did you have any idea of going in to assist in the matter?

10 A. Yeah, once I noticed that the long haired gentleman was, ah, presumably unconscious, I -- I wanted to go outside and assist him. Molly had asked me not to leave and then I also registered that it was still a very violent scene and I didn't particularly want to be a part of that.

15 Q. Did Molly -- do you know -- did Molly tell you why she didn't want you to go over?

A. She was afraid of the violence that was going on and she didn't want me to get hurt.

20 Q. Sorry. What?

A. And I believe that she didn't want me to get hurt.

Q. Let me ask you this: Had you seen the knife at that point in time?

25 A. Ah, I believe so.

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Q. Did that give you any concern?

A. Sorry?

Q. Did that give you any concern?

A. Ah, yeah, once it registered in my mind
5 that there was a knife out there.

Q. Did Molly mention anything to you about a
knife?

A. Ah, did she mention anything to me about
there being a knife? Is that your question?

10 Q. Yes.

A. I don't recall at that time. I believe
so, but I don't recall.

Q. All right. Do you remember providing an
interview with the officer on August 14, 2007?

15 A. Yes.

Q. Okay. And you provided a statement at
that time?

A. Yes.

Q. Okay. With respect to the -- who had the
20 knife, if I was able to show you the transcript,
would that refresh your memory with respect of who
had the knife? Or when you saw the knife?

A. Possibly.

Q. I'm going to ask permission to show him?

25 THE COURT: Yes.

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THE WITNESS: Thank you.

THE COURT: What part of the statement do you wish him to read, Mr. Thompson?

MR. THOMPSON: Sorry. The page number on there is?

MS. MIDDLEKAMP: 19.

MR. THOMPSON:

Q. There should be a page number on there.

A. Yeah. 19 of 131. Would you like me to read the entire page?

Q. No. Just read it to yourself and after having read it tell me whether that assists in terms of refreshing your memory. Just continue on to where it finishes at the end of page 20.

A. Okay.

Q. Okay? So do you remember at all when the woman came in with the knife? When you noticed her?

A. Ah, yeah. I don't recall exactly when I first saw the knife, if it was as she was coming into the fight. I believe it was at that time, because that is the only time that I recall seeing her coming from that area of the street, in front of the streetcar. Um...

Q. All right.

A. I can read it if you'd like.

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Q. No, no. No. I just want to know whether or not it assists you in terms of whether or not, what point in time that you noticed the knife --

A. Yeah.

5 Q. -- in the hand of the woman.

A. As far as my statement is concerned, it says here --

10 Q. No, I don't want you to tell me what it says. What I'm interested is whether or not it assists you in determining whether or not, at what point in time, that she comes into the fight with the knife.

15 A. Yes, I guess I could answer yes, it looks like that she was carrying the knife as she approached the fight, from what I had said.

Q. Well, is that your evidence? Does that assist you in terms of -- you gave the statement back on the 14th of August.

A. Mm-hm.

20 Q. It was closer to the events in time.

A. Right.

Q. Does that assist you in terms of when she actually brought it? Or not.

25 A. Um, I can't be 100 percent conclusive on that.

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Q. Okay. Let's just move on then. The fight now, you don't see what happens to the short haired gentleman on the south side. You believe you saw it on the north side?

5 A. I believe, yeah.

Q. And when do you -- when does that happen in relationship to the time in which the fight takes place on the south side?

10 A. There are two instances when I see somebody on the north side that resembled the short haired gentleman. Um, the -- I notice that at one point there is somebody being beaten up there lying on the ground ahead of me. Ahead of the streetcar. East of it. On the sidewalk. And then the other
15 instance is right just north of where I was sitting or standing at that point while the gentleman was lying on the taxi.

20 Q. Okay. So let's deal with the first situation you're talking about when you see somebody being beaten up in front of the streetcar.

A. Mm-hm.

Q. Can you just point us, first of all, where it is that you see this taking place?

25 A. Um, I believe that it was taking place close to these light posts over here.

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Q. Okay. For the record you have indicated the two light standards in which the traffic lights are attached. And what is it you see at that location?

5 A. Ah, I see a -- thank you -- I see a more well-dressed individual lying on his back in a turtled position protecting himself. There are at least two people at that point who are kicking at him, ah, stomping, ah, on his head. Yeah. Beating
10 him up.

Q. Okay. Just take it one step at a time here. When you see two people, can you tell me the gender of those two people?

A. Unfortunately I don't know the gender.

15 Q. And when you say kicking and stomping, the gentleman's on the ground. Is this -- are they doing it quickly? Periodically? Can you just give a little more description of it?

A. It seems to be happening, like,
20 repeatedly.

Q. And can you give me an idea of the length of time that it would have gone on for?

A. Unfortunately, no, I wouldn't be able to.

Q. And can you tell me where you were
25 looking out of the streetcar, at what -- how was --

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was your view in any way blocked?

5 A. My view was blocked. I was looking out of the north windows. I was standing up at this point and my view would have been blocked by the fact that there was not very good lighting on the sidewalk. The lighting wasn't very good. And also there were -- there was something on the road. I think there were garbage bags or something like that on the sidewalks.

10 Q. Okay.

A. I wasn't able to clearly see very well.

Q. You've moved from a seated position to a standing position?

A. Yeah.

15 Q. And can I ask why that was?

A. Um, just probably to get a better view of everything that's happening around me.

Q. And so when did you move to the standing position?

20 A. That would have been while the long haired gentleman was up against the streetcar.

Q. Did that give you a better view of what was happening beside the streetcar?

25 A. Um, it would have given me a slightly better view, but they were still obstructed.

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Q. I just want to focus back on this fight on the north side. Do you have any idea roughly how long that went on for?

A. I wouldn't be able to tell you.

5 Q. Does the gentleman that was on the ground, does he at any -- is he constantly on the ground or is he getting efforts to stand up or --

A. While I'm watching this, he's on the ground the entire time. I don't remember him getting up.

10

Q. Do you continually watch him?

A. Ah, I would have been distracted by the other things that were going on at the time.

Q. And what other things are those?

15

A. Ah, I recall the driver of the -- the streetcar, ah, on the radio speaking with his dispatch centre trying to get the police and basically a 911 call happening. There were other people on the streetcar who were standing and talking on their cell phones calling 911 I would assume, it sounded like it. Yeah, there was a bit of commotion going on.

20

Q. So do you look back at the area at all? Where the fight was going on?

25

A. I don't recall looking back at that area.

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Q. So when's the next time you look in a northerly direction?

A. The next thing that I can remember is seeing the gentleman lying on the hood of the taxi.

5

Q. And can you just give us a brief description of what it is you saw?

10

A. Ah, I -- I saw a short haired gentleman lying on the taxi, ah, stomach down. He was, ah, along the hood of the car with his feet sort of where the lights would be and his head up towards where the driver of the taxi is. He's on the driver's side of the hood and he was yelling at the driver of the taxi. He was holding the knife at that time.

15

Q. You say "the knife"?

A. The only knife that I believe that I saw.

Q. Did you ever see any other knives during the entire evening?

20

A. No.

Q. Okay. And continue. Sorry.

25

A. So he would have been yelling at the taxi driver. The window of the taxi was open and on at least two occasions he swung his body half off of the hood and he threw some punches towards the head of the taxi driver. Ah, that happened -- there were

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-- I recall at least two sequences of that happening and then another taxi drove by in a west -- like, in a westerly direction, and the short haired gentleman disappeared from my line of sight at that point. I
5 sort of craned back to see, you know, what happened to him because I thought that he was hit by the taxi, but he was nowhere to be seen and it didn't appear as though he was any longer -- there any longer. He just sort of vanished.

10 Q. Now, I want to focus back on this woman that you say had the knife. When's the next time that you see her?

A. That would have been very close to the end of everything that I had seen. Um, she was --
15 yeah, it would have been near the end of it.

Q. Okay. And can you just tell me where it is again? You pointed once, but do you mind showing me again?

A. Yeah, it would have been up in front of
20 the streetcar, um, it was -- they were the furthest that I had seen anybody I believe and they were standing in this area.

Q. Okay. When you say "they", just for the record, once again, you pointed to a position north
25 of the streetcar, probably about twelve feet north

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and east of the streetcar on the pavement portion as well as partially on the concrete portion of the streetcar tracks. Okay. So when you say we -- or "they", who are you referring to?

5 A. The two females that I had seen involved.

Q. And what is she doing, like, what view do you have of her? What is she doing, the first thing you see her do when she is on that side?

10 A. Ah, the thing that sort of brought my attention towards that area was the taller of the two females had taken off her shirt and she was standing in her bra, which struck me as quite odd, until I realized that she was tending to the cut on the other female's arm, who was very upset at that point, ah, yelling and crying about how she had been cut.

15 Q. Did she say who cut her?

A. I recall her saying, He cut me.

Q. Okay.

20 A. Something like that.

Q. And just did you actually -- were you able to actually see the extent of the cut?

A. No.

25 Q. And do you know whether or not she was bleeding at that point?

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A. Ah, no, I don't know. I would assume that she was, but I don't know.

Q. Okay. Just let me ask you, what brought that assumption to you?

5 A. The fact that the other female was wrapping her arm up with her t-shirt.

Q. The woman that was wrapping her arm, is it your position that you believe it's the same woman who was with her on the south side?

10 A. I believe so.

Q. And what specifically leads you to that conclusion?

15 A. I just -- it's just how I remember the events. I wouldn't be able to expand on that very much.

Q. So in terms of physical description, would you be able to provide that at all? Or no.

20 A. At this time, no. All I know is that she was wearing a red -- I believe she was wearing a red shirt that she had taken off and she was standing in what looked like a white bra afterwards. Um, she was a little bit larger in height and stature than the other female.

25 Q. Back on the 14th of August, 2007, when you were giving your police interview, you provided

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two other diagrams and I'm just going to put them on the Elmo here and you can tell me whether or not you recognize these. Do you recognize that?

5 A. It looks -- yeah, it looks like a diagram that I --

Q. Well, you provided the -- you drew a diagram?

A. Yeah.

10 Q. Okay. And I'll show you another diagram. Do you recognize that at all? Or not.

A. Yeah. I do. Yeah.

Q. Okay. So I'm going to have these entered as the exhibits B and C. The one we started I believe is --

15 THE COURT: This is 47B.

MR. THOMPSON: And 47C, please.

THE COURT: 47B is a diagram that across the top has long hair versus -- sorry, I can't make out the --

20 MR. THOMPSON: Perhaps I will enter them as an exhibit and have the witness identify them in detail.

THE COURT: The other has the date with Mr. Paget's signature on it, C.

25 THE REGISTRAR: 47B and 47C, Your Honour. I

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have written on the back of both exhibits,

Your Honour.

5 ---**EXHIBIT 47B:** Diagram - produced and marked for
identification.

10 ---**EXHIBIT 47C:** Diagram - produced and marked for
identification.

MR. THOMPSON:

15 Q. So I'm going to show you Exhibit 47B, and
can you just briefly explain to the Court what that
is, and you have a number of markings on here, but
I'd like to hear what it is from you.

A. Yeah. I don't recall this being mine. I
don't recognize really --

20 Q. Okay. So you don't recognize that then?
Having done that?

A. I can't be sure about that. I don't -- I
remember doing two diagrams aside from the knife and
one of them I started over, so that may be the first
25 one that I did and then sort of scrapped, and then

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the second one is the one that I do recall.

Q. Okay. So let me show you Exhibit 47C.

A. Yeah.

5 Q. Okay. Can you tell us briefly what that
is?

A. Ah, this would be a drawing of Queen
Street West with the streetcar, the taxi cabs, and
of where the long haired person was. I think that's
where the long haired person was dragged.

10 Q. Well, let me ask you, did you make the
diagram?

A. Yes.

15 Q. Okay. We have established that. There's a
number of -- I'm just going to put this on the Elmo
so everyone's able to see it. 47C, Your Honour. Can
you just, and there is some writing on that. I don't
know if that is actually going to work for you or
not, but can you tell us what, just briefly with
your pointer, you have a number of bodies there and
20 if that is explaining a story at all?

A. Yeah. So this would be the short haired
gentleman lying on the hood of a taxi holding a
knife.

Q. Yes?

25 A. This is the second taxi that is going in

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a westerly direction. The two females tending to the lacerated arm, and then I believe that this is the guy that -- the gentleman that was on his back, um, being, you know, kicked by these people over here.

5 Q. Well, just so it's clear, this is the north side of the street and this is the east side of the street, and the easterly direction, is that correct?

A. This is east, yes.

10 Q. So you've indicated the two women there and you have it divided here in any event. I assume that's the division between the paved portion -- sorry. Between the paved portion and the concrete portion.

15 A. Right. Right.

Q. So you have -- or actually this is the other cab, right?

A. I think this is the streetcar tracks and then this would be the other lane right there.

20 Q. So the two cabs as you observed them, the one cab is in the most northern lane and the next one is in the driving lane or the passing lane on the westbound drive, is that correct?

A. Yes.

25 Q. Okay. So you've indicated the two women

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are here to the east and to the north?

A. Mm-hm.

5 Q. Now, you indicated the other individual, the long haired gentleman, where -- who is that man again?

A. That would be out of view on this diagram.

Q. Okay. Well, then who is this person here?

10 A. That would be one of the two people that -- or, you know, one of the people that are assaulting the person who is on his back.

Q. Okay. And just so it's clear, who is the person on his back?

15 A. That would have been a more well-dressed, preppy dressed individual, male. I don't know.

Q. Okay. Let me do it this way: This cluster of people there, how many people are there?

A. In my diagram there are three people.

20 Q. Okay. And in that diagram, who is -- are they all standing up or are they laying down?

A. This individual would be on his back.

Q. Okay.

A. On the ground.

25 Q. And the other two people that you have to the east of him, or to the right looking at the

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picture, they're doing what?

A. Right here? Those are the people, indicating they are tending to one of the, you know, the cut arm.

5 Q. Okay. The two individuals that you have marked as street persons?

A. Mm-hm.

Q. What are they doing?

10 A. They would have been assaulting the person on his back.

Q. So I'm just trying to get a temporal view of this. Is it your evidence that the two -- that these two females, okay? This -- the one is -- it's at that point in time that the diagram is being drawn, are they in fact -- had the one been injured?

15 A. Ah, over here, yes, one of them had been injured.

Q. Okay. And was that the same time as the fight is going on? Or had the fight on the north side already happened and the one woman was on the sidelines being tended to?

20 A. I believe that the fight on the north side had already happened.

Q. Okay. So I just want to make sure that that is what that is depicting. Although the people

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are all there, there is a number of time-frames involved in that.

A. Yeah. I believe the diagram encompasses the entire time we were sitting at the stop.

5 Q. Okay.

THE COURT: I don't want to confuse things, Mr. Thompson, but since the witness was unable to identify the diagram that we initially referred to as 47B I don't think it can be marked as that.

10 MR. THOMPSON: I agree, Your Honour.

THE COURT: Unless you want it marked as Exhibit A for identification.

15 MR. THOMPSON: I believe so, because I believe my friend is going to be going into these exhibits as well.

MR. SCARFE: I think in the end he did identify it. He said, I drew two diagrams. I started one and then I scrapped it, and that's presumably why it's not signed.

20 THE COURT: Well, I think he indicated that is what he had done without necessarily saying that was the diagram that was the first. If the witness wants to confirm that is the first effort that was taken over by

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the more complicated drawing then signed,
then that's fine. Is that the case?

THE WITNESS: I can't confirm if that was my
drawing or not. Sorry.

5 MR. THOMPSON: So let's leave it as a
numbered exhibit, Your Honour.

THE COURT: Exhibit A for identification with
respect to the one formerly 47B.

10 THE REGISTRAR: Is now Exhibit A, Your
Honour?

THE COURT: Yes. And the other one will
become 47B, please.

15 ---**EXHIBIT A:** Diagram formerly marked Exhibit 47B
- produced and marked for
identification.

20 ---**EXHIBIT 47B:** Diagram formerly marked Exhibit 47C
- produced and marked for
identification.

25 MR. THOMPSON:

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5 Q. And I have been to this area a number of times, but I just want to go back one more time. You have indicated that the woman who brought the knife into the fight, and you don't know exactly when it happened, but she did bring the knife into the fight, is the woman that's on the north side.

A. Correct.

Q. Is the woman with the cut.

A. Correct.

10 Q. And I'm going to ask you, is there anything in particular about her that is -- makes you able to make that statement?

15 A. Ah, the only thing that I would be able to say for certain is that I do recall that it was the same person that I had initially seen with the knife that ended up with a cut on their arm, and the reason that I recall that is because I thought to myself at the time that you always hear that somebody -- or you shouldn't bring a weapon into a
20 fight because it may be used on you.

Q. And you remember testifying at the preliminary inquiry?

A. I do.

25 Q. And you remember the -- just so it's clear, on January 13, 2009, do you remember the

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corollary being put to you on cross-examination?

A. Sorry. I'm unfamiliar with that term.

Q. Okay. Do you remember being put to you
that the only reason you think that is because the
5 person that has the injury must have had the knife?

A. Yeah.

Q. Okay. And what's your comment about that?

A. Well, I do recall that happening in the
preliminary hearing.

10 Q. Okay. But when you said this to yourself
at the time that it happened, why is it that that
came to your mind then? Let's put it that way.

A. Well, I've heard many times before that
saying, that you shouldn't bring a knife into a
15 fight or a weapon into a fight because it can be
used on you, and I thought at that time that it was
ironic, I thought my term was funny in the
preliminary hearing, um, in an ironic fashion, that,
you know, the person that had brought the weapon in
20 to the fight ended up being the person that was
injured by that weapon.

Q. Your Honour, I wonder if I just may break
a little bit early on this matter. I want to just go
over my notes and make sure I have been complete
25 with this witness and I ask the Court's indulgence.

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THE COURT: Very well. We'll recess for 15
minutes.

5

---RECESS

(3:22 p.m.)

---UPON RESUMING

(3:42 p.m.)

10

MR. THOMPSON: Thank you for that indulgence,
Your Honour. There was just a couple more
questions I'd like to go into.

15

Q. When you're on the streetcar with Molly
you indicated at the beginning that the window was
open?

A. Yes.

Q. Do you ever remember the window being
closed?

20

A. Yeah, Molly closed it during one of the
altercations.

Q. It -- in terms of time, does that assist
you in any way at which point in time you saw the
knife in the woman's hands?

25

A. Um, no.

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Q. Okay. Well, let's deal with that just a little bit more. When you saw the knife in the woman's hands, can you tell us roughly how far away from you that she was at the time?

5 A. Ah, she was approaching us from the east -- eastern edge of the car, of the streetcar, the front of the streetcar, and I wouldn't be able to give you a distance in feet. It was -- it wasn't -- it wasn't very far away.

10 Q. Well let's try this: I'm going to walk towards you and you can tell me when to stop. Would that assist you in terms of telling how far away the individual was?

A. It may. Yeah.

15 Q. Okay. Well, I'll start out here so we're starting with a fair distance, and if you can, that's fine. If you can't, just tell me.

A. Well, I would say that probably around where you are right now is --

20 Q. Okay?

A. -- roughly the distance.

Q. So for the record, that's probably 22 feet or so? 20 feet? Would that be fair?

MR. SCARFE: 20 feet sounds good.

25 MR. THOMPSON: Okay.

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Q. And the only other question I have to ask you is that you -- you've indicated that you saw the blade of the knife and actually you drew a picture, is that correct?

5 A. I tried to draw a picture, yeah.

Q. Well, you tried to draw a picture, but did you actually draw a picture or not.

A. I did draw a picture, yeah.

10 Q. Okay. And I'm showing you Exhibit Number 28. Can you, first of all, can you identify that knife?

A. Yeah, it looks similar to the knife.

Q. And but what about this particular knife is similar as far as you're concerned?

15 A. Um, the blade looks very much like the blade of the knife that I saw that night.

Q. All right. And did you see the handle at all?

A. No.

20 Q. So you can identify that that's similar to the knife, at least the blade portion of it, to the knife that you saw?

A. Correct.

25 Q. Court's indulgence again. And just a final comment, sir. You told us a fair bit about

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what happened that evening, and I've tried to be as thorough as possible in terms of the information that I believe you are aware of, but is there anything that I have not covered in terms of information that you believe would be helpful to the Court in assessing this matter?

A. No. Thinking back on it, no.

Q. Okay. Thank you very much.

THE COURT: Cross-examination?

MR. SCARFE: Thank you.

---CROSS-EXAMINATION BY MR. SCARFE:

MR. SCARFE:

Q. Mr. Paget, my name is John Scarfe. You will remember me from the preliminary hearing?

A. I do.

Q. Thank you for coming today. You recall -- I guess in preparation for today you've gone over for a second or third time the original statement that you gave?

A. Yes.

Q. And you were doing your best at the time to help them figure out what happened?

A. Yes.

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Q. Okay. And going straight to this issue with respect to your assertion, it's your evidence that the person, the girl you saw come in and break up the fight on the south side, is the same girl you saw that was cut on the north side.

A. Ah, I believe that it was.

Q. You believe that it was.

A. Yeah.

Q. And your level of certainty?

A. Um, I would say that I'm fairly certain.

Q. Fairly certain? So something a little less than 100 percent?

A. A little less than 100 percent.

Q. And I know we went through this exercise before at the preliminary hearing, but you remember absolutely nothing about this girl's footwear.

A. No, I don't recall.

Q. You can't recall whether she's wearing a skirt or pants?

A. No.

Q. Polka-dot pyjama bottoms?

A. I can't recall what she was wearing. I'm pretty sure she wasn't wearing polka dot pyjama bottoms.

Q. We can eliminate that, but as far as a

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skirt or pair of pants or pair of shorts, you've got nothing.

A. Unfortunately.

Q. And you don't know if she had a backpack or a handbag or a purse?

A. No, I don't know.

Q. With respect to what she was wearing on the upper half of her body, it could be anything from a sweater to a tank top to a t-shirt?

A. I don't know.

Q. Can't help us with a colour?

A. No, I'm sorry.

Q. All right. Jewelry on the wrists?

A. I don't recall anything that she was wearing.

Q. Jewelry around the neck?

A. I don't recall.

Q. And was there anything at all distinctive about her facial features?

A. Ah, not that I can recall.

Q. In fact the only thing that you were able to tell Detective Ponzi (ph) and her partner was that the girl that you saw, you recalled her having blonde hair.

A. I do believe that I had made that

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statement, yeah.

Q. Okay. And as far as the style went, you said it wasn't curly?

A. No.

5 Q. It was either straight or a bit wavy.

A. Correct.

Q. Is that your recollection?

A. That is what I recall as my statement, yeah.

10 Q. May I see Exhibit 42, please. There are several of them. A, B, C and D.

THE REGISTRAR: Photo line-ups, Your Honour.

MR. SCARFE: I just need a minute. I'm going to...

15 Q. At the time that you were interviewed by Detective Ponzi and her partner, you weren't shown any photo line-ups.

A. That's correct.

20 Q. In fact somebody called you six months later and asked you, Did these guys show you photo line-ups?

A. Somebody did call me.

25 Q. Right? And in the same conversation, they asked you, Did -- Have you seen any images in the media.

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A. Correct.

Q. And you responded in the affirmative.

A. Right.

Q. And so for whatever reason, there was no
5 follow-up, no effort to show you a photo line-up.

A. Correct.

Q. Okay. Photo line-ups were prepared for
some of the other witnesses in this case.

A. Okay.

10 Q. And coming back to what you said, one
thing you could remember is that there was a girl
with blonde hair, right?

A. That's what I said in my statement.

Q. It might have been dirty blonde.

15 A. Yes.

Q. But it was blonde, right?

A. I did say that.

Q. Which is different than light brown,
right?

20 A. Right.

Q. Right. So I'm going to put two photos up
on the Elmo here. Between these two girls, the girl
you saw coming in to break up the fight, either of
those girls there?

25 A. I can't tell you. I don't --

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Q. Does one of them look more like the description of blonde hair than the other?

A. As far as I can tell, no.

5 Q. So neither of these girls have blonde hair.

WORDS
A. Um, perhaps the person on the left may have lighter hair, but I wouldn't be able to tell you.

10 Q. If I told you that was the person that came in to break up the fight, would you have any reason to disagree?

A. If you were being honest, no. I don't know.

15 Q. So when you say "the person on the left", you mean the lady with her hair tied up in the back?

A. It looks tied up, yeah.

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Q. As opposed to the lady with the brown hair that's sort of in matted dreadlocks.

A. Right.

20 Q. You didn't see that hairstyle.

A. No, I don't recall. No.

25 Q. In fact the only thing that you can say to distinguish the women and, in a sense, suggest that the person that you saw later with the cut, is the irony that you've already explained to Mr.

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Thompson.

A. Correct.

Q. And irony is far from a descriptor, isn't it.

5 A. It is far from a descriptor.

Q. Right. You are certainly prepared to acknowledge the possibility that the person who goes into a fight with a knife doesn't always come out injured.

10 A. Yeah. They don't always come out injured.

No.

Q. And that people get stabbed from time-to-time without having started it, by going and starting a knife fight.

15 A. Right.

Q. Now, you gave your statement on August 14th, which was sort of six days after the incident approximately?

A. Five or six, yeah.

20 Q. All right. And between the incident and the six days later when you gave your statement, you saw some media?

A. Correct.

25 Q. Newspapers, online, whatever, but you saw some media --

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A. Yeah.

Q. -- about this case. In fact that's what prompted you to call. You found out someone died.

A. Molly had called.

5 Q. Okay. As well you also saw a still image of the accused person in this case.

A. Um, at some point I do believe that I saw a -- yeah, a still image, but I don't know -- recall when.

10 Q. It may have been before, it may have been after?

A. I don't -- I don't know.

Q. The image you saw was in the newspaper?

15 A. Ah, the image that I clearly remember, um, was on CP24 I believe and it was taken after the incident that evening. As far as print media, I don't recall what I saw and when I saw it.

20 Q. And in addition to seeing the media and possibly that still image of the accused, you had more than one discussion with Molly about your various recollections.

A. We did -- we did have some discussion. I don't recall what the -- the exact topic was.

25 Q. So you had some discussions right there while the whole thing was happening. She said, Oh my

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God, he's banging his head into the side of the streetcar. You didn't see that, you learned that from her.

A. That's correct, she was saying that.

5

Q. And then afterwards, the streetcar sort of went three blocks and was out of service?

A. Right.

Q. And the police did not descend upon the streetcar and ask to interview everybody right there, or at least get contact. You just got off and

10

--

A. We got off and walked away.

Q. You walked north to College?

A. Correct.

15

Q. You got on the College streetcar and you made your way out to where you were staying at the time, which is somewhere near Coxwell and Gerrard.

A. Correct.

20

Q. And during that time on the streetcar, I would respectfully suggest that the only real topic of conversation that made sense, if you were talking at all, would have been about what you just saw.

A. We did probably have some conversation about it. I'm not sure if it was the only topic of conversation but there was some conversation.

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Q. Then subsequently you had some phone calls between you and Molly where she called you to say that she read somewhere someone had died?

5 A. I don't remember exactly what the sequence of events is. What I believe probably happened was that I heard about the fact that there was somebody that had died as a result of a fight in the area that we were in and I probably let her know, and she said we have to speak to the police.

10 Q. And obviously in that conversation, you try to figure out which of the guys you saw died.

A. I don't remember.

15 Q. You must have said, Maybe it was the guy on the hood of the car versus the guy who got dragged off to the south side.

A. Maybe.

Q. Maybe?

A. I don't remember.

20 Q. Curiosity is a natural human condition, and I'm not saying you --

A. Yeah, we may have had the conversation. I don't know.

25 Q. So just going through the story, and I think we covered this a little bit at the preliminary, just for everybody's understanding, the

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term "snippet"?

A. Oh. Yeah.

Q. Represents a sort of almost like a brief clip from a movie. And some snippets are longer than others, but in a sense, what we agreed to at the end of the preliminary hearing is that your observations were made up of a bunch of interrupted snippets?

A. Correct.

Q. Correct? And things were very distracting at the time. I think you've already told Mr. Thompson here that you recall being distracted by the driver. He's on the radio.

A. Mm-hm.

Q. You have to answer yes or no.

A. Correct. Yeah.

Q. And you were distracted by the other passengers, some of whom sort of pulled out cell phones and started calling 911.

A. Right.

Q. And you were distracted by Molly because she was getting really upset and you care about her feelings.

A. Right.

Q. So the first snippet is as -- just as the car is coming to a stop, right? The streetcar --

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A. I don't know if it was coming to a stop or if we were in fact stopped.

Q. Okay. And the first thing you notice is a skirmish going on at the front left of the streetcar. You look forward, a front -- about the front of the streetcar.

A. It was the front of the streetcar. I don't think it was the left but it was the front of the streetcar.

Q. Right. And I'm going to suggest to you there were several people there.

A. There were several people where?

Q. At the front of the streetcar when you first noticed --

A. When I first noticed, I noticed two individuals.

Q. Okay. You didn't see anybody else there?

A. I didn't pay attention to anybody else if I did.

Q. There may have been another six or eight people there, you just focused on these two individuals.

A. Those are the two individuals that I saw.

Q. But it also started at the very front of the streetcar, not beside it.

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A. If -- it started at the front of the streetcar, it could have been on the south side of the road that I noticed that something was happening.

5 Q. Then relatively quickly, you see the long haired guy backing up in your direction, and you can see why he's backing up. The more preppy or clean cut fellow with the short hair was sort of aggressively -- you described it as a fight but --

10 A. Correct.

Q. And the fight was one that was moving --

A. Correct.

Q. -- back along the south side of the streetcar.

15 A. Yes.

Q. My friend asked you if you saw blows, and you couldn't really be clear.

20 A. Yeah. I can't be clear what I saw. I know that it was a fight and I know that the long haired gentleman was backing.

Q. Okay. Well, there are verbal arguments and there are physical fights, right?

A. This would have been more of a physical, as well as verbal, but...

25 Q. Okay. But clearly the long haired, the

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smaller guy, the skinnier guy, he's backing up.

A. Correct.

Q. And the other guy is, either through physical force or intimidation, sort of moving towards him and seems to be part of the reason why he's backing up.

A. Yes.

Q. And as far as whether he was kicking, punching, elbowing, kneeling, you -- you don't have a recollection of any of that.

A. Can't tell you.

Q. So that's sort of a second snippet after you notice what's going on in front of the streetcar. At some point, these people, because you're in the aisle and you're still sitting and Molly's got the window, some people -- at some point these people go out of your view.

A. Correct.

Q. So they're beside you, down below the streetcar and maybe a little bit behind you.

A. Correct.

Q. Based on sitting in the seventh row bench or wherever it is?

A. Correct.

Q. And then you start hearing this banging

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sound. Do you remember when you got up?

A. Ah, I probably would have gotten up a little bit before the banging sound, but I could have gotten up at that time.

5 Q. All right. And the banging sound inspires your curiosity enough to lean over Molly and try and figure out what was going on down there?

A. Yes.

Q. Did you see anything?

10 A. I wasn't able to see very much, if anything.

Q. Okay. And then at some point there is a girl moving with intent towards this altercation that's just below you and behind you.

15 A. Correct.

Q. And that girl moves very briskly?

A. She was coming in, yeah, quickly.

Q. Okay. And once she got there, it was over.

20 A. Yeah.

Q. It's not like she got to that point and the fight went on for another ten seconds. It was instantaneous.

25 A. As far as I remember, it was very quick, yeah.

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Q. Okay. I think the words you used previously were "instantaneous". I can find the passage but --

A. Okay.

5 Q. You adopt that?

A. If I -- yeah, I believe I remember saying that.

10 Q. Okay. And although you remember that the person was female, and perhaps had blonde hair, at that point in your mind's eye you cannot see the knife.

A. I can't be for certain at that time.

15 Q. Right. You know you saw a knife at some point.

A. At some point. It could have been right before or right after that altercation.

20 Q. Okay. And I'm going to suggest to you it was after. And the reason I'm going to suggest that is because it was only after the long haired guy got dragged to the curb and appeared to be unconscious that you thought, Hey, I have to go help him. Do you remember that?

A. Ah, well, yeah, I do remember recalling that I want to go out there and help him.

25 Q. Right. And if you'd seen a knife in play

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at that point, you wouldn't have got that impulse. Molly wouldn't have had to say, No, no, no, you're not going out there. Does that make sense?

A. That's a possibility.

5 Q. Okay. That doesn't help you remember if it was before?

A. No.

Q. Or after.

10 A. No, I can't recall if it was right before or right after.

Q. And the knife isn't in a stabbing grip, like I'm holding my pen right now with my knuckles to the ceiling?

A. No, I didn't see that.

15 Q. No. But the girl who comes in, you do remember her arms are up.

A. Her arms were in front of her.

20 Q. Okay. And she's moving very briskly towards this altercation that's just gone out of your view.

A. Correct.

25 Q. Don't you think if she had, I mean, her arms aren't -- her hands aren't in her pocket, they're not folding across her chest or behind her back, they're up in the air. Don't you think if

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you'd seen a knife there that that would have locked
itself in your mind?

A. Yeah, I don't know.

5 Q. It's pretty strange that you can see the
girl move towards the fight, you can see her arms
are up in the air, but you're not sure you see a
knife at that point?

A. Yeah, I'm not sure.

10 Q. And your attention at that point, the
skinny guy hadn't been dragged off to the side,
right?

A. The long haired gentleman at that point,
no.

15 Q. No. So we're still in the sort of second
snippet here.

A. I guess.

20 Q. There is the beginning of the fight at
the front of the streetcar and then it moves along
the side and ends up down here. That's what I mean
by the "second snippet".

A. Okay.

25 Q. Right? And the girl comes in and the
fight's over instantaneously because you see two
things happen. One, you see the long haired guy
being dragged to the curb, obviously injured.

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A. Yeah.

Q. Right? And the other thing you see is the short haired preppy guy now has his back to you, but he -- he's sort of jumping up and down and waving his arms.

A. Right. I'm not sure if that was at that time or not. That's another time-frame that I'm unsure of, is exactly when he was jumping up with his arms.

Q. So you're thinking maybe it could have also been after the guy got dragged to the curb who was injured?

A. I don't know if it was before the altercation with the long haired guy or after the altercation with the long haired guy. Um, I believe that it was afterwards but I'm not 100 percent sure.

Q. So you lean towards afterwards, but it could have been before.

A. It could have been before.

Q. But you know that the location where he performed that action --

A. Right.

Q. -- was the same location where the fight between the two gentlemen had occurred.

A. Correct.

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Q. That it had just sort of gone out of your view.

A. Right.

5 Q. So if it were to be after, he would have had to have gone -- or sorry. For it to be before, right? He would have had to come to that location, then go to the front of the streetcar and then have that fight move back?

10 A. And that's why I believe it was afterwards, but I can't be certain.

Q. And the gentleman who was waving his arms and had his back to you, I think you said that you -- he said something to the effect of, Who's next?

A. Correct.

15 Q. Said it more than once?

A. Correct.

Q. And he may have also said, Bring it on.

20 A. Something to that extent. I don't exactly recall, Bring it on, but it was something to that extent.

Q. He was sweating.

A. Yes.

Q. And obviously pumped up on adrenaline?

A. I would assume so.

25 Q. Okay. I mean, what you observed is

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consistent with somebody being really pumped up on adrenaline.

A. Yeah.

Q. And about to start a sporting event or something like that?

A. Yeah. He was very worked up.

Q. Right. I'm going to suggest to you, from what you observed, especially given your training, that person didn't appear to be injured at that point.

A. Ah, the short haired gentleman did not appear to be injured at that point.

Q. You're saying although he was pumped up and ready to roll --

A. Right.

Q. -- he wasn't holding any part of his body?

A. He wasn't favouring any part of his body.

Q. And he wasn't behaving in a way as someone who's just suffered any kind of a serious injury.

A. Not that I've seen.

Q. So we do know that the third snippet is when the guy gets dragged to the curb, the long haired guy who appears to have been injured?

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A. Correct.

Q. That that's probably where you focused most of your attention?

A. My attention was drawn there.

5 Q. Yeah. And in fact it stayed there because you were considering going and helping him.

A. Correct.

10 Q. And you could see at first he was unconscious and that went on for ten or fifteen seconds?

A. Roughly I would estimate, guesstimate. I don't know exactly the time.

Q. And you wanted to make sure he was okay.

A. Right.

15 Q. And if he hadn't come to, you would have either gone to help him or at least had a more significant argument with Molly Stopford about whether you should go and help him.

A. Likely.

20 Q. Right. But he appeared to begin to come out of it.

A. Correct.

Q. And so you stayed where you were.

A. Right.

25 Q. But of all the snippets, as we go through

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it, that's the one that appears to have taken the longest.

A. I believe so.

5 Q. Okay. And the only distraction from that would have been debating with Molly about whether to go and help him.

A. I don't know, but it could be the case.

10 Q. Now, just before I go into the north side of the streetcar, what you saw before you focused your attention on the north side of the streetcar was that there were a lot of people around. You know, on the south side of Queen Street?

A. Ah, I don't know if there were a lot of people, but there were people around.

15 Q. And for my friend, the first day he testified, the 12th, page 98, line 26. I'm just going to review a passage with you from the cross-examination of the preliminary hearing. Starting line 26 - I don't want to spill your water here - I asked you:

20 "Do you have an impression in your mind of whether the street, that intersection, was crowded when the streetcar pulled up or
25 whether there was nobody around

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except these two people?

ANSWER: No. There were other people around." And then I do the rhetorical thing and say:

5 "QUESTION: There were other people around?"

And you go: "Yes."

And my next question is: "And what is it, in your recollection, that helps you to sort of confirm that for us?"

10 ANSWER: I just remember that there were other people around. It wasn't empty. It wasn't just those two people there. There were other people around." Then I do the proverbial: "Uh-huh."

15 And you continue -- or that sort of says answer there but it looks more like a question:

20 "How many people?" And then you say: "I don't know what they were doing, where they were standing, their locations, I don't know. I just know --", and

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then I cut you off there.

So you can't tell us how many people.

A. No.

5

Q. But certainly there were significant of other -- group of other people who may or may not have been involved, may just have been bystanders, but there were other people around?

10

A. I don't know if there was a significant number of other people, but there were other people around.

Q. And you've indicated to us at one point you see two girls somewhere near the front right of the streetcar.

15

A. Correct.

Q. Right? And what is it that draws your attention to those two girls?

A. One of the girls removed her shirt.

20

Q. I'm talking on the south side of the streetcar still.

A. Oh. At the very beginning of the --

Q. At the beginning?

A. -- event. Yeah. They were both yelling towards the fight.

25

Q. And did you notice them before the girl

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with the intent who came in to stop the fight started moving?

5 A. I'm not sure if they were moving towards the fight at the time and yelling or just standing there and yelling. I don't recall.

Q. So it was the noise that drew your attention over there.

A. Correct.

10 Q. And in that particular area, sort of near the front of the streetcar, these weren't necessarily the only people there.

A. Ah, they were the only two that I recall seeing.

15 Q. Right. But there may have been a bunch of other people either on the sidewalk, by the Coffee Time or out in the intersection that your attention wasn't really drawn to that they were there.

A. Yeah. The only two people that my attention was drawn to were those two females.

20 Q. And you can't say that nobody got on the streetcar, got off the streetcar. You just can't remember?

A. I don't remember.

25 Q. So there may have been some traffic, couple people getting on the streetcar, paying their

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fare?

A. I don't remember.

Q. You don't remember. But you can't say that didn't happen, right?

5 A. I don't recall.

Q. And as much as there could have been other people there, there could have been other females there as well, correct?

A. Not that I was paying attention to.

10 Q. No, but it's not like those are the only two females in that part of the world right now. I mean, there's certainly other people on the streetcar, on the street, on the sidewalk. There may have been some other females there.

15 A. There may have been. I don't recall seeing any other females.

Q. Did Molly Stopford ever talk to you about a third female?

A. No, not that I recall.

20 Q. Or in fact she may have seen two or three people?

A. Not that I recall.

Q. You don't remember discussing that.

A. No.

25 Q. So after your attention is focused on the

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long haired guy who was unconscious and starts to come back to life a little bit, you turn your attention to the north side, correct?

5 A. Yeah. It could have been at that time that I turned my attention to the north side, or perhaps it was the very end of me seeing the short haired fellow on the south side at that time. I don't recall.

10 Q. And when you're looking -- maybe what we'll do, if I could have 47B, please. My friend showed you this a little bit earlier. I'm going to make it a little smaller and I guess I'm going to turn it. Do you see at the top there's the date and your name and in the middle a signature?

15 A. Yeah.

Q. Okay. We don't really need to spend a lot of time on that so I'm going to move that up there. You've attempted to draw Queen Street. Here. Correct?

20 A. Correct.

Q. And you put east, west and south on there, and at the very bottom of the screen there is an individual you've drawn who appears to be lying down. That's the injured long haired fellow, correct?

25

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A. Right.

Q. And then you've drawn a bunch of stuff on the north side of the street, so we're just going to go through it. You've got -- see where my pen is?

5 A. Mm-hm.

Q. That's jock guy on hood of car.

A. Correct.

Q. Right? And that you draw a line and we're out in the sort of curb lane, right?

10 A. Right.

Q. And then second cab, I suppose it would be more accurate if it had been put right on the streetcar tracks?

A. That would have been more accurate.

15 Q. All right. So that should have come a little left, right? Then you've got two people who are street people who are beating up this not street person being assaulted, right?

A. Correct.

20 Q. I just want to be a little bit clearer. If you are, say, in the first part of this streetcar you've drawn, and even just halfway down or somewhere, well, you've sort of drawn where the fight is that disappears from view, so you are just
25 a little forward of that?

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A. Right.

Q. The fight that you see on the north side of the street, is it really off on an angle like that or would it have been more accurate to draw those people more in a perpendicular fashion off the side of the streetcar?

A. I would say the gentleman who was lying on the hood of the car would be more perpendicular to where I was sitting and the fight was occurring on an angle.

Q. The fight was occurring on a bit of an angle.

A. Correct.

Q. But it's on the sidewalk?

A. It would have been on the sidewalk.

Q. Right. You don't remember any of this -- any landmarks along there except the two light standard and garbage bags.

A. If that's what the -- yeah, I think it was garbage bags.

Q. And you said something to the effect that the garbage bags, if only a little bit, kind of obstructed your view of the guy and the girl on the ground?

A. That's correct, yeah.

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Q. And then well-off from the front of the streetcar and over in the curb lane you've drawn two girls and labelled it "two females, one with laceration to arm". They were -- these two females were quite a bit east of the fight?

A. Ah, they would have been the furthest east of all of the events that I saw.

Q. All right. They're not really that close to the -- there is a significant difference?

A. I would say that my drawing was not to-scale.

Q. Accepted. But trying to get an idea of the distance between the females and this fight that's going on with the two street people and the guys on the ground. They're quite a bit farther down east, like in the middle of the intersection kind of thing?

A. Yeah, I don't recall exactly where they were.

Q. But you see significant distance between them?

A. Right. And I don't -- I don't know if that was happening at the same time also.

Q. My friend Mr. Thompson asked you near the end of your examination in-chief about the sequence

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of timing on the north side of the street.

A. Right.

Q. And you felt that you'd seen one thing sort of after the other.

5 A. Ah, I believe so, yeah.

Q. That you'd seen the guy getting beat up on the sidewalk by the two street people, and after that you saw the girl being tended to with the laceration on her arm.

10 A. I don't know if that was the exact, ah, order. Chronological order of the events. The first thing that I did witness on the north side was the person on the ground being assaulted.

Q. Mm-hm.

15 A. And then I'm not sure if I saw the female with the lacerated arm or the gentleman on the hood of the cab, but I believe that the very last sequence is of the female with the lacerated arm being tended to.

20 Q. All right. So we are just going to review about a page of what you've told Detective Ponzi and her partner about six days after this. And we were talking about, leading up to this part, they were asking you about the fight on the north side with
25 the two street guys beating up, or street persons,

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beating up the preppy guy with the short hair.

A. Correct.

Q. And you're pretty sure that's the same guy that was beating up the long haired guy.

5 A. I'm not sure who that was. It could have been the same individual, just based on what they were wearing, but I wasn't able to see that person very well.

10 Q. Okay. But shortly after you see him on the cab and you recognize him then.

A. I recognize the person on the cab from the earlier sequence I believe.

15 Q. So either there were two guys, both preppy, clean cut and dressed very similar?

A. Right.

Q. Or this is all the same guy.

A. It could be the same guy or there could have been two people.

20 Q. All right. So we're talking about that fight on the north side, and Detective Ponzi asks you:

"How many would you say were on this guy?"

25 And your answer was: "Ah, two or more."

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And she goes: "Two or more?"

And you go: "Yeah."

And then she asks: "Male?
Female?"

5

And you say: "I remember seeing
the males, because the females
were busy with the laceration
and -- and it was at the same
time that the one girl took her
shirt off and wrapped it around
the other girl's arm."

10

Do you remember reviewing that when you
watched the video?

15

A. Right.

Q. And then she asks you:

"Okay. So while you see this
guy, you know, getting hit a
couple of times, this is at the
same time where over a little
bit the girl is being tended to
with the laceration to her arm?"
And then you say: "I believe it
was at the same time."

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She says: "Okay."

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5 And then in fairness to you, you
 said: "And if not, then it was
 very, very close to the same
 time. Like, it was around the
 same time."

 Do you remember being asked those
questions and giving those answers?

 A. I do remember that, yeah.

10 Q. You do? Okay. The girl who you saw being
 tended to with the laceration, that's all that was
 happening. She wasn't being tended to while she was
 beating someone up.

 A. I don't remember that happening.

15 Q. Okay. That would seem a little illogical,
 wouldn't it.

 A. Yeah.

20 Q. My suggestion to you, having reviewed
 that and seeing that your recollection at the time
 was that the girl's being tended to at the same time
 as the fight, would lead us to the inescapable
 conclusion that the girl being tended to couldn't
 possibly have been part of the fight on the sidewalk
 on the north side, because she was, at the same
25 time, pretty busy with something else - her wound.

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Is that fair?

5 A. Um, as memory serves me now, I do recall the lacerated arm being tended to at the last of the sequence of events on the north side. Thinking back on it, that's, you know, that's what I recall.

Q. So you remember it being later than at the same time.

10 A. I believe it would have been around the same time but it would have been after -- after that event.

Q. Right. You agree that's a little bit different than what you said to --

A. I do.

Q. -- Detective Ponzi.

15 A. Yes.

Q. And your memory was fresher when you were speaking to Detective Ponzi than it was three and-a-half years later today.

A. Um, yeah.

20 Q. Right. And like most people, your memory fades with time rather than gets sharper and better with time.

A. Right. I've had more time to reflect on it, but yes.

25 Q. Okay. Those are my questions for this

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witness.

THE COURT: Re-examination?

MR. THOMPSON: If I may go through my notes,
Your Honour? This is a witness that took two
5 days at the preliminary inquiry.

---RE-EXAMINATION BY MR. THOMPSON:

MR. THOMPSON:

10 Q. Just on that last comment that was made,
what do you mean by you "...had more time to reflect
on it...?"

15 A. Um, just that. Um, yeah. I just, you
know, have been thinking about it over the last few
years knowing that we were going to be coming to
this day at some point, and I've just been trying to
gather everything in my mind the best that I can
recall.

20 Q. Okay. And so when you mean you have been
reflecting on it, just in terms of what transpired,
after having reflected on it, what does transpire in
terms of timing between the fight that's taking
place on the north side and the woman who is being
tended to?

25 A. I believe that fair sequence was the

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5 person being assaulted on the north side, turtling,
that gentleman on the ground, ah, I think at around
that time is when I'm overhearing, you know, a
commotion on the streetcar, noticing people calling,
using their cell phones, calling 911, the driver of
the streetcar, the next thing that I can recall is
the gentleman on the hood of the car, and then the
last sequence would be the female is tending to the
lacerated arm.

10 Q. So when my friend put to you the
hypothetical that she couldn't possibly be fighting
and still tending her arm, does that coincide with
your timing?

15 A. Well, she was not fighting while her arm
was being tended to. All of those events did not
last very long. It was a very, you know, brief
amount of time.

20 Q. And just on that particular topic as
well, again, do you see any -- when you see her at
the very last of the sequence, do you -- was she
stationary or was she coming from some place?

A. She was standing in the street, um,
having her arm bandaged with the shirt.

25 Q. Court's indulgence. You made a comment in
cross-examination talking about him posturing and

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his arms swinging up? On the south side? The
gentleman with short hair?

A. On the south side, yes.

Q. Okay. Is there any way at that point in
5 time you could determine whether or not he was
injured?

A. I couldn't determine that, no.

Q. All right. I have no more questions for
this witness. Thank you.

10 THE COURT: Thank you, Mr. Paget. You may
step down. We'll adjourn to tomorrow
morning.

15 ---COURT ADJOURNED (4:25 p.m.)

---TUESDAY, FEBRUARY 1, 2011

20 ---UPON RESUMING (10:03 a.m.)

25 MS. MIDDLEKAMP: Good morning, Your Honour.

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THE COURT: Good morning.

MS. MIDDLEKAMP: The next witness for the
Crown is Shaun Park. He is coming before the
Court.

5

---SHAUN PARK: SWORN

---EXAMINATION IN-CHIEF BY MS. MIDDLEKAMP:

MS. MIDDLEKAMP:

10

Q. Good morning, Mr. Park. I'm going to ask
you if you can project your voice so that everybody
in the courtroom can hear what you have to say,
okay?

A. Good morning. Yes.

15

Q. Now, I understand back in August of 2007,
that you owned a restaurant in the Queen Street West
area, is that correct?

A. That is correct.

Q. And where was your restaurant located?

20

A. It was located at 785 Queen Street West.

Q. And what was the name of your restaurant?

A. It was called Soul City.

Q. Do you still own and operate that
restaurant?

25

A. No, I don't.

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Q. Did you sell it at some point?

A. I sold it about three years ago.

Q. I'm just going to ask you to refer to what's been labelled as Exhibit 1 at this trial. It will come up on your screen, and it's also to your right. This is a planned diagram of the Queen Street West area. If you can just take a look at that diagram and let us know if you can see the location of your restaurant on that diagram.

A. Yes, I do.

Q. And where is it located?

A. It's located at 785. Should I point to it? Or 785 Queen Street West.

Q. And in between what streets though?

A. In between Manning and Euclid Avenue on the south side.

Q. South side of Queen Street West?

A. Yes.

Q. And back in August of 2007, more specifically on the evening of August 8, 2007 into August 9, 2007, were you working at your restaurant that night?

A. Yes, I was.

Q. And were there other people that were working with you that evening?

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A. Yes, there was.

Q. Who was working there?

A. Um, my sous chef and partner, Jonathan
Liam (ph).

5 Q. Did you have any other friends that were
there that evening?

10 A. There were -- there were some, um, guests
that evening. But towards the later part of the
evening it was a friend of mine. His name is Daniel
Park. No relation.

Q. And just thinking back to August 8, 2007
into August 9th, did you go outside at any point to
have a cigarette?

A. Yes, I did.

15 Q. And can you tell us about that?

20 A. It was after dinner service, um, when the
restaurant was kind of winding down. My friend
Daniel was outside, um, having a cigarette outside
of 785 Queen Street West and I proceeded to walk
outside to join him, and as I was walking out,
that's when he was having a cigarette and also
conversing with a female.

Q. And at the point in time that you walk
out, where is -- where is Daniel?

25 A. Ah, Daniel is to the left of me, because

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the door is on the right-hand side as I'm walking out. And as I'm walking out he and the female were just kind of finishing off their conversation.

5 Q. And as you walk out, you say they are finishing their conversation. Does the female stay there or does she leave?

10 A. Ah, she left very shortly. It couldn't be more than maybe ten seconds after I came out. I walked out, I -- I lit my cigarette, and that's when the female was, ah, I guess finishing her conversation and then shortly after, about ten seconds after I came out, she had gone.

15 Q. And did you personally speak with her at all?

A. Um, no.

Q. And I'm just going to ask you about this point, if you can describe this female for us.

A. Um --

20 Q. Firstly, do you recall the colour of her skin?

25 A. Ah, she was Caucasian, um, she was wearing dark clothing, black clothing, I believe she had a black backpack or some sort of a pack on her back. Um, black -- black top, a black, ah, perhaps black leggings, maybe some sort of a skirt

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underneath or over that but her outfit was just all black.

Q. And do you -- you said some sort of a skirt. Do you recall her wearing a skirt?

5 A. Um, I -- yes, I do. Yes. Um, but underneath the skirt she was wearing black leggings as well. Or tights.

Q. And this woman that your friend Daniel had been speaking with, do you know which direction she went in?

10 A. After the conversation she headed eastbound.

Q. And just to get an idea, you said that you saw her head eastbound. For how long did you watch her when she walked away?

15 A. I didn't watch her for that long.

Q. So other than saying that she went eastbound, can you give us anymore information about where she went?

20 A. No.

Q. So she's left. She's headed eastbound, you're outside. Do you finish your cigarette?

A. Ah, yes. We -- my friend Daniel and I, we finished our cigarette, um, we talked about, um, what he had talked about with her. It was a very

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short, casual conversation. Um, would you like me to

--

Q. I'm not going to ask you --

A. Okay.

5

Q. -- to testify about any conversation that Daniel had.

A. Okay.

Q. Okay?

A. Yeah.

10

Q. So you have a short conversation with Daniel?

A. Right.

Q. About how he talked to the woman?

A. Mm-hm.

15

Q. And in terms of just that conversation with him, I'm not going to ask you to tell us what it was, but did that have any significance to you in terms of who this woman was and why you were able to remember what she looked like?

20

A. No.

Q. Okay. So you finish your cigarette. Do you go back into the restaurant?

A. Yes, we went back into the restaurant where we went back to the bar area, um, Daniel sat down at the bar and I went around to the back of the

25

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bar to pour myself a scotch.

Q. Is your night winding down at this point?

A. Yes, it is.

5 Q. Now, I just want to ask you, when you
were testifying earlier, telling us about having
gone outside for a cigarette, you said it was after
dinner service?

A. Yes, it was.

10 Q. Around approximately what time of the
night would that mean to you?

A. Um, generally dinner service, um, kind of
winds down roughly around 9:30. I can't say for
certain what time it was that night.

15 Q. So you go back into the restaurant, you
pour yourself a scotch, and are you sitting at the
bar?

A. Yes, I am.

Q. Is anyone with you?

20 A. Daniel is with me and at this point
Jonathan, my sous chef, had also come out as well.
We had closed the kitchen, so --

25 Q. So the kitchen's closed, winding down,
you're having a scotch, you're at the bar with
Daniel and Jonathan. Does something else grab your
attention later in the evening?

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5 A. Yes. So, um, when we were sitting at the
bar, ah, we noticed a -- an emergency vehicle
passing by and -- and another one, and then also
another one, so that really caught our attention and
that's when we kind of got up to walk towards
outside the restaurant to take a look at what had
happened.

10 Q. I'm just going to ask you if it helps
refresh your memory, prior to seeing the emergency
vehicles pass by, was there something else that
happened outside on the street that took your
attention?

15 A. Oh. Yes. So we were sitting at the bar
and we started hearing, um, screaming. Um, obviously
somebody was very upset. There was an argument, and
when we looked outside, outside of the restaurant,
right across the restaurant there was -- there was a
female and two males arguing with each other, and
the female was very upset and she was -- she was
20 yelling at him.

25 Q. And if you can give us some sort of idea,
you talked about the cigarette, you had the
cigarette outside, you've come back into the bar and
you're seated at the bar, you've poured yourself a
scotch, kitchen's closed. Approximately how much

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time transpired between you finishing your
cigarette, coming back into the restaurant and
hearing this yelling on the street?

5 A. Um, I would say not more than 15, 20
minutes.

Q. But you can't be specific with the time,
correct?

A. Correct.

10 Q. You said you started hearing screaming
and that someone appeared to you to be upset. Can
you tell us whether you were able to hear whether it
was a male's voice or a female's voice screaming, or
both?

15 A. Um, the -- it was a female's voice,
although the -- there were exchanges and words. But
it was -- it was generally a female's voice that I
heard.

Q. And you hear this while you're still
seated at the bar?

20 A. In the beginning, yes.

Q. Okay.

25 A. Um, it's -- our frontage of the
restaurant, it's not sealed or anything. It's not
sound proof so you can hear a lot of cars go by, ah,
if people were to scream outside the restaurant we

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could definitely hear it, so we heard the initial screams and that's when we kind of got up and they were looking outside and we slowly started to walk halfway -- because the restaurant is very long, we kind of walked up halfway just to see what was going on and that's when we got a better look at the female and the two males.

5
Q. Okay. So you walk from the bar towards the front of the restaurant. Can you tell us where the first place is -- you said you got a better look at the female and the two males. Where are they when you see them?

10
A. They're right across the street from us, so if you look at the map, we're at 785 and we're looking north towards 704, and they were probably around the 702 area. 700 or 702 area.

15
Q. And when you look across the street and you see this female, do you recognize her?

A. Yes.

20
Q. And where do you recognize her from?

A. Um, from, ah, initially going out that night and having a cigarette and generally -- it was -- it was my assumption that it was the same female that was talking with Daniel.

25
Q. And what led you to the assumption that

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it was the same female that was talking to Daniel?

A. Well, she was wearing the same outfit, she had the same backpack, ah, it was her.

5 Q. Now, you see the female and the two males across the street on the north side. You said you were around -- they were around 702 Queen Street West. In terms of the male and the two females, what was their positioning?

10 A. Ah, the females were -- the two males were walking, um, westbound. The female was behind -- behind them, so as they were kind of arguing and yelling at each other, at a very slow pace, they were walking westbound towards Manning.

15 Q. Now, I asked you earlier and you had described the female that you saw firstly in front of your restaurant, and then secondly across the street. With the way that this female was dressed, would you associate her with any sort of genre?

20 A. Um, in our conversation with Daniel, in my conversation with Daniel, he had told me that --

Q. Okay. I'm just going to ask you just to base your conclusions on personal observations that you made, and I'm asking you in terms of how the woman appeared to you.

25 A. Right. Um, to me she did look like a -- a

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street kid.

Q. Okay. And just so we can have an idea, what is a person looking like a street kid mean to you?

5 A. Um, somebody who is dressed, um, kind of like a gothic style, um, maybe punk rock style.

Q. And are you able to describe generally the two men that you saw who were walking westbound in front of the female who appeared to you to be a street kid?

A. Ah, yes. Um, they both were tall, they both were wearing jeans, ah, dark jackets. One of them was a leather jacket, and they were -- they had short hair, very clean cut.

15 Q. And were you able to observe the colour of their skin?

A. They were Caucasian.

Q. And what about their hair colour?

A. Um, it was dark. It was brown.

20 Q. And you described them both as having short hair and appeared to you to be clean cut?

A. Yes.

Q. So in comparison to the female that you've described, were they dressed in a different way?

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A. Absolutely.

Q. And how would you describe the way that they were dressed, if you can?

5 A. Um, they were -- they were dressed, um, I guess -- I mean, the styles were totally different. They were -- they looked like they were more of a -- maybe of a professional background or -- or a -- generally two men who are very well groomed I guess.

10 Q. Does -- would the word -- using the word "preppy" assist you at all for the way they looked? Or business casual?

A. Um, I'd say preppy. Yeah.

15 Q. All right. So you've described seeing these two males walking westbound with the female behind them, and you indicated that there were words being exchanged. Can you describe that for us?

20 A. She was very upset. I couldn't -- I couldn't get the words that she was yelling out, um, but at a certain point we did -- we did hear the word from one of the males, we did hear the word, um, can I say it?

Q. Yes.

A. We did hear the word "cunt".

25 Q. Okay. So take us from that point in time. You've heard one of the males say the word "cunt",

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and what happens after that?

A. Um, so there -- it's, like I said before, it was a very slow pace and, um, right around maybe 704 Queen Street, that's when another male entered from the -- on the same side as them but from the east side. Um --

Q. Okay. And if I can just stop you there?

A. Okay.

Q. So you said another male entered on the same side of the street but coming from the east?

A. Right.

Q. And does he come into your field of view when he's already on the -- on -- from the north side of the street?

A. Ah, yes.

Q. So just in terms of where he came from, you're not able to say.

A. I'm not able to say where he came from, but, um, just at a certain point when they were around 704 I noticed a male coming from the side -- from her side.

Q. Are you able to describe this male that came from the east side towards the female?

A. Um, he was -- he was thin, um, not very tall, um, his style I guess, the clothes that he was

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wearing was, um, kind of -- it wasn't preppy, um,
but he was -- he was smaller and he was thinner than
the other two males.

5 Q. And if you can recall, are you able to
remember the colour of the shirt that he was
wearing?

A. Um, I can't recall at this moment, no.

Q. Sorry, Your Honour.

THE COURT: Okay.

10 MS. MIDDLEKAMP:

Q. Mr. Park, if I can ask you, do you recall
having a phone conversation that was recorded with
Detective Sergeant Giroux on June 4, 2008?

A. Yes, I do.

15 Q. And were the events more fresh in your
mind at that point than they are approximately over
three years later since the events?

A. Yes, it was.

20 Q. And do you believe it might assist you to
refer back to that statement to refresh your memory
regarding the question I just asked you about the
colour of the gentleman's shirt?

A. Ah, yes.

25 Q. Your Honour, I'm going to ask for
permission to show the witness a copy of the

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statement to refresh his memory on that point?

THE COURT: Yes.

MS. MIDDLEKAMP:

5 Q. Mr. Park, I'm going to show you page 20
of the transcription of that electronically recorded
interview that you completed. And if I can just get
you to read from the point in time where it says
"Park".

A. Okay.

10 Q. Midway down the page, and read through to
the bottom of the page, please.

A. Okay. Ah, "Park" --

15 Q. Oh sorry. Just read it silently to
yourself and then I will ask you if it assists you
in refreshing your memory.

A. Okay. Yes.

Q. So you've had an opportunity to read
that?

A. Yes.

20 Q. And if I can just ask you, does it assist
your memory with respect to the colour of the shirt
that the gentleman was wearing?

A. Yes, it does.

Q. Okay. And what was that?

25 A. Um, the top part was green, or a shade of

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green, and the, um, what he was wearing on the
bottom was, um, a very dark or black pants.

5 Q. Okay. And what about approximate age of
the gentleman who came up to the female on the
street?

A. Um, maybe early 20s.

10 Q. And I neglected to ask you earlier, the
female that you had the conversation -- or that had
been in front of the restaurant later, you see her
across the street, approximately how old would she
have been?

A. I would say she was in her early 20s too.

15 Q. And having had an opportunity to see the
sort of preppy guys on the north side of the
street --

A. Mm-hm.

Q. -- were you able to gauge their
approximate age?

20 A. Um, I would say they were in their maybe
mid 20s, late 20s, but it looked to me they were
older than them.

Q. Okay. So they appeared to be older than
the two that you just described?

A. Yes.

25 Q. So take us from the point in time where

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you observe another male coming from the east side and you've got the female with the two more preppy gentlemen walking westbound on the north side.

5 A. Mm-hm. So at this point I guess they had stopped and then the other male that came in to the picture afterwards I guess was joining in on the -- on the argument, and where they came to a point where they got closer and one of the -- of the two clean cut gentlemen, and I can't say who it was, but 10 one of them, did pick up the, um, the slimmer guy and kind of threw him against a -- against the store front window there. I believe it was 704 or 702 I think or... ah, he -- it was a very significant impact on the glass, the store frontage, and I 15 remember thinking, um, being amazed that it didn't break because the glass was just shaking and it was a very large sound as well.

20 Q. And if you're able to tell us, did it appear that the gentleman wearing the dull green sweater that you described, did he appear to be with the female or with the males?

A. Yes. It did seem to me that they were either acquaintances or friends and he was coming to her aid.

25 Q. And with the female?

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A. Yes.

Q. Okay. And are you able to tell us at all what would have precipitated one of the preppier guys taking the slimmer guy and throwing him into the window?

A. What would have caused that? Um, no, I have no idea what would have caused it, but...

Q. I guess what I was trying to get at is what the observation that you saw. Did you see him actually pick him up and throw him, or did you see at the point in time he's going into the window?

A. Um, my best recollection is actually seeing him almost sideways, this way, and being thrown back. I don't know if I just turned away for a second and I saw it afterwards, but I did not see him pick him up. I did not see him push him. All I remember seeing was that he was in a -- in a kind of like a -- almost like a falling motion this way and then being thrown back, so...

Q. Okay. So I'm just going to describe what you were just doing with your body. So you leaned back with your body and turned to your side, and you're indicating that's the way that the gentleman went into the window, is that correct?

A. Mm-hm. Yes.

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Q. So you see this, and are you quite surprised by it?

A. Yes.

Q. And you're worried that the window's going to break?

A. Right.

Q. Do you remember the business that the store window was?

A. Um, yes. It's a -- it's a hair salon called Coupe Bizarre.

Q. And if you can just spell that for the record for us?

A. C-O-U-P-E, and Bizarre, B-A-Z-A-A-R [sic].

Q. And about how far is Coupe Bizarre from your restaurant?

A. It's directly across from the restaurant.

Q. So you see the gentleman get thrown into the window, you're probably happy that the window didn't break when he was thrown into it. What do you see after that?

A. Um, he fell down, he slowly started getting up. Ah, and I believe the female was -- was helping him, and the other two males start -- slowly start walking towards Manning, so they start

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proceeding eastbound. I mean westbound.

Q. And you've indicated you saw the female helping the male. Did she react in any other way to what was happening?

5 A. Um, she was yelling at them, um, but other than that, she was just constantly yelling at them.

10 Q. Okay. And did she appear to you -- what was her emotional state? You say that she's yelling. Can you describe what you thought her emotional state was based on the way that she was yelling?

15 A. Um, she was -- she was very disturbed, she was very, um, very, very upset, um, but she was just yelling in a manner where she was -- she was just a very upset girl.

20 Q. Okay. All right. So the two preppy guys are continuing westbound, the female has assisted the male. Does the group stay together? Or what happens?

25 A. So, um, at this point now they're slowly crossing Manning Street. Manning Avenue. The female and the male in the green sweater is still kind of following them but, like I said, it's a very slow pace. Um, the two gentlemen in front, the preppy

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gentlemen, are stopping to say -- to yell back at them and so it was this slow motion of just, um, the female and the -- the gentleman in the green just kind of behind them pursuing them.

5 Um, once they have crossed Manning Avenue, and this is when they're kind of getting further away from -- from my sight, um, at one point I did see the female falling to the ground.

10 Q. And did you see how that happened? How she fell to the ground?

 A. Um, no, I didn't see exactly how it happened. It was further away and there were some cars parked along the street there, but, um, I did -- I did see her fall to the ground.

15 Q. Okay. And when she fell to the ground, was she on the sidewalk or on the street.

 A. Um, I believe she was -- it was -- it was in between two parked cars and so I guess it was on the street technically. Just --

20 Q. Near the curb? Or --

 A. Right near the curb. Yeah.

 Q. And I just want to ask you, you've taken us that far away. At some point before you get to that point where the female has fallen onto the -- falls to the ground, do you remember one of the guys

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saying anything to the other guys, one of the preppy
guys in terms of the other gentlemen?

A. Ah, no, I can't remember.

5 Q. Or did they -- did you receive any
indication from them that one of them was trying to
get the other one out of there?

A. Oh yes. Yes. There was a -- there was --
it was -- I believe it was right after, um, the
first physical altercation.

10 Q. In front of Coupe Bizarre?

A. Right. And that's when one of the preppy
guys was kind of holding the other gentleman back
saying, Come on, let's go, I guess, and that was the
motion that he was making.

15 Q. And then at that point they continue
westbound?

A. Yes.

Q. As you told us about.

A. Yes.

20 Q. Okay. So you remember seeing the same
female falling to the ground and it was near Manning
Street?

A. It was across -- so it's -- it was around
712. 712, um, between 712, 714.

25 Q. So at that point, using the scene

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diagram, they've crossed over Manning and they're on the next block, correct?

A. That's correct.

Q. And are you still watching at that point?

5 A. Yes, we are still watching.

Q. Now, you see the girl fall on the street.

Does she get up?

A. Yes, she does get up. Um, would you like me to continue what happened next?

10 Q. Yes.

A. Okay. So once she gets up, I noticed from -- from the east side on Queen Street, so if you look at the diagram, from 7 -- we're in front of 785, we're looking out towards Queen Street, and two other gentlemen -- yes. I believe it was two. Start crossing the road diagonally from south to north, so from our side, 785, we noticed two gentlemen crossing the street towards -- in a diagonal path towards Manning Avenue.

20 Q. And what type of pace did they have when they were crossing?

A. Um, they were -- they were jogging. It was a very fast pace.

25 Q. And did it appear to you that they were associated with any type of genre? The same

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question I asked regarding the male and the female?

A. Yes. They looked like they were the same, um, the same group of friends or same styles of dressing.

5 Q. Okay. So you described it earlier as street kids. Is that earlier for the other guys that you saw running across the street?

A. Yes. I guess. Yes.

10 Q. And you see them crossing towards the north side and you said that they're jogging. How long do you watch them for?

15 A. Um, we watched them cross the street towards Manning Avenue and right at the corner of Manning Avenue and -- where 708 is. Is that 708? Yeah. They get onto the sidewalk and they start proceeding down. Now, at this time I guess the -- the group of people that were arguing had gone down further, significantly further, and that's -- that's when we just kind of --

20 Q. Did you end your observations at that point?

A. Yes.

25 Q. Okay. Now, I just want to take you back. You said that the female, you saw her get pushed to the ground and she gets back up. Are you able to see

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whether her and the other slim gentleman are still pursuing the males that you -- the preppy guys that you told us about earlier?

5 A. Um, I can't say that they were still pursuing them, only because they were further down the street now. It was -- there was some passersby so, um, I mean, I saw a group of people, but I couldn't say for certain that they were actually present and pursuing them.

10 Q. So at the point in time where you can't really see anymore --

 A. Mm-hm.

 Q. -- do you go back inside the restaurant?

 A. Yes.

15 Q. And what do you do?

 A. We went back to the bar, um, and sat down back at the bar.

 Q. And so you're just kind of hanging out at the bar at that point?

20 A. Yeah, and we're just talking about, ah, how frequently these sort of incidents happen along Queen Street.

 Q. Okay. And at some point is your attention drawn to the street again?

25 A. Um, yes. Um, and that's when we -- we

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noticed the emergency vehicles. This was roughly --
I can't say for certain but it was -- there was a --
maybe about ten, fifteen minutes had passed and we
see three emergency vehicles passing by the
restaurant, going westbound on Queen Street.

5 Q. And when you see the emergency vehicles
passing by, do you do anything as a result of making
that observation?

10 A. Ah, yes. We got up again and we started
to walk towards the front of the restaurant and we
actually went outside the restaurant to look down.
To look westbound.

Q. And you look westbound down Queen?

A. Mm-hm.

15 Q. What do you see?

A. Um, we see, um, emergency vehicles,
lights, um, we see a TTC car that's been stopped.
The TTC car was heading I guess eastbound but it was
stopped there, and just a lot of -- just a lot of
lights.

20 Q. And where you saw the lights, can you
give us an idea of what intersection that would be
on Queen Street, if any? Like, the closest
intersection?

25 A. Right. So the streetcar was stopped right

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at the intersection of Niagara Street and Queen
Street. So and all the lights were around that area.
Niagara Street and Queen.

Q. Do you stand there for a while watching?

A. Yes.

Q. And what happens next?

A. Um, so we're watching and, um, myself,
Daniel and Jonathan at this point were outside the
restaurant looking down, um, and a little bit after
that, we notice two -- two guys walking on our side,
on the south side, coming from Niagara Street and
walking towards us this way.

Q. And you're standing in the front of your
restaurant at that point?

A. Yes.

Q. And do you speak to these gentlemen at
all?

A. We did speak. Um, he engaged in a
dialogue with us and, um, because we were curious as
well, we -- I guess we asked him what's going on,
and, ah, he did -- he did say that somebody got
stabbed, um, somebody got stabbed. Yeah.

Q. Now, I'm not going to ask you
specifically about your conversation. Did you make
any physical observations of these gentlemen that

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you saw on the south side?

A. Ah, yes.

Q. Okay. Now, just asking you, did you make
any physical observations of either of the
gentlemen?

A. Yes. Um, it seemed -- it seemed to us
that we did -- that there was two gentlemen, one was
taller than the other, um, and it seemed to me that
they were the two gentlemen who had crossed the
street while -- in that diagonal path from the south
to the north. Um, it matched what we saw.

Q. Okay. Now, more specifically, I
understand that you paid more attention to one
gentleman more than the other, correct?

A. Yes.

Q. And did you observe any injuries on any
of the gentlemen? Either of the gentlemen I should
say.

A. Yes, the taller -- the taller guy, um,
the taller guy actually lifted up his shirt at one
point of the conversation and said, I got stabbed,
and, ah, and he definitely had some -- some puncture
wounds or puncture marks on his -- on his abdomen
and chest area.

Q. And do you have an idea of about how many

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you observed?

A. Um, I think three.

Q. And you described the upper left chest and the abdomen area?

5 A. Mm-hm.

Q. And this gentleman, when you spoke to him, did he appear to have an accent or anything like that?

A. Um, no. I don't think so.

10 Q. Did you get any information from him about where he was from?

A. Ah, yes. He mentioned that he was from the States, um, I can't say if he specifically stated which -- which part of the States he was from but he said he was from the States and, um, and he's been stabbed before many, many times, and this is nothing.

15 Q. And how long would you say your conversation lasted with this gentleman and the other guy?

A. Um, I would say a couple of minutes? Not very long.

20 Q. Once the conversation ends, do you see where they go, if at all?

25 A. Yes, they just -- they proceeded to head

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the same direction, so eastbound on Queen Street
West.

Q. And ultimately do you end up phoning the
police about your observations?

5 A. Ah, yes, I did. Um, this wasn't that
evening, but I did, um, phone them, I believe a few
days afterwards.

Q. Your Honour, if I can have a brief
indulgence?

10 THE COURT: Yes.

MS. MIDDLEKAMP:

Q. All right. I'm just going to ask you a
few more questions about the gentleman you had the
conversation with on the south side after you'd seen
15 all the emergency lights. I just ask you to describe
him in a bit more detail. Do you recall the clothing
that he was wearing?

A. Ah, it was -- it was gray.

20 Q. And specifically his shirt or top. Do you
remember what that was?

A. It was a hoody. It was a gray hoody. He
was wearing shorts as well and I believe it was gray
or faded gray. Maybe stone wash or something. His
shorts came a little bit below his knee. Um, and he
25 was wearing sneakers. He had a hat on as well.

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Q. Okay. And did you make any observations about his physical appearance? You've told us about seeing the injuries?

A. Right.

5 Q. But was there anything else on his body that --

A. He did have tattoos.

Q. Do you remember where they were?

10 A. Yes. One of the tattoos was on his left leg, on the side of his calf I guess. And also he had some tattoos on his -- his chest area.

Q. Okay. And do you remember where it would have been on his chest area that you saw the tattoo?

15 A. Um, I believe somewhere -- it was just on his chest area. I can't say for sure.

Q. You've talked about seeing a puncture wound on the upper left chest?

A. Yes.

20 Q. Does this assist you with respect to the location of the tattoo?

A. Um, maybe it was around the nipple area.
Um...

Q. And the other gentleman that was with him, what do you recall about him?

25 A. Ah, he was just smaller, um, he didn't

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say much. He was wearing a hat as well. Um...

Q. And just in terms of their race or colour of skin? Did you observe that?

A. They were both Caucasian.

5

Q. Had you seen either of the gentlemen before that you had spoken to on the south side of the street after you saw the emergency lights?

A. Um, prior to? Or --

10

Q. Or just generally. Like, before that evening, had you ever seen them in the area before?

A. Um, no. I can't say that I have.

Q. And what about the female that you have described to us?

A. No. I can't say that I have either.

15

Q. Just going back again, sorry, to that gentleman with the injuries, you saw his chest and you've talked about that. Can you give us a -- more of an idea the nature of the injuries? Did you see blood?

20

A. Um, there wasn't -- there wasn't a lot of blood but there was some blood on him. Um, and one of the -- one of the puncture wounds, it did look very deep, maybe because there wasn't too much tissue up there or something but I remember seeing a very, very, um, deep, um, it was almost like a cut,

25

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a wound where the flesh had kind of rolled back like this and it looked pretty serious.

Q. Okay. I'm just going to describe what you said, or I'm going to try and describe I should say the motion that you just made with your hands.

A. Right.

Q. So you had your two hands, palm facing toward you and together, and you just separated them to the sides, correct?

A. Right. So one of the -- I believe the puncture mark here, the skin had rolled back like this.

Q. Okay.

A. And it was so deep to the point where I do remember seeing almost a -- a -- a layer of fat almost. It was something that was white. There wasn't a lot of blood. There was some blood but there wasn't a lot, but it looked very serious because I've never seen a puncture wound like that before, so --

Q. Okay. And you just pointed to your upper left chest when you were making that description?

A. Yes.

Q. Okay. Your Honour, those are my questions for the witness. My friend may have some questions

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for you, Mr. Park.

THE COURT: Cross-examination?

5 ---CROSS-EXAMINATION BY MR. SCARFE:

MR. SCARFE: Thank you, Your Honour.

Q. Sorry. Sir, my name's John Scarfe. We spoke at the preliminary hearing. You've already told us where your store is and I just wanted to verify on the map, there's actually -- are you familiar with -- you must have been fairly familiar with Queen Street West?

A. Yes.

Q. You had had a restaurant there for a few years?

A. Ah, for about two years.

Q. Okay. So if I were to suggest to you that, ah, Coupe Bizarre, the hair salon you described --

A. Mm-hm. Mm-hm.

Q. -- is at 702, would that be correct? The third store front in from Manning going east?

A. I believe it was 704.

Q. You think it maybe was 704.

A. Yes.

25

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Q. Okay. And just so we're clear, there's actually two businesses called Coupe Bizarre?

A. Yes, there is.

Q. Right. And the next one is somewhere in the 710, 712 range?

A. Yes, it is.

Q. So the one across from you is a blue front?

A. Yes.

Q. And the one further down has a --

A. Pink.

Q. -- pink front. Is it a hair salon as well?

A. Yes, it is.

Q. Okay. So you get a look at this girl who is talking to your friend?

A. Mm-hm.

Q. And she goes off eastbound.

A. Yes.

Q. And 20 minutes go by before you hear the yelling?

A. I can't say for certain but it wasn't -- it wasn't a couple of minutes. I would say about maybe 15. 15 minutes.

Q. Okay. But a significant period of time.

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Enough time for you to go in, get a scotch?

A. Right.

Q. Settle --

A. And sit down.

5 Q. And get talking about things. And so you
-- your attention is drawn to the street. Just so I
have the sequence right, you've got the two preppy
sort of gentlemen?

A. Mm-hm.

10 Q. And they're ahead of the female.

A. Yes.

15 Q. And most of the, as this whole thing went
on there, tended to be at least ten feet between
these fellows during the arguing part, between those
two fellows and the female? They'd get closer
together and then farther apart?

A. Yes. Yes.

20 Q. But there seemed to be a usual distance
of about ten feet between them.

25 A. Right. They weren't constantly like this
arguing with each other. There was some space
between them and as they were walking, sometimes
they would stop to yell something, and she'd yell
back and they would slowly, um, just -- it was a
very, very slow pace.

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Q. Okay. And the -- do you recall in
relation to 704 or 702 --

A. Mm-hm.

Q. -- where it is you first noticed the two
5 guys? Were they -- that they were going west,
right?

A. They were going west.

Q. I'm just trying to get a sense for -- did
you see them coming from the TD Bank? Or did you
10 first see them just right in front of Coupe Bizzarre
or was it somewhere in between those two?

A. The first time I saw them was when we
heard the yelling first.

Q. Okay.

15 A. And during -- it was quite late so there
wasn't that much traffic, so, um, you can hear if
people are yelling outside. So, um, sitting at the
bar in 785 the first time we heard screaming
outside, that's when we looked and they were just
20 kind of entering, if our -- because everything has a
glass kind of frontage --

Q. Right?

A. -- in my restaurant, that's when they
were just kind of entering that -- I guess that
25 frame.

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Q. Oh I see. So you are, what, a quarter of the way back in your restaurant maybe?

A. Um, around there, yeah.

5 Q. Right. So the -- when you talk about the frame, it's, like, almost the entire front of your restaurant is these three glass partitions, right?

A. There's two doors and that's all glass.

Q. Right?

10 A. And then there's, on the left-hand side, it's all glass as well except there's just like a small bench area right in front. But you can definitely see across the street.

15 Q. All right. So if I'm halfway back looking out on Queen Street from your restaurant, on the right I see a door like the regular size where people walk in and it's like a double door?

A. It's two doors like this.

20 Q. Two doors, keeps the draft out in the winter, right?

A. Right.

Q. And then the rest of the restaurant all the way across --

A. Mm-hm.

Q. -- is pretty much all glass?

25 A. All glass except for maybe, um, three

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feet.

Q. From the bottom?

A. From the floor.

Q. Okay. But width to width it's all glass.

5 A. Yes. Yes. Yes.

Q. Okay. And just so it's clear, in the winter those three panes of glass, they sort of fit together so it's nice and warm in there?

10 Q. Right. They fold and you can actually open them.

A. Right. Or you can actually take them out, pop them out, at wintertime or when we want to close it, it just kind of slides. It's three pieces and they just kind of slide.

15 Q. They slide and then they fold into the wall? Or they sort of stick out.

A. No, it's like one and then two.

Q. Okay. So in the summer you can open it up, let the breeze in.

20 A. Yes.

Q. Okay. And so the window that was sort of described, if you're halfway back, is going to pick up what, maybe six stores? Eight stores?

25 A. Well, that all depends on where you're sitting. Because like I said, it's -- this whole

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block, it's very long and narrow, the stores, so the further you get back, of course you're going to lose your peripherals, but as you're walking towards the front, your angle gets wider and wider.

5 Q. So in your mind's eye, when you first looked out, was it sort of -- would you say you were about a quarter of the way back?

A. About a quarter. No. Sorry. About half the way back.

10 Q. Okay. And you're in 785 so can you see any part of Manning Avenue from there?

A. Um, you can see -- you can just see right up to Manning, where I was sitting at that point.

15 Q. Where this block of stores ends you can see --

A. I can see a little bit of the street too.

Q. And a little bit of the Manning sidewalk, and then I guess equally speaking you'd be able to see back to 694 or 696?

20 A. Um, um, I wouldn't say that much because the bar, where we were sitting, was on the right side of the restaurant.

Q. Mm-hm?

A. So, um, my --

25 Q. So you've got less of a peripheral to the

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right.

A. Right. On the right.

Q. Okay. So you hear the screaming, you get up right away?

5 A. We didn't get up. We heard the screaming, we just kind of looked this way, and that's when -- that's when we saw the two gentlemen --

Q. Mm-hm?

10 A. -- kind of walking and then we saw the female as well.

15 Q. So as you looked up, you saw the gentleman coming into the sort of screen, TV screen, but when you first looked up you didn't see the female yet. That came a second or two later kind of thing?

A. Yes.

Q. And you recognized her as the girl who was talking to your friend.

A. Yes. Yes.

20 Q. Okay. And was it at that point you got up?

A. We didn't get up right away. We were kind of looking and -- and they were yelling, and we were watching all this.

25 Q. Right?

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A. And then we -- there was a point where we kind of got up and just walked a little bit, um, more towards the front of the restaurant.

5 Q. And within a few short seconds you saw the guy in the green sweater come and sort of join the girl.

A. Um, yes. Um, he kind of came from behind her and, um, whether it was to kind of hold her back or, saying, you know, let's go, I -- but it
10 definitely, um, it was in my mind that he was her friend and he was coming to aid her.

Q. So they interacted, he touched her actually?

A. Um, I can't say if he touched her but, I
15 mean, there was a point where he -- he came closer to her, you know, from behind her. I'm sure there were some words exchanged and, um, and at that point I guess there was a point where he got in front of her and that's how the -- one of the preppy
20 gentlemen was able to physically push him or pick him up and throw him, or...

Q. So on your left you've got the two preppy guys who have sort of stopped to yell back, to respond to the female.

25 A. Mm-hm.

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Q. You've got the female on your right?

A. Mm-hm.

Q. Yelling and talking to these guys?

A. That's correct.

5

Q. And then the guy with the green sweater comes in, goes past the female and right up to the gentleman. Sort of closes that gap that we talked about before.

10

A. Um, right. So at a certain point I guess he was a little bit in front of her.

Q. Okay. And at some point he gets close enough to the two males that they interact.

A. Yes. There was definitely a physical altercation there but, I mean --

15

Q. Okay. You may have looked away for a second, it was clearly one of the two well-dressed guys who flung this gentleman into the store front?

A. Right. So I don't know if it was if they came closer or he came closer or, um, I can't say for certain.

20

Q. And you've got this picture in your mind's eye about the guy sort of flying sideways into the --

25

A. Yes. Definitely. He was sideways like this.

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Q. Right. And at that moment, where is the female?

5 A. Um, she's still standing there. This happened very quickly, and after he was -- after he made impact on the frontage of the store, she did -- she did, um, kind of stop or she was standing there and she got -- and she went down, she kneeled down I guess to help him up or -- or --

10 Q. Made a big noise?

A. It did.

Q. That's what got you up and made you go to the window, right?

15 A. No, we were watching that before this happened. I mean, we started watching it before this happened. What caught our attention was the actual screaming in the beginning.

Q. Okay. Had you started -- had you got out of your seat yet at the bar?

20 A. Um, I can't say for certain if I got out of the seat, but it was a clear view, I mean, yeah.

Q. At some point you went to the front of the restaurant or even outside, right?

A. We went to the front.

25 Q. Right. So there's this big smash, you thought the glass was going to break, and then the

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guy in the green sweater, he sort of flies to the ground. He was laying on the ground?

A. Mm-hm.

Q. And was he moving?

5 A. Yes.

Q. Did you think for a moment, Oh my God, this guy is unconscious, or anything like that?

A. Ah, no. Um, he was moving. I mean, he got up fairly quickly.

10 Q. And the girl went to his aid.

A. Um, yes. Just kind of helping him up, and also screaming at the -- at the two guys.

Q. Now, you had used the word "cunt" before when we were talking about this.

15 A. Yes.

Q. And you had a chance to review your statement before you came to court?

A. Yes.

20 Q. The telephone call you had with Detective Sergeant Gary Giroux on June 4, 2008.

A. Yes.

25 Q. And just incidentally, you advised the police, or called the police and told them you were a witness a few days after this happened when you saw the posters --

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A. Right. Um --

Q. -- of the deceased, right?

5 A. It was so long ago I don't know if I saw the poster on the street, I don't know if I saw it in the newspaper or on the news, but I remember seeing something on media and -- and the actual location of where it happened and so I decided to call the police, yeah.

10 Q. Right. And you spoke to someone who took your name --

A. Yes.

Q. -- and your contact information and --

A. Yes.

15 Q. -- said someone will get back to you?

A. Yes.

Q. And did anybody get back to you before June 4th of 2008?

A. I don't believe so, no.

Q. Okay. So it was many months.

20 A. Um, it was -- it was quite a while. I can't say if it was many months but, um, but I do remember that there was a period of time where I did not get a phone call.

25 Q. Okay. Fair enough. And do you know when this actually happened? This night where you saw

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these people on the street?

A. Um, it was summertime, so I believe it was in August. August 9th or something?

Q. Okay. Fair enough. So the two fellows who were walking along ahead, they seemed intoxicated to you?

A. Um, I can't say for certain. Um...

Q. They seemed that way, a little intoxicated anyway.

A. It would -- it would be clear to me that when you're yelling like that and you actually -- you're throwing somebody, you must have had a couple of drinks or -- unless you were so upset and irate, but, um, I mean, it was -- I just assumed that because it was late at night, um, there is a regular Queen Street West crowd and on Thursday nights, I mean, it's pretty busy there. People come there to drink, so...

Q. Okay. And words were being exchanged and you remember the word "cunt".

A. Yes.

Q. I'm just referring to page 18 of your statement at the top where you told Detective Sergeant Giroux what you recalled was one of them saying, Why don't you go and something something,

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you stupid cunt.

A. Yeah.

Q. Is that --

A. It was -- it was -- but those are the
5 words that I picked up. Because I --

Q. You remember hearing all those words.

A. Yes.

Q. Okay.

A. I definitely heard the word "cunt".

10 Q. Right.

A. And, ah, and I remember, you know, Why
don't, and then there was a lot of yelling, but...

Q. Okay. And the "something something's" the
part you didn't hear.

15 A. Right.

Q. But it was, Why don't you something, you
stupid cunt.

A. Mm-hm. Mm-hm.

20 Q. Okay. And she was already pretty upset,
so --

A. Yes. Yes.

Q. And that's just before the guy came to
her aid, was slammed into the wall and collapsed to
the ground.

25 A. I believe that was before, yes.

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Q. She went to help him. Right after she went to his aid and he got up, the two guys started west again.

A. Yes.

5 Q. And eventually the guy in the green sweater and the female started going west again?

A. Yes.

10 Q. You said the whole thing slowed down a little bit at that point, and then a couple of other guys came running and sort of joined the latter group. The female and the male?

A. Right.

15 Q. Right. This isn't the people you talked about diagonally who once the female and the male and the two guys were out of your sight.

A. No. So after that -- the physical altercation --

Q. You're pointing at your screen.

A. Okay. Sorry.

20 Q. That's okay. You know what? There's actually -- I think there's two laser pointers there now?

A. Is this it? So --

Q. Okay.

25 A. -- after the initial altercation where

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the guy in the green shirt got thrown up against the
glass frontage, which was around this area --

Q. Mm-hm?

5 A. -- after that, they started proceeding
this way, okay? Now, at a certain point when
they're around this area, because we're --

Q. Being across Manning, 708, 710?

A. Right.

Q. On the north side?

10 A. Roughly around this area.

Q. When you say "they're around this area",
are you talking about the two guys in the lead? The
preppy guys?

15 A. The two guys, and also they were --
either the guy in the green shirt and the female
were just crossing the road here but, um, when --
all I remember is when they're around this area,
after they have crossed Manning, I see somebody, two
guys, crossing from here, roughly around here I
20 guess and they're crossing this way. This way, like
that.

Q. And we've got that part. What I'm
suggesting to you, and I'll take you to your
statement if you want, but right after the guy gets
25 slammed into the wall and then the female helps him

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and they start west again, that group swells, before
the diagonal guys that we'll come to later, that
group swells. There is another couple of people that
come and join that group so that there's now at
5 least four people following the two preppy guys. Do
you remember --

A. Before the two.

Q. Before these diagonal guys who come
later.

10 A. No. I -- no, I don't --

Q. Oh, I'm sorry. For the record, I suppose
I should describe that you were pointing in the area
of about 710?

A. Mm-hm.

15 Q. And that's where the female and the
fellow in the green shirt started to catch up to the
two preppy guys?

A. Yes.

Q. Who were --

20 A. Around there, yes.

Q. Okay. Now, I'm going to take you just to
page 4 and 5 of your original statement --

A. Mm-hm.

25 Q. -- with Detective Sergeant Giroux and
maybe you can help me clarify it.

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A. Okay.

Q. I'll just get over here. Detective
Sergeant Giroux asks a long question about what was
-- what you've told him thus far. Let me see if I
5 can pick it up somewhere without reading the whole
thing. So he -- you've told him about the gentleman
being slammed into the wall and he's sort of
reviewing that with you. About four lines from the
bottom his question continues:

10 "The two gentlemen that was
walking in front of her, um,
actually grabbed one, one guy,
and actually, ah, um, kind of
picked him up and threw him
15 against the store front" --

A. Mm-hm.

Q. -- "that store is called
Coupe Bizarre, and it's a salon
I guess, a hair salon."

20 So that's the end of his question, and then you
answer, um, sort of continuing the story.

A. Right.

Q. "And then a couple of other
guys came running, and at that
25 point she was -- actually I

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believe she threw a couple of punches as well" --

A. Mm-hm.

5 Q. -- "and then that whole scuffle broke out. At that point the two gentlemen continued westbound and a couple of -- we saw a couple of other I guess street guys come running that way as well" --

10 A. Mm-hm.

15 Q. -- "and at that point they were still kind of yelling and screaming at each other and they kind of got a little too far and we were still watching."

A. Right.

20 Q. Okay? Does that help refresh your memory of the original conversation you were having?

25 A. Yeah. Um, I -- at this point in time I can't say that I saw four other, um, individuals. What stands out in my mind is the two -- the two gentlemen walk -- crossing the street diagonally.

Q. Right.

A. Maybe I meant the -- when I saw the other

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guy, the first guy in the green, come to her aid,
perhaps I was referring to him, but --

Q. Well, I'm going to suggest that what
happened is after the Coupe Bizarre incident --

5 A. Mm-hm.

Q. -- and the glass and stuff, that there
was a first group of two street kids who then came
and joined in, and then as you got a little farther
down and the girl was pushed to the ground --

10 A. Mm-hm.

Q. -- then the diagonal, the second group of
two street guys?

A. Mm-hm.

Q. The diagonal group we will call them,
15 they then -- you then saw them cross the street. Is
that -- and you can agree or disagree with my
suggestion.

A. I agree that the -- the group, from what
20 you're saying, the second group of two guys
diagonally crossing the street was when they were
around the 712 area. 712, 714, 710 area.

Q. Right. When the lady gets pushed to the
ground.

A. Right. I can't say if it was before or
25 after --

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Q. Mm-hm.

A. -- they -- they were crossing. Was it before she got pushed to the ground or after she got pushed to the ground? I just can't remember.

5 Q. Okay.

A. But in -- right now, in my head, all I'm saying is they're crossed Manning already and, um, that's when I see the two guys kind of crossing the street diagonally towards Manning and then going towards that general area where they are.

10

Q. This diagonal group of street kids.

A. Right.

Q. Right. And with respect to my suggestion that before the diagonal group, before you saw them cross?

15

A. Mm-hm.

Q. Another two people had joined the group of street kids for a total of four. That's what I sort of got from your statement.

20

A. Right.

Q. I'm just wondering if you would agree, disagree or say I don't remember.

A. I disagree with that statement. I -- what I was trying to say was that there was -- there was another individual that came to her aid, and that

25

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person, because I guess we're focusing on him, is the person in the green sweater out -- was there another person there? Ah, it's -- I just -- I'm sorry, I can't remember.

5 Q. All right. Well, let me go at it another way.

A. Okay.

10 Q. After the Coupe Bizarre incident and the girl helps the guy and the guy gets up, this whole cluster of two groups starts to move and both groups cross Manning.

A. Mm-hm.

15 Q. The preppy guys ahead of the male and the female?

A. Mm-hm.

20 Q. And it's -- my suggestion to you is that there were other people joining in. The group of street kids was swelling, getting louder, more yelling and screaming.

A. Um...

25 Q. And you can disagree and say, No, no, it was still just the guy and the girl in the green -- or the girl --

A. No, after the Manning, after crossing Manning Avenue, there was a -- there was -- there

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were more individuals that had joined.

Q. Mm-hm.

A. I didn't see if they were actually getting into altercations, because at this point they were further away from me, and all I started seeing at this point were basically heads.

Q. So they could have been spectators, right?

A. Perhaps.

Q. But there were more people gathering and sort of joining this movement west. We'll call it --

A. Yes, there were more people at -- at 714, 716, rather than at 702, 704. There were more people.

Q. So the group had swelled from two and two. There were now more people, even if they weren't fighting or --

A. Yeah.

Q. -- or actually involved in any physical altercation. You could call them interested spectators in the sense that they were moving with the group?

A. There were at least two more people that had joined that group.

Q. Right. And this is before the diagonal

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guys, right?

A. Um...

Q. You're not saying only the diagonal guys
joined?

5 A. I'm saying that what I saw was the
diagonal guys join.

Q. Okay.

A. And before that, I cannot remember if
there was another person with the guy in the green
10 shirt that came to her aid.

Q. So the group could have swelled by at
least one before the diagonal guys joined.

A. Yes. Yes.

15 Q. Okay. And my friend asked you a little
bit about we've been calling them street kids,
right?

A. Mm-hm. Mm-hm.

Q. You mean it as a style of clothing.

A. Um, see, that's the --

20 Q. As distinguished by someone who actually
sleeps on a park bench and is all dirty and looks
like a drug addict kind of thing?

A. Sometimes it's hard to distinguish,
especially along Queen Street West there, because
25 it's a very, um, punk rock-ish kind of skate border

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5 type of styles, you know? Everyone's kind of with the tattoos and the chains and but they're business owners as well, and then you have street kids as well who -- who are there routinely, sleeping on the streets and, um, but they're dressed in very similar fashions.

Q. This sort of gothic, punk?

A. Sometimes gothic, punk rock.

Q. Or skate border?

10

A. Skate border type.

Q. Sort of like a modern bohemian hippie type thing?

A. Yeah, I guess.

Q. Fair enough?

15

A. Yes. Yes.

Q. So when we get to 7 -- what did you say? 714, 716, where the girl gets knocked to the ground?

A. Mm-hm.

Q. Was she punched?

20

A. Yes, I believe she was pushed or punched.

Q. So it's not like you just -- when my friend was asking you questions you started to talk about some parked cars as though they were obstructing your view?

25

A. Mm-hm.

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Q. And almost implied you didn't know why she fell, but --

5 A. Um, from our vantage point, 785, we're now at the front of the restaurant. If this is the glass, we're looking this way. There were cars parked. Not all the parking spaces were taken, but where we did see her fall was in a -- in a spot where there was no car, um, parked. Um, it just seems to me that something -- there was some sort of
10 a force that kind of pushed her, the way she fell.

Q. Okay. You recall we went through this at the preliminary hearing and you've had a chance to review that transcript as well.

15 A. Mm-hm.

Q. Correct?

A. Mm-hm.

Q. But just to go -- start at page -- bottom of page 36 around line 30?

A. Mm-hm.

20 Q. I asked you:

"But there was also a space of some sort", referring to this - generally there was a separation between the two groups, right?

25 A. Yes. Yes.

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Q. And you said, "Right." And then you continued on and you said:

"They would kind of stop and turn around and yell back, but I remember at one point the young lady was -- she was pushed to the ground.

QUESTION: The lady was?

ANSWER: So yeah, she fell on the ground.

QUESTION: Did you see what caused that?

ANSWER: Yeah. One of the gentlemen actually pushed her.

QUESTION: Okay. He applied with his hands or --", then your answer was: "Yes. I mean, I don't know if it was an actual punch or, you know, but there was kind of like a push."

A. Mm-hm.

Q. "QUESTION: A push?

ANSWER: And she did fall to the ground.

QUESTION: And it may -- it

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could have been a punch but
you're not sure.

ANSWER: Yeah."

5 Do you remember being asked those
questions and giving those answers?

A. Yes, yes, I do.

Q. So whether it was a push or a punch, one
of the two preppy guys knocked her to the ground.

10 A. Yes.

Q. And then -- and at this point the preppy
guys had stopped. They're not trying to get away
from this group really. It's all still moving very
slowly and it's only after the female is knocked to
15 the ground that they start to pick up their pace.

A. Um, yeah. At that point, it was just too
far for me to see if they were stopped, they were --
um, I remember her -- I remember her falling to the
ground and -- and they were slowly still advancing
20 westbound.

Q. The two guys. The preppy guys?

A. The whole group.

Q. The whole group.

A. Right.

25 Q. Right.

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A. And at a certain point, that's when we said, Okay, well, we can't see anything anymore, so, um, we stopped watching.

5 Q. Well, I'm going to suggest that just right at the end, just before you stopped watching, you noticed one of the two preppy guys started pulling on his friend to say, Let's go.

A. Yes, I remember that. Yeah.

10 Q. You do remember that. You could hear him say, Let's go, and he repeated it, didn't he.

A. Um, I don't remember where he did this. Was it before Manning? Was it after Manning? I'm not too sure. But I do remember one of the gentlemen pulling on him in a kind of like, Come on, let's go kind of motion. Let's get out of here.

15 Q. So it was more than just, Come on, let's go, and the guy came. He actually had to sort of grab him.

A. Well, yeah. He had a hold of his jacket.

20 Q. Did it seem to you as though one of the preppy guys wanted to get out of there and the other guy wanted to kind of stay and continue in the engagement? And that's why --

A. For that brief period, yes. Yes.

25 Q. Okay. And again, you can't differentiate

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between the two guys.

A. No.

Q. No. They're both dressed so similar, it's hard to do.

5 A. Yes.

Q. So did you think about calling the police at that point?

A. No, not at that point.

10 Q. Assaults are that common on Queen Street West?

A. Surprisingly it is. I mean, it was almost a daily occurrence. At that time, um, you know, people who are even dressed in suits are acting very drunk and very dumb, ah, and usually, you know, it doesn't really escalate into something like this. Ah, but no, at this point, no, we weren't...

15 Q. Okay. So the next area I'm going to go into is a little bit of a lengthy one and I note it's 11:26 by the court clock, so we usually take a break at 11:30. Is that all right, Your Honour?

20 THE COURT: Yes. 15 minutes.

---RECESS

(11:27 a.m.)

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---UPON RESUMING

(11:47 a.m.)

5 MR. SCARFE: For the record, I have been a
little longer than I told my friends I would
be but I should be done in about 15 minutes.

THE COURT: All right. Thank you.

MR. SCARFE:

10 Q. Just before we go to the new area where
the two guys, the diagonal guys come back?

A. Mm-hm.

15 Q. We had already established that although
you've got the group of two and the group of two
moving along the north side, there were other people
at least paying attention to it in the vicinity.

A. Yes.

Q. Right. You've described today for us a
girl with black leggings and possibly a skirt?

20 A. Possibly.

Q. Right. And when you say possibly a skirt,
can you see a skirt in your mind's eye?

25 A. I can see, um, I can see laces. The
boots. Um, maybe it was a wrap, but something that
was around her legs. Maybe it was a long skirt or --

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Q. You anticipated my next question actually. Is it possible that what you remember as leggings were like these tall or these long lace-up Doc Martin style boots? You recall laces?

5

A. Laces. Like shoelace.

Q. Shoelace type of thing.

A. Yeah. Yeah.

Q. Anything about footwear?

A. Do I sorry?

10

Q. Do you recall anything about footwear?

A. There were black boots.

Q. So you remember a pair of boots.

A. Yes. Yes.

15

Q. Do you know what I mean when I say Doc Martin boots?

A. I think so, yeah.

Q. Some were shorter, some were longer.

A. Right. Right.

20

Q. But they're those Doc Martin boots that you can lace that have many eyelets in them and they come almost to the knee?

A. Right. Right.

Q. Or halfway to the thigh?

A. Mm-hm.

25

Q. Could that be why you came up with black

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leggings?

A. No. Um, I didn't see any boots coming up all the way up. All I remember was black leggings or black tight pants or -- it was just -- yeah.

5 Q. And you remember boots.

A. Yes.

Q. But you're a little sketchy on the skirt?

A. Yes. For some reason I see kind of something hanging down.

10 Q. Mm-hm.

A. But I can't say what that was. Maybe it was a sweater underneath that was long.

Q. You know how sometimes people will take their hoody and tie it around their waist?

15 A. Maybe. Right. Right.

Q. And then the sort of back of the hoody?

A. Right. It could have been that.

Q. Could have been that as well.

A. Yes.

20 Q. And you talked about a backpack?

A. Yes.

Q. Do you mean like a little one a kid would take to school or a big one one would go travelling with?

25 A. Um, it wasn't a small, um, say about

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medium size, um, but it was -- it was definitely a bag that was on her back.

Q. Okay. And just the last thing before we move on, the two guys?

5

A. Mm-hm.

Q. The well-dressed guys. I think you said they both had jeans on?

A. Yes.

10

Q. Do you remember the colour of their jeans?

A. Ah, I do remember blue.

Q. Okay.

A. One of them was wearing blue jeans.

Q. Mm-hm.

15

A. Maybe the other one was wearing a little bit more faded? But I do remember that they were wearing jeans.

Q. They were both wearing jeans.

A. Yes.

20

Q. One definitely blue and one more of a faded blue?

A. Perhaps.

Q. You're not sure about that.

A. No.

25

Q. Fair enough. Fair enough. So ten, maybe

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fifteen minutes go by, and these three emergency vehicles go by?

A. That's correct.

Q. Sirens blaring?

5 A. Mm-hm.

Q. And draws your attention so you go out front again.

A. Mm-hm.

Q. With a friend.

10 A. Yes.

Q. Or two friends.

A. Two friends.

Q. So Daniel and Jonathan.

A. Yes.

15 Q. And just for the record, Jonathan's last name is Leung. L-E --

A. U-N-G.

Q. And Daniel you have already told us is Park, but no relation to you.

20 A. Right.

Q. And this guy comes back, we've already heard a couple of things that was said. Just to nail it down, you've got the conversation starts because you see them coming from Queen and Niagara.

25 A. Mm-hm.

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Q. And you've seen emergency lights down by Queen and Niagara, right?

A. Yes.

Q. You're sure the streetcar was still stuck there --

A. Yes. It was stopped.

Q. -- by the time the emergency lights -- okay. And it's shortly after your attention is drawn and this guy is -- and his friends are coming eastbound on the south side.

A. Mm-hm.

Q. And they get to you and they start a conversation with you about how Asians are cooler than white people?

A. Yeah. Um, it was -- it was fairly odd. We were standing there, um...

Q. All three of you were Asian?

A. All three of us. Right. And we were looking towards Niagara and we were kind of talking about, well, maybe it was this altercation, and the two --

Q. That led to the emergency lights.

A. Right.

Q. Right.

A. We weren't 100 percent certain, but, um,

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the two male subjects started walking this way, and he just engaged in a conversation with us. He was saying, Oh, it's crazy man. Crazy. And then we asked him, Well, what's going on down there? He said, Well someone got stabbed. Um, and that's -- I don't know at what point he actually showed us his wounds but, um, um, the whole dialogue was about his wounds, how he was from the States and also how he had respect for Asian guys, ah, Because you guys have respect, man. You guys are -- respect, respect.

Q. In contrast to Caucasians.

A. Yeah. He said, um, he said, Yeah, that's why I don't like -- I don't like dealing with white people. White guys. They got no respect, ah, but you Asian guys have respect. I don't know what he meant by that but --

Q. Okay. Was there any kind -- this sort of slugging the Caucasians thing, does that have any connection to your conversation with what happened down the street? Did you get this -- was he suggesting that white guys did this? Or -- or the problem or the reason all the police or the emergency lights are flashing has got something to do with Caucasians? Or was it totally unrelated?

A. I can't remember.

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Q. Can't remember.

A. Yeah.

Q. And what we've got here is you've got a
fellow who has sort of two distinct messages that he
conveys once you say, What happened.

A. Mm-hm.

Q. He says, Somebody got stabbed.

A. Yes.

Q. I don't know if he pointed or gestured
toward the -- and then shortly thereafter he says, I
got stabbed.

A. Yeah.

Q. And from that -- so when he first said,
Somebody got stabbed, you didn't understand him to
be talking about himself.

A. No. Not at all.

Q. It was like, Somebody got stabbed, and so
did I.

A. Yeah.

Q. Okay. And then he sort of brushed it off
as though he's been stabbed 19 times and it's no
problem?

A. Yeah. Mm-hm. He said, I'm from the
States, um, I've been stabbed 19 times before. Ah,
it's no problem, man. You know.

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Q. Sort of a bravado tough guy --

A. Yeah. Yeah.

Q. And are you certain that he said he was from the States?

5 A. Yes.

Q. So is it possible he was saying he got stabbed 19 times when he was in the States?

A. No, he said that he was from the States.

10 Q. Or you could have -- could it have been he used to live in the States?

A. All I can remember was he said, I'm from the States, man. I've been stabbed 19 times. Because this is when we actually saw the wounds and we said, Hey, that looks pretty bad, it looks pretty serious. You should go to the hospital and check that out, and, um, that's when he said, No man, I'm from the States, I've been stabbed 19 times. No problem.

15 Q. So that was in response to, You should go to the hospital.

20 A. Yeah.

Q. Did you take from the implication that he was from the States and he didn't have health coverage here? Was that kind of the essence of the response? I can't go to the hospital?

25 A. No, it was more along the lines of, I

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really don't care. I'm cool. I'm good. I don't need to go to the hospital.

Q. But you couldn't detect any kind of an American accent on him.

5 A. No.

Q. Okay.

A. I don't know what an American accent would be, unless he is from the south or something.

10 Q. Fair enough. He was a larger fellow, little taller than you?

A. He was a little bit taller than me, yes.

Q. He had a larger build?

A. Um, yes.

Q. You're five eleven, he's maybe six feet?

15 A. Yeah, probably around six feet.

Q. Right. About 200 pounds?

A. 180, 200 pounds, yeah.

Q. Dark gray hoody with a zipper in the front.

20 A. Mm-hm.

Q. Now, dark gray can be plain or it can have a pattern. Do you --

A. I don't recall seeing a pattern. It was just gray. Like, the sweats kind of gray.

25 Q. Okay. Long sleeves to the hoody?

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A. Yes.

Q. Long shorts below the knee, and he had a baseball hat on.

A. Yes.

5 Q. Do you remember anything about the baseball hat?

A. Um, not at this time, no. I can't remember.

10 Q. You remember how sometimes truckers wear a baseball cap that's kind of two-toned? The front part is a different colour from the rest of it?

A. No, I'm pretty sure it was just one tone of colour. But it wasn't -- his visor part wasn't bent like -- it was kind of straight.

15 Q. It was straight.

A. It was just straight.

Q. So it wasn't a more fashionable type of baseball hat.

20 A. Well, that's the fashion on Queen Street. That it's just keep it straight.

Q. Oh I see. Okay.

A. Yeah.

Q. I'm about a generation behind. And he had light growth?

25 A. Yes.

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Q. Brown hair, and the hair kind of came out
the back of --

A. Yeah.

Q. -- his hat a little bit?

5 A. Mm-hm.

Q. All right. There was some security video
that was taken down at Queen and Niagara, in that
area?

A. Mm-hm.

10 Q. Kind of caught some of the aftermath and
some of the people that were milling around
afterwards, and I've got a 12 second section of it
teed up thanks to Ms. Fineberg here of the Crowns'
Office. And remember that, you know, in a fight a
15 hat can come off and stuff, but if you just have a
look at this guy and tell us if he looks at all
similar to the person who came up to you.

A. Okay.

20

---VIDEO PLAYING

THE WITNESS: Ah...

25

MR. SCARFE: Not yet. It's going to be

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about --

MR. THOMPSON: Hold it.

MR. SCARFE:

Q. 32:06. Do you see the time in the front
5 there?

A. Mm-hm.

---VIDEO PLAYING

10
MS. MIDDLEKAMP: Your Honour, my position is
counsel is showing the video to the witness
and the portion was shown before court and,
15 in my submission, he can't say to the witness
"Not yet." The video is playing and the
witness can observe the entire video and
comment on what is actually shown in court.

MR. SCARFE: Okay.

20 THE COURT: Well, I suppose he can with two
provisos. One is if the person who was
originally the first part of the video is the
one that counsel wishes the witness's
attention directed to, and it might not be.

25 MS. MIDDLEKAMP: Yes.

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THE COURT: And --

MS. MIDDLEKAMP: But it's my position to completely direct a witness away from something when it's already been shown to the witness, that's my objection.

MR. SCARFE: You know what? She's absolutely right. What happened here is I've asked -- it's very hard to get it teed up to the exact second, so I've asked Ms. Fineberg if she could tee it up to 31:54 or 56? 56. And go to 32:06 which is actually ten seconds, and as has been the case in this trial, we've often started the video a few minutes before. So I wasn't trying to direct the person away.

Q. And in fairness why don't we just pick it up from here, and you will see a number of individuals.

A. Okay.

Q. And I'm wondering if you recognize any of them.

---VIDEO PLAYING

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MR. SCARFE: Okay. That's great. For the
record, we have played from 31:45 to 32:11.

Q. Did you see anybody in there that at all
resembled the person that came back along Queen
Street with the puncture wounds to his chest?

A. I can't say for certain that that was the
person.

Q. Which person?

A. Um, the person behind this person here in
the greenish or bluish shirt.

Q. Okay. Just so we all can see, you've got
a person here with a hat and what appears I guess to
be a blue shirt, but you understand these cameras
sometimes --

A. Right.

Q. -- mess up the colour.

A. Right.

Q. And then just before that there's a
fellow who went out of view who had lifted his shirt
up and shown it to this fellow who is in the
foreground.

A. Right.

Q. Is it one of those two gentlemen you are
talking about?

A. Um...

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Q. We can play it again if you want.

A. Can you? One more time? I'd appreciate
it.

Q. Yeah. Starting at 31:44.

5

---VIDEO PLAYING

10

MR. SCARFE: Why don't we freeze it there.
Thank you. Again, to 32:10.

Q. The gentleman who had his back to the
right of the screen --

A. Mm-hm.

15

Q. -- and lifted up his shirt --

A. Mm-hm.

Q. -- and has slightly longer --

A. Right.

Q. -- hair?

20

A. Mm-hm. Um...

Q. Is it possible that he was the fellow who
you saw later with the injuries?

A. Yes, it's very possible.

Q. Okay.

25

A. Very, very possible. Um...

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Q. I know it's hard because of the quality of the video.

A. Yeah.

Q. But do you see anything inconsistent with what you recall?

A. Um, he's not wearing the gray hoody --

Q. Mm-hm.

A. -- that I recall, and he isn't wearing a hat. Um...

Q. Beyond that? What about the face? The hairstyle?

A. It's just so unclear. I can't -- I can't say for certain that that's him, but --

Q. Fair enough. Thank you. Thank you, Ms. Fineberg.

The gentleman who had the puncture wounds had tattoos somewhere on his upper body?

A. Somewhere, and also a tattoo on his calf.

Q. Mm-hm.

A. The left side.

Q. Did you see any tattoos going up his neck? Do you have a sense for which side of the body?

A. He was towards the left of me this way and that's why I saw his -- his tattoo on his calf.

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I can't say that I saw a tattoo on his neck.

Q. And as far as tattoos, when he lifted his shirt you saw a tattoo somewhere on his upper body but you can't say where?

5 A. Yeah, I didn't see the whole tattoo but there were little bits kind of that I could -- that was visible.

Q. He definitely had some tattoos.

A. I'm pretty sure of that.

10 Q. Okay. Thank you. Those are my questions.

THE COURT: Re-examination?

MS. MIDDLEKAMP: Brief indulgence, Your Honour.

15

---RE-EXAMINATION BY MS. MIDDLEKAMP:

MS. MIDDLEKAMP:

20 Q. I'm just going to ask you some questions in re-examination about the video that my friend just showed to you. I believe your answer when viewing the video was it was possible that one of the gentlemen was the gentleman that you spoke to later, correct?

A. Mm-hm.

25 Q. And you, in examination in-chief and in

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cross-examination, described this gentleman that you saw when you were speaking to him on the south side of the street outside your restaurant after everything had happened, correct?

5 A. Mm-hm. Correct.

Q. You described the gentleman as having a baseball hat on?

A. Yes.

Q. You described him as having a gray hoody?

10 A. Yes.

Q. You described him as wearing gray shorts that were, ah, above the -- or just below the knee I believe?

A. Yes.

15 Q. And you also described the tattoos that he had, correct?

A. Yes.

20 Q. When you're saying that it's possible that the individual in the video was the one that you spoke to, what similarities are there other than -- what similarities are there?

A. Um, I guess it would be his shorts, um, the growth on his face, a little bit of growth, um...

25 Q. Is this picture clear?

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A. And the fact that I also saw him do this.

Q. So the fact that you saw the person on the video lift up their shirt?

A. Right.

5

Q. Even though it wasn't the same shirt that you described earlier, is leading you to that conclusion that it's possible?

A. Yes, it is.

10

Q. But you do agree, or you made some observations that were not similar, correct?

A. Correct.

Q. The gentleman is not wearing the sweater that you described?

A. Correct.

15

MR. SCARFE: We're getting a little close to cross-examination here, Your Honour.

THE COURT: Thank you.

MS. MIDDLEKAMP: Okay.

20

Q. You did describe some of the dissimilarities that you saw, correct?

A. Correct.

Q. And can you just comment on the clarity of the video and whether or not that has any impact on your ability to make that observation?

25

A. Um, I think the clarity of the video, um,

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does -- I guess the quality of it does kind of --
it's making it a little bit difficult to make a
positive identification or...

5 Q. I'm just going to ask if we can replay
that video for you at this point. I believe that we
started around 31:44.

10 ---VIDEO PLAYING

15 MS. MIDDLEKAMP: I'm just going to ask you to
actually back up the video a little bit
further. We'll just play the video from here.
31:55, for the record. We are just playing
the video at 32:22.

20 Q. I'm just going to ask you if you see
anyone else in that video that possibly could be the
person.

25 A. Um, during the -- during the video, I
noticed a tattoo on the gentleman on the left-hand
side who is pulling up his shirt. I noticed a tattoo
on his calf, the left side. Um, I -- I'm certain
that that was the tattoo that I saw. Perhaps this
gentleman here beside him was the one who was with

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him when they were walking back up. Um, but that
tattoo was -- I'm pretty certain that was the tattoo
that I saw.

Q. I don't have any other questions in
re-examination. Thank you.

THE COURT: Thank you, sir. You may step
down.

MS. MIDDLEKAMP: Your Honour, the next
witness for the Crown is Wossen Hailmeraian.

THE REGISTRAR: Sorry? The name?

MS. MIDDLEKAMP: Wossen Hailmeraian, please.

---WOSSEN HAILMERAIAN: SWORN

---EXAMINATION IN-CHIEF BY MS. MIDDLEKAMP:

MS. MIDDLEKAMP:

Q. Can I ask you if you can speak loudly,
Mr. Hailmeraian, just so everyone in the courtroom
can hear your evidence, okay?

A. Okay.

Q. Now, I understand that back in August of
2007, that you were driving a taxi?

A. Yes, ma'am.

Q. Okay. And you were also involved with an
art gallery at that point in time as well, is that

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correct?

A. Yes.

Q. And which company were you driving taxis
for?

5 A. Beck.

Q. I just want to take your mind back to a
specific evening. August 8, 2007 into the early
morning hours of August 9, 2007. I'm going to ask
you some questions about that. Were you driving a
10 taxi that evening?

A. Yes.

Q. And where were you driving?

A. All over the city.

15 Q. Okay. At some point do you find yourself
in the area of Queen West in Toronto?

A. Yes, ma'am.

Q. And when you were driving in the area of
Queen West in Toronto, did you have a customer in
the car with you?

20 A. Yes.

Q. And did you -- did something happen while
you were driving on Queen West that you saw?

A. Yes.

Q. Which direction were you driving in?

25 A. I'm heading from east to west.

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Q. And what did you see?

A. People fighting on the street.

Q. Okay. And do you recall what brought your attention to that?

5 A. The fight.

Q. Okay. And you're driving westbound. Which side of you is the fight on?

A. On the right side. Northbound. North side.

10 Q. So there's fighting on the street on the north side?

A. Yes, ma'am.

Q. And where are the people fighting?

A. Pardon?

15 Q. You talked about the street, but can you be a little bit more specific as to exactly where they were fighting?

A. On the walkway of the -- on the walkway.

Q. Are you referring to the sidewalk?

20 A. Yeah.

Q. And does the fight come into the street?

A. Yes.

25 Q. Okay. Was there anything structurally close to them that you could describe as to where the fight was happening? Do you recall that?

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A. I don't understand your question. Can you repeat? Or --

Q. Yes, I will. Was there anything that you noticed on the street or on the sidewalk that the people were fighting near?

A. The stores. Ah...

Q. Okay.

A. Just on Queen Street.

Q. What about any street lighting?

A. Yeah. There is a streetlight.

Q. Okay. And was the fight anywhere near the streetlight?

A. You mean a pole?

Q. Yes.

A. Yes, I believe so.

Q. So what you've told us is there's fighting that's on the sidewalk and into the street, and it's near the lighting pole, correct?

A. Yes.

Q. And can you tell us, you've described that you saw the fighting, but what exactly do you see?

A. A fight.

Q. Okay. And did you get any idea of how many people were in the fight?

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A. Three or four people.

Q. Okay. And are you able to tell us whether they were male or female or what the numbers were?

A. There is a female too, the rest is male.

5 Q. So there's one female?

A. Yeah.

Q. Okay. And how many male?

A. The male, I don't know. Maybe they, ah, try to help or they fight. I have a problem to say.

10 I see about three of them.

Q. Okay.

A. They help or fight, I don't know.

Q. So you say that you saw one female and three males, correct?

15 A. Yes.

Q. That's what you've told us? All right. Is one person being beaten by the other people?

A. Yes.

20 Q. Tell us about that. Where is this one person? Is this a male?

A. It's a male, yeah. First they are on the top of him on the side street. I don't know how he manage, then cab come and stand -- he try my doors and he try to get in in my car. At that time I have a customer and the doors automatically lock. He's

25

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not successful to get in in my car.

Q. Okay. So I'm just going to stop you there. You said that there is a guy and they are on top of him. Where is this guy that you described?

5 A. The guy, he used to be on the ground.

Q. Okay. So the guy is on the ground?

A. Then he manage coming up and getting in the street.

10 Q. Okay. I'm just going to break that down a little bit more. You're saying there's a guy on the ground. What are the other people doing when the guy is on the ground?

A. Hitting.

Q. And how are they hitting him?

15 A. By, you know, what I see is they hit him by foot.

Q. Okay. Hit with their foot. Any other body parts being used to hit this guy? For example, their arms?

20 A. I don't know. I don't -- because I'm in the car. What I see is on the side, ah, on the street when they fight.

Q. And can you tell us, you've described one female. What is the female doing?

25 A. She's a part of the fight.

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Q. Focusing on this female that you've told us about, do you recall what the colour was of her skin?

A. White.

5 Q. Were you able to see the clothing that she was wearing?

A. Pardon?

Q. Did you see the clothing that she was wearing?

10 A. Black.

Q. And what kind of clothing was it?

A. What kind?

Q. For example, pants? Skirt? Shorts?

15 A. Yeah, it's pants, and it's black. Yeah. Full black.

Q. You described it as full black. Did you describe it in any other way? Do you recall what the clothing was exactly?

20 A. It's not the skirt, it's a black, like, jeans and a black jacket.

Q. Okay. Do you recall giving an interview to the officers back on September 10, 2007? Do you recall going into the police station and giving them a statement?

25 A. Yes.

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Q. And were the events more fresh in your mind at that point than they are now a long time later? Did you recall the events? Were they fresh in your mind when you gave your statement in
5 September of 2007?

A. Yeah, I recalled.

Q. Your Honour, I'm going to ask to refer the witness to a particular portion of his statement with respect to the question that was just asked of
10 the witness.

THE COURT: Mr. Simpson?

MS. SIMPSON: I have no objection.

THE COURT: There is no objection. Go ahead.

MS. MIDDLEKAMP: Thank you.

Q. I'm going to play a portion of your video for you and then I'm going to ask you regarding what the woman was wearing.
15

A. Okay.

Q. Now, if you watch the screen that's just now before you, your video will be on there. Just for the record, Your Honour, we are starting the video at 16:07, or 14:15, sorry, on the clock on the upper left-hand corner of the video. And Your Honour, for my friend's reference the transcription
20 is page 21.
25

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---VIDEO PLAYING

5

MS. MIDDLEKAMP: And just for the record,
Your Honour, we're pausing the video at 14:15
and 35 seconds.

10

Q. Mr. Hailmeraian, I'm just going to ask
you, with respect to the clothing that the woman was
wearing in the fight, does that assist to refresh
your memory as to exactly what she was wearing?

A. Black.

15

Q. Okay? And anything further in terms of
the type? What it was?

A. What do you mean by "type"? Can you
explain for me?

Q. If you can be more specific in describing

--

20

A. It, like, black suit. It's a black --
there is people, it's a group of people wear black.

Q. In terms of whether it was a shirt, or a
jacket, or pants, does the --

25

A. A shirt, black -- yeah. Black, ah, it was
a light jacket or a shirt.

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Q. What about on the bottom of her half?

A. What do you mean by "the bottom of her half"? I don't understand.

Q. Just a brief indulgence, Your Honour.

5 Now, I just played your video for you. Were you able to hear the audio on your tape? Were you able to hear what you said on your video?

A. Not really.

Q. No?

10 A. Yeah.

Q. Okay. We're just starting the video again at 14:15 and we're going to play it through, and I'm going to ask you after we play it if you're able to hear what you're saying on the video, okay?

15 A. Okay.

---VIDEO PLAYING

20

MS. MIDDLEKAMP:

Q. Does that help you -- first of all, were you able to hear what was on your tape?

A. Yeah, what I hear is black black.

25 Q. Okay. And what, the specific clothing,

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what was it? Did listening to your tape help you
remember exactly what type of clothing it was?
You've described it as black. Does it help you with
the specific type of clothing?

5 A. I can't hear it still.

 Q. Okay. We're just going the play that for
you as well again.

 A. Yeah, there is a static and even I don't
hear my voice.

10 Q. Okay. We're going to start the video
again at 14:15.

15 ---VIDEO PLAYING

 MS. MIDDLEKAMP:

 Q. Did you hear what you said there?

 A. Yeah. Black.

20 Q. Okay. We're just going to continue on.
we are at 14:15:08.

25 ---VIDEO PLAYING

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MS. MIDDLEKAMP:

Q. Did you hear?

A. No. Can you rewind that please?

5

Q. Okay. Just draw it back.

---VIDEO PLAYING

10

THE WITNESS: Yeah. Black dress.

MS. MIDDLEKAMP:

Q. And what does that mean to you when you
say --

15

A. Like, there is people wear black. I don't
know the term. I don't know how to explain that.
It's like a punk, you know, group of people, they as
a fashion, they wear black.

Q. Okay. And did you just say punk?

20

A. Yeah.

Q. Okay. So you felt that it had the punk
style fashion? Is that right?

A. Yes.

25

Q. Now, you talked about there being a guy
who was on the ground. Do you remember talking about

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that?

A. Yes.

Q. And at some point you talked about
somehow this gentleman was able to get up --

5 A. Yes.

Q. -- off the ground, right? Okay. Before
he gets up off the ground, did you do anything to
try to distract the fight?

10 A. Yeah. Um, I -- I put on the lot of times
the horn, you know, to distract this people
fighting. Just they fight anyhow.

Q. And when you put on the horn to try to
distract the people fighting, did that stop them
from fighting?

15 A. No.

Q. So you see at some point the gentleman
gets up off the ground?

A. Yeah.

20 Q. And where are the other people when he
gets up off the ground? The other people who are
involved in the fight?

A. Yeah. People are scattered all over.

Q. And once the gentleman is up off the
ground, what does he do?

25 A. He tried to getting in my car.

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Q. Where does he contact your car?

A. Try to open the door and he's standing front of my car, too. In front of the hood, too. The front hood.

5 Q. So you said he stood in front of your car?

A. Yes.

Q. Is that the first thing he does? Is that before he tries the door?

10 A. Yeah.

Q. Does he -- is he on the hood of your car at any point?

A. Pardon?

15 Q. Is he on top of the hood of your car at any point?

A. Yeah. He, ah, stop the car.

20 Q. And I'm just going to describe for the record the motion that you made with your hands right now. You put your palms down on the surface and your hands out in front of you. Is that what you just did?

A. The guy with the knife, too.

25 Q. Okay. Your Honour, I'm just going to -- I'm going to ask counsel to agree that I described his gesture accurately for the record.

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MS. SIMPSON: That is what I saw. Thank you,
Your Honour.

THE COURT: Thank you.

MS. MIDDLEKAMP: I will continue on.

5 Q. You said a "guy with a knife, too." Is
that the same gentleman that came up to the hood of
your car?

A. Yes.

Q. When do you notice the knife?

10 A. In front of my car.

Q. Did you see it before the gentleman was
in the front of your car?

A. Before? No. Before he came to my car you
mean?

15 Q. Yes.

A. No.

Q. Okay. Where is the knife that you see?

A. In his hand.

Q. Do you remember which hand?

20 A. I believe it's the right hand.

Q. Which portion of the knife do you see?

A. The metal.

Q. Okay. Does that refer to the blade
portion of the knife?

25 A. Yes.

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Q. How big was the knife?

A. It's a short.

Q. I'm just going to describe the action
that you just made with your hand. You had your hand
5 facing away from you and your thumb out and your
fingers outstretched. When you say "short", can you
give us an idea of what you mean?

A. Yeah, there is big knife, like, there is
a short knife. This knife is short.

10 Q. So the gentleman is in front of your car
and you see the knife in his hand, correct?

A. Yes.

Q. What's the next thing that happens?

15 A. Come in the side of my, ah, car and, um,
he try to get in the car. He needs a taxi what I
believe, and/or he needs to run out from that area,
and he's not successful in my car because the door
is locked.

20 Q. Which -- which doors on your car did he
try to get in? Which side of the car?

A. Now is on, ah, the left side of the car.

Q. So the driver's side?

A. Yeah.

25 Q. And what about your window? Can you tell
us if it was open or --

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A. Ah, up.

Q. Window was closed?

A. Yes.

Q. As this gentleman is coming up to your
5 car, is he saying anything to you?

A. I can't hear. I'm inside the car and my
window is up.

Q. He tries the doors on your car on the
10 driver's side, correct? And he's unable to get into
your vehicle.

A. Yes.

Q. What happens after that?

A. What happen is there is another taxi come
15 behind me, then his window is open. This gentleman
is getting in front of the other car window.

Q. Okay. Now, I'm just going to ask you if
you can go into a bit more detail on that. He was
trying to get into the driver's side of your car,
correct?

20 A. Yeah.

Q. Okay. You're travelling westbound down on
Queen Street?

A. Yes.

Q. And you said there's another cab that's
25 beside you?

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A. Pardon?

Q. He's trying to get into the window? The
guy's trying to get into the window?

A. I don't understand you, your question.

5 Q. You said another taxi came behind you?

A. Yeah. The taxi, to try to pass -- he came
behind us. This man, he getting inside the -- the
window of the other car.

10 Q. Which side of your car does this other
taxi come on?

A. From my back come from to the left side.

Q. So the taxi --

A. To was -- actually the taxi tried to pass
me.

15 Q. Pass you on your left side, correct?

A. Yes.

Q. And --

A. Heading west.

20 Q. You observed that the window was open on
that taxi?

A. Because this gentleman is in.

Q. And how far is he in the window?

A. Hm-mm?

Q. How far is the gentleman in the window?

25 A. I believe he's full, because this person

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is in and drag by that taxi.

Q. So you just said the person was dragged by the taxi?

A. Yeah.

5

Q. So how much of his body was inside the window then if he was being dragged by the taxi?

A. Well, almost I believe from here.

Q. Okay. And when you're saying "here", you're just pointing to your --

10

A. Yeah, that's what he show me. Yeah.

Q. And you said that the cab dragged this man down Queen Street.

A. Yeah.

15

Q. What do you do when you see the gentleman coming into the window of the cab that came from behind you and they're going down Queen Street? What do you do?

A. We follow and we go, and my customer speak with the police on the phone, and just we try, ah...

20

Q. So you're aware that your customer has called the police?

A. Yeah.

Q. You're following behind the cab?

25

A. Yeah. Because my customer explain things

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to the police.

Q. At some point, does this gentleman come off of the cab that's dragging him?

A. Yeah. It's right coming, and when we stop near the church, this person sit on the stairs and stand up and fell down.

Q. Do you see the person that was dragged by the cab go to the church?

A. Yeah.

Q. Okay. And how does he do that? Is he walking or --

A. Yeah, I think he's fell -- when we follow, the person sit in the stairs in the -- the church, and my customer explaining this things for police, and this gentleman, he stand up and fell down.

Q. And what does he -- does he fall onto the sidewalk or the stairs? Where does he fall down?

A. In front of the church. The sidewalk.

Q. I want to ask you at this point if you can describe the gentleman that you saw with the knife. Do you remember the colour of his skin?

A. Yes.

Q. And what colour was his skin?

A. White.