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ATTORNEY PODRAZA: The defense calls Mark Ivie,
Jr. to the stand.

THE COURT: All right.

ATTORNEY PODRAZA: And Mark, when you reach the
evidence -- I mean the -- the stand for testimony, you
can remove your mask.

MARK A. IVIE, JR.,
called as a witness, being duly sworn or affirmed, was
examined and testified as follows:

ATTORNEY ANDERSON: Your Honor, I'd like to
come up and remove Exhibit 15 and 16 back.

THE COURT: Yeah, I think that --

1 ATTORNEY PODRAZA: Just stand there, Mark.

2 ATTORNEY ANDERSON: You got it?

3 DETECTIVE QUINN: Yep.

4 DIRECT EXAMINATION

5 BY ATTORNEY PODRAZA:

6 Q. Good afternoon.

7 A. Good afternoon.

8 Q. Would you mind saying your name for the record,
9 please?

10 A. Yeah. It's Mark Allen Ivie, Jr.

11 Q. How are you doing today, Mark?

12 A. I'm doing okay.

13 Q. Where are you from?

14 A. Originally I'm from Utah.

15 Q. And when did you move to PA?

16 A. 2013 I'd say.

17 Q. Did you go to school around here? Tell me
18 about that.

19 A. Yeah, so I -- I started out in Manheim. I did
20 up till my senior year there. I came over to Ephrata in
21 my senior year.

22 Q. Okay.

23 A. I started there. They ended up switching me
24 over to Washington due to my credits, cause at Manheim
25 they have higher credits than Ephrata, Manheim required

1 28 to graduate, Ephrata they required 24.

2 So I had 23 at the time. I just needed one
3 English credit. So they transferred me over to
4 Washington so I could get that and be done with high
5 school.

6 Q. After school what did you do for employment?

7 A. At that time I was working at UPS.

8 Q. Okay. And what would you like to do as a
9 career generally?

10 A. I was -- before all this happened I was
11 actually studying to get my CDL, but with COVID the DMV
12 gets closed down so all of that got postponed.

13 Q. Where do you live?

14 A. I live in Ephrata currently.

15 Q. Okay. Who do you live with?

16 A. I live with my dad, my stepmom and my brother.

17 Q. Okay. And what's the address for that?

18 A. It's 6 Blackberry Lane.

19 Q. Okay. Do you recall the events of July 4th,
20 2020?

21 A. Yes, I recall.

22 Q. What do you recall about how that day started?

23 A. Well, it was nothing special. I was just kind
24 of laying in bed watching Netflix in the morning. I let
25 my dog out so she could use the restroom. I know I

1 smoked a cigarette while I was out there. I came back
2 inside, just watching NetFlix pretty much.

3 Q. Okay. How did the day progress? What did you
4 do?

5 A. Well, later on in the day my dad and my
6 stepmom, they got home. They were out running around,
7 getting stuff.

8 I know while they were out running around they
9 bought the patio set that I mentioned. They -- my dad
10 asked me to help him get it out of the truck and bring
11 it in the back so I could help him set it up.

12 Q. And what happened after that?

13 A. Well, after that, I mean, it was me, my mom and
14 my dad. We were all just hanging out, drinking in the
15 pool waiting for the food to cook at this point.

16 Q. What were you cooking that day?

17 A. My dad was making a brisket.

18 Q. How were you -- how would you describe the day
19 up until that point?

20 A. I would say it was pretty good.

21 Q. Okay. What -- what happened as the day
22 progressed into night?

23 A. Well, as the day progressed into night my
24 sister and her boyfriend ended up coming home. This was
25 probably around 5 in the afternoon.

1 We were all swimming in the pool. We were
2 drinking. We were waiting for the food to be done.
3 That ended up being around 6 or 7. We ate, and then we
4 kind of just hung out and talked as a family. We --

5 Q. And then what happened?

6 A. Well, as soon as it got dark out I know we went
7 out front and we started lighting fireworks. As -- as
8 we were doing this I know my neighbor, she came over
9 with her grandson so they could watch fireworks with us.

10 Q. And, now, do you use social media a lot?

11 A. Yeah, I use it.

12 Q. What kind of platforms do you use?

13 A. Instagram, Snapchat, Facebook.

14 Q. Would you say that's pretty common for someone
15 your age?

16 A. Yeah, I would say it's pretty common.

17 Q. Okay. Now, how do you know Randy Brandt?

18 A. I used to work with him at a car wash.

19 Q. Does -- what do you know about Randy Brandt, at
20 least in the time that you knew him?

21 A. From what I picked up is what he was telling
22 me. He was someone that was trying to pursue rap. He
23 told a lot of stories; I don't know how correct they
24 were. He never -- he told me stories of him rolling
25 with the crew, hanging with his boys, selling drugs,

1 using drugs.

2 ATTORNEY ANDERSON: Objection, Your Honor.

3 THE COURT: Sustained.

4 ATTORNEY PODRAZA: What --

5 ATTORNEY ANDERSON: I -- I would move that that
6 be stricken from the record.

7 THE COURT: Mr. Podraza, your response?

8 ATTORNEY PODRAZA: Your Honor, that -- that can
9 be stricken, that part.

10 THE COURT: Members of the jury, that will be
11 stricken from the record. It will not be considered in
12 your deliberations.

13 BY ATTORNEY PODRAZA:

14 Q. What -- what did you know -- did you have any
15 encounters with him that night?

16 A. That night, yes.

17 Q. Okay. And what -- how did you have an
18 encounter?

19 A. He posted a video on his Snapchat. I was
20 drunk. It was late at night. I was scrolling through
21 Snapchat, I see the video and he said -- he said, let me
22 know what you think.

23 I was drunk, not thinking too much of it. I
24 made a snide comment.

25 Q. What was on -- what was on the -- the video

1 that you saw?

2 A. It was a video of Randy rapping.

3 Q. Okay. And what -- what would you describe that
4 video as? What con -- what was the content of the rap?

5 A. I would say what you describe normal rap is,
6 the majority of it, at least; gangs, violence, drugs.

7 Q. Okay. Now, how did it proceed after that?

8 A. I know he wasn't too happy with what I said so
9 he started calling me names. I called him some in
10 return.

11 Q. And were you only talking to Randy at this
12 point?

13 A. At this point, yes.

14 Q. Okay. What happened after that?

15 A. After that, it -- we just kept going back and
16 forth, and then I finally ended up sending him my
17 address.

18 So after that I -- I thought it was just
19 something stupid on the internet. At this point
20 I didn't really -- if I knew he was gonna come to my
21 house I wouldn't have sent him my address.

22 Q. Did you have any contact with anybody other
23 than Randy?

24 A. Yeah. So after I sent Randy my address his
25 friend Josh added me on Snapchat and told me he was

1 gonna come to my house and inflict violence on me.

2 Q. Did you know any of these other people?

3 A. No, I did not at this time.

4 Q. Okay. What did -- what did you tell your dad
5 about this?

6 A. I told my dad that potentially two guys were
7 gonna come to the house, I don't know exactly what their
8 intentions are gonna do, but it's obviously not good.

9 Q. Were you surprised that they were -- that they
10 were coming?

11 A. Yeah, I was quite shocked. I didn't -- well,
12 yeah. I was shocked when Josh went out of his way to
13 add me on Snap just to inform me that he was going to do
14 this.

15 Q. How did you feel about that?

16 A. I was nervous, which is why I went and told my
17 dad, asked him for help.

18 Q. What did you think was gonna happen next?

19 A. Maybe -- I'm not sure, but maybe they're just
20 doing this to scare me.

21 Q. Okay. Then what happened?

22 A. Me and my father, we waited outside to see if
23 they would come, and it ended up they did.

24 Q. Okay. Now, when they arrived at their -- at
25 your home, how many people were there?

1 A. There were six of 'em.

2 Q. Okay. Were they men or women?

3 A. All men.

4 Q. How did they -- how old did they appear to be?

5 A. Around my age to mid-20s.

6 Q. Can you describe when you saw them their
7 appearance or mannerisms?

8 A. They were walking in a crowd very fast. They
9 immediately all started yelling, all started cussing.

10 Q. What did you think at this point?

11 A. I was scared. I wasn't expecting six men to
12 show up at my house.

13 Q. Okay. Did you end up fighting Randy?

14 A. No.

15 Q. What ended up happening?

16 A. His friend Josh -- cause we were all just
17 throwing arguments back and forth at this point.

18 His friend Josh was in my face. He was -- he
19 got so close to the point where he -- spit was basically
20 coming out of his mouth slapping me in the face.

21 So I pushed him back to make some space between
22 us because I was very uncomfortable.

23 Q. What happened next?

24 A. He swung on me, and we ended up rumb -- not
25 rumbling, like, tussling, grabbing each other, wrestling

1 really at that point. We ended up going to the ground.
2 He ended up over the top of me.

3 Q. Okay. What happened when he was over top of
4 you?

5 A. He hit me so many times.

6 Q. Okay. Where did he hit you?

7 A. In the face, in the body, everywhere.

8 Q. I'm going to show you a video.

9 You're familiar with the video in this case?

10 A. Yes.

11 Q. Can you see on that screen?

12 A. Yes, I can.

13 Q. What do you recognize in this first screen
14 right here?

15 A. I can see my house across the street.

16 Q. This -- what do you believe this perspective to
17 be from?

18 A. From my neighbors' house. I can clearly tell
19 where it was from.

20 Q. Now, I'm gonna play the video. You've seen
21 this before during the Commonwealth's case.

22 What do you see happening at 3745? Just give
23 it a pause. Tell me the first thing you see when --

24 A. I believe I see a group of men heading towards
25 my house.

1 Q. Play it full screen.

2 And I'm gonna zoom at this point.

3 So can you describe what's happening at this
4 point?

5 A. At this point they approach. They were making
6 threats on my father, telling him -- like, not really --
7 like, you won't shoot me, come on, shoot me, saying
8 stuff like that towards him.

9 Immediately calling me mean names, him names,
10 making threats.

11 Q. And who is that on the lawn up there?

12 A. That's my father.

13 Q. Now, when these men are talking to you, how are
14 they positioned?

15 A. All around us, just moving around. They didn't
16 stay in one exact spot.

17 Q. Is that consistent with what they were doing
18 throughout your encounter with them?

19 A. Yes.

20 Q. So what's happening now?

21 A. At that point, that was when I pushed Devon
22 back and he hit me.

23 Q. So now what's your understanding of what's
24 going on?

25 A. I'm on the ground getting pummeled.

1 Q. Who is doing that?

2 A. Devon, I believe.

3 Q. Did you know him at the time?

4 A. No.

5 Q. Were you trying to fight back in this moment?

6 A. No, I was trying to protect my face.

7 Q. Was the face the only place that you had been
8 hit?

9 A. No, but that was -- my main priority was to
10 protect that.

11 Q. Now, what's happening now?

12 A. I leave. I stood back up at this point and
13 then arguments were thrown.

14 Q. Were you trying to fight at any point at that
15 time?

16 A. No, I was not.

17 I may have been speaking some unkind words, but
18 I was not making any aggressive mannerisms. I wasn't
19 doing anything like that.

20 Q. What were you feeling at this point?

21 A. I was shocked that I got beat up, a foggy head.

22 Q. What do you think the other guys were doing at
23 this moment?

24 A. Circling, pressing, making threats still.

25 Q. And after you got up from the ground, was

1 that -- what happened after that?

2 A. I know I was hit again.

3 Q. I'm going to pause it just for a moment.

4 Now, when you were interviewed by detectives,
5 they chronicled some of your injuries; is that correct?

6 A. Yeah, that's correct.

7 Q. And some of those were previously entered into
8 evidence.

9 I'm gonna show some photos. Do you recognize
10 these photos?

11 A. Yes, I do.

12 Q. What do you recognize them to be?

13 A. Scrapes on my back.

14 Q. Okay. When were these taken, to your
15 knowledge?

16 A. Those were taken, I believe, after I gave my
17 statement to the police.

18 Q. Okay. And that would have been when we were
19 watching the interview, around that time?

20 A. Yeah, after that occurred.

21 Q. Okay. And where did these injuries come from?

22 A. Those resulted when I was on the ground and
23 Devon was over top of me. I was -- every time he hit me
24 my back was just grinding against the asphalt.

25 Q. Were you wearing a shirt at the time?

1 A. No.

2 ATTORNEY PODRAZA: Request to enter Defense
3 Exhibit 3 into evidence.

4 It needs to be marked.

5 THE COURT: Are there two photographs?

6 ATTORNEY PODRAZA: Two photographs, I believe.

7 THE COURT: Collectively as 3?

8 ATTORNEY PODRAZA: Yes.

9 THE COURT: Is there any objection?

10 ATTORNEY ANDERSON: I have no objection, Your
11 Honor.

12 THE COURT: All right. Defense Exhibit 3 will
13 be admitted into evidence.

14 ATTORNEY PODRAZA: Permission to publish to the
15 jury?

16 THE COURT: You may.

17 (Defendant's Exhibit No. 3 was marked.)

18 ATTORNEY PODRAZA: I'll just hold these.

19 BY ATTORNEY PODRAZA:

20 Q. Had you ever experienced anything like this
21 before?

22 A. No, never in my life.

23 Q. And just so we're clear, what time of night was
24 this?

25 A. I believe 1 in the morning, sometime around

1 there.

2 Q. So I'm gonna play the video again, but as I
3 start -- this is -- this is where we left off.

4 At this time you had been struck; is that
5 correct?

6 A. Yes.

7 Q. Okay. Do you know who this individual is?

8 A. The far right? I -- I can't tell you.

9 Q. Okay. Did you believe him to be one of the six
10 men that came to your house that night?

11 A. Yes.

12 Q. Did you -- were -- where is he in relation to
13 you in this video?

14 A. I -- I think I'm more towards the sidewalk. I
15 can't quite see.

16 Q. Okay. And where are these gentlemen in
17 relation to you?

18 A. Probably to the right of me at the time.

19 Q. Okay. I'm gonna play it.

20 And again, is this consistent with what you
21 experienced that night?

22 A. Yes.

23 Q. Now put it in full screen.

24 Now, what has just happened is you've received
25 the firearm; is that correct?

1 A. Yes, that's correct.

2 Q. And you're discharging the firearm; is that
3 correct?

4 A. Yes.

5 Q. Why did you do that?

6 A. I was scared. I thought this was the only
7 option I had to make these men leave.

8 Q. Why did you think it was the only option you
9 had?

10 A. Because they were continuing to verbally
11 assault me. They -- after I was beat up, I was then hit
12 more -- two more times. Various threats were made by
13 different people.

14 Q. And did you feel like you could get out of that
15 situation?

16 A. No, I couldn't.

17 Q. What did you think would happen if you tried to
18 get out of that situation?

19 A. If I tried to walk away, I couldn't leave my
20 father there by himself. It's --

21 Q. At the end of the day, did you want anybody to
22 get hurt out of this situation?

23 A. No.

24 Q. When you sent those messages back to Randy at
25 that time, did you ever think something like this would

1 | happen?

2 | A. No, I didn't think this would result.

3 | Q. Yet why did you fire?

4 | A. I was scared, and I didn't think I had another
5 | option. I thought that was -- in the moment these men
6 | were just vicious. They wouldn't stop.

7 | Q. And what did -- what did you think would happen
8 | if you didn't fire?

9 | A. That they were gonna continue to beat me and my
10 | father down until it wasn't capable -- capable for us to
11 | move or to do anything at that point.

12 | Q. What told you they weren't going to leave after
13 | they beat you up?

14 | A. Cause I was struck two more times. They --
15 | they were like, you're not done yet, this isn't over,
16 | you still got more coming, stuff like that.

17 | Q. And what told you that from what you just
18 | reviewed?

19 | A. Them not even thinking about walking away after
20 | I was clearly beat up.

21 | Q. Okay. Now, how did you feel?

22 | A. Terrified.

23 | Q. Okay. How did you feel physically?

24 | A. Physically, my head was hurting, I wasn't -- I
25 | wasn't capable of continuing to fight.

1 Q. Now, after this all happened did you chase any
2 of these guys down?

3 A. No, I didn't.

4 Q. I'm gonna play the video again.

5 As you're firing, I -- what happens at this
6 point?

7 A. At this point I stopped firing. I believe my
8 dad was still fighting with one of the men.

9 Q. Okay. This would be, in this general area, one
10 of the men that came to your house that night, correct?

11 A. Yes.

12 Q. And you still have the firearm in your hand?

13 A. That's correct.

14 Q. Okay. Did -- what did you do in that
15 situation?

16 A. I kind of just waited for it to be over. I
17 don't know. I wasn't --

18 Q. Now, when the police arrived what did you do?

19 A. I did exactly as they asked.

20 Q. Okay. And why was that important to you?

21 A. Cause this incident apparently was not
22 something I expected or planned. It was -- I needed the
23 police to know that I'm not some other criminal that did
24 this on purpose.

25 Q. Were you hiding when the police came?

1 A. No.

2 Q. Okay. In your interview with police you might
3 have said that your -- your dad dropped the gun.
4 was that what happened?

5 A. No.

6 Q. Okay. why do you think you might have said
7 that?

8 A. Everything happened so fast. My memory might
9 have been lapsed. I might have misjudged that.

10 Q. Okay. Now, granted, you regret that people
11 were hurt in this situation, but why did you shoot?

12 A. Because they wouldn't leave and they continued
13 the violence.

14 Q. Okay. And what had happened to you that made
15 you believe that you had to do that?

16 A. I was beat up. I was hit more times. I was --
17 they were circling me like sharks. They wouldn't leave.
18 They wouldn't back down. They wouldn't do any of this.

19 My father was telling them to leave, telling
20 them to -- they wouldn't. They wouldn't.

21 Q. And if you didn't do what you did, what do --
22 what do you think could happen to you?

23 A. Potentially me and my father getting killed.

24 Q. Do you believe, if you were confronted with the
25 same circumstances, you would have made the same

1 decision again when you chose to fire?

2 A. Yes, if it was the same circumstances. Yes.

3 ATTORNEY PODRAZA: No further questions.

4 THE COURT: Cross-examine.

5 ATTORNEY ANDERSON: Thank you, Your Honor.

6 Before I begin cross-examining the defendant I
7 would like to note, I don't think it was noted for the
8 record, defense counsel was just showing Commonwealth
9 Exhibit 4 to the witness.

10 ATTORNEY PODRAZA: That's correct.

11 THE COURT: You may proceed.

12 CROSS EXAMINATION

13 BY ATTORNEY ANDERSON:

14 Q. Good afternoon, Mr. Ivie.

15 A. Good afternoon.

16 Q. Now, you have been here for the entire trial,
17 correct?

18 A. That's true, yes.

19 Q. Okay. You were arrested by Officer Kertsman
20 sometime between, like, 1:45 and 2:00 in the morning.
21 Would that be accurate?

22 A. Yeah, that's correct.

23 Q. Okay. And you were interviewed by Detective
24 Quinn and by Detective Sheppard a little bit after
25 6 a.m.; is that right?

1 A. Yes.

2 Q. Okay. In the time that you were with -- the
3 time between when you were arrested and when you were
4 interviewed by Detective Quinn and Detective Sheppard,
5 you were taken outside so that you could smoke
6 cigarettes; is that right?

7 A. In the loading bay, it wasn't outside.

8 Q. What's that?

9 A. In the loading bay?

10 Q. Yes.

11 A. Yeah.

12 Q. Yes. So the police took you outside so that
13 you could smoke cigarettes?

14 A. Yeah.

15 Q. You were offered food and drink by the police?

16 A. Water. I wasn't offered food until --

17 Q. You don't remember being offered food?

18 A. -- later in the morning.

19 Q. I'm sorry?

20 A. I said I wasn't offered food until probably 7
21 in the morning.

22 Q. Okay. You were offered a drink, though?

23 A. A water, yeah.

24 Q. And you were treated fairly by Detective Quinn
25 and by Detective Sheppard. Is that fair to say?

1 A. Yes, I would say so.

2 Q. And, in fact, in the interview that we watched,
3 you know, they said, how would you say you were treated
4 by us, and you said 10 out of 10.

5 A. Correct.

6 Q. And you felt that way cause it was true, right?

7 A. Yeah.

8 Q. Okay. They were nice to you throughout the
9 entire interview?

10 A. Yeah.

11 Q. Was anybody that you encountered -- from the
12 time you were arrested until the time you were
13 interviewed by the detectives, was anybody mean to you
14 at all?

15 A. Not the police officers, no.

16 Q. Not the police officers.

17 They treated you with respect?

18 A. Yes.

19 Q. Okay. And, in fact, would you agree with me
20 that when we watched the interview that you did with
21 Detective Quinn and Detective Sheppard they were not
22 only nice to you but they were sympathetic with you; is
23 that a fair characterization?

24 A. Yes.

25 Q. Okay. And they also made sure that your

1 injuries were documented; is that right?

2 A. Yes.

3 Q. Okay. And the whole time you were interacting
4 with Detective Quinn and with Detective Sheppard you
5 knew that they were the police, right?

6 A. Yes.

7 Q. Okay. What do the police do?

8 A. Arrest people.

9 Q. They arrest people. They file charges against
10 people, right?

11 A. Yeah.

12 Q. Okay. And you know that they wanted to find
13 out from you what had happened; is that right?

14 A. Yeah.

15 Q. Okay. And when you gave your statement to
16 Detective Quinn and to Detective Sheppard, you didn't
17 know that all of this was captured on video; is that
18 correct?

19 A. That's correct, yes.

20 Q. And they didn't tell you that it was captured
21 on video; is that right?

22 A. Yeah.

23 Q. All right. And you knew when you talked to
24 them that it was important for you to tell them the
25 truth, right?

1 A. Yes.

2 Q. Okay. So I'd like to talk about some of the
3 things that you -- you talked about in your statement
4 and you -- you talked about them a little bit here in
5 your testimony. Okay?

6 You, prior to this unpleasantness that is
7 captured on the video here, you were having a pretty
8 good day on July 4th, 2020; is that fair to say?

9 A. Yeah, that's fair.

10 Q. You had a nice day with your family?

11 A. Yes.

12 Q. You went in the pool?

13 A. Yes.

14 Q. You had some beers?

15 A. Yes.

16 Q. You had some brisket?

17 A. Yes.

18 Q. You shot off some fireworks?

19 Yes?

20 A. Yes.

21 Q. It was a nice day.

22 We agree that you started the argument with
23 Randy; is that right?

24 A. With Randy. He asked how he sounded so I gave
25 an answer to that, and then he started calling me names.

1 Q. Okay. So do you remember what specifically you
2 said about Randy's video?

3 A. I know I told him he sucked.

4 Q. Okay.

5 A. I don't remember the exact words I said.

6 Q. And as you characterized it in your interview,
7 you were a dickhead to him; --

8 A. Yes.

9 Q. -- is that correct?

10 A. Yes, mostly.

11 Q. You could have kept your opinion to yourself?

12 A. I could have, yes.

13 Q. But you didn't?

14 A. No.

15 Q. And you knew that he was upset by what you had
16 said; is that right?

17 A. It seemed so, yes.

18 Q. Okay. You could have apologized, right?

19 A. Yes.

20 Q. But you didn't?

21 A. No.

22 Q. All right. And you argued with him; is that
23 correct?

24 A. Correct.

25 Q. And is it safe to say that the argument that

1 you had with him ultimately wasn't about the quality of
2 his video but was more about him and about you; is that
3 correct?

4 A. Well, at first I told him why I didn't like his
5 music. I told him the beat, the rhythm and so and so.

6 After that it got to name calling and it kind
7 of stayed at that point right there.

8 Q. Okay. And you argued with him using comments
9 and texts; is that correct?

10 A. Yes.

11 Q. And in addition to arguing with him using
12 comments and texts, you actually argued with him over
13 the phone; is that right?

14 A. Correct.

15 Q. And you yelled at him; is that correct?

16 A. I wouldn't say yelled, but, yeah.

17 Q. You verbally said mean things to him, how's
18 that?

19 A. We had an argument, yes.

20 Q. Okay. And he said mean things back to you?

21 A. Correct.

22 Q. You invited him to come to your house, correct?

23 A. Yes, I invited Randy to come to my house.

24 Q. Okay. And the reason why you invited him to
25 come to your house was so that you guys could fight; is

1 that right?

2 A. Well, that was the point behind it, but I never
3 actually thought he would follow up on that.

4 Q. But as far as he knew from what you said to
5 him, the reason why you were inviting him to your house
6 was so that you guys could fight?

7 A. Yes.

8 Q. Okay. And you actually sent him your address;
9 is that right?

10 A. Correct.

11 Q. And how did you send that to him?

12 A. I typed it on Snapchat and sent it to him.

13 Q. You typed your address?

14 A. Yes.

15 Q. Okay. And you knew that he was coming,
16 correct?

17 A. Not until his friend Josh told me they were.

18 Q. And you knew that he was bringing people with
19 him; is that correct?

20 A. I knew he was bringing Josh. I didn't know how
21 many people he was bringing.

22 Q. You didn't know how many people he was
23 bringing?

24 A. No.

25 Q. Okay.

1 A. As far as I know he was bringing at least one
2 other person.

3 Q. Okay. So you -- but you knew that he wasn't
4 coming alone?

5 A. Correct. That's why I informed my father.

6 Q. Okay. So that's why you told your dad.

7 And you actually told your dad -- you told your
8 dad that this guy was coming to fight you, right?

9 A. I said, these men are coming to my house, yes.

10 Q. These men are coming to my house.

11 So you knew that there were men were coming to
12 your house and you told your dad about that?

13 A. Correct.

14 Q. And you specifically told your dad to get a
15 gun; is that right?

16 A. Yeah, I asked him for help. Yes.

17 Q. And then you actually waited outside for these
18 guys to show up; is that right?

19 A. To see if they would, yes.

20 Q. To see if they would.

21 How long were you gonna stay out there?

22 A. I wasn't gonna wait all night for it. It
23 was -- we were out there smoking cigarettes, it
24 wasn't --

25 Q. But you actually went outside because you

1 expected them to come?

2 A. That's what Josh was saying to me over the
3 phone, yes. I kind of expected him to come.

4 Q. And you were here when we were watching
5 Commonwealth's Exhibit Number 4, the video from your
6 neighbors' house; is that right?

7 A. Correct. Yes.

8 Q. And you saw how before those guys walk up at
9 about 12:38, it's you standing out in front of your
10 house; is that right?

11 A. Yes.

12 Q. And there appears to be an object in your hand,
13 an object that lights up periodically.

14 what is that object?

15 A. That's my phone.

16 Q. That's your phone.

17 Is that a cell phone?

18 A. Yes.

19 Q. Is that a cell phone capable of placing phone
20 calls?

21 A. Yes.

22 Q. Is that the same cell phone that you talked to
23 Randy on?

24 A. Yes.

25 Q. Is that cell phone capable of calling 911?

1 A. Yes, it is.

2 Q. Is it capable of calling the local police
3 department?

4 A. Yes.

5 Q. You didn't do that, did you?

6 A. No, because I didn't think they were actually
7 gonna come until they were already here.

8 Q. Okay. When they got there, there was nothing
9 that would have stopped you from placing a call to 911;
10 is that correct?

11 Is that correct?

12 A. No.

13 Q. Okay. And am I correct that you actually
14 talked to Randy when he was on his way to your house?

15 A. Yeah, with Snapchat, --

16 Q. Okay.

17 A. -- text message.

18 Q. And you told the detectives in your interview
19 that from the time you told your dad to get the gun
20 until the time that they arrived it was approximately 25
21 to 30 minutes.

22 Do you remember saying that?

23 A. Yes, I remember saying that.

24 Q. Is that accurate?

25 A. It doesn't seem so.

1 Q. Okay. So you said the night that it happened
2 that it was 25 to 30 minutes.

3 How long now do you say it was between the time
4 you told your dad to get the gun and the time that they
5 arrived?

6 A. 10 to 15 minutes.

7 Q. 10 to 15 minutes. Okay.

8 So you wanted to have a fair fight; is that
9 correct?

10 A. Ultimately I was just messing around on
11 Snapchat. I never thought it would result this way.

12 Q. You were just messing around on Snapchat?

13 A. Yes.

14 Q. How often do you mess around on Snapchat or how
15 often, as a result of messing around on Snapchat, do you
16 ask members of your family to arm themselves?

17 A. This has never happened before.

18 Q. Okay. You told the police that you expected
19 that there was going to be a fair fight; is that
20 correct?

21 A. Yes, when the six of them walked up maybe I
22 thought.

23 Q. What's that?

24 A. I said when the six men walked up maybe I
25 thought for a second that they were until they all

1 started screaming and cussing.

2 Q. How's this. What you challenged Randy Brandt
3 to was a fair fight, right?

4 A. Yes.

5 Q. Okay. So as far as he's concerned, based on
6 what you said, he should have expected a fair fight when
7 he got there; is that right?

8 A. Yes.

9 Q. Okay. And you wanted your dad to be there and
10 to make sure that he had his gun to ensure that if there
11 was going to be a fight, it was going to be a fair
12 fight; is that correct?

13 A. Ultimately for my protection.

14 Q. For your protection?

15 A. Yes.

16 Q. But you expected there to be a fight, and you
17 expected your dad to have your back in the event that
18 anyone else tried to jump in; isn't that what you told
19 the police?

20 A. Yeah, that's what I told them.

21 Q. Okay. And you don't wind up fighting with
22 Randy; is that correct?

23 A. No, I don't.

24 Q. And Randy is significantly smaller than you; is
25 that safe to say?

1 A. Yes.

2 Q. How tall are you?

3 A. Six foot.

4 Q. Six foot.

5 How old are you?

6 A. 21.

7 Q. How old were you on July 5th, 2020?

8 A. 20.

9 Q. You were 20?

10 A. Yes.

11 Q. Are you any taller now than you were then?

12 A. No.

13 Q. Okay. So you didn't actually fight with Randy,
14 you fought with who you now know to be Devon Schaefer;
15 is that right?

16 A. Yes.

17 Q. And you testified a minute ago that Devon was
18 in your face and that you shoved him first; is that
19 correct?

20 A. I pushed him. It wasn't quite a shove.

21 Q. You pushed him?

22 A. Yes.

23 Q. So he didn't put hands on you prior to you
24 putting hands on him; is that correct?

25 A. No, but his spit was in my face and I was

1 extremely uncomfortable so I had to create space.

2 Q. Okay. You could have created space by taking a
3 step back; is that correct?

4 A. Yeah.

5 Q. But instead you pushed him?

6 (The court reporter asked for an audible
7 response.)

8 THE WITNESS: Yes.

9 BY MR. ANDERSON:

10 Q. And after you pushed him, that's when he swung
11 at you; is that right?

12 A. Yes.

13 Q. And that's when you guys fought?

14 A. Yeah.

15 Q. I mean, --

16 A. It wasn't --

17 Q. -- ultimately he wound up on top of you and he
18 beat on you; is that correct?

19 A. Yes.

20 Q. Okay. But when you stood up again, when he got
21 off you and you stood up, you taunted him; is that
22 correct?

23 A. Yes.

24 Q. And what you said in your interview is true,
25 that you told him -- you said that he hits like a

1 | fucking pussy; is that correct?

2 | A. Yeah, I might have said that.

3 | Q. You said that to him?

4 | A. I might have, yes. I don't recall those exact
5 | words, but --

6 | Q. You told him, you just hit me 10 to 15 times
7 | and I'm still standing here talking to you. Is that
8 | what you said?

9 | A. Yes, that's correct.

10 | Q. Okay. So you kept antagonizing him even after
11 | he had just hit you; is that correct?

12 | A. Yes.

13 | Q. All right. And we were just looking at the
14 | video, we just had the -- the still image up there.

15 | There was nothing physically preventing you
16 | from going up the yard and into your house at any point
17 | during that confrontation; is that correct?

18 | A. There was six men there. I did not feel I
19 | could walk away from them.

20 | Q. Did you try?

21 | A. No.

22 | Q. Your dad had a gun, correct?

23 | A. Yes, and they made it very clear that they
24 | weren't scared of the gun.

25 | Q. But there was nothing physically impeding you

1 from moving from the sidewalk where you were up to your
2 house; is that correct?

3 A. No, nothing physical.

4 Q. Those men all stayed on the sidewalk and on the
5 street; is that correct?

6 A. Yes.

7 Q. At no point did any of them step onto the grass
8 of your property; is that correct, that you saw?

9 A. I don't recall, no.

10 Q. Okay. So I want to talk about the gun.

11 You told the detectives that your dad had set
12 the gun down on the ground and that you had picked it
13 up.

14 A. Correct.

15 Q. Do you remember that?

16 A. Yes.

17 Q. And you know now that that's not correct,
18 right?

19 A. Yes.

20 Q. But you know that, in fact, based on what's in
21 the video, that he actually hands it to you; is that
22 right?

23 A. Yes, that's what it shows.

24 Q. But just a few hours after the shooting, you
25 told the detectives that he put it on the ground and you

1 had picked it up.

2 A. I told the detectives I think he put it on the
3 ground.

4 Q. So based on your memory of how everything went
5 a few hours after the shooting, it made sense to you
6 that he would have set the gun on the ground and that
7 you would have picked it up?

8 A. Thinking about everything that happened, yes.

9 Q. Okay. And you would agree with me that
10 regardless of how you got the gun, once you had that gun
11 in your hands your dad went over and your dad attacked
12 one of the boys that was there to -- that was there on
13 the sidewalk; is that correct?

14 A. Yeah, he threw a punch. Yeah.

15 Q. He threw a punch at him.

16 And so your dad relinquished the gun, walked up
17 to that young man and took a swing at him; is that
18 correct?

19 A. Yes.

20 Q. Your dad walked up to him, he didn't walk up to
21 your dad; is that correct?

22 A. I believe so.

23 Q. You believe so?

24 (The court reporter requested an audible
25 response.)

1 THE WITNESS: I said I believe so.

2 BY MR. ANDERSON:

3 Q. And you told the detectives that you started
4 shooting because two guys started rushing your dad; is
5 that correct?

6 A. Yes, in the moment that's what I thought I saw.

7 Q. That's what you thought you saw?

8 A. Yeah.

9 Q. You've watched the video, right?

10 A. Yes.

11 Q. It's not on there, correct?

12 A. No, that's not quite what happened.

13 Q. That's not quite what happened.

14 But based on what you told the detectives you
15 would have opened fire to defend your dad from these --
16 these people that were rushing him; is that correct?

17 A. Yes.

18 Q. Okay. That's not what you're testifying to
19 now, right?

20 A. No, cause after seeing the video I'm -- I
21 realized that --

22 Q. After seeing the video you realized that the
23 story is different?

24 A. That they didn't rush exactly, they were on
25 their toes and they were looking like they were ready to

1 pounce any second.

2 Q. Okay. So the gun, the safety was on on that
3 gun when your dad handed it to you; is that correct?

4 A. Yes.

5 Q. What's a safety?

6 A. It prevents the gun from firing.

7 Q. Okay. It won't shoot when the safety's on,
8 right?

9 A. Yes.

10 Q. You switched the safety from the safe position
11 to the fire position; is that correct?

12 A. Yes.

13 Q. And this was your first time shooting that gun;
14 is that correct?

15 A. Yes.

16 Q. And so you had to find where the safety was in
17 order to switch it off; is that correct?

18 A. I mean, yeah. I knew where it was at. It
19 wasn't the first -- it was the first time I shot the
20 gun, not the first time I handled the gun.

21 Q. Was it the first time you handled this gun?

22 A. No. I said it wasn't the first time I have
23 handled this gun.

24 Q. Okay.

25 A. It was the first time I fired it.

1 Q. So you knew where the safety was?

2 A. Yes.

3 Q. And you made the decision to switch it to fire?

4 A. Yes.

5 Q. And you knew that switching the safe --
6 switching the safety from safe to fire would mean if you
7 pulled the trigger a bullet was gonna come out of that
8 gun, correct?

9 A. Yes, that's what happens.

10 Q. Okay. And then you started shooting?

11 A. Yes.

12 Q. Officer Kertsman came and took you into custody
13 within minutes of the shooting; is that correct?

14 A. That's correct, yes.

15 Q. You were here when we watched the video of your
16 transport from your house to the Ephrata Police
17 Department, correct?

18 A. Yes.

19 Q. And you remembered that within minutes of --
20 within minutes of the shooting you said you know that
21 you shouldn't have done what you did; is that correct?

22 A. I mean, the way I was thinking about it was all
23 in shock so it all kind of hit me at once.

24 And the only thing I could decide is I probably
25 just shot somebody. So, yes, I wasn't happy I shot

1 somebody.

2 Q. But that's -- but that's what you said?

3 A. Yes.

4 Q. And then hours later, within hours of the
5 shooting when you were being interviewed by Detective
6 Quinn and Detective Sheppard, again, you said that you
7 knew you shouldn't have done what you did, right?

8 A. Yes.

9 Q. And that was after a few hours in which to
10 reflect; is that correct?

11 A. Yes, but it -- and it all hit me at that time.
12 The reason I said it like that is cause I was thinking
13 about what happened and not why it happened.

14 Q. Okay. You fired every shot that was fired in
15 that incident; is that correct?

16 A. Yes, I did.

17 Q. You have been -- you told the detectives that
18 you've been to a gun range before, correct?

19 A. Yes.

20 Q. About how many times have you been shooting?

21 A. I couldn't tell you an exact number.

22 Q. Okay. Was it -- is that because it's very few
23 times or is that because it's very many times?

24 A. No, it's quite common.

25 Q. So you've been to the shooting range many

1 times?

2 A. Yes.

3 Q. Are you familiar with gun safety?

4 A. Yes.

5 Q. What's the first rule of gun safety?

6 A. Don't point a gun at someone.

7 Q. Okay. Why don't you point a gun at someone?

8 A. Because it could acc -- accidentally go off.

9 Q. Because if you point a gun at something it can
10 get shot, correct?

11 A. Yes.

12 Q. So you shouldn't point a gun at anything that
13 you don't want to get shot; is that correct?

14 A. Correct.

15 ATTORNEY ANDERSON: I have no further
16 questions, Your Honor.

17 THE COURT: Is there redirect?

18 ATTORNEY PODRAZA: Yes, please.

19 REDIRECT EXAMINATION

20 BY ATTORNEY PODRAZA:

21 Q. Mark, did you want anybody to get hurt that
22 night?

23 A. No, I really didn't.

24 Q. Why did you pull the trigger?

25 A. I felt they forced my hand, and I felt like

1 that was all I had.

2 Q. Now, if you -- the Commonwealth had referred to
3 if you physically tried to move out of there.

4 what did you think would happen if you
5 physically tried to get out of there?

6 A. If I left I know these men would swarm my
7 father within instants.

8 Q. Okay. Did you think anything would happen to
9 you in that instance?

10 A. Maybe if I turned my back to 'em they would
11 come after me. I don't know. I never thought about it
12 completely. I just knew I couldn't leave my father.

13 Q. And when you -- when you first saw these men
14 come to your house, were you surprised?

15 A. Yes, when I saw six men. Yes.

16 Q. Okay. After you were beat by Devon Schaefer
17 you got up, correct?

18 A. Yes.

19 Q. Were you trying to fight at all?

20 A. No.

21 Q. Where were your hands?

22 A. At my side.

23 Q. Okay. What happened next?

24 A. He -- he hit me two more times.

25 Q. Did they leave at that point?

1 A. No.

2 Q. Did you have any indication that they were
3 leaving at that point?

4 A. No, it didn't seem so.

5 Q. Did you have any indication that they would
6 stop doing what they were doing?

7 A. No.

8 ATTORNEY PODRAZA: No further questions.

9 THE COURT: Is there any recross?

10 ATTORNEY ANDERSON: No, Your Honor.

11 THE COURT: Excuse me.

12 All right. You may step down.

13 Mr. Podraza, I understand you have one
14 additional witness --

15 ATTORNEY PODRAZA: That's correct, Your Honor.

16 THE COURT: -- not available until tomorrow?

17 ATTORNEY PODRAZA: That's correct, Your Honor.

18 THE COURT: Okay. Members of the jury, we are
19 going to adjourn for the evening.

20 Again, I would strongly caution you not to
21 discuss this case with any other individual. Do not
22 conduct any sort of independent research or
23 investigation. Do not obtain or disclose any
24 information about this case.

25 We'd like to see you back here again tomorrow