

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

- - - - - x
:
UNITED STATES OF AMERICA :
:
 v. :
:
NATHANIEL JAFFE, et al. : Case No: 2017-CF2-001147
:
- - - - - x

Grand Jury No. January 2
United States District Court
For the District of Columbia
3rd & Constitution, N.W.
Washington, D.C. 20001

Monday, January 30, 2017

The discussion in the above-referenced case was
taken in the presence of a full quorum of the Grand Jury,
commencing at 3:00 p.m., before:

JENNIFER KERKHOFF
Assistant United States Attorney

JOHN BORCHERT
Assistant United States Attorney

C O N T E N T S

GRAND JURY EXHIBIT:	PAGE
No. 1 - Metropolitan Police Department video	27

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

2 MS. KERKHOFF: All right, so this is the new case
3 for everybody. So what case are we on?

4 A JUROR: Forty-four.

5 A JUROR: Forty-four.

6 MS. KERKHOFF: Forty-four, all right. So forty-
7 four, I'm going to give you a case, we'll call it the
8 felony rioting case.

9 A JUROR: Oh.

10 THE COURT REPORTER: So In re: Felony Rioting?

11 MS. KERKHOFF: Well, you could start it with the
12 gentleman who has the great pleasure of having the lowest
13 number of case, his name is United States v. Nathaniel,
14 N-a-t-h-a-n-i-e-l --

15 A JUROR: Mm-hmm.

16 MS. KERKHOFF: -- last name, Jaffe, J-a-f-f-e.

17 A JUROR: Mm-hmm.

18 MS. KERKHOFF: U.S. Case No. 2017-CF2-1147. And
19 there's more than 200 others. All right.

20 A JUROR: This is the Inaugural --

21 MS. KERKHOFF: This is -- let me get to what this
22 case is about. All right.

23 A JUROR: First can you give us your name?

24 MS. KERKHOFF: Sure. My name is Jennifer, two
25 "N"s. Last name Kerkhoff, K-e --

1 A JUROR: Hold on a second, Jennifer.

2 MS. KERKHOFF: Sure.

3 A JUROR: K --

4 MS. KERKHOFF: K-e-r-k-h-o-f -- as in Frank -- f
5 -- as in Frank.

6 MR. BORCHERT: Good afternoon. My name is John
7 Borchert. John, J-o-h-n Borchert, B-o-r-c-h-e-r-t.

8 A JUROR: What r-t?

9 MR. BORCHERT: e-r-t.

10 MS. KERKHOFF: So here is the background of the
11 case. So as you may or may not have heard, on Inauguration
12 Day, there were a number of protests. There were a number
13 of protests throughout the whole weekend, there have been a
14 number of protests since. This is not a protest case.
15 This is a riot case. There's a distinction: rioting,
16 wherein a large group of people engage, incite or urge
17 others to commit violence or destructive acts.

18 This is -- this rioting act case is about one
19 specific group of individuals who, through the City,
20 started with hammers, with crowbars, with signs, with their
21 own tear gas, whatever, proceeding through the streets,
22 marching; went for a course of 28 minutes before they were
23 surrounded by police officers.

24 In the course of those 28 minutes, they busted
25 limos, cars, glass from Starbucks, from banks, all as they

1 went down the street. To be clear, this is not about what
2 they were protesting or not; there were plenty of people
3 who were protesting for or against the Administration.
4 It's about the violence and the conduct that says that was
5 their intent.

6 So the evidence that you're going to have before
7 you -- and we're going to start presenting this through
8 tomorrow -- you're going to have things like video and
9 whatnot. You'll also have background about this particular
10 group. Know about this: there were a lot of groups who
11 were protesting.

12 I want to be clear, the evidence in front of you
13 is that there were no other arrests that day except for
14 this particular group; at least as many as they could get.
15 Women's March: 500,000 people, no arrests; this past
16 weekend: no arrests. What we're talking about is the
17 violence, the destruction of property, okay? So I just
18 want to be clear about that.

19 The particular group -- and you'll have
20 information -- this march was organized among many groups
21 using social media. And the evidence before you, you're
22 going to have a lot of it, it was organized by a group
23 called Disrupt J-20. Okay? The whole point was disrupt;
24 as part of an anarchist group, no government. Okay? It's
25 a group that has protested Trump, it's protested Hillary,

1 it's protested the Democratic, it's protested government,
2 just government; and had a call out to engage in acts of
3 disruption is what they call it.

4 You'll also have other evidence that they came
5 and virtually all, in defense for you, were dressed in what
6 they call the Black Block. The Black Block meaning people
7 wearing all black with masks. Why? It's designed to
8 prevent people from moving in and out of the group and not
9 being able to identify who is committing the violence or
10 the destruction; it's specifically designed for that
11 purpose.

12 People wear masks, they carry crowbars, they have
13 hammers. As people march through the City, several of them
14 break off -- and you'll have video of this -- breaking
15 things and they blend back in the group. The group moves
16 cohesively as a unit through the City, okay, and these acts
17 are going on.

18 So that's why this is a -- we're presenting this
19 as a felony rioting act, because in many ways, irrelevant
20 what it is in fact they were protesting, because it doesn't
21 matter what the words were, if the conduct was designed for
22 the violence.

23 And the charges before you, based preliminarily,
24 is felony act rioting. And it is when one engages, one
25 urges or one incites to engage in a riot. And it's -- what

1 they call a riot is when you have -- or a public
2 disturbance is what is technically titled a riot -- when
3 you have any assemblage, five or more persons, in which
4 there is conduct, and as a result of that conduct for the
5 felony, people are seriously injured or there is
6 destruction of property in excess of \$5,000. Okay?

7 So there's actually a case -- and I want to talk
8 to you a little bit about the law -- there's a case that
9 came out in 2009 called the Car Case that specifically
10 discussed the rioting act of what is probable cause and
11 what is not probable cause.

12 And the Court in this jurisdiction talked about
13 -- this was an instance of another inauguration back in
14 2005 -- and people were gathering, and they wanted to riot
15 and protest. People started going down the streets, and
16 they've got weapons or things to break things. And as they
17 march, were breaking things, throwing trash cans and doing
18 all that.

19 And officers followed and said the group is
20 moving as a cohesive unit, they're moving together, they're
21 cheering when there's acts of violence. And the police
22 basically corralled the group into an alley and placed
23 everyone under arrest. And the Court said for purposes of
24 probable cause, the cheering, the marching together as a
25 group, connected to the acts of violence; that is probable

1 cause.

2 Now, the trial standard is something different.
3 For purposes of conviction, what you can prove a person
4 does, specifically their participation, for probable cause.
5 That's what the Court said, okay?

6 A JUROR: What court is that? What jurisdiction?

7 MS. KERKHOFF: The Court of Appeals here in D.C.,
8 specifically discussing the rioting act.

9 A JUROR: So are there 200 co-defendants?

10 MS. KERKHOFF: So currently, there are. There
11 were 200 -- so what the evidence that will be before you is
12 there were 230 people arrested at that time. And you'll
13 have videos where you can actually see -- the group starts
14 off a little bit larger. And you can actually see people
15 who appear to be dressed, half like any of us here, maybe
16 not covering their face and this, and you see -- can see
17 some of those people -- actually, the group really narrows
18 down by the time we get to the end.

19 The police -- the video itself was taken from an
20 undercover officer who was monitoring, is more than 25
21 minutes before they corral. So that's how long the group
22 moved.

23 We'll also be hearing from the Detective here,
24 who interviewed a woman who was from Colorado. She was
25 here for the Women's March on Saturday with her 70-year old

1 mother and her 19-year old niece. And she said, "Well I
2 was looking for anti-Trump protest, so I show up at this
3 park because I found something online, and within minutes,
4 we start walking and it's violence." That's not protest.

5 And she said, "I and many others, we moved off.
6 We went until we hit this park." And the park, you'll see,
7 is going to be Franklin Square, right here in front of us.

8 She said, "We went off because it was clear the
9 group was violent." After the park, it continues: 5
10 minutes, 10 minutes, and the group is kind of moving in.
11 You can even hear instructions, "Stay together, stay
12 together."

13 So the group is holed-in and the police surround
14 them. You see that there are people running every which
15 way. And the police will be the first to tell you and the
16 video will show you, not everybody who was involved in the
17 group was arrested because they're -- they then start
18 throwing rocks outside of the group at the police officers.

19 The rioting actually continues as they're trying
20 to make the arrests of this group by other members of the
21 group outside. There was an arrest the next day, so that
22 brought us up to 231 who were arrested.

23 So one of the things that we've been working on,
24 is okay, so who was corralled in there? Well, the evidence
25 you'll have from the detectives and from the officers

1 before you, is that by the time they get there, there are
2 no Starbucks or McDonald's or places where somebody could
3 just stand outside here.

4 There are, and you see a lot of reporters milling
5 about. So that's one of the questions: how did they
6 corral everybody? Any individual with press credentials
7 was released and not arrested to the extent there has been
8 a question about anyone being a potential journalist to
9 include freelance journalists.

10 And a freelance journalist include you or I with
11 a Twitter feed, standing on the phone. Those individuals
12 witnessing our investigation we've actually -- aren't being
13 -- presenting those to you right now, because we want to
14 make sure, okay?

15 But this group here, the group that was
16 corralled, you actually can see on the video that once the
17 police have them surrounded, and you can see them here,
18 that it's clear the police are moving in at this point
19 after all of this damage.

20 The group stays, and the group goes around and
21 you see the group form lines, link arms, charge through the
22 police, to include -- with umbrellas -- pepper spray,
23 deflects the pepper spray.

24 So the group charges through, many of them break
25 through. What remains is the 230 that were arrested at

1 that time. The 230 for whom there were no credentials, no
2 other information to suggest that the person had innocent
3 presence; that's the group. Okay?

4 So one of the things we're presenting to you is
5 what other -- not only that conduct, what the Court of
6 Appeals has said, that conduct: the cheering, fast-moving
7 as a cohesive unit -- but other information. How were they
8 dressed? What were they doing? Is there any other
9 information on them? Many people had goggles, gas masks,
10 weapons.

11 You're also going to hear that at the scene of
12 that arrest, the police recovered stuff that was left on
13 the scene: hammers, crowbars, tons of gas masks, goggles,
14 all sorts of incendiary devices, knee pads, shin guards,
15 all sorts of things for riotous-type gear. People were
16 stripping themselves of it before they were arrested. Does
17 that make sense? Okay.

18 So here's the process. I want to take a little
19 bit of time today before you hit a witness so we can talk
20 it through. This will only be five minutes; not bad.

21 So we've got this group, and we know what the
22 standard is for probable cause, that's pretty clear. We
23 also have the process that we're trying to go through here.
24 The Court has started, and it was some ways arbitrary, it
25 had to be, I suppose, setting hearings for defendants.

1 Most of these defendants have the same lawyer,
2 because that's just what the Court did, making -- getting
3 them their lawyer, who can address their conduct -- and
4 their charge is difficult -- acts in an indictment.

5 So what we'll present to you, information as we
6 get it. And we're going to present to you the defendants,
7 as they have hearing dates come up. Why? Because if you
8 determine that probable cause is appropriate for these
9 defendants, that will assist them in getting a lawyer for
10 them so they can decide how to proceed.

11 So basically, think of an indictment, more
12 information, and if appropriate, more indictments as we
13 just bring the defendants in, effectively by dates of
14 Court, because that's how they're organized by the Court.
15 Does that make sense?

16 As we go through this process, because we are
17 actively pulling -- I guess Twitter's a good thing -- lots
18 of video, maybe too much video, actively pulling video and
19 other evidence. Ultimately it would certainly be the goal
20 of the Government, and hopefully the Grand Jury, to
21 determine who are the ring leaders? Who's really pushing
22 this? A lot of people show up. That would ultimately be
23 the goal, to start that process as though we are focusing
24 on the felony rioting.

25 We anticipate that as we learn more information,

1 we'll hopefully be able to identify who is doing the
2 destructions of property, who assaults and things like
3 that. But this is our starting point, because that's how
4 the process -- the way the Court set it up. Does that make
5 sense?

6 MR. BORCHERT: There's a question.

7 MS. KERKHOFF: Yes?

8 A JUROR: I guess I'm not understanding. You say
9 they only have one lawyer. I thought people that -- is it
10 because these 230 may or may not be from here?

11 MS. KERKHOFF: There's about six total.

12 A JUROR: Okay. Well so why can't they get their
13 lawyers now? Why --

14 MS. KERKHOFF: So the Court, I think, is --

15 A JUROR: -- because we think guaranteed them to
16 get a couple lawyers?

17 MS. KERKHOFF: Right.

18 A JUROR: Okay.

19 MS. KERKHOFF: They do. Oh, so there's a number
20 of people who -- anyone ever been in C-10? Had the
21 pleasure? No?

22 A JUROR: Been where?

23 MS. KERKHOFF: C-10, Arraignment Court,
24 Presentment Court --

25 MR. BORCHERT: Not a good place.

1 MS. KERKHOFF: In the -- it's actually a lot
2 nicer than what you're sitting in, here. They've made lots
3 of renovations. It's just like we used to wear -- like,
4 you used to wear a dirty suit in Court, and now you can't.
5 Because the cell block, it was terrible; now it's actually
6 quite lovely, all things considering.

7 So when they come through on that Saturday, there
8 were maybe five or six lawyers total. So they've got to
9 process all these defendants. So they basically said, "You
10 get 30, you get 30, you get 40, you get 30." This, you can
11 see, a crock. Procedurally, we had a process, and they're
12 kind of waiting and saying, "Grand Jury, what are you going
13 to do? What are you going to do?"

14 A JUROR: Mm-hmm.

15 MS. KERKHOFF: Because they're trying to figure
16 out, "Do we really need 200 lawyers?" Well, they might.

17 A JUROR: I see.

18 MS. KERKHOFF: And that's the process part. Yes,
19 technically, they have someone standing there, the same
20 person standing for all 20 or 30 of them, however they were
21 designated.

22 The reality is, as you see on these videos, is
23 under the felony act, anyone inciting, engaging or even --
24 they're covered. It doesn't matter whether they did the
25 act or not. Certainly as we proceed with this

1 investigation, it would be nice to know.

2 It would certainly be helpful in the
3 consideration of other charges, who are the principle
4 players? Who are the ones that are more violent versus
5 others? It gives us, and you guys, some determination of
6 what do we do? How do we resolve this if we can resolve
7 this? That's very difficult to do in the current process
8 set up where the Court is basically looking at us, going,
9 what are you going to do with all these?

10 And the answer is, well, we have to start moving
11 the ball forward. Does that make sense?

12 A JUROR: Mm-hmm.

13 MS. KERKHOFF: So in part because this, as large
14 as this is, is not common. D.C. is used to protests, but
15 this kind of large-scale rioting and stuff is not the norm
16 with protests, in general.

17 A JUROR: It's not common in like -- hearings at
18 all where there were big groups like this?

19 MS. KERKHOFF: Not rioting.

20 A JUROR: Huh.

21 MS. KERKHOFF: Not to this destruction. So we do
22 have those cases.

23 A JUROR: Okay.

24 MS. KERKHOFF: And a lot of times those little
25 misdemeanor cases, unlawful entries, a lot of stuff at the

1 Capitol. We do a lot of stuff at the Capitol. Unlawful
2 entry, destruction of Congress, destruction of the Supreme
3 Court. We do these in the context of no one getting hurt
4 and not much property damage pretty well.

5 What happens when you have whole blocks that are
6 destroyed? We don't have that very often here, so --

7 A JUROR: Is this a problem if two -- you find
8 two didn't watch the TV like everybody else or what?

9 MS. KERKHOFF: It is not a problem unless you
10 feel that would impact your consideration of the evidence.
11 Just like if you feel that for whatever reason, you could
12 not, given what the law is, based on any personal or
13 political beliefs that in -- then certainly, you -- each of
14 you know that you have to make that decision for yourself.

15 Yes, ma'am?

16 A JUROR: So are we -- I guess my question on
17 understanding. Are there 230, like, case numbers on
18 individual defendants --

19 MS. KERKHOFF: Yes.

20 A JUROR: -- that we need to indict? Or that need
21 to be indicted by us or others?

22 MS. KERKHOFF: Well again, as we proceed -- so
23 we're going to be presenting them in -- effectively in
24 batches, okay? There's this batch that's coming up, this
25 is the information we have on them at this time.

1 And again, I think the probable cause standard
2 was proper for the arrest. We're trying to take that to
3 the next step. But will we present all of them? Probably
4 most of them, based on what we know now. That's why we're
5 going to be doing this in rolling batches. The first day,
6 we're not doing 230. I'm going to start with 10 or 11.
7 We're going to start and see where we go.

8 The other, I will say practical hope, is that as
9 we move this process forward, it can get things moving
10 forward that we're going to procedurally, in Court, be able
11 to get attorneys or others focused on perhaps answering the
12 questions or getting appointed as needs be so that if we
13 don't have to continue with superseding indictments,
14 perhaps we won't have to.

15 It's just we're in a part right now where there's
16 not much we can do right now other than move forward.
17 Everyone can get counsel, that's appropriately needs
18 counsel, and we can move forward this way.

19 A JUROR: Presumably those defendants are not all
20 here because they have not been arrested, right?

21 MS. KERKHOFF: No, all of these defendants were
22 arrested.

23 A JUROR: Okay.

24 MS. KERKHOFF: They were all arrested.

25 A JUROR: Got it. So this 10 days or back when

1 they --

2 A JUROR: Where they stopped.

3 A JUROR: Yeah. Where are they now? And do --

4 MS. KERKHOFF: All of these defendants are on
5 release. They're all on release. They're back in their
6 home states.

7 A JUROR: Putting them back to their home states?

8 MS. KERKHOFF: With signed Notice to Appear so
9 they can come back by the time they're ordered to come
10 back, whatever that date was, and the Court basically
11 issued rolling dates. It's not smart necessarily, maybe it
12 was, I don't know. And so we have all of these people who
13 are operating on different tracks, but it's really one
14 case. So what we're trying to do is get the Court
15 procedure in line --

16 A JUROR: Yeah, okay.

17 MS. KERKHOFF: -- so that -- yeah.

18 A JUROR: Okay.

19 MS. KERKHOFF: Yeah, so everyone is on release,
20 but they have Notice to Appear. What we're trying to do is
21 do this in a fashion that if they have Notice to Appear,
22 when they come back, if it's appropriate, they get a proper
23 counsel appointed and they just start going through this
24 process appropriately.

25 And if they choose that it's okay that they and

1 20 or 30 of their friends will have the same attorney,
2 that's fine. But we need to make sure we're -- those
3 choices are there. Assuming the evidence that you find is
4 appropriate for purposes of probable cause for the charge.
5 All right?

6 A long-winded way of explaining; this is a little
7 bit unusual. Did you guys say that you needed a little
8 more to do? We've got some videos, lots of videos. Lots
9 of videos.

10 A JUROR: These are anarchists relying on the
11 public defenders? Isn't that --

12 MS. KERKHOFF: It's -- yeah, you guessed it.
13 What a surprise, and what's here before you is that some of
14 these anarchists are actually employed by various
15 government places back where they live. It's interesting,
16 right?

17 A JUROR: No. Geez.

18 MS. KERKHOFF: So the group itself, when you hear
19 about it, it is anarchist group, and many of these
20 individuals define themselves as anarchists, that many of
21 them, just for purposes of whether there was innocent
22 presence at the City, and you'll see have a history. Some
23 do, some don't.

24 This thing was organized on social media. People
25 were Tweeting out, they were even -- you're going to hear

1 instructions that had been sent out on social media. One
2 of the instructions, number one, always assume this will
3 become a riot. Instruction number one, right?

4 Instructions on how to create banners so that the
5 weapons -- so that the handle could be used as a weapon,
6 but don't make it look like a weapon. These are helpful
7 instructions. But these are the instructions that are
8 going out in advance.

9 So yes, right now, everyone was appointed a
10 layer; in part because due to the large numbers, they
11 didn't even interview everyone to see if they were eligible
12 for a lawyer. Again, part of the process we're going to
13 try to impose that should have been, right? So it's a
14 little bit different.

15 But yes, some anarchists that are represented by
16 the government and/or some are employed by the government.

17 A JUROR: This is a more serious question, but I
18 read that the group that videotaped -- Acorn, the Acorn
19 Group --

20 MS. KERKHOFF: Project Veritas?

21 A JUROR: Yeah.

22 MR. BORCHERT: Project Veritas.

23 A JUROR: Are you going to be -- is there
24 evidence -- are you using their evidence? Or is that --
25 how does that work?

1 MS. KERKHOFF: So we are aware, and some of the
2 evidence that may come before you, which I expect will come
3 before you, is there is some Project Veritas video.

4 A JUROR: Mm-hmm.

5 A JUROR: What is it?

6 MS. KERKHOFF: Project Veritas is -- whatever --
7 they identify as a group that wanted to subvert and go in,
8 do other undercover investigations like they did with
9 Planned Parenthood and things like that.

10 A JUROR: Planned Parenthood, yeah.

11 MS. KERKHOFF: So that group attempted, as I
12 understand it, from what I've seen, the Detective could
13 explain it to you, is they did attempt to infiltrate some
14 of these groups that were planning these mass destructions.
15 And from that, there was evidence of individuals planning
16 an acid or a gas attack at one of the Inauguration balls,
17 and that's -- there was also one about this particular
18 protest.

19 A JUROR: Mm-hmm.

20 MS. KERKHOFF: The reason you may hear from it is
21 that there are some individuals who were arrested who are
22 seen on video discussing the planning of this event. So
23 that would be evidence that they knowingly engaged in a
24 riot.

25 A JUROR: They can side with Veritas though.

1 MS. KERKHOFF: What?

2 A JUROR: From Project Veritas.

3 MS. KERKHOFF: To the extent we use any of the
4 video --

5 A JUROR: I'd be concerned that we will go and
6 their --

7 MS. KERKHOFF: I understand.

8 A JUROR: -- personal friends, their
9 organizational capability.

10 MS. KERKHOFF: So to the extent we would use any
11 video, we would -- we'd be requesting unedited video.

12 A JUROR: But they can't be trusted to provide
13 unedited video.

14 MS. KERKHOFF: I've not presented any of the
15 video. What I'm saying --

16 A JUROR: Well I'm saying like --

17 MS. KERKHOFF: -- and that is a --

18 A JUROR: -- I personally can't trust them.

19 MS. KERKHOFF: And that is a decision about the
20 evidence that you will have to make --

21 A JUROR: Okay.

22 MS. KERKHOFF: -- whether you credit it or not,
23 okay? What I'm saying is it is out there. It is my job to
24 present to you evidence. It is evidence that people
25 captured on video, actively discussing, in advance, what

1 they intended to do. You decide how you want to credit
2 that. You decide how --

3 A JUROR: But even if it's bad evidence --

4 MS. KERKHOFF: -- you want to credit --

5 A JUROR: -- you'll present it to us.

6 MS. KERKHOFF: So I --

7 MR. BORCHERT: I don't know if she said that, but
8 I think we take your point.

9 MS. KERKHOFF: I understand your point, and
10 that's why I say, I don't know -- you guys can talk amongst
11 yourself what you view as bad evidence or not, whether you
12 like the tactics or not. If there is a person who's
13 recorded, and it does appear to be them and not doctored,
14 of them discussing this in advance, I would think the Grand
15 Jury may want to hear or see it with the understanding
16 about where it came from.

17 And if you say you don't want to hear or see it,
18 collectively as a group, we can talk about that. But it's
19 evidence for you to consider, just as with all other
20 evidence, you have to weigh its credibility, okay? I'm not
21 relying upon it.

22 A JUROR: But will you provide any --

23 MS. KERKHOFF: Will we provide the context from
24 where we got it?

25 A JUROR: But any kind of other confirmation that

1 hasn't been edited or distorted or biased, given their past
2 credibility and problems with that?

3 MS. KERKHOFF: You will be provided the
4 information about where it was obtained, how it was
5 obtained, edit. So to the extent that we have unedited and
6 how that was obtained, that information you will be
7 provided.

8 It's just very hard, I will say it from the
9 Government, if I'm supposed to be presenting you with
10 evidence if there are recordings of people who are
11 discussing this particular event to say, "Well I don't
12 think you should consider that because there might be
13 questions about that portion."

14 That's why it's your job to decide the
15 credibility of it, okay? It's not my job to do that. All
16 right? And I understand all of the feelings that go with
17 that. We totally understand that, but I feel that you
18 should have it if it's relevant and pertinent.

19 A JUROR: Even if it's biased.

20 MS. KERKHOFF: Relevant evidence --

21 A JUROR: Okay.

22 MS. KERKHOFF: -- can be biased, that is a --

23 A JUROR: Okay.

24 MS. KERKHOFF: -- part of the law. You decide
25 how much you -- credibility you give it, okay? And I don't

1 want to get into that too much because that's not what this
2 is based on. We're not bringing you a Project Veritas
3 video saying, "Please indict on this." We're not.

4 We're talking about the undercover officers who
5 marched in the parade, who marched alongside and tried to
6 capture this. The people that were live Tweeting it, the
7 damage, the officers that observed.

8 So to the extent you hear any of that, that may
9 be down the road because it's there. That's not what this
10 about. This is not Project Veritas -- and I want an
11 indictment, okay? Any other questions?

12 A JUROR: One last question.

13 MS. KERKHOFF: Yes, ma'am?

14 A JUROR: This group, Disrupt J-20, as in the
15 letter "J" like Jessica?

16 MS. KERKHOFF: J.

17 A JUROR: The letter J-20?

18 MS. KERKHOFF: J and then 20, the number.

19 A JUROR: Ah, J-20.

20 MS. KERKHOFF: Yeah, January 20.

21 A JUROR: Got it.

22 A JUROR: Does that have any significance?

23 MS. KERKHOFF: Disrupt January 20th.

24 A JUROR: No, no, no, no. J-20, is that --

25 MS. KERKHOFF: January 20th is the Inauguration.

1 A JUROR: Oh, it was the Inauguration day.

2 A JUROR: January 20th.

3 A JUROR: I'm sorry, I just put it together.

4 Thank you.

5 MS. KERKHOFF: Yeah, Disrupt J-20. All right.

6 All right, so probably starting tomorrow
7 afternoon, you're going to be hearing from Detective -- it
8 will be Detective Pemberton, we'll bring him in tomorrow.
9 You're going to start to see some of the -- what's called
10 On Ground Live -- time live -- what was live at the time --
11 live feed video of what's happening, how the group was
12 dressed, how this group was moving, some of the damage
13 that's going through to give you a sense of what was
14 happening on the streets as this group was coming through,
15 okay?

16 And we'll also start talking a little bit about
17 the social media accounts that were being monitored. And
18 what I expect you'll have is that MPD was aware there were
19 going to be protests, just like they were aware of
20 everything; social media accounts.

21 These particular groups are very social media
22 driven. You'll have that evidence before you. In fact,
23 most -- a lot of people don't always know each other,
24 right? They just Tweet out, "Come meet up here, we'll do
25 this" and all of that stuff.

1 So this is very social media driven in terms of
2 their organization. But it's the conduct, once we get here
3 and what happened in the streets of D.C. that we're going
4 to be focused on, all right?

5 Any other questions for me generally? I think
6 Katie Kearn has a witness to take you through to the end of
7 the day, and we'll just see you tomorrow. And no more
8 complaints about being bored or --

9 A JUROR: No. Oh, we're sorry we did, I assure
10 you.

11 MS. KERKHOFF: Oh, come on.

12 A JUROR: No. I didn't --

13 (Whereupon, at 3:25 p.m. the discussion was
14 concluded and resumed at 3:30 p.m.)

15 MR. BORCHERT: Good afternoon, everyone, we're on
16 the record here.

17 A JUROR: Yes.

18 MR. BORCHERT: This is your Case No. 44 --

19 A JUROR: Mm-hmm.

20 MR. BORCHERT: -- United States versus Nathaniel
21 Jaffe, et al. The lead case number is 2017-CF2-1147. My
22 name is John Borchert, J-o-h-n B-o-r-c-h-e-r-t. There was
23 a cancellation this afternoon, and so we have a little bit
24 of extra time here with you folks.

25 And so what I'm going to do is I'm going to play

1 for you one of the videos that we talked about. And we do
2 not have a witness who is going to -- this will be
3 authenticated by our witness who will testify tomorrow and
4 can explain to you what -- he'll say what, exactly, it is.

5 But I'll tell you now that this is a ground-level
6 camera video coverage of basically the 28 minutes that
7 we're -- that are at issue here. And it will show you
8 actually, you know, everything that Jennifer talked about
9 where the sort of -- the culmination of everything is where
10 the rioters are cordoned, basically on "L" Street between
11 12th and 13th Street. And what I'll do is I'll just have
12 this marked as Exhibit 1 and then I'll play it for you.

13 (Whereupon, Grand Jury Exhibit No. 1
14 was marked for identification.)

15 A JUROR: What's the source?

16 MR. BORCHERT: I'm sorry?

17 A JUROR: What's the source?

18 MR. BORCHERT: This was taken by MPD.

19 A JUROR: Okay.

20 MR. BORCHERT: Metropolitan Police Department.

21 A JUROR: These were the undercover or however
22 you refer to them?

23 MR. BORCHERT: Grand Jury Exhibit -- this will be
24 Grand Jury Exhibit 1 and it is -- it's taken by an MPD
25 officer. I think that's all I can say. But I mean,

1 certainly we can ask that when the witness testifies
2 tomorrow to authenticate this.

3 A JUROR: Mm-hmm.

4 MR. BORCHERT: I think those are all fair
5 questions. But I'm not going to hide the ball, it is an
6 undercover police officer.

7 A JUROR: Will that --

8 A JUROR: And you may have already said this, do
9 you plan on us voting on, on any of these before --

10 MR. BORCHERT: I'm sorry, let me stop this for a
11 second here.

12 A JUROR: Do you plan on, do you plan on having
13 us vote on any of these before the end of next week?

14 MR. BORCHERT: Yes.

15 A JUROR: Okay.

16 MR. BORCHERT: We'll be coming back to ask for a
17 vote. We'll be here with you folks tomorrow afternoon, and
18 we've also reserved time on Wednesday morning. And
19 hopefully by then we'll have enough that we can put before
20 you to consider voting on the first 10 or 11.

21 (Whereupon, the above-referenced video was played
22 to a full quorum of the Grand Jury.)

23 MR. BORCHERT: All right. You can see it
24 there --

25 (Whereupon, the above-referenced video continued

1 to play to a full quorum of the Grand Jury.)

2 MR. BORCHERT: It's the same thing -- there we
3 go.

4 A JUROR: Too bad he didn't film it that way.

5 MR. BORCHERT: You know, if I could just convince
6 people to turn their phone sideways --

7 A JUROR: Yeah, right.

8 MR. BORCHERT: -- wouldn't that be a --

9 A JUROR: It would.

10 MR. BORCHERT: -- great thing? All right.
11 That's all I have for today, everyone.

12 A JUROR: Okay.

13 A JUROR: Okay.

14 A JUROR: So this wasn't filmed surreptitiously
15 with somebody with a phone that was walking through; is
16 that right?

17 A JUROR: Was this an officer's --

18 MR. BORCHERT: That's right. That's right. I'll
19 let the Detective, tomorrow, answer that question. But I
20 think it's safe to say it's someone who's undercover.

21 A JUROR: Undercover meaning that he's undercover
22 for --

23 A JUROR: The current --

24 MR. BORCHERT: I think that's right. I think
25 that's right.

1 A JUROR: It sounded like he said that he --

2 A JUROR: That was the journalist.

3 MR. BORCHERT: At one point he does; it sounds
4 like he's says, "I'm a reporter."

5 A JUROR: Yeah.

6 A JUROR: Yeah.

7 MR. BORCHERT: Right. Okay. Thank you,
8 everyone. I'll -- let me check to make sure there's no one
9 else that needs your time here, but I think you're probably
10 good.

11 Have a good evening, everyone.

12 A JUROR: Yeah. Thank you.

13 MR. BORCHERT: Take care.

14 (Whereupon, the discussion was concluded.)

15 (Whereupon, at 4:10 p.m., the discussion
16 reviewing the charges in the presence of a full quorum of
17 the Grand Jury was concluded.)

18 * * * * *

19

20

21

22

23

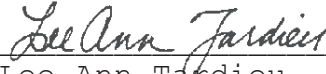
24

C-E-R-T-I-F-I-C-A-T-E

I, Roxanne Parsons, the reporter for the United States Attorney's Office, do hereby certify that the discussion, in the foregoing pages in the above-referenced case of U.S. v. Nathaniel Jaffe, et al., Case No. 2017-CF2-001147, heard on January 30, 2017, with the Grand Jury when there was a full quorum of the Grand Jury present; that the said discussion was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the discussion.



Roxanne Parsons, Official Reporter



Lee Ann Tardieu, Transcriber

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - x
: UNITED STATES OF AMERICA :
: :
: v. :
: Criminal Case :
NATHANIEL JAFFE, et al. : No: 2017-CF2-001147
: :
- - - - - x

Grand Jury No. January 2
Superior Court for the
District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Tuesday, January 31, 2017

The discussion in the above-referenced case was
taken in the presence of a full quorum of the Grand Jury,
commencing at 2:07 p.m., before:

JOHN BORCHERT
Assistant United States Attorney

JENNIFER KERKHOFF
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

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

2 MR. BORCHERT: All right. Good afternoon,
3 everyone. We're on the record. I think we're on the
4 record. Yes? Yes, we're on the record. Okay.

5 This is -- I'm coming back to you on your case
6 number 44. My name is John Borchert. For the record
7 that's J-o-h-n, last name B-o-r-c-h-e-r-t. Co-counsel?

8 MS. KERKHOFF: Jennifer Kerkhoff,
9 K-e-r-k-h-o-f-f. And for the record, this is U.S. case
10 number 2017-CF2-1147, United States versus Nathaniel Jaffe
11 who also is called [REDACTED] --

12 MR. BORCHERT: You'll recall that we were here
13 yesterday. We talked a little bit about the case. I also
14 played for you what is Grand Jury Exhibit No. 1. That was
15 a video that we watched on the screen. Today, we're going
16 to be presenting the testimony of one witness, Detective
17 Pemberton. Any questions before I get the witness?

18 A JUROR: The name again of the Detective?

19 MR. BORCHERT: Pemberton.

20 MS. KERKHOFF: P-e-m-b-e-r-t-o-n, first name
21 Gregory with three Gs. That's one G in front, two Gs in
22 the middle. I would usually say two Gs -- G-r-e-g-g-o-r-y.

23 (Whereupon, at 2:09 p.m., the witness Gregory
24 Pemberton, was called and testified before a full quorum of
25 the Grand Jury.)

1 MS. KERKHOFF: Anyone need a break?

2 A JUROR: Oh. I actually had a question.

3 MR. BORCHERT: Oh. For us?

4 MS. KERKHOFF: Hold on.

5 A JUROR: No, no. Not for the detective.

6 MR. BORCHERT: Oh. So then like -- so this -- so
7 we're starting Nathaniel Jaffe as C44, and then --

8 MS. KERKHOFF: So actually the whole case gets
9 made number 44.

10 MR. BORCHERT: Nathaniel Jaffe, et al.

11 A JUROR: Okay.

12 MS. KERKHOFF: Et al.

13 A JUROR: So that's why --

14 MS. KERKHOFF: Yes.

15 MR. BORCHERT: Yes.

16 A JUROR: So then when we see -- it will also be
17 C44.

18 MR. BORCHERT: Correct.

19 MS. KERKHOFF: 44, 44, 44. That's this --

20 A JUROR: This one is.

21 MS. KERKHOFF: Yeah.

22 A JUROR: Okay.

23 MS. KERKHOFF: Viewed as co-defendants. They'll
24 each have their own court case number, but I will not
25 require you guys to write that down. In fact, you'll just

1 have a piece of paper so that you don't have to write all
2 of that stuff down or whoever's the reporter. Yeah. It's
3 a lot of numbers, so yes.

4 A JUROR: Yes.

5 MS. KERKHOFF: We try to make that a little bit
6 easier for you. Have you -- is it always this hot in here?

7 A JUROR: It goes --

8 A JUROR: In the afternoon it gets worse.

9 MR. BORCHERT: They may, they may ask for --

10 MS. KERKHOFF: I might try to see if we get you a
11 fan. There is a budget problem, but -- it's warm in here.
12 Then, I think you actually -- at least, if you got anything
13 for 3:30 because I told Ethel that we might be able to give
14 you guys your break from our time. So let me just --

15 A JUROR: And then you're coming back at 3:30 --

16 MS. KERKHOFF: No.

17 A JUROR: -- until 5?

18 MS. KERKHOFF: We'll see you first thing.

19 (Whereupon, the discussion was concluded.)

20 (Whereupon, at 3:15 p.m., the discussion
21 reviewing the charges in the presence of a full quorum of
22 the Grand Jury was concluded.)

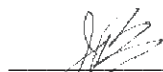
23 * * * * *

24

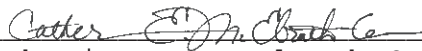
25

C-E-R-T-I-F-I-C-A-T-E

I, Jeffrey Belyea, the reporter for the United States Attorney's Office, do hereby certify that the discussion, in the foregoing pages in the above-referenced case of U.S. v. Nathaniel Jaffe, et al., Case No. 2017-CF2-001147, heard on January 31, 2017, with the Grand Jury when there was a full quorum of the Grand Jury present; that the said discussion was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the discussion.



Jeffrey Belyea, Official Reporter



Catherine E. McElrath-Carr, Transcriber

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - X
:
UNITED STATES OF AMERICA :
:
VS. :
: Criminal Case
NATHANIAL JAFFE, et al. : No: 2017-CF2-001147
:
- - - - - X

Grand Jury No. January 2
Superior Court for the District
of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Tuesday, January 31, 2017

The testimony of GREGGORY PEMBERTON was taken in
the presence of a full quorum of the Grand Jury, commencing
at 2:09 p.m., before:

JOHN BORCHERST
Assistant United States Attorney

JENNIFER KERKHOFF
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

C O N T E N T S

WITNESS:	PAGE
Gregory Pemberton	3
GRAND JURY EXHIBIT(S):	
No. 2 - DISRUPTJ20 video	6
No. 3 - Aerial View	14
No. 4 - Google Image of L Street	17
No. 5-18 - Photos	29
No. 19 - Evidence Collection Log	36

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

2 Whereupon,

3 GREGGORY PEMBERTON

4 was called as a witness and, after being first duly sworn
5 by the Foreperson or the Deputy Foreperson of the Grand
6 Jury, was examined and testified as follows:

7 EXAMINATION

8 BY MR. BORCHERT:

9 Q All right, good afternoon, sir.

10 A Good afternoon.

11 Q Could you start off please by stating your name
12 for the record and spelling it for our court reporter?

13 A Sure, Detective Gregory Pemberton,
14 G-r-e-g-g-o-r-y, P-e-m-b-e-r-t-o-n.

15 Q And, sir, can you tell us what it is that you do
16 for a living?

17 A I'm a detective for the Metropolitan Police
18 Department, currently assigned to the criminal
19 investigations division, Seventh District Detectives Unit.

20 Q About how long have you worked with the
21 Metropolitan Police Department?

22 A It will be 12 years next month.

23 Q Are you familiar with the circumstances that led
24 to the arrest of a number of individuals on felony rioting
25 charges on January 20th of this year/

1 A Yes, sir.

2 Q And are you familiar with the response of law
3 enforcement to those individuals and to those activities?

4 A Yes, sir.

5 Q Tell us what your role has been in this
6 investigation.

7 A Once the arrests were made, some individuals in
8 the command staff decided that detectives should get
9 involved and make sure that the investigation was handled
10 appropriately. I was assigned by the commander of the
11 Criminal Investigation Division to be the lead detective on
12 all the arrests.

13 Q And as the lead detective on the arrests, have
14 you had an opportunity to review photographic and video
15 evidence in connection with the case?

16 A Yes, sir.

17 Q And have you had an opportunity to conduct
18 interviews?

19 A Yes.

20 Q All right. We'll talk some more about that, but
21 before we do that, I'd like to ask you about something
22 called DISRUPTJ20. Can you explain to the Grand Jury what
23 DISRUPTJ20, and that's -- for the benefit of the court
24 reporter, that's all one word, D-I-S-R-U-P-T-J, like the
25 letter J-2-0.

1 A DISRUPTJ20, the J20 stands for January 20th,
2 which would be the inauguration of the president. The
3 DISRUPTJ20 group appears, from our investigation, to be a
4 conglomerate of a number of different groups that sort of
5 have varying views that oppose either President Trump or
6 his agenda, a lot of whom just oppose the government in
7 general and have a more anarchistic view of what should
8 happen, and they all -- from our investigation on social
9 media and other publicly available information, that they
10 decided to sort of assemble under this flag of DISRUPTJ20
11 and come to the city during the day of inauguration and
12 create some mayhem and violence against the city.

13 Q Now, you said that you learned about this prior
14 to the inauguration, is that right?

15 A The Metropolitan Police Department did through
16 its Intelligence Investigation section.

17 Q And so, did -- was the Metropolitan Police
18 Department aware of DISRUPTJ20 before an organization
19 called Project Veritas posted an article about it on the
20 internet?

21 A Yes. Yes, so, going back as far as early
22 December and I think even prior to that, members of the
23 Intelligence section were monitoring activity in -- in
24 publicly available locations about DISRUPTJ20 and what
25 their intents and the motives surrounding that group were.

1 They had been following that information on message boards
2 and chat rooms and websites about specifically what was
3 going to happen that day, what people were planning to do
4 in order to have an appropriate police response, because at
5 that point in time, they believed that it was more than
6 just a First Amendment assembly, that individuals were
7 actually planning and conspiring to commit crimes.

8 BY MS. KERKHOFF:

9 Q And while he's loading that, detective, if I may
10 have a follow-up question. What you're testifying about
11 here today, social media matters, are you in any way
12 relying upon anything provided by Project Veritas to anyone
13 or put out in the public domain right now?

14 A No.

15 (Grand Jury Exhibit No. 2
16 was marked for identification)

17 BY MR. BORCHERT:

18 Q Detective Pemberton, I'm going to show you Grand
19 Jury Exhibit Two. Do you know what this is?

20 A Yes, this is some video that was recovered by the
21 Metropolitan Police Department from the internet regarding
22 some activities, some sort of recruiting activities about
23 DISRUPTJ20.

24 Q And this was something that's dates prior to the
25 actual inauguration?

1 A That's correct, yes.

2 Q And, for the record, I'll play it for the Grand
3 Jury. Yes, you can help.

4 A There you go.

5 Q There it is.

6 (Whereupon, the above-mentioned video was played
7 to a full quorum of the Grand Jury)

8 BY MR. BORCHERT:

9 Q Detective Pemberton, just to ask a couple of
10 questions about things that were in that video so that it's
11 clear, were there individuals in that video who were
12 setting fire to objects?

13 A Yes.

14 Q And were there large groups of individuals
15 depicted in that video, encouraging the violence?

16 A Yeah, I would agree with that, yes.

17 Q I'm now going to show to you what I have marked
18 previously as Grand Jury Exhibit One. Do you know what
19 that is?

20 A Yes, this is a video that was taken by an
21 undercover police officer who was in the area of the
22 violent activity.

23 Q For the record, this was previously shown to the
24 Grand Jury yesterday as Grand Jury Exhibit One. Now, I
25 know that this is a video that's of some length. I think

1 it's probably close to 30 minutes or thereabouts, but can
2 you generally describe for the Grand Jury what it is that
3 can be seen on that video?

4 A Yeah, so, there -- there is a group of
5 individuals that sort of come together at 13th and O near
6 Logan Circle and begin moving down 13th Street southbound.
7 I think the video actually starts probably closer to
8 Massachusetts Avenue, or in between Massachusetts and L.
9 But you can see a group of individuals pretty tightly knit
10 with banners and signs, and as they move down 13th Street,
11 I think when they pass L Street is when -- when you really
12 -- in the video, when you first start seeing some of the
13 destruction where the digital parking meters are slammed,
14 people are spray painting garage doors, there's an EMS
15 vehicle whose windows are smashed out and spray painted,
16 and then I think as -- as that group continues to move
17 through the city is where you see the windows being smashed
18 of the establishments, of the Starbuck's and the bank.
19 There's a limousine and a Fox News truck, which was a Chevy
20 Suburban. Both of those vehicles were destroyed. And
21 then, the group moves into Franklin Street Square at --
22 towards the end of 13th Street.

23 One of the things to note is that is that as this
24 group starts out, it seems -- there's a pretty tightly knit
25 group of individuals that are wearing all black, and

1 there's -- it's a bit more diverse, though, that it seems
2 like, sort of generally what you would think of as a
3 protest, albeit rowdy. It seems to be a protest. As the
4 damage and sort of the violence starts occurring, the group
5 tends to coalesce and really boil down and concentrate into
6 a group of people that appear to be just wearing all black
7 with masks and carrying flags that represent some of these
8 anarchist movements and anarchists groups. Particularly
9 after they move into Franklin Square, there -- there's no
10 police inside the square, nor are they at the entrances or
11 exits of the park. It's a fairly large park and you can
12 sort of see them get into the park and regroup and leave
13 the park again, start doing more damage. They're sort of
14 redirected back into the park by police, and you see that
15 again. And as the video continues to go on and you see a
16 lot of this damage occurring, one of the thing that I
17 notice is that anybody that doesn't appear to be directly
18 affiliated with these individuals sort of peels off and
19 moves away, other than a few members of media that are
20 photographing or filming.

21 But, by the time that they reach the 1200 block
22 of L Street, which is ultimately where the arrests are
23 made, it appears that everyone in this group that's
24 cordoned off by the police is wearing all black, they're
25 carrying these flags, and they're sort of tightly knit and

1 packed into a group that has boiled down or coalesced into
2 one group of individuals that all appear to be there for
3 the same reason, chanting shouting, charging police lines,
4 throwing things, and ultimately those individuals are the
5 ones that are arrested.

6 Q Have you heard the term, or are you familiar with
7 the term a "black bloc?"

8 A Yes, so a black bloc --

9 Q Can you explain what that is to the -- to the
10 Grand Jury?

11 A Sure. It's a black bloc, B-l-o-c, is actually a
12 technique or a tactic for executing some of these violent
13 riots that originated in the Eighties in Germany, where all
14 of the individuals participating wear the same clothes,
15 they -- they wear masks to cover their faces, they wear
16 gloves so that they don't leave fingerprints or any other
17 evidence behind. They move cohesively as group, quickly,
18 swiftly, and then individuals will break away from the
19 group, cause significant damage to stores or vehicles, or
20 even violence sometimes against persons, and then they'll
21 immediately jump back into the group, making it nearly
22 impossible for the police to identify any particular
23 individual as being responsible any particular act. And
24 then that way, the individuals, no matter what happens,
25 it's very difficult for law enforcement or a government

1 agency to then say, "Well, this person did this or that."

2 And that black bloc is a tactic that's sort of
3 promoted very effectively among the websites that we
4 previously were talking about who sort of assembled under
5 this banned of J -- of DISRUPTJ20. And a lot of them that
6 we see in the chatrooms and the message boards explaining
7 black bloc to other people, ex -- telling people how to
8 participate in black bloc, how it works, what they should
9 wear, what they should bring, how to commit these acts of
10 violence, and it's -- it's a very lengthy thing. But we --
11 and even some of the reporters that -- of the social media
12 that we've watched are commenting as they're filming, "This
13 appears to be black block and black bloc movement," or
14 they're saying things like "This -- it must be nearly
15 impossible for the police to identify them."

16 So, after watching hours upon hours of video from
17 both police footage and social media, it's clear to me that
18 these individuals were engaged in this tactic of black
19 bloc.

20 Q What sort of -- as this sort of -- just a minute,
21 I'm going to switch over to the ELMO.

22 BY MS. KERKHOFF:

23 A As you're switching over to the ELMO, if I could
24 ask a couple of follow-up questions. Detective, as you
25 were -- you talked about other social media and things that

1 you have reviewed and monitored, and you said something
2 about instructions of people doing -- what were some of the
3 instructions -- it's -- I got it, flip it here. What were
4 some of the instructions specific under social media that
5 tagged itself with the DISRUPTJ20? What were some of the
6 specific instructions that were coming out before?

7 A So, one of the sites that we came across is
8 reddit.com, it's sort of an algorithmic site that sort of
9 compiles links. It's a link aggregator that compiles links
10 from other sites and the most popular ones are sort of
11 uploaded to the front. But the site itself as a number of
12 different sub-reddits of whatever -- hundreds and thousands
13 of them, really, of anything that you can think of.
14 Whatever your interests are, you can go to those sub-
15 reddits and sort of see what links within that genre or
16 whatever are popular that day. We were able to discover a
17 sub-reddit that was created called DISRUPTJ-20. The site
18 had been purged after the arrests. However, there were
19 still some links that remained and one of the links was
20 instructions on basically what to do if you were going to
21 be attending what they call as a riot. And some of the
22 things they said, is, you know, "Assume that it will turn
23 into a riot. Wear gloves so that you don't leave
24 fingerprints, wear goggles to avoid pepper spray. Wear all
25 black. Some of the other things they mention are about

1 making sure that -- that you don't leave any evidence
2 behind, those type of things. It appeared from the
3 instructions to me that they were telling people how to
4 come to city and commit crimes or destroy property.

5 Q Was there also any instruction provided about how
6 to make a banner or sign for which the handle would have
7 another purpose?

8 A Yes, and they describe making these flags or
9 these banners out of wood, wooden dowel rods, basically,
10 or, you know, raw baseball bat material, those kinds of
11 things, so that the flags themselves could be used as a
12 weapon against police or others.

13 Q And was there also a specific instruction, "Don't
14 make it look too obvious that it's a weapon?"

15 A That's correct, there was, yeah.

16 Q And in addition to some of the early monitoring,
17 I think you mentioned monitoring had started back in
18 December, are you familiar with information posted by a
19 woman on social media and on news sites, her name Lacy
20 McCauley, who identified herself as a spokeswoman for
21 DISRUPTJ20?

22 A Yes.

23 Q And are you familiar that during the statement
24 she provided on behalf of the group, she made the following
25 statement: "I can safely say that some groups are likely

1 planning actions that might result in arrest scenarios.
2 Sorry I can't give specifics at this time, due mostly to
3 the plans are still in flux, but also due to the fact that
4 all information is public. Is that correct?

5 A That's correct.

6 Q And was that in specific response to when asked
7 why members of law enforcement and media were specifically
8 told they were not welcome to come to the DISRUPTJ20
9 organization meetings?

10 A Yes, that's correct.

11 Q And that was put out on or about in December of
12 2016, correct?

13 A Yes, ma'am.

14 (Grand Jury Exhibit No. 3
15 was marked for identification)

16 BY MR. BORCHERT:

17 Q Detective Pemberton, I'm now showing you on the
18 ELMO what's been marked as Grand Jury Exhibit Number Three.
19 Is this aerial view of the area that we've been talking
20 about, where -- where the arrests occurred?

21 A That's correct.

22 Q If you could, could you show the Grand Jury what
23 you were talking about when you say that the -- the group
24 sort of coalesced and then ended up in particular area
25 where they -- where the arrests happened?

1 A Sure, so this is 13th Street, Northwest, and this
2 is intersecting with Mass Avenue. The group actually
3 stepped off of Logan Circle, which is just out of frame
4 here.

5 Q Oh, that's my fault. I can fix that, sorry. Oh,
6 it would be even further north, sorry.

7 A No, that's fine. So, as I said, the video that I
8 think you guys watched yesterday really starts somewhere
9 around Mass Avenue and you can begin seeing some
10 destruction as they come into this -- this block here, into
11 the 1300 block of L, as well as these blocks of 13th Street
12 moving downward. You see a UPS store and some other --
13 there an EMS vehicle here that was parked in front of the
14 firehouse, which was damaged, and a number of parking
15 meters and newspaper boxes that were dragged out into the
16 street and later burned. As they get down to Franklin
17 Square, the group sort of moves into the park, at which
18 time, there's not really much police presence there, but
19 they sort of regroup, and as you can see them leaving the
20 park, it becomes entirely more concentrated of individuals
21 that are really just wearing black with masks. And anybody
22 else that appeared to be more diverse in how they were
23 dressed or how they appeared, you don't really see them
24 anymore, leading me to believe that those people stepped
25 out or remained on the scene or left another direction.

1 As they leave the park, they come down I Street.
2 That's where you see a lot of the damage in, with the --
3 the Starbuck's windows are smashed, the bank of America
4 windows are smashed, I'm sure that you may have seen some
5 of that. Eventually, as the police sort of started to move
6 in and tried to get a handle on the operations, they end up
7 in New York Avenue, but they can't -- they can't really get
8 up New York Avenue because the police are blocking this
9 area off and they turn back around. They then go south
10 back towards the White House Avenue, and you may have seen
11 the McDonalds window that gets smashed out here at the
12 intersection of 13th and New York. They go back up at that
13 time. The police are really trying to move in because the
14 damage and the violence is escalating, and then they sort
15 of spill back into Franklin Square at this time, where,
16 again, there's no police there in the park or surrounding
17 the park, and from the interviews that I've conducted with
18 police and command staff and the videos I've watched,
19 anybody, regardless of what you'd done up to that point,
20 probably could have just walked away and could have just
21 left and got on a Metrobus or walked out of town, but they
22 didn't and you can see from a number of the videos that
23 they regroup again, and there's a lot of sort of
24 coordinating, of "Stay tight, let's get together, this is
25 the direction we're going to go." They're -- you can

1 really tell from their -- the way that they're speaking and
2 what they're saying is that they're trying to get together
3 and continue the activity that they've been up to. They
4 then leave northeast out of the park, travel up to L
5 Street, where they then turn right, and as they're
6 traveling eastbound on L Street into the 1200 block, police
7 commanders had ordered what's called a react unit, which is
8 sort of a floating civil disturbance unit to respond to
9 this area. So, that unit responded and blocked off the
10 1200 block of L Street so that the individuals could not
11 exit eastbound any further. And the police that were
12 already sort of pursuing them, if you will, came in and
13 closed in behind them at L Street. And so, about halfway
14 through L Street in this -- this eastern half of the block
15 is where these individuals were cordoned off and eventually
16 arrested.

17 (Grand Jury Exhibit No. 4
18 was marked for identification)

19 Q And so, I'm now going to show you Grand Jury
20 Exhibit Four. Is this a --

21 (KNOCK ON THE DOOR)

22 Q Excuse me.

23 (ASIDES)

24 Q Okay, Detective, I'm showing you Grand Jury
25 Exhibit Number Four. Can you tell the Grand Jury what

1 we're looking at here?

2 A So, this is the 1200 block of L Street looking
3 westbound, and this crosswalk here at the lower half of the
4 screen is where that react unit that I spoke to you about
5 sort of lined up, not allowing the group to pursue any
6 further.

7 Q And if you could, just describe for us, you know,
8 what is in this block?

9 A So, the south side of the block, which is this
10 building on the left of your screen, is an elementary
11 school that was obviously not in attendance at that time,
12 and the right side, I believe this is a residential
13 building, but there's -- there's no entrances that I'm
14 aware of, other than this garage door, which is further
15 down the block, and that garage door has a rolling metal
16 door that you see in some of these downtown buildings that
17 was closed at the time.

18 Q And so, it may be sort of obvious from the
19 picture, but are there any sort of shops or merchants
20 located on the north or south side of this block?

21 A No, there's no stores or convenience stores or
22 anything like that, and I'm not even really sure there's
23 any entrances to either of these buildings at these
24 locations.

25 Q Did you have anything further on this, Jennifer?

1 BY MS. KERKHOFF:

2 Q Just for the record, you are -- are you aware
3 that D.C. Schools were, in fact, closed on Inauguration
4 Day?

5 A Yes, they were closed, that's correct.

6 Q So, just to be clear, maybe it's obvious, this
7 does not appear, based on what you've observed, both in the
8 photographs and your knowledge of the city, to be a place
9 that someone would just randomly be going in and out, going
10 to shops, hitting a Subway, going to a 7-Eleven, correct?

11 A That is correct. I don't think anybody could
12 have got in or out of these buildings at that time,
13 mistakenly.

14 BY MR. BORCHERT:

15 Q I'm going to put the map back up there in case
16 it's helpful, Grand Jury Exhibit Three on the ELMO.

17 What sort of items were folks in this group --
18 you might have said this already. What sort of items were
19 they carrying?

20 A There's some dozens of items that were recovered
21 by police that day. Some were left behind after the group
22 sort of made their way through certain areas, others were
23 collected after the arrests were made, but they were
24 crowbars, hammers, you know, these flagpoles I spoke about
25 which inch and a half dowel rods, I mean they're basically

1 the equivalent of a baseball bat. There was pepper spray
2 that was recovered that was not police-issued. Goggles
3 were left there, gas masks.

4 Q These are all things that were left behind by the
5 black bloc?

6 A That's correct, yes.

7 Q And once this -- the group was cordoned off
8 between 12th Street and 13th Street, was everyone there
9 arrested?

10 A No.

11 Q Tell us about that.

12 A So, as I said, they shut off the 1200 block
13 there, and the group of individuals that was responsible
14 for the damage really concentrated and just became almost
15 like a ball of individuals, very tightly knit, shoulder to
16 shoulder in that group. Anybody that was a journalist at
17 that point, from what I can tell, watching the videos,
18 stepped away and moved to either the side of the block or
19 moved out of the area and many of whom could tell something
20 was about to happen. They were -- you could see they
21 raised their flags in the air, they were chanting, and then
22 you can hear them on a number of the videos planning to
23 charge the police line, and they're -- they're sort of
24 coordinating how to make that attack and which -- which
25 direction they're going to go, and who's going to lead the

1 charge. And subsequently, they then do charge and the
2 individuals in front deploy umbrellas to sort of deflect
3 any pepper spray that they might get hit with and they
4 charge the police line, and some of whom, I imagine get
5 away, some get to the other side of the line but were
6 apprehended, but that group of individuals there is then
7 just sort of stood up and moved against the wall that you
8 saw in the previous exhibit, and those people are
9 subsequently arrested.

10 Q What steps, if any, did the police take with
11 respect to journalist who were with the black bloc on L
12 Street there?

13 A So, a number of people, I think probably less
14 than a dozen or so, identified themselves to police as
15 being journalists or with the press. Lieutenant Washington
16 then coordinated with Assistant Chief Greene and Assistant
17 Chief Alder to determine whether or not those people had
18 valid credentials to be journalists. And I've interviewed
19 them, and they've -- they said that there was a number of
20 people that provided credentials of some kind, and if they
21 felt like those credentials were sufficient and valid,
22 those people were moved out of the area and let go.

23 BY MS. KERKHOFF:

24 Q Let me ask this. On some of the social media
25 postings, were there individuals, and we say journalists,

1 including people who are freelancers, is that correct? So,
2 individuals, can you see on -- on that were Facebooking or
3 live tweeting this stuff or posting, can you actually see
4 journalists who are saying, "I'm a journalist," show
5 credentials, and they're immediately let out of the
6 cordoned-off area once the initial charge is completed?

7 A Yes, in a number of the videos, you can see
8 people, once they realize arrests are being made, they're
9 -- they're very adamantly identifying themselves and the
10 police are shuffling them out of the area, as long as they
11 have the correct credentials or are identifying themselves
12 as such.

13 BY MR. BORCHERT:

14 Q You mentioned that there were some people that
15 broke out of the black bloc. and had -- therefore, those
16 people were not arrested, because they got out of the block
17 of L Street. Did any of them continue to agitate at all?

18 A Yeah, there was a large group of individuals that
19 continued to remain in the area, agitating the police,
20 threatening the police, throwing rocks, throwing bottles,
21 other objects. They were engaging in chants, saying, you
22 know, "Let them go," or "Let them out, things like that,"
23 and continuing, sort of the behavior that they were
24 previously engaged in, which made it difficult to sort of
25 process those arrests and get those individuals out of

1 there.

2 Q Were there any individuals who were throwing
3 items at the police?

4 A Yes.

5 Q What kinds of items were thrown at the police?

6 A Fist-size concrete blocks. Many individuals
7 pried up bricks with crowbars out of tree boxes in the
8 block and threw those bricks. There was a large metal
9 object, sort of unknown origin, that struck an officer in
10 the head. Anything they could find was being hurled at the
11 police, everything from water bottles to -- to bricks.

12 Q After -- let me skip ahead now for a little bit.
13 Once everyone who was still in the black bloc there on L
14 Street had been placed under arrest, was there an effort by
15 the police to see if anyone wanted to make a statement?

16 A Yes.

17 Q Can you tell about that?

18 A So, when I was asked to respond to the holding
19 facility at 501 New York Avenue to assist, there was a
20 decision that was made to try to talk to arrestees.

21 MS. KERKHOFF: Before you begin, I just want to
22 instruct the jury, everyone who's arrested has the right
23 not to speak, so this is not about whether they should or
24 should not have. This goes directly to claim of one of the
25 things, innocent presence on the scene. You may consider,

1 and you are permitted to consider solely whether or not an
2 individual who had the opportunity was simply innocently
3 present on the scene, mixed up in this, provided that
4 information to police. It's not about a Fifth Amendment
5 issue. They don't have to, it doesn't mean automatically,
6 that means they're guilty, it's one factor for you to
7 consider, and I'm instructing you that they didn't have to,
8 so you may not automatically infer guilt from that, but you
9 may consider whether a person who is innocently in the
10 block perhaps just got up there, what their actions would
11 have done.

12 THE WITNESS: So, a decision was made to try to
13 attempt to interview individuals that were arrested. Now,
14 it was sort of an unwieldy process, given the number of
15 people that had been arrested. However, I made the best
16 effort I could, which included to go into the cellblock,
17 and I went cell to cell through the entire cellblock,
18 asking individuals if they wished to speak to a detective
19 or if they wished to make a statement about the
20 circumstances regarding their arrest. I also -- after I
21 went through the cellblock, there were individuals who were
22 still waiting to be processed on two school busses and I
23 think four or five transport wagons. I went in both of the
24 school busses and I went to the rear of all the transport
25 wagons, and I asked the same series of questions as to

1 whether or not anybody would like to speak with a detective
2 or anybody who had anything that they wish to stay -- say
3 or any statement they'd like to make about the
4 circumstances about their arrest, and save two individuals,
5 no -- nobody agreed to -- nobody expressed any interest in
6 speaking to the police, or speaking to me as a detective.

7 BY MR. BORCHERST:

8 Q You said "save two individuals." Who were the
9 individuals who wanted to have a word with you?

10 A So, there were two individuals that identified
11 themselves as journalists, as freelance journalists. I
12 stopped and spoke with them, this was in the cellblock, and
13 I asked them if they had any kind of credentials. They
14 stated they did not. I asked them if there was anyone I
15 could contact that could verify their employment or their
16 status as journalist, and they could not provide anyone or
17 any name or phone number.

18 Some of them referred to -- or, both of them
19 referred to an organization that they worked for. However,
20 they could not direct me to somebody that could verify
21 their employment at those locations. The only thing that
22 they would provide is -- is they instructed me to go look
23 at their social media, and then I would then learn from
24 their social media that they had been reporting on this
25 incident all day.

1 However, at that point in time, that was not
2 sufficient to make a decision as to release them, because
3 it did not qualify as credentials, as press credentials at
4 that time, so those individuals were processed and charged
5 that evening.

6 BY MS. KERKHOFF:

7 Q Have you conducted follow-up investigation?
8 Prior to today, has law enforcement as well as the
9 government conducted follow-up investigation for these
10 individuals who were not credentialed?

11 A Yes.

12 Q And as a result of that, are you aware that that
13 information was ultimately able to be verified by -- by
14 employers or other -- other sources?

15 A That's correct, yes.

16 Q And as a result of that, are you aware that those
17 individuals, any charges have been dismissed against them?

18 A That's correct.

19 Q Okay. Save those two individuals, and those are
20 two individuals who identified them as freelance --
21 themselves as freelance reporters, did anyone else want to
22 provide any information about the circumstances of how they
23 ended up in that bloc?

24 A No, none of them.

25 Q What was the response you received?

1 A Most of it was some pretty foul language, so I'll
2 apologize, but I heard a lot of, "No, go fuck yourself,
3 pig."

4 BY MR. BORCHERST:

5 Q Detective Pemberton, during the course of your
6 investigation, have you had occasion to speak with someone
7 named [REDACTED]?

8 A Yes, sir.

9 Q Can you tell us about that?

10 A Sure, [REDACTED] is an individual that lives
11 in Colorado who came into town to participate in the
12 Women's March on the 21st. She came in town with her 19-
13 year-old niece and her 70-year-old mother with the intent
14 to march in Saturday's Women's March.

15 Q Did she contact you?

16 A She did. She initially contacted Commander
17 Deville, and Commander Deville referred her to me as the
18 lead detective.

19 Q And when did she contact you?

20 A I believe it was last week, early last week.

21 Q And tell us about what she said had happened on
22 January 20th.

23 A So, Ms. [REDACTED] came into town, as I said, to
24 participate in the March on Saturday, however she also
25 wanted to participate in something on Friday, the day of

1 the inauguration. And as she went online, she found this
2 DISRUPTJ20, which she believed was a permitted, peaceful
3 demonstration, and she took her niece and her mother to --
4 to this march and they met there and engaged in this
5 activity. She contacted police because she said she was
6 watching the reports of individuals that were arrested, and
7 that some of those reports included information that the
8 police just sort of moved in and arrested everybody that
9 happened to be there, regardless of whether they were
10 involved in this violence. And she said that nothing could
11 be further from the truth and that she wanted to come
12 forward as somebody that was there and provide testimony
13 regarding that.

14 So, I interviewed her regarding her experience,
15 and she stated that as they began marching down 13th
16 Street, when individuals became violent and riotous, that
17 her and another group of individuals tried to sort of talk
18 to people and say, "What are you doing? This is
19 unproductive," and that -- in her words, that those people
20 did want to hear any of that, and that they were only there
21 to destroy. And as they began to realize that, sort of
22 another group of individuals that weren't there for that
23 purpose sort of assembled and went their own direction.
24 But she did remain with the group for a while, and she said
25 that even as they got into the park and tried to talk to

1 people, she said it was clear to her that those
2 individuals, specifically the ones that were wearing all
3 black, were there for no other purpose than to destroy the
4 city and that they had come with the intent to do that.

5 So, her and her mother and her niece and some
6 other people that she had assembled began informing other
7 that were in the group that may not have been aware of the
8 level of violence and destruction to go a different route,
9 and they sort of posted up somewhere near the park there at
10 Franklin Square and told people, "Don't go that way. If
11 you want to go on a peaceful march, let's go this
12 direction," and she sort of assembled a group of people to
13 walk the other way.

14 But she -- in my opinion, she found it offensive
15 that people were saying that the police had just sort of
16 locked up anybody that was there to protest, because in her
17 opinion, anybody that was not there to cause that kind of
18 damage could have gone any direction at any point in time
19 at any one of those intersections in or out of the park,
20 that people could have recused themselves, basically, from
21 that sort of activity, and she wanted to make herself known
22 about that.

23 (Grand Jury Exhibits No. 5-18
24 were marked for identification)

25 Q Okay. We have a number of pictures I'm going to

1 walk through here that have been previously marked. I'm
2 now showing you Grand Jury Exhibit Five. Maybe turn off
3 the lights.

4 A JUROR: It's not helping.

5 MS. KERKHOFF: That's not helpful?

6 MR. BORCHERST: That's not helpful.

7 A JUROR: Keep the lights on.

8 MR. BORCHERST: Keep the lights on? Okay.

9 (ASIDES)

10 BY MR. BORCHERST:

11 Q I'm showing you Grand Jury Exhibit Five,
12 Detective Pemberton, can you tell us -- tell the Grand Jury
13 what that is?

14 A This is the limousine that was destroyed, the
15 back of the limousine that was destroyed, as well as the
16 front of the Fox News van, Suburban, I should say, I
17 apologize.

18 Q I'm now showing you Grand Jury Exhibit Number
19 Six. Can you explain what that is?

20 A Sure, that's a metal garage door on the 1300
21 block of L. It's been spray painted.

22 BY MS. KERKHOFF:

23 Q With the words, "Revolution or death?"

24 A Yes, "Revolution or death."

25 BY MR. BORCHERST:

1 Q I'm now showing you Grand Jury Exhibit Seven.

2 A Two Wells Fargo ATMs that have been smashed, the
3 screens have been smashed.

4 Q I'm now showing you Grand Jury Exhibit Eight.

5 A That's the Bank of America. I don't think you
6 can see here, but that window and the doorframe is smashed.

7 Q I'm showing you Grand Jury Exhibit Nine.

8 A That's the Starbuck's Coffee. Both of those
9 windows behind the Guardsman there are smashed, as well as
10 the door and the window next to the door.

11 Q I'm showing you Grand Jury Exhibit Ten.

12 A That's an MPD cruiser with the anarchy symbol
13 spray painted on the hood.

14 BY MS. KERKHOFF:

15 Q Detective Pemberton, that symbol you referred to,
16 is that an "A" with a circle around it?

17 A Yes, ma'am.

18 Q And were you able to see that symbol when you
19 were referring to various anarchist groups and social media
20 postings prior to DISRUPTJ20 -- prior to this, January
21 20th, is that the same symbol you were observing.

22 A Yes, that symbol is commonly associated with the
23 groups that are involved.

24 BY MR. BORCHERST:

25 Q I'm showing you Exhibit 11.

1 A This, again, is a different shot of the limousine
2 with all of the windows smashed out and the windshield is
3 also cracked.

4 Q Grand Jury Exhibit 12.

5 A That's an MPD cruiser, rear window smashed.

6 Q Grand Jury Exhibit 13.

7 A I don't recall which establishment this is, but
8 those windows are all smashed out as well.

9 Q I'm showing you Grand Jury Exhibit 14.

10 A Again, that's just a different window in the same
11 building.

12 Q Grand Jury Exhibit 15, can you tell us what this
13 is?

14 A Sure. So, this is a collection of weapons that
15 officers recovered ad they were going on, as they were sort
16 of traveling behind this group of individuals. You know,
17 as that group coalesced and the damage was done, weapons
18 were sort of left behind. So, they would pick up the
19 weapons so that they couldn't be re-used, and they would
20 usually throw them back of -- in the back of a police car
21 or a police wagon. The reason that they're all here
22 together like this is when the department of Forensic
23 Sciences came to recover these items and photograph them,
24 the officers went and obtained all the weapons and put them
25 in one location so that they could do an appropriate

1 inventory and documentation.

2 Q So, if I understand you correctly, these are
3 items that the police recovered from the area where the
4 black bloc had previously been?

5 A Yeah, so, as they would approach an area where
6 that group had just sort of moved on from and there was
7 damage, there was typically -- some of this stuff had been
8 left behind in various areas, and so the officers, to
9 prevent them from being reused by any other individuals,
10 they would pick them up and put them in the back of a
11 police car or secure them somewhere so that they wouldn't
12 be re-used.

13 Q So, they might not have necessarily been in that
14 block on L Street that we were looking at before, is that
15 right?

16 A That's correct.

17 Q Can you describe for the Grand Jury what some of
18 these items are?

19 A Sure. You can see up here, this is an Asp baton,
20 and it's an expandable baton that police typically use.
21 This is a hammer here, this yellow item is crowbar. These
22 four items here are those flagpoles that I was explaining
23 earlier are these thick wooden dowel rods. There's also an
24 umbrella here, which many people were using to deflect the
25 pepper spray that was sprayed -- sprayed at them.

1 Q I'm now showing you Grand Jury Exhibit 16. Can
2 you tell us what that is?

3 A Sure, this is a military or law enforcement-
4 equipment vest and a gas mask that was recovered from the
5 street. You can see here, I know it's difficult to see,
6 but if the picture's passed around later, this lower
7 portion here is a -- a holster for a semiautomatic pistol.
8 The pistol would fit in here and the -- the handle of the
9 weapon would stick out this way and this is a -- a magazine
10 pouch for a magazine. No -- no firearms were recovered,
11 but that's -- that's what this is, which leads me to
12 believe that it's some sort of military or law enforcement
13 vest, as well as a gas mask.

14 Q And the gas mask is on the left side of that
15 picture there, is that right?

16 A That's right, yes.

17 Q And where were these items recovered?

18 A Again, like the weapons in the previous photo,
19 they -- this item was just recovered from the street after
20 the group had passed.

21 Q I'm showing you Grand Jury Exhibit 17.

22 A This another image of the limousine after it had
23 caught fire and -- and burned up.

24 Q Now, we didn't necessarily -- when we Grand Jury
25 Exhibit One, it didn't -- we saw the limousine but we

1 didn't see it catch fire. Can you explain to the Grand
2 Jury how that happened?

3 A So, when they initially passed the limousine, as
4 I think you guys saw yesterday, some individuals hammered
5 the windows out of it as they went by. I don't know if you
6 saw, but the driver of the limousine was standing there,
7 and he had some objects thrown at him. He said that after
8 they passed, that someone had thrown a lit device. I'm not
9 sure if it was a flare or some kind of device, had thrown
10 -- thrown a flammable device inside. He was able to go
11 inside and recover it and put it out. So, the vehicle
12 didn't burn at that point in time, but later on,
13 individuals came back and again, threw flares in there, and
14 that was after he had left the area due -- due to the
15 obviously violent nature of what was going on, and so that
16 -- that was when the vehicle was burned, was at a later
17 time. But they initially destroyed it and tried to burn it
18 when he was standing there in the video that you saw.

19 Q I'm showing you Grand Jury Exhibit 18.

20 A This is a little bit further out, but it also
21 shows that the trashcans were, and the newspaper boxes were
22 pulled into the street and some of them set alight.

23 BY MS. KERKHOFF:

24 Q Can you explain, when you talked to officers on
25 the scene, as well as a number of the social media videos

1 that you watched that tracked this event, this group, as
2 it's moving through the city, and you described, in some
3 instance leaving things behind, what is happening with
4 trashcans and newspaper boxes? I think you may have
5 mentioned it before, but can you describe what's happening?

6 A So, one of the -- another black bloc technique
7 that I may not have described is, as they pass an
8 intersection, in any urban environment, there's going to be
9 trashcans and newspaper boxes, typically. What they do is,
10 is they pull those items out into the street so the police
11 vehicles have difficulty keeping up with them, and you guys
12 probably saw in the video that at almost every
13 intersection, there was a group of people that would go out
14 to the corners and then rip that stuff and pull it -- rip
15 it off and pull it into the street. And then, sometimes,
16 they would even set it aflame just to make it a more
17 treacherous path for the police officers to get past. But
18 that -- that's what you're seeing here, is that they --
19 they attempted to blockade the streets so that vehicles
20 couldn't get through.

21 (Grand Jury Exhibit No. 19
22 was marked for identification

23 Q Detective Pemberton, I'm going to show you what
24 is marked as Grand Jury Exhibit 19. Do you recognize that?

25 A Yes.

1 Q What is that?

2 A This is the Department of Forensic Science's
3 evidence collection log. It has a three-page list of the
4 items that DFS was responsible for photographing and
5 recovering.

6 Q Are there any items that -- that you would call
7 out for the Grand Jury?

8 A Yeah, it itemizes that vest that we saw. It says
9 it has a gas mask, mask, knife, handcuffs, asp, flashlight.
10 There is --

11 Q That was with the vest?

12 A All of that was collected with the vest. There's
13 a number of gas masks and also 3M brand masks, which are
14 more of just, like, painting-style mask, not necessarily to
15 protect you from gas or some type of --

16 Q Like, the kind you could get at a Home Depot?

17 A Sure, right, there's a number of those were
18 recovered. There's a number of knives, a number of
19 goggles, safety goggles, some pepper spray was recovered.
20 A hammer was recovered, a wrecking bar, which is a type of
21 crowbar. Another hammer, another black Asp, umbrella, a
22 pipe, a metal tube, a colored flagpole, another wood pole,
23 more pepper spray, more pipes, two unopened bags of TNT
24 red, white and blue smoke fireworks, and I have no idea
25 what this is for, but it's seven sodium chloride injection

1 syringes. I have no idea what that's about, and then an
2 unknown rusted metal object that struck Officer Nelson?

3 BY MS. KERKHOFF:

4 Q Detective, can I ask a follow-up question? You
5 said this was collected by DFS. Were these items collected
6 off of individual people when they were arrested, or is
7 this is the stuff that's being picked up as part of the
8 street -- I don't want to say cleanup, but discarded, left
9 behind for pickup?

10 A It's being discarded and left behind, and this
11 point in time, we can't tie it to any particular
12 individual, other than just a group as a whole had left it
13 behind.

14 Q So, this was what trailed, followed, or was
15 picked up following the group that was arrested in the area
16 of 12th and L?

17 A That's correct.

18 Q And the photographs of the damage that we looked
19 at, Grand Jury Exhibits Five through 14, if you want to
20 hand me the rest, I'll start passing those around. I
21 guess, Five through 18, is all of that within that route
22 that you described on the map, where the group starts and
23 kind of moves through, and all this damage is occurring
24 along that route and Franklin Square and back through as
25 it's going around?

1 A Yes, and also, I will tell you that those
2 pictures are certainly not comprehensive of all of the
3 damage. Those are just the pictures that I have right now,
4 but that's certainly only a small portion of the amount of
5 damage that we've assessed over the course of the past week
6 or so.

7 Q And have initial estimates been provided with
8 respect to the damage that was inflicted, both from the
9 Starbuck's, the banks, the limo, initial estimates have
10 been provided in?

11 A The estimate that I received from Chief Alder was
12 that was at least over \$1 million.

13 Q Safe to say \$5,000.

14 A I believe it would be safe to say over \$5,000,
15 yes.

16 MS. KERKOFF: Do any members of the Grand Jury
17 have questions? Again, this is kind of -- we'll get into
18 specific people later, but yes, we'll go ahead and start
19 down the line.

20 A JUROR: So, I recall seeing in the video and
21 you testified that a brick or some object was thrown at the
22 limo driver. Were -- were people -- was -- other than
23 police, were any bystanders injured, either from that
24 throwing of an object, or people inside the Starbuck's or
25 the McDonald's that were smashed in?

1 THE WITNESS: So, I don't know about the
2 Starbuck's or the McDonald's. We have some reports of
3 people that were injured. I'm in the process of trying to
4 track down exactly how they were injured, how many people
5 were injured, and exactly how they obtained those injuries.
6 It's a little bit difficult right now because a lot of
7 those people -- the police didn't necessarily respond, and
8 ambulance of medic responded, and if those people refuse
9 treatment, it requires a little extra level of
10 investigation to get their information from the fire
11 department, so I'm in the process of working with the fire
12 department to determine how many people were injured and
13 how they received those injuries, other than the police
14 officers.

15 A JUROR: Yeah, I have three questions. First
16 one, were any -- the item --

17 A JUROR: Sorry, can't hear.

18 A JUROR: Sorry. The as the items were picked
19 up, were they marked where they were picked up from, or
20 just thrown into the van?

21 THE WITNESS: Unfortunately, no, because this was
22 just a fluid event and very volatile, and so the officers
23 were really just more concerned about getting it out of the
24 street in the event that these people doubled back or came
25 around them that they'd then have access to more weapons.

1 So, it's difficult to determine, like, for example, where
2 the hammer was picked up or where the crowbar was picked up
3 because officers were also trying to deal with the crowd
4 while they were also, you know, recovering these items.
5 So, as I said, when DFS came, the officers just said, "Hey,
6 look, we've got all this stuff in this trunk, or in the
7 back of this wagon or something," and then they collected
8 it and photographed it there. So, it's hard to say, but
9 they -- the officers that I spoke with all stated that
10 these items were recovered after this group of individuals
11 had passed an area and they would find them and then
12 recover them, so it's not like they found it an alley or
13 something.

14 BY MS. KERKHOFF:

15 Q And I know you have two more questions, but just
16 to follow up on that question, some of the videos that
17 you've been able to observe, I believe, in this one, can
18 you actually see as the group marches an individual who's
19 masked up swinging what appears to be, if not that yellow
20 crowbar, a crowbar that looks almost identical to in size,
21 shape, and color?

22 A Yes, there's an individual with a yellow crowbar
23 in the video, yes.

24 Q And can you also see in some of the videos who is
25 again masked and has a gas mask hanging around his waist,

1 who was later identified by police with a hammer in his
2 hand using that hammer to break the McDonald's window?

3 A Yes.

4 Q And you can see that it is a hammer, correct?

5 A I believe it's a red hammer, yes.

6 A JUROR: My second question, in your research on
7 social media prior to the event, did you see anyone give
8 advice that people should pose as journalists as a tactic
9 to evade arrest?

10 THE WITNESS: Not that I am aware of, but my
11 knowledge of what was done as a preliminary investigation
12 is not comprehensive, as I wasn't involved in that. So,
13 I've been sort of briefed by the people that have done, so
14 if that was information that's out there, I'm -- it may
15 have been, but I'm unaware at this time.

16 MS. KERKHOFF: One thing I'll say to the Grand
17 Jury. To the extent we're going to be discussing anyone
18 who has at any point claimed themselves to be a journalist,
19 whether it was at that time or subsequent, those
20 individuals we will be presenting to you at -- we will be
21 identifying those individuals -- I don't want to say
22 separately, but we will be talking about that to the extent
23 anyone has made that claim or if someone has made it on
24 their behalf since their arrest.

25 A JUROR: And then, the last one, forgive my

1 ignorance on this, why was the -- I guess the cordoning off
2 of the group until 12th and L, since they had destruction
3 all the way through the city and back to that first
4 location. Why did they wait until that time to do that?

5 THE WITNESS: I believe it was restraint. I
6 think that they were trying to mitigate the situation
7 without making an arrest. I think, if, at any prior to
8 that, they could have just got the group to disperse and
9 get on the bus and go home, I think we would have just
10 dealt with it and conducted follow-up investigations about
11 identifying people, but by the time it had gotten to 12th
12 and L and these people had regrouped again for a second
13 time in the park, and destruction was no elevating and
14 escalating, I should say, a decision was made by command
15 staff that we -- we weren't going to let these people just
16 continue to destroy the city, so that -- that's why they
17 decided to block off the 1200 block of L, because they
18 could see that they were going that direction.

19 BY MS. KERKHOFF:

20 Q And, just to follow-up on that point, Detective,
21 as part of your investigation, are you aware that there
22 were other protested, permitted or just street-level
23 protests throughout the day on January 20th of 2017?

24 A Yes, there was a number of permitted and non-
25 permitted demonstrations.

1 Q Are you aware of any other arrests by law
2 enforcement, by MPD, involving those other what we call
3 protests or demonstrations?

4 A Not that I'm aware of, no.

5 Q Are you also aware that on January 21st of 2017,
6 there were approximately 500,000 people in the District of
7 Columbia in a protest or demonstration, with respect to the
8 women's march?

9 A Yes.

10 Q Are you aware of any other -- any arrests made by
11 the Metropolitan Police Department with respect to that?

12 A Not that I'm aware of, no.

13 A JUROR: I do have a quick follow-up question.
14 In addition to the weapons and other objects that were
15 recovered along that route, were additions items and
16 weapons recovered after the arrests, on their persons.

17 THE WITNESS: So, there were a number of items
18 that were recovered from people who were arrested, from
19 their person. I don't recall any of those weapon-like
20 items, but there were certainly things like shin guards,
21 kneepads, goggles, face masks, gas masks. A lot of people
22 were carrying items that, I think that's there's some
23 notion on the internet that you can use sort of antacid to
24 mitigate the damage of pepper spray, so people had water
25 bottles that were filled with things like Maalox or those

1 type of items that they were trying to spray themselves
2 with after they encountered pepper spray. So, there --
3 there were certain -- there's certainly a laundry list of
4 items that make me believe that these people intended to
5 have a clash with the police, but as far as actual weapons,
6 I don't believe that there's a very list of them.

7 MS. KERKHOFF: And to the extent when we talk
8 about individual people, to the extent that they still had
9 items on the at the time, you will be hearing about that
10 with respect to each individual person that answers. I
11 think we have a question. Two more questions here and then
12 we'll come back to this side.

13 A JUROR: Two about -- about items. You said
14 there was a military style vest. It's not from -- it's not
15 law -- your law enforcement vest type.

16 THE WITNESS: That's correct, no, it is not an
17 MPD-issued item, no, not at all.

18 A JUROR: And what's an ASP?

19 THE WITNESS: It's a brand of baton, it's an
20 expandable baton that is typically issued by police
21 officers, but it's available to civilians. You may have
22 seen, you sort of fling it in the air and it comes open.
23 It's -- yeah, so it's -- the brand that makes it is called
24 Asp, A-S-P.

25 A JUROR: You made reference to a person by the

1 name of [REDACTED] as a spokesperson for this group,
2 and then you just went on to other discussions. Was there
3 a point of raising her name?

4 THE WITNESS: Well, she claims to be the
5 spokesperson as well as organizer, and the statement that
6 she made prior to this is that individuals that were going
7 to be engaged in this would most -- not most likely, but
8 there was a potential for them to be arrested. So, I think
9 that it shows that there was some -- some knowledge that
10 they were going to be conducting illegal activities, if the
11 spokesman is sort of warning of arrest.

12 BY MS. KERKHOFF:

13 Q Okay, just to be -- just for the record, do you
14 think you could clarify that -- that would refresh your
15 recollection on the specific quote that was given?

16 THE WITNESS: She said, "I can safely say that
17 some groups are likely planning actions that might result
18 in arrest scenarios."

19 A JUROR: And the second question, which is there
20 were lots of televised description -- depictions, rather,
21 of these protestors, for lack of a better word, throwing
22 cement and pieces of the sidewalk at police. My question
23 -- and I believe it was around the same area.

24 THE WITNESS: Mm-hmm.

25 A JUROR: Were the people that were arrested in

1 this block, on the route that you mentioned at 12th and L,
2 were any of those engaged in the throwing of these sidewalk
3 pieces, you know, these projectiles, really, at cops or
4 other individuals?

5 THE WITNESS: So, there's the one person that was
6 identified as having -- in that group, that has done, that
7 I believe did a specific act and I can't recall if it was
8 throwing an item or not. However, there -- there's
9 another individual that was arrested later that is not in
10 this initial group, that was identified by police as having
11 been engaged in throwing rocks at the police. But, as far
12 as the group that was sort of cordoned off and stopped at
13 12th and L and then arrested, and other than that one
14 person, I don't think anyone was specifically identified as
15 having thrown a rock or rocks.

16 BY MS. KERKHOFF:

17 Q And you did say those were the only arrests made
18 that date, the 230, correct?

19 A That -- regarding --

20 Q Protests or demonstrations --

21 A Riotous behavior.

22 Q Riotous behavior, right. This excludes other
23 arrests made in other parts of the city for unrelated
24 matters.

25 MR. BORCHERST: So, there's one here and one back

1 here. We'll go here and then back there.

2 A JUROR: So, it looks like in the video, if I
3 recall correctly, there's one point at which they looked to
4 be around the area of 14th and K Street. So is it safe to
5 say that there were other -- I mean, other than that group
6 that was isolated in the 1200 block of L Street, there were
7 other groups that had split off from that. Were any of
8 those people arrested? Were all these arrests in that 1200
9 block of L Street or were arrests being made as these
10 events were occurring?

11 A No, so, Commander Deville, who is -- was in
12 charge of sort of overseeing, patrolling these individuals,
13 stated that he believed that the group was 400 to 500 at
14 start, and he thinks as it went on, groups either split
15 off, walked away, left. Some of those were probably people
16 who were engaged in criminal behavior and were not
17 apprehended at 12th and L, so it's -- it's entirely
18 possible that some of these groups went off a different
19 direction and were not apprehended or not, you know,
20 identified as being part of this group.

21 A JUROR: The 12th and L, that was the big area,
22 there wasn't any other area where there was a big mass
23 group hold?

24 THE WITNESS: So, that -- that arrest happened at
25 like 10:30 in the morning. The entire day was sort of

1 dealing with the remainder of people who were still out
2 there sort of causing this type of stuff, but it never rose
3 to the level of where they decided to stop people and make
4 an arrest.

5 A JUROR: Okay.

6 THE WITNESS: So, there was more activity, there
7 was more criminal activity that happened after 10:30 in the
8 morning, but these people were charged with stuff that
9 happened prior to 10:30 a.m.

10 A JUROR: And, other than the one law enforcement
11 officer you mentioned that got hit in the head with a metal
12 object, was there any other law enforcement officers that
13 were injured as a result of this?

14 THE WITNESS: Yes, so, I'm trying to compile a
15 comprehensive list of that, but at this time, there were
16 six officers that went to that hospital that day that were
17 all sort of related to some sort of attack, or some sort of
18 violent act, whether they were struck with something or
19 engaged in some sort of altercation that day. It was six
20 officers that were hospitalized temporarily.

21 MR. BORCHERT: In the back row?

22 A JUROR: You mentioned that -- from my -- my
23 interpretation of your testimony, that there is a potential
24 witness to the Franklin gathering, the woman that came for
25 -- she thought it was a peaceful gathering, and after it

1 turned out to be what it was, she went away from the
2 protest, ran away. My question to you is, after she went
3 back to Colorado, how was she able to contact you to tell
4 her side of the story?

5 THE WITNESS: So, she -- from my understanding,
6 she called sort of a general police number, just like a --
7 what we call a hotline, or, you know, CIC, which is Command
8 Information Center, just that she found on the website, and
9 the individuals at that number put her in touch with
10 Commander Deville, and when Commander Deville interviewed
11 her, he directed her to me so that I could conduct an
12 investigation and talk to her.

13 A JUROR: IS she a potential witness?

14 THE WITNESS: She is a witness.

15 MS. KERKHOFF: Any other questions for the
16 detective, or are we just going to basically raise the
17 temperature in here a little bit more? It's really warm.
18 So, I expect you'll hear from the detective tomorrow as we
19 start talking about individual people. Okay, so any other
20 questions, and if you think of some tonight, that's fine,
21 but any other big -- big picture type questions? Okay, all
22 right, may I open the door?

23 THE WITNESS: Thank you guys, have a good
24 afternoon.

25

1 (Whereupon, the witness was excused.)

2 (Whereupon, at 3:12 p.m., the taking of the
3 testimony in the presence of a full quorum of the Grand
4 Jury was concluded.)

5 * * * * *

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

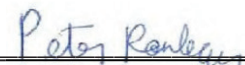
25

C-E-R-T-I-F-I-C-A-T-E

I, Jeffrey Belyea, the reporter for the United States Attorney's Office, do hereby certify that the witness, Gregory Pemberton, whose testimony appears in the foregoing pages in the case of U.S. v. Nathaniel Jaffe, et al., Case No. 2017-CF2-01147, heard on January 31, 2017, was first duly sworn by the Foreperson or the Deputy Foreperson of the Grand Jury when there was a full quorum of the Grand Jury present; that the testimony of said witness was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the testimony given by said witness.



Jeffrey Belyea, Official Reporter



Peter Rouleau, Transcriber

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, VA 22314
Phone: 202-467-9208
Fax: 202-296-3468

DCX 5-89

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - x
:
UNITED STATES OF AMERICA :
:
v. :
: Criminal Case
NATHANIEL JAFFE, et al. : No: 2017-CF2-001147
:
- - - - - x

Grand Jury No. January 2
Superior Court for the
District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Wednesday, February 1, 2017

The discussion in the above-referenced case was
taken in the presence of a full quorum of the Grand Jury,
commencing at 10:08 a.m., before:

JOHN BORCHERT
Assistant United States Attorney

JENNIFER KERKHOFF
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

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

2 MS. KERKHOFF: Good morning, everybody.

3 JURORS: Good morning.

4 MS. KERKHOFF: All right. This is your case
5 number 44. This U.S. case number -- first -- I'm sorry.
6 Someone -- oh, I'm sorry. I didn't hear.

7 MR. BORCHERT: No? Oh. Sorry. Give us just
8 second.

9 (Whereupon, the door was opened. No one entered
10 or left the room.)

11 MR. BORCHERT: No one was knocking.

12 MS. KERKHOFF: No one was knocking.

13 MR. BORCHERT: I didn't hear a knock.

14 MS. KERKHOFF: All right. It's case number 44,
15 U.S. case number or name Nathaniel Jaffe, 2017-CF2-1147, et
16 al. It's a lot.

17 For the record, my name is Jennifer Kerkhoff.
18 That's K-e-r-k-h-o-f-f. And with me is.

19 MR. BORCHERT: Good morning. I'm John Borchert,
20 J-o-h-n, last name B-o-r-c-h-e-r-t.

21 MS. KERKHOFF: Okay. So, when we left off
22 yesterday, this are the what we've -- it's actually a part
23 of the rioting cases. When we left off yesterday with
24 Detective Pemberton, you had been provided information kind
25 of about the group and some additional information

1 regarding how the group moved, how it was corralled. So we
2 have a couple of additional things we want to present. We
3 got some additional video yesterday afternoon that we want
4 to show to you from the Crowne Plaza area by the Starbucks.
5 This is towards the end, but it's actually pretty good
6 video to kind of show what the group was doing.

7 And then, what we're going to be talking about is
8 the first 11 individuals, which for your help, we have the
9 following names.

10 A JUROR: Okay.

11 MS. KERKHOFF: Okay? So I'll be passing these
12 around to everybody just so you can make whatever -- you
13 feel free to make notes. You can use it if you want to
14 record something. But, that way, you have names if you
15 need those and going through.

16 Once we finish with that, we will be asking for
17 your preliminary vote on these, and I'm going to talk to
18 you a little bit more about the probable cause standard for
19 the single counts of felony rioting at this time. And
20 understanding that there will be additional evidence and
21 information, additional individuals, we would expect in
22 presenting you with additional information on further
23 charges, like, destruction of property and all that stuff
24 once we have -- as we continue to go through. This is just
25 for the felony rioting at this time.

1 A JUROR: Do you know if --

2 MS. KERKHOFF: Yes.

3 A JUROR: All right. The victims.

4 A JUROR: And I, I thought her --

5 A JUROR: Yeah.

6 A JUROR: -- before.

7 MS. KERKHOFF: There you go. Okay. So our first
8 witness, our returning witness I should say, is Detective
9 Pemberton. Anyone have any questions for me before we
10 begin just with Detective Pemberton to talk about some
11 additional evidence and information?

12 A JUROR: No.

13 MS. KERKHOFF: No? Okay.

14 (Whereupon, at 10:08 a.m., the witness Gregory
15 Pemberton was called and testified before a full quorum of
16 the Grand Jury.)

17 (Whereupon, at 11:16 a.m., the witness was
18 excused.)

19 MS. KERKHOFF: Okay. So I know there are a lot
20 of questions. Was it legally sufficient? How do we know
21 who's doing what? What about other people who might have
22 ulterior motives? Let me provide you with some legal
23 advice here. I am technically your --

24 MR. BORCHERT: So -- right.

25 MS. KERKHOFF: -- legal counselor.

1 MR. BORCHERT: In terms of ulterior motive, then
2 things that I'm bring up are --

3 MS. KERKHOFF: Yeah.

4 MR. BORCHERT: -- are not valid.

5 A JUROR: Somebody's bringing up being associated
6 with ramps, he's asking if somebody -- we can't take it as
7 a propensity to do an action, then why are -- and your
8 tweets and all that stuff, why is that being communicated
9 to us --

10 MS. KERKHOFF: So --

11 A JUROR: -- if, if it only counts when it's on
12 the far left wing, but not in the far right wing.

13 MS. KERKHOFF: And so what -- just to be clear,
14 and I can have the detective come in, what we presented was
15 evidence of what was available on social media. And I
16 don't mean to say we're discounting. I understood your
17 questions to be directing him to take his investigation in
18 a different course. And what I'm trying to focus on is the
19 facts that we currently have here. And -- just one moment
20 please -- and part of the things you were citing have not
21 been introduced as evidence, so that's my concern, is that
22 they have not been introduced as evidence.

23 The evidence before you -- you've seen the videos
24 and things like that, and we're -- additional information
25 or evidence you'd like to see, if you'd like me to bring

1 the detective back in, I think the answer to this question,
2 which was: This is all we've been able to find on social
3 media one way or the other. So it isn't that it's not
4 being presented to you, it's all that he was able to find
5 on social media. If you want that clarified, we can bring
6 him back in to clarify that.

7 A JUROR: No, no, no. So those are the first of
8 my, my points.

9 MS. KERKHOFF: Okay.

10 A JUROR: My, my second point is, you had him
11 testify about being part of other organizations and groups
12 and past conduct. I guess my question is: If we can't use
13 that for propensity to do something, to participate in --

14 MS. KERKHOFF: Right.

15 A JUROR: -- activities, then what are we
16 supposed to take that as other than trying to --
17 characterize on that trying to do something?

18 MS. KERKHOFF: It's a question of innocent
19 presence. And this is where I think we have to go back to
20 the legal standard. Innocent presence could be a defense.
21 How is -- is this a mistake that this person is in this
22 group. So -- and this is where the court of appeals has
23 specifically discussed the Riot Act itself and what
24 constitutes probable cause.

25 They discussed this in a case from 2009,

1 specifically, focusing on a group that moved through the
2 city. The group did stuff. And individuals breaking off
3 carrying trash cans, newspapers, destroying property, that
4 group was corralled and arrested. And the question was:
5 What is probable cause? What do you have to show for
6 probable cause.

7 And so that --

8 MR. BORCHERT: Past association.

9 MS. KERKHOFF: And I just want to go to the
10 probable cause. What I'm trying to say is that there can
11 be a question of innocent presence. That was raised by the
12 group. Is it a question of innocent presence, not as a
13 propensity to commit a violent act, but is there an
14 explanation to go to innocent presence on the scene? And
15 that can discuss innocent presence pursuant to the
16 strictures of a case called Drew. It is permitted to say:
17 Is this a mistake that this person just happened to be
18 there at the time?

19 You may not consider it to -- well, if they do
20 those things, they must have. But you can say: Is it a
21 mistake that the person happened to be in the block of 12th
22 and L? You are permitted to consider it. And, if there is
23 social media of any sort, it will be presented and has been
24 presented. So that's what that is for because a probable
25 cause determination that the court of appeals has said, is

1 that, it's probable that the entire crowd is acting as a
2 unit. The crowd is acting as a unit, that officers are not
3 required to have specific evidence that each and every
4 member of the crowd engaged in a specific riotous act.
5 What they've said is: It is possible that an entirely
6 innocent person would be mistaken for a rioter. It is
7 possible, which is why the innocent presence discussion was
8 presented to you.

9 The court noted, however, that it must be borne
10 in mind that the legal issue is probable cause, not the
11 ultimate conviction; and that probable cause, if you have a
12 group moving whether you find that the fact that they're
13 dressed alike is a relevant fact, that the group moved for
14 approximately 10 to 15 blocks over the course of 30 to 45
15 minutes, moving through the streets, that there were
16 opportunities to get away, both from the park from what
17 you've been able to see on the video of people moving out.
18 Also, from the information provided by [REDACTED]
19 (phonetic) who said that she was there not knowing what
20 this was about and tried to encourage people that that's
21 what the group seemed intent to do; that by the time the
22 group was cordoned at 12th and L, the Government submits
23 that there's probable cause under the case law to believe
24 that this group is moving as a unit, and that it is not
25 required to prove that each specific individual, for a

1 probable cause standard, they said that ultimate conviction
2 is a different standard, but probable cause, there is
3 probable cause at that point to believe that the group
4 itself, the individual is part of the group, and the group
5 committed the act.

6 That's the probable cause standard. So, with
7 respect to the innocent presence, we have presented to you
8 what information is available or is thus far available.
9 And that includes whether or not people said I'm here
10 instantly or I'm not. They don't have to. The factor for
11 you to consider, how long the group moved.

12 What I would say to some of your questions and I
13 would note is, the intent of why they would do what they
14 did is in many ways irrelevant whether it's to incite or
15 not. It's a question because it's a general intent crime.

16 MR. BORCHERT: Okay. I guess I'm just concerned
17 that being introduced as a member of a group or having --
18 being affiliated on social media as a group goes to intent.
19 Like, can I like something on Facebook and all of sudden
20 that group turns out to be a bunch of assholes and I'm not
21 paying attention to my social media or something like that.
22 Then, all of a sudden, if I'm involved with something, it
23 is a crime -- or that -- I'm sorry -- not a crime, but that
24 I am associated, and then all of a sudden probable cause
25 then applies to me even though I -- it's, it's --

1 MS. KERKHOFF: And the court -- yes.

2 A JUROR: -- purely social media? And then
3 like --

4 MS. KERKHOFF: The court has said that that, that
5 cannot be. In fact, the court said that.

6 A JUROR: But I guess the -- but, then why was
7 that introduced to us by you through the detective to
8 introduce to us as a fact. Like, to me, that just seems
9 very concerning that all of a sudden associating someone
10 with a group is now they were -- weekend planned how --

11 MS. KERKHOFF: It is not a reason to find
12 probable cause.

13 A JUROR: Then why was it introduced?

14 MS. KERKHOFF: It was introduced because several
15 of you raised questions about innocent presence on the
16 scene and whether or not there was innocent presence. It
17 is permitted for that specific consideration only.
18 Probable cause goes to whether this individual was part of
19 a group, a group that moved through the city; physically,
20 part of a group that moved through the city and act as a
21 cohesive unit.

22 The court said, well, that can, even with
23 probable cause, an innocent person could get, could, simply
24 get caught up in that. That was a question that raised.
25 For that specific issue, you may not say because they're a

1 member of this, they automatically -- you have to find the
2 other probable cause standards that the courts elicited:
3 Did that person, were they part of a group that moved
4 through the city? And by group, I don't mean -- their
5 idea. I'm talking physically moving through the group that
6 got cordoned off, and it went to the court discussion of
7 once you find probable cause, that they're part of that
8 group that moved through the city, and we submit that a
9 physical movement through the city and how they were
10 cordoned off and everything that happened -- so that's 10
11 to 15 blocks, 30 to 45 minutes and what's going on includes
12 postings like -- that you can look then -- well, is it
13 possible they were just -- happened to have gotten
14 corralled in an area with no shops or whatever. That for
15 the innocent presence offense once probable cause has been
16 found. Does that make sense?

17 A JUROR: I understand all of that. However,
18 just taking this further then, I guess I also am wondering
19 what the value of hearing, and you said innocent presence.
20 But whether someone is part of a radical action -- I'm
21 trying to understand what that has to do with going through
22 the streets in a group or innocent presence. The fact that
23 he chained himself actually -- I don't know what that has
24 to do for this particular act as well.

25 MS. KERKHOFF: If you choose not -- you may --

1 A JUROR: But what you bringing in for?

2 MS. KERKHOFF: We are bringing it in too because
3 the law says that, that you may consider other evidence not
4 as it goes to probable cause but to someone asserting a
5 defense. If someone asserted an instant defense, innocent
6 presence defense, you may consider those specific facts to
7 that assertion of what about any innocent presence. What
8 do we know about that once probable cause has been found?
9 That was a question that had been raised. And so, if you
10 don't want to consider it, you don't have to consider it.

11 A JUROR: I'm grasping but still not 100 percent
12 certain of the value vis-à-vis innocent presence --

13 MS. KERKHOFF: And if you -- whatever value you
14 want to give it.

15 A JUROR: It's not that I -- I just -- I can't
16 make a decision because I'm not 100 percent certain still
17 about why that was brought in. And maybe I'm not -- maybe
18 other people are getting it, but I don't understand. I
19 mean, I get the --

20 A JUROR: Let's not --

21 A JUROR: So far, these 12 people have not said,
22 hey, I'm claiming innocent presence defense.

23 MR. BORCHERT: Right.

24 A JUROR: They did later on. That's not the
25 issue. The issue is why is being a member of another group

1 or whatever you did before -- or whatever they did -- but
2 what does that have to do with innocent presence.

3 MS. KERKHOFF: The law permits --

4 A JUROR: More likely than not.

5 MS. KERKHOFF: But the law permits, for example,
6 if somewhere on social media account that we found that was
7 publicly available of somebody saying, "I'm excited to go
8 to D.C. It's my first time in the city, and I'd like to go
9 see the sights and I hear there's an inauguration." If
10 there was a social media account, I suspect you guys would
11 want to know that if we had found that as part of the
12 investigation because that -- you may factor as a relevant
13 consideration whether this person had a innocent presence
14 in the area, even despite moving through the group or
15 whatever, or went -- was part of that group with purpose,
16 if you will.

17 A JUROR: So other associations in the past
18 indirectly in my mind link to the -- whether you were there
19 innocently.

20 MR. BORCHERT: I think we've --

21 A JUROR: You've got a history of doing these
22 sort of things. Correct?

23 MR. BORCHERT: If I could have just a minute. I
24 think we take our point that just because a person has
25 certain political believes and -- or may belong to a

1 particular group or may follow certain types of
2 information, that's not a crime. Right? That's classic
3 First Amendment protected conducted that anyone is allowed
4 to engage in. And we would not suggest that anyone should
5 be, you know, indicted, and we would not ask for a vote --
6 that somebody -- indicted strictly on the basis of their
7 political beliefs or, or political associations.

8 I think as, as this most acutely arises, right,
9 it's in the context of Mr. [REDACTED], and some of this might
10 be what we're anticipating. Like, if you, if you look at
11 the picture, for example, of Mr. [REDACTED] who we, who we
12 were talking about, the picture that's here, if you look at
13 him, he's not wearing a black shirt. Right? I mean --
14 now, as we look at the evidence, that does give us a
15 thought, you know. Might he have an innocent present
16 defense. Might he have such a defense.

17 Well, we think there are answers to that. We
18 talked about how everyone who was a part of the group and
19 who had participated in the riot ended up in these blocks.
20 People who were lawfully a part, or pardon me, or who would
21 have been there for lawful purposes, all of it sort of
22 peels off in the videotapes. If you look at that they --
23 the people who were arrested are only the people who are
24 still in that black block after there's been the big charge
25 of the police line and some people had broken away. Now,

1 standing on its own, the court of appeals says, you know,
2 that -- the mere fact that you're in that last group that's
3 arrested, based on the Carr case, that's probable cause at
4 least for an arrest. Maybe not for a conviction, you know.

5 We anticipate the defense of innocent presence
6 for Mr. [REDACTED] possibly because of his clothes. We think
7 there's factual answers to that. We've also provided you
8 with other information which you could consider in thinking
9 about an innocent presence defense. But, if it's -- I
10 don't want the Grand Jury to be left with the impression
11 that we would or are suggesting that simply because of
12 someone's political beliefs, that that therefore is
13 evidence that they've committed a crime.

14 A JUROR: I, I am concerned of that because
15 you've only -- it seems like the detective has only looked
16 up left-leaning or -- and are those socialist political
17 views and nothing that goes more to be right-wing or
18 conservative.

19 A JUROR: No. They looked at the Facebook page
20 and didn't find --

21 MR. BORCHERT: Right.

22 A JUROR: -- anything.

23 MR. BORCHERT: We're not, we're not researching
24 groups.

25 A JUROR: No, no, no.

1 MR. BORCHERT: We're not --

2 A JUROR: No, no, no --

3 MR. BORCHERT: Right.

4 A JUROR: It, it seems that -- even if they are
5 not even investigating them? And so I am a little bit
6 concerned that there's only looking at the other side of
7 the spectrum.

8 MS. KERKHOFF: If you'd like factual evidence --

9 A JUROR: -- being involved in this --

10 A JUROR: No, no, no.

11 A JUROR: -- wasn't --

12 A JUROR: No. I disagree with that. What I'm --
13 from the detective's testimony when I asked him the
14 question he said they had not looked into it.

15 MS. KERKHOFF: And just to be clear. I just --
16 yeah. I want to be clear. We could clarify this with the
17 detective if you feel it needs clarification. I thought it
18 was answered that he had not seen any of that with respect
19 to any of these individuals. What was presented, if you'd
20 like clarification, is anything that we could find on any
21 social medias that were publicly available. If you would
22 like clarification on that.

23 A JUROR: It, it seemed to me that they -- that
24 he -- the detective said that they were not investigating
25 any of that because they were right-wing.

1 MR. BORCHERT: No. The way I heard --

2 A JUROR: Not that -- not because that they had
3 not seen it.

4 MR. BORCHERT: And I'm sorry to cut you off.
5 What I thought I had heard the question was whether they
6 were investigating whether Project Veritas had incited the
7 riot that happened.

8 A JUROR: -- he's available.

9 MR. BORCHERT: And he said -- right. We have
10 not, and there's no evidence that we have here that Project
11 Veritas incited the riot. So I don't think we could say
12 that we are investigating that. So, I mean, I'm not sure I
13 see the -- even if Project Veritas had incited the riot,
14 it's a riot. Right? That's still a violation of the
15 Felony Riot Act.

16 A JUROR: If they -- can they --

17 MR. BORCHERT: I mean, it's still --

18 A JUROR: But if we're using these associations,
19 then it seems like we -- that you're only --

20 A JUROR: Well, I have a question for you. Are
21 you asking if --

22 MS. KERKHOFF: Well, I got, I got --

23 A JUROR: -- searched for Project Veritas and
24 their social media?

25 A JUROR: Yeah.

1 MS. KERKHOFF: So just to be clear, and I can
2 have the detective clarify that. To the extent we were
3 able to find a social media site at all of any sort for any
4 of these individuals --

5 A JUROR: Oh. It tells --

6 MS. KERKHOFF: -- you have that information of
7 any sort.

8 A JUROR: Oh, yeah. I get that.

9 MS. KERKHOFF: Okay. So, if that's clear, and I
10 clarify that, if we had found a far-right site, we would
11 have presented that to you. If we had found for these
12 individuals whatever was found, there wasn't much still
13 publicly available, at least by the time following the
14 arrest. We can have that evidence before.

15 But I want to be clear that -- and we can have
16 the detective clarify it. It's not about ignoring things
17 we see. It's simply about what we've been able to find at
18 this point for these individuals. There has been an
19 absence of what you're suggesting for these individuals.
20 And so it comes up, again, just as if there is a social
21 media site with a person discussing being excited about
22 their first trip ever to D.C. because they really want to
23 see the Washington Monument and stuff, I think that's
24 something you should know and I would have the detective
25 put that on. That would be an important fact I think you

1 may want to consider.

2 The absence of that is not because it's being
3 hidden. It's because it hasn't been found and certainly
4 not for these individuals. So we're not trying to close
5 off and say we have searched groups. The groups haven't
6 been searched. The social media for the individuals have
7 been.

8 A JUROR: Okay. So you haven't gone to the ramps
9 or [REDACTED] (phonetic) or Radical -- I'm sorry. Radical,
10 room 25 --

11 MR. BORCHERT: And looked them up. No. No, no,
12 no.

13 MS. KERKHOFF: And we can have him clarify. What
14 he said was he identified on his social media page that he
15 was part of that. We can have that clarified if you need
16 that clarified.

17 MR. BORCHERT: Sure.

18 MS. KERKHOFF: Yeah.

19 A JUROR: No. I'm fine.

20 MS. KERKHOFF: Okay.

21 A JUROR: Was it -- or expressions. And my
22 question that I asked -- and you said it was legal
23 question, not a factual question. He's grabbing people out
24 of scope -- just now. And I never heard group from number
25 one, to let me elaborate as the same impression. Did you

1 check social media for number one? Did you check social
2 media for number two?

3 MS. KERKHOFF: We can, we can have that asked --
4 question if you want.

5 A JUROR: You've never asked that question. You
6 only asked individual question for a specific people.

7 MS. KERKHOFF: And that's a fair point. I, I
8 probably -- I was confusing in my wording to not have asked
9 whether that was searched.

10 A JUROR: Yeah. I wondered if you -- as a -- I
11 was wondering if you were doing that because those two were
12 dressed in black.

13 MR. BORCHERT: And we had seen unfortunately --

14 MS. KERKHOFF: Then that was half of my --

15 A JUROR: You know.

16 MS. KERKHOFF: So why don't we bring the
17 detective back in to clarify that. You have to go to the
18 bathroom? That was --

19 A JUROR: Can we take a break now? I had --

20 MS. KERKHOFF: Yeah. That's fine.

21 MR. BORCHERT: Sure.

22 (Whereupon, a brief recess was taken.)

23 MS. KERKHOFF: Back on the record for number 44.
24 And we'd like to bring back some additional information
25 from Detective Pemberton.

1 (Whereupon, at 11:45 a.m., the witness Gregory
2 Pemberton was recalled and testified before a full quorum
3 of the Grand Jury.)

4 (Whereupon, at 11:57 a.m., the witness was
5 excused.)

6 MS. KERKHOFF: So getting to this point, as a
7 matter of law, I what it shows on TV that once you're
8 arrested and officers -- the words you have the right to
9 remain silent and all, so the law, those -- the country
10 from the supreme court as well as here in D.C., is you
11 don't have to mirandize. In fact, mirandizing is done at a
12 time -- it's actually video recorded, and so like it's done
13 when a person's indicated they may wish to speak to
14 somebody when they talk to a detective. Then a detective
15 says I'm going to go over what's called, and they have a
16 printed out form, your rights card, and then they have to
17 check. So they're not read their rights unless they are to
18 be interrogated or questioned about the crime itself.

19 So, as a matter of practice, unlike TV, not done
20 with respect to that because, if somebody wanted to speak
21 to the detective, he then goes through the process before
22 providing them with their Miranda rights before they
23 actually begin to provide information.

24 And the way that's done is you say, you know, as
25 a matter of law, you're only required to do it once the

1 interrogation begins. Once a person has indicated they may
2 wish to speak as opposed to you are told you don't have to,
3 not -- is if they say, yeah, I want to talk to you, then
4 they're advised of their rights as a matter of law. Yes?

5 A JUROR: So, when are you required to tell them
6 their rights and their charges for being detained by
7 police?

8 MS. KERKHOFF: Oh. They require -- they're
9 told --

10 MR. BORCHERT: Well, it's arraignment. Right? I
11 mean, that's --

12 MS. KERKHOFF: Right.

13 MR. BORCHERT: Oh, sorry.

14 MS. KERKHOFF: I'm sorry. Go ahead.

15 MR. BORCHERT: Oh. I was going to say, well,
16 that occurs at arraignment. That is when a person is --

17 A JUROR: Then they -- he officially -- put in
18 the police car, not in a cell -- why am I being here.
19 They'll answer until I go to arraignment?

20 MS. KERKHOFF: So what -- yeah. As a matter law,
21 not required --

22 MR. BORCHERT: That's correct.

23 MS. KERKHOFF: Right. They're not required to
24 say, and I think what -- the detective did testify that
25 whether every single person was that told as felony rioting

1 as a matter of course, people were being informed because
2 they thought they were going to have a lesser charge. So
3 things like a disorderly, you post a forfeit, you just walk
4 away. You're fined \$50 or whatever it is. There seemed to
5 be an understanding. And I think he testified yesterday
6 that some people were saying, wait a second, I'm -- we're
7 actually being arrested versus I'm ready to post a forfeit.
8 He talked a little bit about that yesterday.

9 But those are lesser charges. You can't post a
10 forfeit on many charges. So, at arraignment is when they
11 are told of what they're actually being charged with,
12 because an arrest is not a charge. It's an arrest, and you
13 have to in the District of Columbia appear in front a judge
14 within a very short time period to be told of what your
15 charges are, if there are any.

16 A JUROR: Why didn't arraignment -- the next
17 day --

18 MS. KERKHOFF: In this case, it happened less --
19 it happened, right, the next day. When it happens --

20 MR. BORCHERT: Sometimes the same day.

21 MS. KERKHOFF: It's sometimes the same day. It
22 depends on the timing. It has to happen within 48 hours or
23 less, and in the District of Columbia, the arraignment
24 court, what I talked about as C10, operates every day
25 including holidays with the exception of Sundays. Yeah.

1 Yes, sir.

2 A JUROR: This is a question more of a curiosity
3 myself. I do a little bit of a freelancing photography,
4 and yesterday it was mentioned that persons have to prove
5 their presence of being a freelance photographer.
6 Sometimes I really don't have that, and wherever I see it
7 necessary for me to -- or my camera, I do.

8 MS. KERKHOFF: Mm-hmm.

9 A JUROR: And I --

10 MS. KERKHOFF: Are you just asking as a matter of
11 law? What's, what's going on?

12 MR. BORCHERT: Are you asking for legal advice on
13 how you should --

14 MS. KERKHOFF: In other words --

15 MR. BORCHERT: -- protect your --

16 A JUROR: The point is --

17 MR. BORCHERT: Uh-huh.

18 A JUROR: -- I could have been arrested.

19 A JUROR: For real?

20 A JUROR: You know, trying to get all my footage
21 to, you know --

22 A JUROR: Yes.

23 A JUROR: -- and I don't have my credential as a
24 freelancer.

25 MS. KERKHOFF: Correct.

1 A JUROR: And then he said that they want -- I
2 mean -- they being freelance photographers and they were
3 caught up.

4 A JUROR: Yeah. But those people --

5 A JUROR: They were --

6 MS. KERKHOFF: So I think what --

7 A JUROR: -- spoke up --

8 MS. KERKHOFF: Right. He also said that they
9 were -- a subsequent investigation was done to verify who
10 was or was not. Who, who could be verified as a freelance
11 individual. None of these individuals, to be clear,
12 identified themselves as such. Those two did. But you're
13 saying for your own personal self, and again, I can't give
14 you legal advice. I mean -- if you're watching this go on
15 for the 10 to 15 blocks, I get that you want your shot.
16 But, once you see the cars with cops, I'd probably -- I'd
17 personally move out of the way. You know, once, once the
18 cops are surrounding and it's getting to that degree, I
19 think you could maybe get your shot outside the line.

20 But, certainly, that is -- yeah. That is a
21 factor, and the court in Carr holds that in the Rioting Act
22 case, and they said, look, but probable cause is, you got
23 this group moving cohesively. I get that you want your
24 shot. But you're sticking in the group and your adding
25 yourself as part of the group. Now, I'm not saying that

1 ultimately for purposes of a conviction that they would say
2 you were a member of the group while rioting, but you are
3 putting yourself inside that group --

4 A JUROR: Right.

5 MS. KERKHOFF: -- as that group moves through the
6 city destroying property. So, for probable cause
7 standards, the court says, you know, look, we've
8 acknowledge that. But what I think practically speaking,
9 the detective testified to is it did. There were a number
10 of people that they said, look, anyone with a credential
11 for whom they were able to verify something, and then a
12 couple of individuals spoke up and said I don't have
13 credentials but I'm telling you this, can you follow up,
14 and that's been done to try to follow up and verify.

15 And that kind of goes back to the point of what
16 additional information we're providing, which is looking at
17 every social media account, providing what we had, one way
18 or the other, to say what's been done to verify who -- is
19 this person, right and wrong, don't care.

20 As a probable cause standard, the court in Carr
21 said, if you find that this group is moving through the
22 city as a cohesive unit, it's probable cause to put this
23 person as probable, okay, and different than a conviction,
24 we're trying to provide you the information as we get it
25 moving forward. So -- but, personally, you know, let's get

1 a little -- shoot your shot from a balcony. That's what I
2 would do, and I think a lot of people actually did that.
3 You can actually see a member of the press peeling off as
4 kind of things got a little bit tight in some of those
5 videos.

6 All right. So --

7 A JUROR: I have another question.

8 MS. KERKHOFF: As -- so we are going to ask you
9 for the ball on this, and look, and we'll say again, we're
10 not the belief police. It's not belief.

11 A JUROR: Yeah.

12 MS. KERKHOFF: Frankly, as a matter of law, it
13 doesn't matter what side you're on or not in terms of use.
14 It's a question of the conduct and the act. And so what
15 we're asking you to consider is the evidence here in this
16 case that this is a group, whatever their objective
17 politically may be, this group came prepared to do damage
18 to the city.

19 We have crowbars. We have hammers. You watched
20 the group. They're dressed on a way that makes it very
21 difficult. In fact, it's part of the purpose. And that by
22 the time those individuals, these 11 here, were cordoned
23 off at 12th and L, we have that the group had moved for 10
24 to 15 blocks for 30 to 45 minutes committing this path of
25 destruction. You have evidence before you that there were

1 individuals who stepped away from this group because it got
2 to be too much; that there were individuals who walked
3 away. And that the court has said for probable purposes,
4 and again, we understand the difference for a conviction,
5 but probable cause purpose, when the group is moving as a
6 cohesive unit for probable cause.

7 There isn't anything to indicate something else,
8 but that is probable cause to believe they're part of the
9 group, and we submit that the evidence in this case is that
10 the damage committed was far in excess of \$5,000, and that
11 the damage was part of what the group was doing. They were
12 engaging, urging, fighting, misconduct -- streets of D.C.
13 So that's what we're asking you to take a vote on, that one
14 charge right now. Yes, ma'am.

15 A JUROR: And just to confirm again. Of those
16 11, the fact that not each of them took a hammer and
17 smashed out a window or caused damage. They could have
18 just -- and walking with the group and never physically
19 engaged any damage, it doesn't matter, they're all part of
20 that. Right?

21 MS. KERKHOFF: So -- correct. That's what the
22 law is under the Rioting Act. It doesn't require -- so, if
23 we, if we have an individual who did do that but it's
24 actually an additional charge for that individual. I've
25 got you on excessive destruction of property. I've got

1 this person for whether it's the assault throwing that
2 glass bottle at the person, if you can never identify that
3 individual, why this is one charge. And rioting cases in a
4 court of appeals actually said that, that it's doubtful
5 that if you ever required that you could never enforce this
6 statute, which is a lawful statute, in a situation in which
7 it is most needed, because the point of the riot, people
8 dressing similarly and moving as a group, is to make it
9 difficult to identify who is doing what, or that the
10 rioting statute doesn't require that you identify who did
11 what specific act. We find that they're part of a group
12 that moved cohesively for the purpose of probable cause.

13 The additional -- and we will be presenting to
14 you as we move through and are able and we hope we're able
15 to make identifications as we move through this on at least
16 some of the individuals. For example, the girl who kicked
17 glass after the hammer, distinctive hair. It's actually
18 shaved on one side and blue on this side, I believe that
19 we're going to have enough evidence in front of you as to
20 who that individual is, and it's just pretty apparent once
21 you get back to corralled area and she's got clothing, you
22 can probably ID her.

23 So there, with respect to asking you for
24 additional charges for that specific person, because we are
25 able to identify her. But the reality is, the ability to

1 identify every one of those individuals who took that
2 hammer and did this to get all of the destructive acts is
3 not likely. Yes, ma'am.

4 A JUROR: So are we voting on each individual,
5 like, one -- or the whole levied --

6 MS. KERKHOFF: Each individual on the count of
7 felony rioting.

8 A JUROR: Okay.

9 MS. KERKHOFF: Each individual on that count,
10 because you have to weigh --

11 A JUROR: The evidence --

12 MS. KERKHOFF: -- the evidence for this. Right.
13 Yes, ma'am.

14 A JUROR: On that point that you brought --

15 MS. KERKHOFF: Sure.

16 A JUROR: -- up a moment ago, the reason you had
17 asked about the one individual who was seen, you know,
18 up-ending --

19 MS. KERKHOFF: Right.

20 A JUROR: -- newspaper machines, trash cans, was
21 because you had them on video, so you're able to identify
22 that person among these 11. Right?

23 MS. KERKHOFF: I believe the detective testified
24 that an officer was able to say that that individual, and
25 it's hard to see from a photograph, how he was able to make

1 that identification or not. But I think you may remember
2 from the photograph, Mr. [REDACTED] had kind of very blond
3 kind of a somewhat mohawkey haircut that perhaps was unique
4 that was -- I'm not sure how he did, but an officer was
5 able to say, at the tail-end, and I think the testimony
6 was, at the end of the stuff they -- streets are people who
7 go out and do that. However, an officer said I was able to
8 find that -- whether you credit that or not, you also have
9 that the defendant had identified that -- had identified
10 that he had knee pads and a black face mask, which is
11 further evidence to suggest that he was part of, not a --
12 so that is why we have that. To the extent we have it, we
13 will provide it to you. But the reality is that you saw
14 that -- and it looked like -- everybody looked similar, and
15 there's a reason for that.

16 A JUROR: Question.

17 MS. KERKHOFF: Yes.

18 A JUROR: My education to be innocent presence
19 issue and the probable cause standard -- D.C. Court of
20 Appeals, was that -- I'm just curious to know, the Drew or
21 the Carr case.

22 MS. KERKHOFF: That's the Carr case. So Drew is
23 a case that allows you to present some additional evidence
24 to rebut a defense of innocent presence. What the court in
25 Carr says probable alone, if you find that this group is

1 moving cohesively as a unit and you find sufficient
2 evidence that the group was stopped and they're inside that
3 group, that's probable cause.

4 The innocent presence is after finding probable
5 cause if you find there maybe evidence. And so, for
6 example, as John said, well, I'm looking at Mr. [REDACTED]
7 who, by the time of his arrest, is looking a little bit
8 different. What additional information? We're going to
9 present to you the information as we have it. And so that
10 is the Carr case is the Riot Act case. The Drew case is
11 after finding of probable cause if you think there's
12 evidence to support that. It is effectively a trial issue,
13 but we do think it's appropriate to bring to you for your
14 consideration. Yes.

15 A JUROR: So will everybody on all 11 of these
16 going to part of the Grand Jury case number 44, will then
17 the -- you're presenting more people though.

18 MS. KERKHOFF: Right.

19 A JUROR: So that would be still 44.

20 MS. KERKHOFF: It will still be 44 as part of
21 effectively a superseding indictment as to probable cause
22 on additional people as we go through. It just keeps
23 revving. It's -- we -- it looks like separate counts, but
24 the indictment is actually one count --

25 A JUROR: Yeah, okay.

1 MS. KERKHOFF: -- if they're all moving as a
2 group, one together. And that will be determined -- yes.

3 A JUROR: Could you go over the elements of
4 Felony Rioting. I thought you said one of them was
5 assembly of five or more persons.

6 MS. KERKHOFF: Yes. It's an assemblage of five
7 or more persons. So you have to have a group of five or
8 more persons. So I suppose four people. I sure this
9 probably wouldn't be too hard to figure out who's doing
10 what. It's an assemblage of five or more persons where
11 individuals are engaged in inciting or urging people to
12 engage in -- it's defined as a public disturbance, the
13 court of appeals has said is a riot. Well, what does that
14 mean? It goes to the comment that the group, in that, in
15 that public disturbance, is how it's defined, there is
16 conduct, violent conduct that results in either serious
17 bodily harm or property damage in excess of \$5,000. And
18 that in that engaging, just to be clear, under the general
19 criminal set standard, it's not by absence or mistake.
20 This kind of goes to the innocent presence and what the
21 court of appeals said is, again, the group itself. But the
22 evidence, if it's not an absence of mistake or accident,
23 that you are part of that group. You can step outside with
24 your dog is to look at all the facts to include how long
25 the group walked, the circumstances under which you're just

1 stopped, visible destruction that's going on around them
2 all this. Yes, sir.

3 A JUROR: I was -- my name is -- was there
4 evidence brought in that went to it being over \$5,000 in
5 damage?

6 MS. KERKHOFF: Yes. Yesterday, the detective
7 testified that some preliminary estimates have been closer
8 to a million, but well in excess of 100,000, and we
9 clarified confident it's more than 5,000. He said yes.
10 There's also some additional video that I think just the
11 damage alone that you can see in additional photographs,
12 both from the limos, the cars, the shops. Well, to the
13 shops ATM machines, things like that.

14 Any additional questions?

15 A JUROR: Can you leave those pictures?

16 MS. KERKHOFF: Yes. Would you -- we can just
17 leave all the pictures.

18 All right. So here are the photos. Let me just
19 get them in order. I won't even put them in the sleeves.
20 Each of the individuals, you will see that -- so they did
21 mark them with their names.

22 A JUROR: Okay.

23 MS. KERKHOFF: 31 isn't marked but is sort of
24 behind 30. Yeah. I think you can figure that one out.
25 Yeah. Seven, six, five, four, three, two, one. Okay. So

1 I'll put all of these pictures just here, and we'll go
2 ahead, and to the extent you want the map or stuff, we'll
3 go ahead and leave that here.

4 A JUROR: Is this continuing later today?

5 MS. KERKHOFF: Probably not because you guys have
6 some stuff going on. But we're going to have to see what
7 your schedule is looking like.

8 A JUROR: But you're back tomorrow?

9 MS. KERKHOFF: I just went --

10 (Whereupon, the discussion was concluded.)

11 (Whereupon, at 12:15 a.m., the discussion
12 reviewing the charges in the presence of a full quorum of
13 the Grand Jury was concluded.)

14 * * * * *

15

16

17

18

19

20

21

22

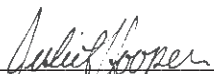
23

24

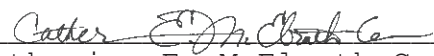
25

C-E-R-T-I-F-I-C-A-T-E

I, Juliet Hooper, the reporter for the United States Attorney's Office, do hereby certify that the discussion, in the foregoing pages in the above-referenced case of U.S. v. Nathaniel Jaffe, et al., Case No. 2017-CF2-001147, heard on January 31, 2017, with the Grand Jury when there was a full quorum of the Grand Jury present; that the said discussion was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the discussion.



Juliet Hooper, Official Reporter



Catherine E. McElrath-Carr, Transcriber

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - x
:
UNITED STATES OF AMERICA :
:
 v. :
:
 Criminal Case
NATHANIEL JEFFE, et al. : No. 2017-CF2-001147
:
- - - - - x

Grand Jury No. January 2
Superior Court for the District
of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Wednesday, February 1, 2017

The testimony of GREGGORY PEMBERTON taken in the
presence of a full quorum of the Grand Jury, commencing at
10:08 a.m., before:

JENNIFER KERKHOFF
Assistant United States Attorney

JOHN BORCHERT
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-126

C O N T E N T S

WITNESS:	PAGE
Greggory Pemberton	3

GRAND JURY EXHIBIT(S) :

No. 20	Disc with Surveillance Footage	6
No. 21	Photo of Defendant	20
No. 22	Photo of Defendant	21
No. 23	Photo of Defendant	22
No. 24	Photo of Defendant	24
No. 25	Photo of Defendant	26
No. 26	Photo of Defendant	27
No. 27	Photo of Defendant	28
No. 28	Photo of Defendant	31
No. 29	Photo of Defendant	33
No. 30	Photo of Defendant	33
No. 31	Photo of Defendant	33
No. 32	Photo of Defendant	41

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

2 Whereupon,

3 GREGGORY PEMBERTON

4 was called as a witness and, after being first duly sworn
5 by the Foreperson or the Deputy Foreperson of the Grand
6 Jury, was examined and testified as follows:

7 EXAMINATION

8 BY MS. KERKHOFF:

9 Q Good morning.

10 A Good morning.

11 Q For the record can you please state and spell
12 your name for the Grand Jury?

13 A Sure. It's Detective Gregory Pemberton,
14 G-r-e-g-g-o-r-y, P-e-m-b-e-r-t-o-n.

15 Q Detective Pemberton, you were just placed under
16 oath. Do you understand that you are still under oath in
17 connection with this investigation, which is Grand Jury
18 case no. 44, involving a series of rioting cases?

19 A Yes, ma'am.

20 Q I wanted to pick up on a couple of additional
21 points. Yesterday did you have the opportunity to receive
22 and review video from the Crowne Plaza Hotel area, which
23 captured portions of this group that you've previously
24 discussed moving through the streets before it was cordoned
25 off in the 12th and L area?

1 A Yes.

2 Q I'm going to show you what's been marked as Grand
3 Jury Exhibit No. 2.

4 A This is the video that we reviewed.

5 Q We're going to go ahead and play that. This is
6 actually private surveillance, private hotel or private
7 company --

8 A Closed circuit television from the hotel, yes.

9 A JUROR: Do you still have the map?

10 MS. KERKHOFF: Yes.

11 A JUROR: Oh, yes, can you show us where it was
12 before we watch the video?

13 MS. KERKHOFF: Sure, we can do that.

14 A JUROR: That would be helpful.

15 BY MS. KERKHOFF:

16 Q Crowne Plaza Hotel -- I'll put that up here for a
17 second -- that is located at the corner of Franklin Square
18 Park, correct, the 14th Street Park?

19 A Yes, that's correct.

20 Q And you previously testified yesterday the
21 Franklin Square Park is where the group went through twice
22 in terms of regrouping is I think how you described it. So
23 let me see if I can't get this to zoom in a little bit.
24 That didn't help. There we go, okay. Showing your
25 attention here, what am I pointing to that's right in the

1 middle marked "Franklin Square"?

2 A That's Franklin Square.

3 Q This building here, is this the Crowne Plaza
4 Hotel are?

5 A Yes, it is.

6 MS. KERKHOFF: It's just north of Franklin Park.

7 A JUROR: What's the street, is that K?

8 BY MS. KERKHOFF:

9 Q This is K Street and 14th Street, and this right
10 here above it is L Street, correct?

11 A That's correct.

12 Q So I understand your testimony yesterday, it was
13 on L Street at 12th and L -- that they were cordoned off in
14 this area?

15 A Yes, that's correct.

16 MS. KERKHOFF: Questions for the detective about
17 that? Okay.

18 MR. BORCHERT: For the court reporter, this was
19 previously marked as Grand Jury Exhibit 3.

20 MS. KERKHOFF: So we're going to be putting in
21 the flash drive. We have a lovely, as you may have known
22 -- encryption system that encrypts everything we try to
23 copy or play. So we're going to move on. We'll show the
24 video in a second. Yes?

25 A JUROR: This is nitpicky, but haven't we seen

1 three videos? So this would be -- we saw the body cam
2 video, we saw the recruitment video, so this would be
3 exhibit -- or am I miscounting?

4 MS. KERKHOFF: You mean the third video? This is
5 Exhibit 20 actually. We actually have a number of photos
6 that were marked as exhibits that are all contained in this
7 binder.

8 A JUROR: Oh, okay. So I'm --

9 MS. KERKHOFF: It's okay. We can pass the binder
10 around whenever you want for purposes of what the exhibit
11 are, but you're right, this is the third video. But this
12 is Exhibit No. 20 because it is the 20th Exhibit overall
13 that's being --

14 (Grand Jury Exhibit No. 20
15 was marked for identification).

16 BY MS. KERKHOFF:

17 Q Now I want to talk to you a little bit -- we'll
18 play that video in a second, Detective Pemberton, but I
19 want to talk to you a little bit about when the group that
20 would march through the streets, when it was finally
21 corralled at 12th and L, did you speak to somebody who was
22 at the scene or multiple individuals who were at the scene?

23 A Yes, I did.

24 Q In terms of the group itself, when it was
25 corralled, what were officers observing about how people

1 came into 12th and L and whether any individuals were able
2 to get away and what they were doing?

3 A So some of the individuals I spoke with were -- I
4 spoke with officers that were on both ends of this line.
5 As I described yesterday, a line of officers blocked off
6 12th and L sort of at that crosswalk. So you could not get
7 out of the 1200 block where those officers were.

8 The officers that were following behind the group
9 were sort of more loosely assembled, sort of following the
10 group of people that was causing all this damage.

11 And as that group of individuals sort of saw
12 that, okay, this is the end of the line, there's a line of
13 officers here and they don't appear to be allowing us out,
14 a number of people sort of bailed out of that operation
15 realizing that this was the end of the line for this, and
16 those officers that were following behind in toe if you
17 will, sort of allowed people to peel off.

18 They weren't actively grabbing people as they
19 tried to get away. And what -- the way that they described
20 it to me is that their main focus was to sort of stop the
21 threat of the continuing damage of the group as a whole,
22 this cohesive group.

23 So they -- there was some discussions among
24 themselves as one of the situations they described to me is
25 that about a half a dozen individuals ran down the alley,

1 which was behind that school on the Southside of the 1200
2 block.

3 And there was a discussion, but brief discussion,
4 should we go after these people? And the decision was made
5 that, no, that's not our focus. Our focus is to stop what
6 the group is doing. If these individuals want to leave the
7 group, then we'll allow them to leave because there's a lot
8 less damage that they can do on their own than the group
9 can do as a whole.

10 Some of the actions that they saw them doing was
11 they would strip the masks off, they would get out of their
12 black whatever they were wearing, whether it was a
13 windbreaker or a sweatshirt, and they would throw those
14 things on the ground and they would leave either back
15 westbound out of the 1200 block, or that they would leave
16 southbound through the alley which ultimately leads out to
17 12th street.

18 And they said that anybody that was in the block
19 that had nothing to do with this operation left quickly,
20 including a number of journalists and other people that
21 were sort of just observers. So --

22 Q Let me ask this: when they're seeing individuals
23 with the group and the officers on the ground, you said
24 there was some discussion we're seeing individuals within
25 the group as they saw that the police were kind of closing

1 in to surround them in the area of 12th and halfway up L
2 Street here -- which I've placed on the screen as Exhibit 3
3 -- are they like, "Oh, good, they're leaving, we're all
4 good with that"? Or was it a question of resources? Like
5 you said they were allowed to leave, as in that was okay,
6 or was it a question of resources?

7 A No, it was certainly a matter of resources.
8 There was not enough officers. They were certainly
9 outnumbered in this group, which initially started in the
10 hundreds.

11 So the officers made a decision collectively that
12 they were going to continue to try to contain the
13 individuals that were behaving as a group, and that anyone
14 that wanted to sort of break away from that was off on
15 their own, even if they had been culpable previously.

16 Q So you described also that clothing was being
17 stripped or taken off as the officers were moving in.

18 A Yes.

19 Q What kinds of clothing were officers observing
20 the either individuals that stayed in the group or others
21 stripping?

22 A So face masks, ski masks, bandanas, as I said
23 before, windbreakers or jackets, sweatshirts, hoodies,
24 those kinds of things. People were throwing them on the
25 ground.

1 And one of the officers I spoke with said that
2 even after they had that group cordoned that the street and
3 the area was sort of littered with clothing, especially
4 that alley that he mentioned people that were fleeing out
5 of.

6 MS. KERKHOFF: All right. We're going to try
7 this with Government's Exhibit No. 20. We'll try it with a
8 ZIP drive here. Okay. I'm going to pull up what's mark as
9 "front" and try to expand it as much as I can for
10 everybody. Unfortunately this is as big as it gets.

11 BY MS. KERKHOFF:

12 Q Can you tell the ladies and gentlemen of the
13 Grand Jury what it is we're looking at here?

14 A So this is an external camera on the Crowne Plaza
15 Hotel facing 14th Street. It's looking southbound, so this
16 cab here in the front of the screen is facing northbound.

17 Q This is video of a portion of the group as it
18 moves through?

19 A Yes.

20 Q Before the group was stopped at 12th and L; is
21 that correct?

22 A Correct. So after they continue north they make
23 a right on L Street and continue down two blocks to where
24 they're stopped at 12th and L. So this is prior to the
25 officers containing them in the 1200 block of L.

1 MS. KERKHOFF: So I'm going to play the video.

2 A JUROR: We don't know that all of them are
3 members of the group?

4 MS. KERKHOFF: So right now we're not asking you
5 to make any identifications of individuals here.

6 BY MS. KERKHOFF:

7 Q Just for the record, what are we observing here?

8 A So you're going to see at the top-left of the
9 screen a group of individuals approaching that are
10 associated with this group.

11 These individuals out in front of the hotel just
12 appear to be regular citizens going to and from the hotel,
13 and as you'll see if you start coming into the frame here,
14 people obviously moving inside afraid of the group.
15 They're concerned.

16 You're going to see this individual here get hit
17 with a bottle momentarily, right there, and it breaks, and
18 the glass bottle is broken there. And as you can see these
19 are the individuals that are all wearing black. These are
20 signs and flags associated with the various anarchist
21 groups we spoke with.

22 You can see that they're -- many of them are
23 throwing items. And if you'll notice, there's very little
24 diversity in the color of the clothing that they're
25 wearing.

1 It's nearly all black, head to toe, on over 90
2 percent of them. And then you're going to start seeing
3 some police who are in toe, some police motorcycles, some
4 mountain bike units, and then behind them will be some of
5 the CDU platoons, the Civil Disturbance Unit platoons
6 moving in here.

7 Q Now we're showing the view labeled 14th Street
8 right. This is just another view.

9 A So this is looking again south on 14th. And this
10 would be a continuing view of that group of individuals
11 that you just saw passing the front entrance. This door on
12 the left of the screen is another door, entrance or exit,
13 from the hotel.

14 Q What did we just watch for the record?

15 A There was one individual who came out of the
16 group with a hammer and smashed that glass plate door, and
17 then another -- it looks like a female -- came out and
18 tried to kick it.

19 Q So now I'm going to pull the K Street and 14th
20 Street view; what are we watching here?

21 A Oh, we lost --

22 A JUROR: What time -- is this while the
23 inauguration is going on or is it afterwards?

24 THE WITNESS: So the --

25 BY MS. KERKHOFF:

1 Q I think the question from the Grand Jury just for
2 the record, the timing of this, is this while the
3 inauguration was going on? Was it after? The time period
4 when the group itself traveled through the city and was
5 stopped, what was that time period?

6 A So the arrests that were made in the 1200 block
7 of L were just after 10:30 a.m. The inauguration actually
8 took place at noon. Many of the sort of pre-planning
9 information that we had was that they wanted to cause such
10 a disruption that it would sort of somehow impact the
11 inauguration, whether it couldn't happen or it would have
12 to happen inside.

13 Those were some of the suggestions that they made
14 is if they caused enough damage in the city that it would
15 somehow disrupt the inauguration somehow. So that's -- at
16 least my investigation reveals that's why they started so
17 early.

18 MS. KERKHOFF: So we're going to try this 14th
19 and K Street view.

20 A JUROR: May I ask a quick question about -- the
21 first Crowne Plaza video, you mentioned you could see the
22 cops on bikes sort of alongside the black box group. What
23 were they doing? Were they just observing to see it didn't
24 get rowdier?

25 THE WITNESS: The officers?

1 A JUROR: Yeah.

2 THE WITNESS: So I mean, at that point in time I
3 think they're just trying to contain the situation and
4 monitor, right. I don't think there's enough officers at
5 that point in time to do anything, and I think again as
6 somebody asked yesterday, I think they were sort of hoping
7 that they could just dissipate the group and sort of end
8 that threat of the continuing destruction.

9 But as it continued to escalate, that's when
10 decisions were made to sort of stop them. But at that
11 point in time I think they were just following and
12 monitoring. They're probably waiting for orders from
13 command staff about exactly how to interact or what actions
14 to take.

15 BY MS. KERKHOFF:

16 Q K Street and 14th Street view and the top
17 corners, this is the intersection of 14th and L Street, I
18 believe -- or this is K Street and 14th Street, correct?

19 A Yes. So you can again see they're coming around
20 the corner from K Street. This individual here, he's
21 obviously trying to coordinate people from the group and
22 get them to move together. You can see him directing people
23 to get back into the back and make sure that they stick
24 together.

25 Q So as I understand, that's K Street and they're

1 leading onto 14th Street. So this actually precedes the
2 footage we just watched?

3 A Yes, that's correct. Yes.

4 Q Just to the top screen, which would be south,
5 that's where Franklin Square is?

6 A Correct.

7 Q So you can actually -- on the video, am I
8 correct, you can actually see people kind of coming from --

9 A From the park.

10 Q -- portions of the park area and up through --

11 A Onto 14th Street, that's correct.

12 Q So I'm going to ask you some questions about some
13 of the specific individuals. In your review of both that
14 video tape, those videotapes, as well as the other
15 videotapes in this, I think you testified that the group is
16 pretty uniformly dressed at that point?

17 A Yes.

18 Q There was a lot of colors and some individuals on
19 the side who did not appear to be on the side of the group?

20 A That's a fair assessment, yes.

21 Q The group that is ultimately cordoned off, there
22 were approximately 230 that were in that group, correct,
23 that were initially arrested, correct?

24 A Yes.

25 Q How did that group get processed finally?

1 A So once that group of individuals was cordoned
2 off and was not free to leave, officers then had planned to
3 take those individuals one at a time or in small groups out
4 of that group and process them with photographs and
5 documentation, get their name and information, and then
6 move them to a processing facility.

7 However, there was still a large contingency of
8 individuals that were not kettled in that group who were
9 still continuing to cause a disturbance, standing outside
10 of the lines intimidating, attacking police, throwing
11 bricks, throwing fireworks, chanting, advancing on police
12 positions.

13 So it wasn't safe to move those people from that
14 area until they had secured that area in at least a one or
15 two block radius. So that took several hours to do, and
16 then the actual processing of the individuals additional
17 took several hours.

18 Because the process was to remove one individual
19 out of the group, get their name, their basic information,
20 photograph them there on the scene, get them loaded onto a
21 transport vehicle, and then move onto the next person.

22 So they had to do that for 230 people, and as the
23 transports filled up, those transport vehicles had to go to
24 a transport facility and unload those prisoners, and then
25 come back and do more. So it was an incredibly time

1 consuming process that took several hours.

2 A JUROR: I'm sorry, I have a question. You said
3 -- I heard that the arrests were made at 10:30 a.m.
4 However, I guess I'm confused, does that imply that if you
5 say it took several hours that these marches started at
6 7:00 a.m., 8:00 a.m.? When are we -- I just want to
7 understand the timeline.

8 THE WITNESS: Sure.

9 A JUROR: You said it took several hours in the
10 process you're describing. That would imply that these
11 arrests happened after 10:30, but I don't --

12 THE WITNESS: Right, okay. So the technical
13 arrest, when they were decided -- when it was decided by
14 police officials that these people were going to be
15 arrested was at around 10:30 a.m.

16 BY MS. KERKHOFF:

17 Q Let me just clarify. Is that when the group was
18 stopped between 12th and L Streets and surrounded by police
19 and not free to leave?

20 A Yes.

21 Q So that was at about 10:30. At approximately how
22 many minutes had the police monitored or observed the march
23 and destruction, if you will, that had happened prior to
24 stopping that group at 12th and L and saying, you are now
25 officially under arrest whether or not you've been

1 personally processed yet or not?

2 A About 45 minutes.

3 Q So the cordoning off occurred approximately 30 to
4 45 minutes after the group started moving through the city?

5 A That's correct.

6 Q Approximately how many blocks did that group,
7 before they were stopped at 12th and L -- the ones who were
8 able to be stopped there -- approximately how many blocks
9 had they already moved through the city doing which we've
10 seen some of the damage?

11 A I would guess around 15 blocks probably.

12 Q Because they're circling down and circling back?

13 A Yes.

14 Q So when you say a couple of hours, once the group
15 was stopped -- when you're saying a couple hours, is that
16 the processing to identify individuals, secure them, and
17 move them one at a time out of the group back to a police
18 station and do all the necessary paperwork?

19 A Correct.

20 MS. KERKHOFF: Does that answer your question?

21 A JUROR: Yes.

22 BY MS. KERKHOFF:

23 Q Now, have you had an opportunity to also review
24 what we call body camera footage from officers who were
25 standing around the group shortly after it had been stopped

1 while we're trying to figure out how to process?

2 A Yes.

3 Q What do that body camera show of the group as a
4 whole?

5 A So once the individual group -- once the group of
6 individuals was stopped at that location, we viewed that
7 body camera and it shows everyone that's in that group of
8 230 sort of detained at that location.

9 And because they're detained there for a length
10 of time, the body camera allows us to look at their
11 behavior, what they're wearing, how they look, what they're
12 saying, those kinds of things. So we were able to view
13 that video and get an assessment of who was in that group
14 and what was going on at that point in time.

15 Q From the group itself, or once you were able to
16 see on the body cam, once that group is stopped what can
17 you see individuals within the group start to do prior to
18 their being photographed and processed for arrest?

19 A Some of them are shedding their clothing, taking
20 their masks off, moving around. There's a number of people
21 that you can't really see in the back. It's hard to tell
22 but it looks like a lot of them may be changing their
23 appearance in some way prior to actually being pulled out
24 of the group.

25 Q And when they were photographed as a standalone

1 person identified, that was when they were pulled out of
2 the group?

3 A That would have been after they were removed from
4 that group, yes.

5 MS. KERKHOFF: So I'm going to show you what's
6 been marked as Grand Jury Exhibit 21.

7 (Grand Jury Exhibit No. 21
8 was marked for identification).

9 BY MS. KERKHOFF:

10 Q Showing you Grand Jury Exhibit No. 21, I'll put
11 up on the Elmo. What is Grand Jury Exhibit 21?

12 A This is what we refer to as a field arrest
13 photo. Anytime we do mass arrest processing, we take a
14 photo of the individual with the arresting officer prior to
15 them being loaded onto a transport and transported to a
16 processing facility. This is a photo of defendant
17 [REDACTED] with his arresting officer.

18 Q Can you for the record describe the color and
19 type of clothing that Mr. [REDACTED] -- or [REDACTED], I'm not sure
20 how it's pronounced -- is wearing?

21 A He's wearing all-black clothing.

22 Q Do you have any information, evidence, or
23 anything else that [REDACTED] was not part of the mass
24 group that moved through the city prior to being stopped at
25 12th and L?

1 A I do not.

2 (Grand Jury Exhibit No. 22
3 was marked for identification).

4 BY MS. KERKHOFF:

5 Q Showing you what's been marked as Government's
6 Exhibit No. 22. This is -- see if I can lighten this up a
7 little bit. What is this a photograph of?

8 A This is a field arrest photo of defendant [REDACTED]
9 [REDACTED] with his arresting officer.

10 Q Now at this point when Mr. [REDACTED] was
11 processed it was starting to get dark out; is that correct?

12 A Yes.

13 Q Mr. [REDACTED] -- perhaps it's easier to look at
14 the photograph itself -- can you document for the record
15 and ladies and gentlemen of the Grand Jury what Mr.
16 [REDACTED] is wearing?

17 A It's all dark clothing. It looks like it's all
18 black to me.

19 Q In addition with respect to Mr. [REDACTED], did
20 as part of your investigation an officer Justice Harkins
21 provide information to law enforcement about what he
22 specifically observed Mr. [REDACTED] himself do?

23 A He did. The officers positively identified Mr.
24 [REDACTED] as one of the individuals that was ripping
25 trashcans and newspaper boxes off the corner and throwing

1 them in the street just prior to them being cordoned off at
2 12th and L.

3 Q Is that the same kind of conduct you described
4 yesterday as being kind of creating the blockade as the
5 group comes through, throwing trashcans and newspapers into
6 the group?

7 A Yes.

8 Q In addition did defendant [REDACTED] admit
9 to having knee pads as well as a red and black mask?

10 A He did. Yes, he did.

11 Q Do you have any other evidence or information
12 that Mr. [REDACTED] was not part of the group or was just
13 innocently present at the scene of 12th and L when the
14 group was stopped?

15 A I do not.

16 (Grand Jury Exhibit No. 23
17 was marked for identification).

18 BY MS. KERKHOFF:

19 Q Marking Grand Jury Exhibit No. 23. What are we
20 looking at here?

21 A This is a field arrest photo of defendant [REDACTED]
22 [REDACTED] with his arresting officer.

23 Q With his arresting officer -- and can you for the
24 record describe -- it may be a little bit easier to see
25 here, what kind of clothing Mr. [REDACTED] is wearing?

1 A It's all dark; it looks black to me from this
2 photo.

3 Q Now do you have any information or evidence that
4 Mr. [REDACTED] was innocently present in the area of 12th and
5 L and not part of this group as part of your investigation
6 at this time?

7 A No, I do not.

8 Q Now, as part of your investigation at this time
9 have you also obtained some information about Mr. [REDACTED]
10 -- Mr. [REDACTED] I believe is from Massachusetts; is that
11 correct?

12 A That's correct, yes. Boston I think.

13 Q Mr. [REDACTED] being involved in a similar event in
14 Massachusetts in which he [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 A That's correct, he did.

18 MS. KERKHOFF: Ladies and gentlemen, that's not
19 being offered to you for purposes of propensity, but going
20 specifically to any questions about innocent presence -- so
21 solely for innocent presence, not for propensity to be
22 defined, but whether or not this was innocent presence at
23 the scene.

24 BY MS. KERKHOFF:

25 Q That particular conduct occurred in

1 Massachusetts, correct?

2 A That's right, yes.

3 Q [REDACTED] Sorry.

4 A That's correct.

5 (Grand Jury Exhibit No. 24
6 was marked for identification).

7 BY MS. KERKHOFF:

8 Q Directing your attention to Exhibit No. 24,
9 showing you Exhibit 24, and I'll show it to you and I'll
10 put it up on the screen. What is Exhibit No. 24?

11 A It's a field arrest photo of [REDACTED].

12 Q It's kind of hard to see [REDACTED], [REDACTED],
13 [REDACTED]. Can you describe -- Mr. [REDACTED] was again
14 one of the ones who was arrested in the 12th and L group,
15 correct?

16 A Yes.

17 Q What is Mr. [REDACTED] wearing?

18 A It's difficult to see on there but he has a -- it
19 looks like a flannel long-sleeved shirt on that is beige,
20 gray, and black, in a plaid pattern.

21 Q So Mr. [REDACTED] was not wearing all black?

22 A No, he was not.

23 Q Now have you had an opportunity to view videos
24 off of social media as well as videos we've introduced --
25 were you able to see Mr. [REDACTED] participating in the

1 march itself?

2 A Yes.

3 Q As the group moved through the city?

4 A That's correct.

5 Q What were you able to see with respect to Mr.

6 [REDACTED] and how were you able to identify him?

7 A As the group passes in front of the Crowne Plaza
8 you can see Mr. [REDACTED] removing an outer layer of
9 garment, pulling his arms out of the sleeves of what
10 appears to be a jacket to me, and you can clearly see the
11 same plaid flannel long-sleeved shirt that he's wearing in
12 his arrest photo as the group passes, and that's during the
13 video that you just saw of the windows being smashed at the
14 Crowne Plaza.

15 Q As the group passes, where is Mr. [REDACTED]
16 located within that group?

17 A He's in the very middle of the group.

18 Q Do you have any evidence or information that Mr.
19 [REDACTED] was somehow innocently present in the area?

20 A No. No, I do not.

21 A JUROR: I have a question. Did you say you
22 yourself or someone else in MPD saw Mr. [REDACTED] shed
23 his clothes so that you could see the shirt?

24 THE WITNESS: I did.

25 A JUROR: You saw --

1 THE WITNESS: Yes.

2 (Grand Jury Exhibit No. 25
3 was marked for identification).

4 BY MS. KERKHOFF:

5 Q Directing your attention to No. 25, [REDACTED],
6 and [REDACTED] I believe hails from the great state of
7 Maine; is that correct?

8 A That is correct, yes.

9 Q Mr. [REDACTED], Government's Exhibit 25, is this a
10 photograph taken of Mr. [REDACTED] at his arrest area of 12th
11 and L Street?

12 A It is.

13 Q Was he a part of that group?

14 A He is.

15 Q What is he wearing?

16 A He's wearing all black or all dark clothing.

17 Q Do you have any information or evidence in your
18 possession that Mr. [REDACTED] was innocently present within
19 that group or on scene at the time of the arrest?

20 A No, I don't.

21 Q Just going back to the first three right there, I
22 forgot to ask you of these identified home states of
23 individuals. I believe you said Mr. [REDACTED] is from
24 Massachusetts. Mr. [REDACTED] identifies himself as being
25 from the state of Georgia; is that correct?

1 A That's correct, yes.

2 Q And Mr. [REDACTED] identified himself as being from
3 Pennsylvania?

4 A That's also correct.

5 (Grand Jury Exhibit No. 26
6 was marked for identification).

7 BY MS. KERKHOFF:

8 Q Government's Exhibit No. 26, do you recognize
9 what that is?

10 A Yes. It's a field arrest photo of [REDACTED]
11 [REDACTED]. I'm not sure if I'm saying that right.

12 Q I'm showing Government's Exhibit 26. [REDACTED],
13 maybe?

14 A [REDACTED].

15 Q Is this a photograph of Mr. [REDACTED] when he was
16 processed for his arrest in the area of 12th and L?

17 A Yes.

18 Q What is Mr. [REDACTED] wearing at the time of his
19 arrest?

20 A All dark or all black clothing.

21 Q Did law enforcement able to identify some
22 information that Mr. [REDACTED] publicly posted on social
23 media?

24 A Yes.

25 Q Was that information -- just to refresh your

1 recollection -- that information Mr. [REDACTED] posted what?

2 A That he's affiliated with a number of similar
3 groups about anti-fascism and similar groups of
4 anti-government, and pro-anarcho-socialist groups.

5 Q Mr. [REDACTED] provided his home state as
6 Massachusetts; is that correct?

7 A That's right.

8 Q Do you have any information or evidence in the
9 course of your investigation that Mr. [REDACTED] was somehow
10 innocently present or not associated with this group?

11 A I don't, no.

12 (Grand Jury Exhibit No. 27
13 was marked for identification).

14 BY MS. KERKHOFF:

15 Q Number 27 -- let me grab your evidence log as
16 well -- what are we looking at with respect to No. 27?

17 A It's a field arrest photo of defendant [REDACTED]
18 [REDACTED].

19 Q What was Mr. [REDACTED] wearing at the time he was
20 processed for his arrest?

21 A He has all dark clothing on but he's wearing what
22 looks like a blue jacket or a blue windbreaker.

23 Q In a review of social media, Mr. [REDACTED] on a
24 publicly available page that he had posted information
25 regarding what?

1 A He posted a picture of the arrest that took place
2 at 12th and L with the text overlaid on the photo saying,
3 "We are ungovernable."

4 Q In addition, at the time of his arrest did Mr.
5 [REDACTED] still have some property on his person?

6 A He did, yes.

7 Q Did that property include a helmet, mask, a
8 goggles, and bandana?

9 A Yes, I believe --

10 Q Do you want to take a look at your evidence log?
11 As I find that, let me ask you this Detective Pemberton: do
12 you have any information or evidence during the course of
13 your investigation that [REDACTED] was not part of
14 this group or otherwise innocently present at the scene?

15 A No, I do not.

16 A JUROR: Where was he from?

17 BY MS. KERKHOFF:

18 Q I apologize. Showing you the paperwork, what
19 state did Mr. [REDACTED] hail from?

20 A Mr. [REDACTED] is from Carbondale, Illinois.

21 Q During the course of the arrest was -- and I say
22 some -- evidence or information able to be processed or
23 identified that you've been able to look at that has been
24 identified as belonging to certain individuals; is that
25 correct?

1 A Yes.

2 Q Has all of the evidence or information been
3 cataloged or identified individuals, or was there a large
4 amount of evidence that was simply there and on the
5 streets?

6 A There's quite a bit of evidence that can't be
7 associated with a particular defendant at this time.

8 Q So I'm going to direct your attention to -- is
9 this, to refresh your recollection, is that an evidence log
10 that you provided to the government for what's been able to
11 be cataloged at this time?

12 A Yes.

13 Q Now scroll through that to refresh your
14 recollection regarding the items recovered from the person
15 of [REDACTED].

16 A [REDACTED] was recovered with a black
17 helmet, a pink mask, clear goggles, a black bandana, and a
18 black backpack. That evidence was logged as being
19 associated with Mr. [REDACTED].

20 Q Being associated with Mr. [REDACTED], that means he
21 still physically had it on his person by the time they
22 arrested; is that correct?

23 A It was recovered from his person, yes.

24 Q Okay. Showing you Grand Jury Exhibit No. 28,
25 what is Grand Jury Exhibit No. 28?

1 A This is a field arrest of defendant [REDACTED]
2 [REDACTED].

3 (Grand Jury Exhibit No. 28
4 was marked for identification).

5 BY MS. KERKHOFF:

6 Q Showing you Grand Jury Exhibit No. 28 for the
7 Grand Jury, for the record what is Mr. [REDACTED] wearing by
8 the time he is processed at 12th and L?

9 A He just has some sort of tan or beige long-
10 sleeved shirt.

11 Q In all the videos you watched as the group moved
12 through the city did you ever see a tan or beige shirt?

13 A No.

14 Q Okay. So has further investigation been done
15 with respect to Mr. [REDACTED] and his affiliation or
16 associations?

17 A Yes.

18 Q To include through social media, correct?

19 A That's correct.

20 Q Mr. [REDACTED] social media posting, does he
21 identify himself as part of the [REDACTED]

22 [REDACTED]

23 A He does.

24 Q In the course of your investigation regarding Mr.
25 [REDACTED] and whether or not there was innocent presence in

1 the area, have you learned of two not just arrests, but
2 convictions involving Mr. [REDACTED], the first the 2012 in
3 which Mr. [REDACTED]

4 [REDACTED]

5 A That's correct.

6 Q And also Mr. [REDACTED] was one of several
7 individuals who [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 A Yes.

11 Q And do you have any other information or evidence
12 that Mr. [REDACTED] was innocently present at the scene of
13 12th and L?

14 A No, I do not.

15 A JUROR: And where is he from?

16 BY MR. KERKHOFF:

17 Q I apologize. Mr. [REDACTED] listed a home address
18 in where? Is that Maryland?

19 A Rockville, Maryland.

20 Q But Mr. [REDACTED] social media indicates he is
21 with the [REDACTED]

22 [REDACTED], correct?

23 A Yes.

24 A JUROR: Based in?

25 THE WITNESS: [REDACTED].

1 (Grand Jury Exhibit No. 29
2 was marked for identification).

3 BY MS. KERKHOFF:

4 Q Number 29?

5 A Oh, I'm sorry.

6 Q Okay, what's Government's Exhibit 29?

7 A That's a field arrest photo of [REDACTED].

8 Q It's kind of hard to see --

9 A It is dark but he is certainly wearing all black
10 clothing.

11 Q At the time of his processing, and Mr. [REDACTED]
12 hails from Baltimore, Maryland; is that correct?

13 A That's correct.

14 Q Have you found any information or evidence in
15 your investigation with Mr. [REDACTED] was somehow innocently
16 present in the area of 12th and L at the time of his
17 arrest?

18 A No, I have not.

19 (Grand Jury Exhibit Nos. 30 and 31
20 were marked for identification).

21 BY MS. KERKHOFF:

22 Q I'll direct your attention to number 30 and 31;
23 do you recognize what this is?

24 A Yes, I do.

25 Q What do you recognize it to be, what is 30?

1 A Exhibit 30 is a field arrest photo of [REDACTED]
2 [REDACTED] with his arresting officer.

3 Q Now Mr. [REDACTED], what is he wearing for the
4 record?

5 A He is on what looks like a red jacket or a red
6 sweatshirt.

7 Q Have you watched extensive video?

8 A Yes.

9 Q Did you ever see any individual marching in the
10 group with that bright red sweatshirt?

11 A Not like that, no.

12 Q Okay. So what additional steps did you take as
13 part of your investigation to determine Mr. [REDACTED]
14 affiliation or association with this group as it moves
15 through the city versus innocent presence? Did you watch
16 body cam footage of initial officers who responded to the
17 cordoned off area?

18 A Yes, I did.

19 Q Watching that footage, did you see anyone at that
20 time when the group was first cordoned off wearing a red
21 sweatshirt?

22 A No.

23 Q But what were you able to see?

24 A There was an individual who was in the crowd that
25 was photographed or videotaped by the officer wearing the

1 body camera due to the fact that he was repeatedly removing
2 and putting back on his mask, and there was something that
3 they found suspicious about that. They zoomed in on an
4 individual and I believe that individual in that group to
5 be [REDACTED].

6 Q Is this a zoom-in of that body cam footage?

7 A Yeah, that's a still shot of the video.

8 Q Why is it that you believe that to be [REDACTED]
9 [REDACTED]? What other things did you look at and view?

10 A Well, [REDACTED] is unique in that he is only 5
11 feet tall, and in looking at the crowd you can tell by
12 average heights of the individuals around him that he's a
13 man of very short stature.

14 Additionally, the complexion of this individual
15 appears to be the same complexion as Mr. [REDACTED], and I took
16 a look at these glasses very closely, and there's no other
17 individual that appears to be wearing those glasses.

18 Q IN the photograph to the left, the one of Mr.
19 [REDACTED] smiling in the red sweatshirt, that was taken at
20 night; is that correct?

21 A That's correct.

22 Q You said no one else with glasses; did you also
23 look through every photograph of every individual that was
24 arrested?

25 A Yes.

1 Q Did you look for every photograph of anyone who
2 was a black male or a darker-skinned Hispanic or other
3 individual?

4 A I did.

5 Q Did anyone else have glasses?

6 A There is one black male that also was wearing
7 glasses that was arrested.

8 Q Could you identify him at the same time in the
9 same or a different area as this individual in the black
10 ski mask or the brown ski mask?

11 A Yes. So there's two significant things. One,
12 the individual, the other individual black male with
13 glasses was actually standing in front of Mr. [REDACTED] in the
14 same shot, so you could tell that they were different
15 people. But also the glasses that the other male was
16 wearing were sort of transitions lenses that had the tint
17 to them, and you could clearly tell they weren't just
18 eyeglasses.

19 Q Were they also wire framed?

20 A They were also wire framed.

21 A JUROR: Were any glasses recovered with the
22 other materials during -- at any point during the protest
23 as if someone threw them away?

24 MS. KERKHOFF: Any sort of prescription glasses?

25 THE WITNESS: Not that I'm aware of, no.

1 MS. KERKHOFF: Do you want to look at the
2 evidence log?

3 THE WITNESS: The DFS report?

4 MS. KERKHOFF: Yeah, of what was thrown.

5 THE WITNESS: I could. I don't think there's
6 glasses on there.

7 MS. KERKHOFF: There are not glasses if you
8 accept that representation, but you can you look through
9 the log. Would you like him to look through the log.

10 A JUROR: I'll accept that you know --

11 THE WITNESS: Yeah, I don't think so. I don't
12 think that --

13 A JUROR: So I know that your explanation is that
14 the two photos show someone with the same skin color but it
15 doesn't --

16 MS. KERKHOFF: So I would ask about the lighting
17 of the photograph; when was this photograph taken?

18 A JUROR: Daytime.

19 MS. KERKHOFF: Daytime, and when was the
20 photograph no. 30 taken?

21 A JUROR: I got a question about the photograph.
22 Looking at those two photographs as they sit together -- to
23 me, I don't know of the others, it doesn't -- believe the
24 facial structure -- on the right much to the structure on
25 the left.

1 MS. KERKHOFF: These sound like deliberations and
2 I don't want you to get into deliberations here.

3 BY MS. KERKHOFF:

4 Q Detective, what led you to believe that these are
5 the same individual under the standard of probable cause?

6 A Okay, so all of the individuals in this video
7 where the still frame was captured were placed under
8 arrest. So we have photographs, much like the one on the
9 left that you've been saying, of every single one of these
10 individuals that's in this video. Because we know for a
11 fact that nobody that was in this group of people in this
12 video was free to leave.

13 So what I did was after watching this video --
14 and I know that the way that this is appearing based on the
15 printout, and the copy, and the Elmo, it may not look
16 perfectly correct -- but when I watched it on the screen I
17 could tell his was a black male, and I could tell it was a
18 black male of short stature.

19 I then went and looked and I said, "Well how many
20 black males were arrested in this group of 230?" [REDACTED]
21 [REDACTED]. So I found the arrest photos associated
22 with [REDACTED] and I laid them out.

23 I was able to eliminate two of them because [REDACTED]
24 [REDACTED]. Additionally,
25 both of those [REDACTED]

1 [REDACTED]. One was I believe around 6 feet.

2 The other [REDACTED] was
3 also taller in stature in that he was probably 5'6" or
4 5'7", and as I already mentioned, he's also in this very
5 same frame if we were to zoom out. He's actually standing
6 right here and the glasses do not match at all.

7 They're sort of shaded lenses with wire frames,
8 and he is of a taller stature. So I was able to determine
9 that the [REDACTED] of this type that
10 was of a shorter stature that was arrested was this
11 individual here.

12 Q In addition could I ask you again, did you
13 specifically look through lengthy video of the initial
14 cordoned off group to determine if there was any individual
15 wearing this clothing that [REDACTED] is seen wearing
16 hours later at the time of his processing?

17 A I did.

18 Q What did you observe?

19 A I did not see anybody in any of that video
20 wearing this type of colored shirt or jacket, whatever that
21 is.

22 Q At that initial cordoned off time period for the
23 first 30 to 45 minutes?

24 A That's right, yes.

25 A JUROR: Sorry, I don't want to belabor the

1 point, but did you see him with -- it's unclear to me, but
2 when he has that ski mask on, do you see his [REDACTED]
3 [REDACTED]?

4 THE WITNESS: You can't see that in the
5 photograph.

6 A JUROR: Did you see it in the video? When it
7 was taken off and on, did you see [REDACTED] --

8 THE WITNESS: So the taking off and on isn't
9 captured. You can hear the officers talking to each other
10 and one officer says to the officer who was wearing the
11 body camera, he says, "You need to look at that guy in the
12 back, he keeps taking his mask on and off," and it appears
13 to me that the officer finds something suspicious about
14 that and he directs the officer with the body cam to sort
15 of turn and zoom in.

16 When he does zoom in, the mask is in this
17 position, and we don't have any footage of the mask coming
18 on and off. So there's never any footage of what type of
19 hair he has underneath that that I saw -- that I ever saw.

20 A JUROR: Question -- the extent to check social
21 media, had you checked the previous -- of this individual?

22 BY MS. KERKHOFF:

23 Q Were there any publicly available social media
24 for somebody by the name of [REDACTED]?

25 A I did not find any, no. We did look. I did not

1 find any but that's still something that's under
2 investigation, but a preliminary check of publicly
3 available social media, we did not find anything.

4 Q Nothing one way or the other? Meaning no sites
5 that shows whether this person or is not affiliated,
6 correct?

7 A That's correct.

8 A JUROR: And he is from which state?

9 BY MS. KERKHOFF:

10 Q Where did he identify himself as being from?

11 A [REDACTED].

12 Q Did Mr. [REDACTED] provide any information at the
13 time of his arrest regarding innocent presence on the
14 scene?

15 A No, he did not.

16 Q Do you have any information, any other evidence
17 or information regarding innocent presence?

18 A No.

19 A JUROR: So that picture was 30 and 31 was the
20 ski mask picture?

21 MS. KERKHOFF: 31 is the ski mask picture.

22 (Grand Jury Exhibit No. 32.
23 was marked for identification).

24 BY MS. KERKHOFF:

25 Q Finally we're going to go to [REDACTED]; do

1 you recognize what 30 is?

2 A Yes.

3 Q Okay, I'm refreshing. All right. This is
4 Government's Exhibit No -- this is 32, actually. 32, what
5 are we looking at here?

6 A It's a field arrest photo of defendant [REDACTED]

7 [REDACTED].

8 Q Okay and for the record what is Mr. [REDACTED]
9 wearing?

10 A All dark clothing.

11 Q Mr. [REDACTED] identifies as being from the state of
12 Pennsylvania; is that correct?

13 A That's correct.

14 Q Now in the course of our investigation was a
15 publicly available website, social media website for Mr.
16 [REDACTED], able to be identified?

17 A Yes.

18 Q On January 19th did Mr. [REDACTED] retweet, "Disrupt
19 J20. Will you resist?" with a photograph of the Disrupt
20 J20 site?

21 A Yes, he did.

22 Q Do you have any other evidence or information
23 that [REDACTED] was innocently present in the area?

24 A I do not.

25 MS. KERKHOFF: Does anyone have any other

1 questions for Detective Pemberton right now about this?

2 A JUROR: Is being -- wearing black and being in
3 the immediate area was cause for arrest?

4 MS. KERKHOFF: And we're going to -- do you have
5 a factual question or are you asking a legal question?

6 A JUROR: This is a factual question. I want to
7 find out if being in the area and wearing black, and these
8 police officers were following the group for a certain
9 amount of period, and then they were eventually cordoned
10 off, and the wearing black at that time was cause for
11 someone to be arrested. And it wasn't the process of
12 elimination for one to be affiliated with the group as a
13 search or not be a part of the group -- what is the
14 process?

15 MS. KERKHOFF: So what I don't want to get into
16 is legal stuff, because we can discuss the legal issues.
17 Let me see if I can clarify your factual question.

18 BY MS. KERKHOFF:

19 Q Can you explain again how this group itself was
20 stopped with respect to was everyone just coming here into
21 the group? How was this group stopped? So you've
22 testified before that the group itself that moved through
23 the city was the one that was stopped. Can you explain a
24 little bit more what you mean by that, the group that was
25 moving through the city causing the damage was the one that

1 was stopped? Can you explain that?

2 A Sure. So as this group of people sort of marched
3 through the city, the group of individuals that was causing
4 the damage that appeared to be affiliated with each other
5 -- that appeared to be moving with one purpose, with that
6 purpose to be to cause destruction and mayhem -- they were
7 moving through the city and they were wearing all black.

8 And as I testified yesterday, this is a technique
9 that's known to law enforcement called black block where
10 everyone wears black, people can then shoot in and out of
11 the group, cause damage, and it's very difficult for the
12 police to find out who specifically is responsible for what
13 act because of the nondescript way that they're dressed and
14 because they're moving swiftly, quickly, and with really no
15 plan of what direction they're going.

16 So as police followed this group and the
17 destruction became more prevalent, anybody that appeared to
18 not be associated with this group left and went another
19 direction, because of the fact that the destruction was so
20 -- it was proliferating.

21 So as the police followed this group and sort of
22 closed in on them, they became more and more concentrated,
23 and they just coalesced into one group of individuals that
24 was pretty much wearing all black, carrying flags,
25 chanting, throwing bottles at people, throwing rocks at the

1 police, breaking windows, breaking cars.

2 This group from all of the interviews that I've
3 conducting with the officers that were observing this -- is
4 that this group of individuals was behaving this way. They
5 entered Franklin Square twice, which was not really
6 policed. There were no officers that were at the entrances
7 or exits of the park, there's no fencing on the outside of
8 the park.

9 They obviously could have just disbursed at that
10 point in time and left. But from what we've talked to from
11 police officers and witnesses that not only did they get
12 back in the park but they regrouped, and you can hear them
13 on a number of videos making plans to continue their
14 destruction of the city.

15 When they leave out of the park, which you saw
16 video of that today, and they're traveling up 14th Street,
17 they again concentrate into this group of individuals
18 that's wearing all black, again with the flags, the
19 chanting -- attacking people, police, breaking things.

20 When they get into the 1200 block of L Street,
21 the end of that street is blocked off by police officers
22 and no one was going to be allowed to exit that way. But
23 after speaking with officers who were sort of closing in
24 behind them, they made decisions that if people left out
25 past them, they allowed those people to go.

1 So once that group sort of came to a head, and I
2 think you saw that video either yesterday or the day before
3 -- but not only did they sort of tightly pack up together,
4 and that was something that they chanted the whole way, you
5 know, "stay tight," "stay together," "keep it tight,"
6 "watch your flanks." These were all things that led us to
7 believe that they were behaving as a group.

8 But once they got out of that 1200 block of L and
9 really concentrated themselves together, they then -- you
10 can hear them on a number of videos, both police and public
11 videos -- that they're planning to charge the police line
12 and charge through the police line, which they then attempt
13 to do as a group.

14 You can hear them counting down, you can see them
15 deploying umbrellas to shield themselves from pepper spray,
16 and they make a charge, and then engage in a melee with
17 police officers where they're actually physically fighting
18 a line of police officers who have told them to stop at
19 that location.

20 So at that time, that group of people that is
21 actively fighting the police and trying to charge that
22 line, those people are stopped, they're stood up, and
23 they're stood up against that wall which you've seen in the
24 1200 block of L, and at that time the decision was made
25 that those people were under arrest.

1 So I don't think that there's anybody that just
2 sort of happened to be there at that point in time.
3 Because they were engaging in active violence against
4 property, and people, and the police -- anyone that was
5 left at that location.

6 And from our best estimates from command staff at
7 MPD to include information from helicopters and aerial
8 footage, the group was 4-to-500 when it started. The group
9 of individuals that was arrested was about 230.

10 So they had obviously gotten it down to a group
11 of individuals that were the most egregious of the group,
12 and that's the individuals that were placed under arrest.

13 A JUROR: Understanding all of that -- I
14 understand all of that, but at the same time also you said
15 that a short while ago, you said that certain individuals
16 that were arrested were seen in --

17 THE WITNESS: I'm sorry?

18 A JUROR: Certain individual that were arrested
19 were seen operating violently, and there were certain
20 individual -- there were no mention of them being directly
21 involved in the physical acts of damage, but they were
22 arrested.

23 MS. KERKHOFF: Correct. So I will give you some
24 legal instructions shortly regarding what for probable
25 causes the Court of Appeals has said has to be shown as to

1 each specific individual and what does not have to be
2 shown. That's a legal determination. I understand your
3 point; I'm not sure that's a factual issue.

4 BY MS. KERKHOFF:

5 Q Now detective, let me ask this: are you
6 continuing -- law enforcement is continuing the
7 investigation to include trying to identify private social
8 media, things like that, as we move through, correct?

9 A Yes.

10 Q And videos, and all of those things, correct?

11 A That's correct.

12 Q But at this time not every individual within the
13 230 a police officer or other person has said, that person
14 did the following thing at that location, other than being
15 affiliated with this group as it moved through the city; is
16 that fair to say?

17 A That's fair to say.

18 MS. KERKHOFF: All right. So factual questions?

19 A JUROR: Yes. For each of these 11, the
20 prosecutor asked you, do you have any other information
21 that would speak to their just having been there by chance.
22 And you would have said "yes" if any of these 11 had said,
23 I was just walking my dog, I'm not meant -- did any of them
24 claim that these 11, any of them claim to just happened to
25 have been in the area when you arrested them or make any

1 statements like that?

2 THE WITNESS: No. And again, they don't have to
3 talk to me, but as somebody that's been doing this for a
4 long time I would've imagined that somebody would be very
5 vocal about something if they were just on their way to get
6 a gallon of milk and got caught up in this.

7 BY MS. KERKHOFF:

8 Q Did any of these 11 claim to be journalists?

9 A No.

10 Q Did any of these 11 have equipment on them that
11 was indicative of being a journalist or a reporter, such as
12 a sophisticated camera or things like that?

13 A No, no.

14 A JUROR: For the others, except for [REDACTED]
15 [REDACTED], can they be seen in the videos that you looked at
16 but as the recent [REDACTED] was -- we have the other
17 photo of him in the crowd because of his clothing being so
18 different? Is that a way to identify him as being part of
19 the group as opposed to the others?

20 THE WITNESS: I'm not sure I understand.

21 A JUROR: Do you understand my question -- I
22 mean, do you have a -- do you identify the others as being
23 in videos that you've looked at, except for [REDACTED]?

24 A JUROR: Do you have like single photos like you
25 have for Mr. [REDACTED]?

1 THE WITNESS: So I don't have single screenshots
2 of anyone. I know that of these 11 that I believe is Mr.
3 [REDACTED] -- is that his name -- we have images of him at
4 another location marching with the group. As far as the
5 other individuals, I don't know that at this time we have
6 specific still frames or particular video where we can say,
7 that particular individual was there at that time.

8 Those are things that we're still actively
9 pursuing to try to determine who was doing what, where, and
10 when.

11 BY MS. KERKHOFF:

12 Q Is part of the reason for that is that if they
13 were wearing all dark clothing, as the entire group seems
14 to be moving, you're focusing on the individuals who are
15 not similarly dressed who might?

16 A Yeah, so as we go through these videos -- and
17 there is quite a bit of video out there -- we try to find
18 things that we can go back and identify people from.

19 So if there's something particular, like a patch
20 on a shirt or a red hat, or something like that, or the
21 glasses as you saw, then we go back and we look through the
22 information about their arrest -- their mugshots, their
23 field arrest photos, items that were collected from them as
24 evidence, and we try to compare those to the videos that we
25 have to say, hey, is this that person?

1 So with 230 people, it's been quite a task but we
2 are in the process of trying to identify specific people.

3 But as in terms of their particular involvement,
4 we know that the group as a whole was using this tactic,
5 this black block tactic where everyone is wearing black,
6 very nondescript, very difficult to pick out any one person
7 from the next, and that they're sort of engaging in this
8 activity in turns, or this person is damaging that and then
9 the next block somebody else damages something, and they're
10 sort of covering for each if you will.

11 So it's very difficult to pick out who is doing
12 what. But we do know that the group of people that was
13 arrested is the same group of people that the police were
14 monitoring the entire time as having been responsible for
15 the damage.

16 MS. KERKHOFF: Additional questions?

17 A JUROR: Which socials are you investigating,
18 social media are you investigating?

19 THE WITNESS: Like what sites? So just about
20 anything we've been able to access we've gone through. So
21 it's more common things like Facebook and Twitter, some
22 less common things like some of this dark web stuff where
23 people are sort of communicating through, you know,
24 privatized internet hubs. And unfortunately that's a
25 little bit out of my preview, but I know that our intel

1 section has done a lot of work trying to uncover any
2 communications or any information about particular
3 individuals and their involvement or their planning to be
4 involved.

5 A JUROR: Then are you investigating whether
6 they're a member of Project Veritas or affiliated with
7 Project Veritas?

8 THE WITNESS: Am I investigating whether the
9 defendants are affiliated with that? Not at this time, no.

10 BY MS. KERKHOFF:

11 Q Well do you have any information or evidence that
12 any of the arrested and charged individuals of the 11 here
13 are in any way associated or members with Project Veritas?

14 A No. No. I mean --

15 A JUROR: So has that not been investigated?

16 THE WITNESS: Well, so it's my understanding that
17 Project Veritas is sort of a right-wing outlet that sort of
18 conducts undercover journalism, if you'll call it that, to
19 sort of find out what people on this side of the spectrum
20 are trying to do. So it would be --

21 A JUROR: But there's evidence that they have
22 tried to insight some of the riots that happened that day.
23 So why has that not been --

24 THE WITNESS: You think project Veritas incited
25 some of the riots?

1 A JUROR: Correct. They moved some of the
2 protestors through social media to incite some -- on that
3 day.

4 MS. KERKHOFF: Objection. I'm going to ask you
5 to focus on the evidence that's been presented before you.

6 A JUROR: I guess I'm asking why they have not
7 been investigated as being -- any of these people being
8 affiliated with Project Veritas.

9 THE WITNESS: So I guess what the confusion is I
10 don't think Project Veritas is -- they try to undermine
11 people that do this is what, at least how they purport
12 themselves.

13 So I will tell you that there is information out
14 there that they have collected, and at some point in time I
15 may bring it in here for you to review it and you guys can
16 determine whether or not it's valid or germane to the
17 investigation. But as of right now I haven't really looked
18 at any of that, and --

19 A JUROR: So you did not consider investigating
20 Project Veritas as being affiliated with any of these --

21 MS. KERKHOFF: So right now -- and I just want to
22 discuss about the scope where this investigation goes.

23 BY MS. KERKHOFF:

24 Q Do you have any evidence or information that any
25 of these individuals are associated with Project Veritas?

1 I just want to be careful about what we're going and what
2 we're doing as to the scope of the investigation.

3 If you have specific directions you want the
4 Grand Jury investigation to do, we can talk about that.
5 But at this time, do you have any evidence or information
6 associating any of these 11 individuals with somehow a far
7 right-wing group that was inciting this to undermine the
8 far left?

9 A No, I don't. Not at this time, no.

10 MS. KERKHOFF: Which we'll discuss legally
11 whether that's even a defense to their own conduct to
12 incite a riot. Okay? Yes, sir.

13 A JUROR: I was wondering what the scheduled
14 start time for this protest was and then what the actual,
15 if you know it, what the actual start time was?

16 THE WITNESS: So the information I received from
17 SOD official was that it was scheduled to start at 10:00
18 a.m. at Logan Circle at 13th and O, and that they stepped
19 off the circle not long after that, so they're -- it
20 appears they were ready to go at 10:00 a.m. and that they
21 left the circle right around that time.

22 A JUROR: Thanks.

23 A JUROR: Is there any indication that their
24 attacks were necessarily targeted. I mean, they destroyed
25 some vehicles and they -- they bypassed a lot, they

1 destroyed some windows but they bypass a lot, or is that
2 just kind of strategy?

3 THE WITNESS: I mean, I'd have to speculate at
4 this point but I do know that from looking at the social
5 media stuff, they obviously have particular targets that
6 are -- would normally be associated with sort of capitalist
7 ideas, like Starbucks, Bank of America, a limousine.

8 Those are all things that sort of embody
9 capitalism, and I think that they go after those things a
10 lot. But there are other things like, you know, smashing
11 up -- you know, the bus shelters, and things like that. So
12 I don't know, I don't have any preconceived locations that
13 they wanted to make sure they destroyed.

14 But like the Wells Fargo ATMs that you saw, I
15 mean, anything that's any kind of establishments like that,
16 those seem to have been gone at the hardest. But it's hard
17 for me to say whether they intended to do that or it just
18 happened that way.

19 A JUROR: -- got arrested -- getting arrested,
20 exactly?

21 MS. KERKHOFF: Is that Mr. [REDACTED]?

22 A JUROR: Yes.

23 BY MS. KERKHOFF:

24 Q By the time of his arrest did he have any
25 identified items on his person?

1 A I don't think he did, no.

2 A JUROR: I know this question was asked before,
3 and it was the question I was getting at too or was trying
4 to get at, but specifically Mr. [REDACTED], do you know if he
5 claimed at any time that he was not a part of the group?

6 THE WITNESS: Not to me and not to any other law
7 enforcement that I'm aware of.

8 MS. KERKHOFF: Any other questions for Detective
9 Pemberton at this time? Okay.

10 THE WITNESS: Thank you, guys. Have a good
11 afternoon.

12 (Whereupon, the witness was excused at 11:16
13 a.m.)

14 (whereupon, the witness was recalled at 11:45
15 a.m.)

16 BY MS. KERKHOFF:

17 Q Detective Pemberton, you are still under oath; do
18 you understand that?

19 A Yes, I do.

20 Q Now Detective Pemberton, for the 11 individuals
21 that we've talked about today, did law enforcement conduct
22 a search, or attempt to conduct a search, of any social
23 media accounts they had under their names?

24 A Yes.

25 Q What do you mean by a search?

1 A Literally just put their name in, whatever their
2 name we had on the arrest paperwork, went into Facebook or
3 Twitter, or the most common platforms, and typed in the
4 name. And if something came up, you know, we'd try to
5 capture that and we brought that in here.

6 Q So with respect to [REDACTED], you did not
7 discuss any social media postings one way or the other; was
8 law enforcement able to locate a publicly available social
9 media account for [REDACTED]?

10 A No.

11 Q With respect to [REDACTED], did you attempt to
12 conduct a search of a social media account under the name
13 [REDACTED]?

14 A Yes.

15 Q Was law enforcement able to locate any social
16 media under the name [REDACTED]?

17 A No.

18 Q With respect to [REDACTED], did law enforcement
19 conduct a search for social media under the name [REDACTED]
20 [REDACTED]?

21 A Yes.

22 Q Were you able to identify any social media under
23 the name [REDACTED]?

24 A Now [REDACTED], you discussed social media
25 accounts as well as two events for [REDACTED]; is that

1 correct?

2 A Yes, ma'am.

3 Q And you testified that [REDACTED] associated
4 himself as a [REDACTED]
5 [REDACTED], correct?

6 A Yes.

7 Q Did you do a search of that group itself? Or how
8 did you identify that from [REDACTED]?

9 A He just claims that he's affiliated with that
10 group on his Facebook page.

11 Q So did you perform a social media search for the
12 name, [REDACTED]?

13 A Yes.

14 Q In that search, did you find a Facebook page that
15 contained the information about what you've testified here
16 in the Grand Jury?

17 A Yes, I received that information from his
18 Facebook page -- publicly available Facebook page.

19 Q Did you find any other social media pages for
20 [REDACTED]?

21 A No.

22 Q With respect to [REDACTED], you testified
23 that [REDACTED] had a social media page; did you
24 conduct a search of social media for the name [REDACTED]
25 [REDACTED]?

1 A I did.

2 Q When you testified that [REDACTED] had
3 posted, is that based solely from what you observed on
4 Matthew Stearns' social media page, that one that, [REDACTED]
5 [REDACTED] is that correct?

6 A Yes.

7 Q Did you find any other social media pages for
8 [REDACTED]?

9 A No, I did not.

10 Q Did you conduct a search of social media under
11 the name [REDACTED] who was arrested?

12 A Yes.

13 Q Did you locate a social media page publicly
14 available under the name [REDACTED]?

15 A Yes, I did.

16 Q Is that the information that you testified about
17 here today?

18 A That's correct.

19 Q Did you locate any other social media pages for
20 [REDACTED]?

21 A No, I did not.

22 Q With respect to [REDACTED], did you conduct a
23 social media search for the name [REDACTED]?

24 A Yes.

25 Q Were you able to identify any social media page

1 for [REDACTED]?

2 A No.

3 Q [REDACTED], did you conduct a social
4 media search for [REDACTED]?

5 A Yes.

6 Q Were you able to locate any social media page for
7 [REDACTED]?

8 A No, I did not.

9 Q [REDACTED], did you conduct a search for
10 [REDACTED]?

11 A Yes.

12 Q And were you able to locate a social media page
13 for [REDACTED]?

14 A No, I was not.

15 Q And I have an additional follow-up question,
16 detective. When the individuals who were arrested -- and
17 we'll talk about these as the group was arrested. In terms
18 of processing, what information was asked regarding where
19 people lived? Is that part of the booking process?

20 A Yes. So the arresting officer would've asked
21 name, date of birth, address, and that's probably about it
22 as it pertains to mass arrests, yes.

23 Q What about employment or reason that they were in
24 the area?

25 A I don't think that there was time to get into

1 that for 230 arrests.

2 MS. KERKHOFF: Does anyone have any additional
3 questions for Detective Pemberton? Yes, sir?

4 A JUROR: Did you -- phones or emails, during the
5 arrest or afterwards?

6 THE WITNESS: Like their phone numbers?

7 A JUROR: Yes, I'm sorry, their phone numbers.

8 THE WITNESS: Yeah, I think some of the arrest
9 reports reflect phone numbers, yeah.

10 A JUROR: And were those used in social media
11 access or finding their social media profiles?

12 THE WITNESS: No, I didn't. I don't know if
13 anybody else did in order to obtain social media profiles.
14 But the only searches that I did or that I'm aware of were
15 just simply just plug the person's name in and see if
16 there's an obvious profile that's associated with that
17 individual.

18 A JUROR: And then what is the [REDACTED]
19 [REDACTED]?

20 THE WITNESS: I really don't know.

21 A JUROR: Okay. So you can't characterize it one
22 way or the other?

23 THE WITNESS: I mean, from the minimal research
24 that we did it appeared to be sort of an affiliated type
25 group of this radical persuasion.

1 A JUROR: But you testified that you never went
2 to their page or --

3 THE WITNESS: That's right. I did not.

4 A JUROR: So you know minimal research about them
5 and you can't characterize them one way or the other?

6 THE WITNESS: I think that's fair to say. I
7 mean, I think that I got the impression of the fact that
8 they are sort of an activist group. I got that much out of
9 it, yeah. But as far as their exact agenda or what their
10 objectives are, no, I can't.

11 A JUROR: So they could be similar to a Planned
12 Parenthood or League Conservation of Voters, which are also
13 activist groups?

14 THE WITNESS: I don't know; I can't speculate as
15 to what they could and couldn't be.

16 A JUROR: Okay.

17 A JUROR: You just testified that when the
18 question was asked of you by the attorney, did you check
19 pages of x, y, and z, and you mentioned that you don't know
20 if any other officers checked. As you sit here today, did
21 you -- you were the person fully responsible checking these
22 11 individual's social media?

23 THE WITNESS: No, I --

24 A JUROR: The reason I ask the question is
25 because you made mention of, when the attorney asked the

1 question to you, you said, "I don't know if the other
2 officer did." So I want to know if you were responsible
3 for checking these 11 people.

4 THE WITNESS: So I've done a number of checks
5 myself.

6 A JUROR: (Inaudible).

7 THE WITNESS: So here's what I'm telling you.
8 There's a number of individuals that have been working on
9 this investigation from various departments and units
10 within the Metropolitan Police Department intelligence
11 section, criminal intelligence, SOD, and other individuals
12 that have been involved in trying to get us the information
13 we need.

14 And it is an unwieldy amount of information that
15 we're trying to sort out how exactly to make sure that we
16 can get a handle on it.

17 As far as these 11, I believe I personally
18 checked these 11. I know that I went through a number of
19 individuals myself trying to figure out whether or not they
20 had social media, but a lot of the social media links that
21 we had also came from people in the intelligence section
22 who were helping us with that process.

23 So I can't say definitely that I personally
24 checked all of these 11. I recognize a few of the ones as
25 webpages that I personally checked, but I'm not sure that

1 all of these 11, I can say I personally checked. But I am
2 aware from the other individuals that we're checking that
3 these are the only social media profiles that we were able
4 to find.

5 A JUROR: Of the ones that you were able to find
6 social media accounts on, did you do any check beyond
7 association with these groups that are associated with the
8 group that -- did you -- did they have status updates for
9 that day? Did they have anything else that was posted on
10 their sites which may have explained their presence not-
11 associated with that?

12 THE WITNESS: So, no. The [REDACTED]
13 profile, he has pictures of the actual arrests that he's
14 put sort of overlaid text on and posted after the fact. So
15 I'm assuming he did that after he was released. And the
16 other profile that had sort of post-arrest information,
17 there was another one that was in there -- I can't
18 remember. Oh, the -- which one was from Carbondale?

19 A JUROR: [REDACTED].

20 THE WITNESS: Is [REDACTED] the Carbondale one?
21 Okay. So that's the one that has information that was
22 posted after the arrest, and it shows obviously the arrest
23 saying, you know, [REDACTED] so that to me does
24 not go to innocent presence, if that's what you're asking,
25 I'm sorry.

1 A JUROR: Yeah.

2 THE WITNESS: But the other profiles that we
3 found did not have any recent updates, at least at the time
4 that they were searched. So I don't recall any of them
5 having posts, any sort of status updates post-January 20th
6 except for that one.

7 A JUROR: And I heard everybody else except
8 [REDACTED]; did he have an account as well?

9 BY MS. KERKHOFF:

10 Q Oh, you know what, I apologize. I have the
11 jacket here. [REDACTED], did you conduct a search of
12 social media for publicly available information under the
13 name [REDACTED]?

14 A Yes.

15 Q Were you able to find any social media account
16 under that name, [REDACTED], associated with this
17 defendant?

18 A No.

19 A JUROR: And the one last question I have, the
20 locations -- I don't know if all of this is relevant, but
21 for everybody except Mr. [REDACTED] -- in terms of states?

22 BY MS. KERKHOFF:

23 Q Showing you the arrest information for Mr.
24 [REDACTED]. Does that refresh your recollection?

25 A Yeah.

1 Q From what state?

2 A Pittsburgh, Pennsylvania.

3 MS. KERKHOFF: Any other questions?

4 A JUROR: Was -- of the 11 people -- anybody
5 asked why were they in Washington, D.C. on January the 20th
6 in that area?

7 THE WITNESS: So once someone is placed under
8 arrest, they don't -- they have a right not to talk to the
9 police. So I tried to give everyone an opportunity to talk
10 to the police, and I went around to as many prisoners as I
11 could find and said, "Would you like to talk to a
12 detective?" "Would you like to speak to a detective?"
13 Nobody offered a reason to say, I was here to visit the
14 museums, or something like that. Nobody said that.

15 BY MS. KERKHOFF:

16 Q I think this is following up on your testimony
17 yesterday to clarify, I think yesterday you testified you
18 went to the cell blocks, cell by cell, correct?

19 A Mm-hmm.

20 Q And asked that question. You went to the two
21 school buses of individuals that were waiting transport?

22 A Yeah, and there were I think four or five -- it's
23 hard to remember, but there were four or five transport
24 wagons that were out there, which were filled with -- I
25 went to the back of those wagons and tried to talk to

1 people and say, "Once you get inside, would you like to
2 speak with me?" and I was going to flag those individuals
3 so that they could, when they were brought inside the
4 building, they'd be separated. But nobody expressed
5 interest to talk to me about the circumstances regarding
6 their arrest.

7 Q And that was with the exception of, I think you
8 testified yesterday, the two individuals -- the two
9 freelance reporters by the name of [REDACTED] who
10 you did talk to, and then were separately able to verify
11 their information, and they are not part of this group of
12 11; is that correct?

13 A Yes. That's correct, yes.

14 A JUROR: For each of the 11, were they told why
15 they were arrested?

16 THE WITNESS: I would imagine so. So I wasn't
17 part of the arrest process. I was not at 12th and L
18 handling the mass arrests. I was sort of at the scene
19 later helping with the investigation.

20 But I was aware from officers on the scene that
21 many of the people believed that they were being arrested
22 for something that was -- would make them eligible for
23 citation.

24 Basically that you would pay a fine and leave,
25 and a lot of the officers reported that people were upset

1 realizing that they were being charged with a felony.

2 So I don't know that every single person was told
3 that but I know I heard that from a lot of different
4 arresting officers that people were sort of shocked to
5 realize that they were being charged with a felony.

6 A JUROR: It didn't say -- I don't believe it
7 said, but on the field photo, did it say reason --

8 THE WITNESS: I don't think so. And now that you
9 mention that, I do remember as I was going through the cell
10 block a number of people did ask me, like, what are the
11 charges, and I did tell them at that point in time what the
12 charges were.

13 A JUROR: This may be a question of law -- or a
14 fact, I don't know. Is an officer required upon making
15 arrest to say why they are under arrest?

16 THE WITNESS: Do you want me to answer that?

17 MR. BORCHERT: That sounds like a legal question.

18 MS. KERKHOFF: Yeah, that's a legal question.
19 We'll answer that, yeah.

20 A JUROR: Were they Mirandized?

21 THE WITNESS: No.

22 MS. KERKHOFF: That's a legal -- I will explain
23 the legal question to you. Any other questions?

24 THE WITNESS: Okay. Thanks again, guys.

25 (Whereupon, the witness was excused.)

1 (Whereupon, at 11:57 a.m., the taking of the
2 testimony in the presence of a full quorum of the Grand
3 Jury was concluded.)

4 * * * * *

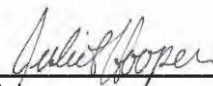
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

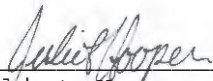
DCX 5-194

C-E-R-T-I-F-I-C-A-T-E

I, Juliet Hooper, the reporter for the United States Attorney's Office, do hereby certify that the witness, Gregory Pemberton, whose testimony appears in the foregoing pages in the case of U.S. v. Nathaniel Jaffe, et al., Case No. 2017-CF2-001147, heard on February 1, 2017, was first duly sworn by the Foreperson or the Deputy Foreperson of the Grand Jury when there was a full quorum of the Grand Jury present; that the testimony of said witness was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the testimony given by said witness.



Juliet Hooper, Official Reporter



Juliet Hooper, Transcriber

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, VA 22314
Phone: 202-467-9208
Fax: 202-296-3468

DCX 5-195

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - x
:
UNITED STATES OF AMERICA :
:
v. :
: Criminal Case
NATHANIEL JAFFE, et al : No: 2017-CF2-001147
:
- - - - - x

Grand Jury No. January 2
Superior Court for the
District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Thursday, February 2, 2017

The discussion in the above-referenced case was
taken in the presence of a full quorum of the Grand Jury,
commencing at 2:10 p.m., before:

JOHN BORCHERT
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-196

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

2 MR. BORCHERT: Good afternoon, everyone. For the
3 record, I am back again on your Grand Jury Case No. 44. My
4 name is John, J-o-h-n, last name Borchert, B-o-r-c-h-e-r-t.
5 This is -- the case name is United States v. Nathaniel
6 Jaffe, et al. The lead case number is 2017-CF2-001147.

7 Let me tell you what I have planned for today.
8 We have 21 additional defendants. I am going to present
9 the testimony of Detective Pemberton again. I am going to
10 be asking for a vote as to these 21 defendants on a
11 superseding indictment, which means that technically you
12 will also need to revote the 11 that were yesterday.

13 I'm going to try to simplify a lot of what has to
14 happen here today, and sort of our manner of -- is someone
15 knocking? And sort of our manner of -- oh, I think we're
16 okay.

17 What I've done is, I've prepared a lot of copies
18 of the vote sheet, and I'll just pass these out. And you
19 can use -- you actually can use one of these as your vote
20 sheet, but extra copies --

21 A JUROR: Rather than do this --

22 MR. BORCHERT: Rather than have to write them all
23 out again.

24 A JUROR: Okay.

25 MR. BORCHERT: Yes. I've filled it out this time

1 with the true bill, ignoramus, foreperson, deputy at the
2 bottom. And so hopefully this will help everyone keep
3 track of all the different people.

4 I'm going to ask the detective, Detective
5 Pemberton, just a couple of very broader questions at the
6 start about -- just generally about a conversation that he
7 had with a Park Police lieutenant that I think the Grand
8 Jury would be interested to hear.

9 But then after that, what we're going to do is
10 just march through -- I'm going to try to ask him very
11 focused questions about each one of these 21 defendants
12 that are on the sheet here. I see a question in the back.

13 A JUROR: We need one more sheet.

14 A JUROR: Yeah, we haven't --

15 A JUROR: We have an extra one, we've got an
16 extra one. We have it.

17 MR. BORCHERT: You've got one? Oh, I'm sorry.
18 Okay, great. Yes, ma'am?

19 A JUROR: I do have a question. So let's say you
20 have another stack of defendants tomorrow. Will we have to
21 -- will we vote on those and then we vote on all these
22 again as well, or is this just this one time where we're
23 voting everybody?

24 MR. BORCHERT: Because it is a superseding
25 indictment --

1 A JUROR: Yeah, but I'm saying --

2 MR. BORCHERT: -- you will have to revote --

3 A JUROR: Every time?

4 MR. BORCHERT: -- every time.

5 A JUROR: Can we do it in batches or individually
6 one, two, up through eleven --

7 MR. BORCHERT: The easiest way I think to do
8 this, this is what I propose doing. Maybe we can come up
9 with another way if it gets too cumbersome, but I have
10 basically just saved the vote sheet, you know, as a Word
11 document, so I've got -- and I've given to the deputy clerk
12 the -- deputy foreperson, pardon me. I've given to the
13 deputy foreperson a copy of yesterday's vote sheet in the
14 same sort of format.

15 So ideally, all that would have to happen is just
16 revoting the previous sheet without having to come up with
17 a new list of all the members?

18 A JUROR: And it's this one vote basically?

19 MR. BORCHERT: Right.

20 A JUROR: We vote on all 11 people, right?

21 MR. BORCHERT: Well, you have to vote
22 individually for each person, right. And there will be a
23 different vote sheet each time.

24 A JUROR: So basically, we have to go through and
25 vote for 11 plus 21 each individually?

1 MR. BORCHERT: Yes, that's correct. I'm trying
2 to come up with an easier --

3 A JUROR: Can I just ask you?

4 MR. BORCHERT: Yes, sir.

5 A JUROR: The next step, which is the
6 Gaitherization --

7 MR. BORCHERT: Yes.

8 A JUROR: -- once we go through this process,
9 assuming whoever does --

10 MR. BORCHERT: I'll be here with you.

11 A JUROR: You were -- you're working on
12 diminishing returns here because there were people who
13 decided not to vote for a certain person here --

14 MR. BORCHERT: Right.

15 A JUROR: -- and then what they told us to do in
16 the procedure for the Gaitherization is that even if one
17 the persons on here, you didn't vote for, don't vote for
18 the whole thing.

19 MR. BORCHERT: I see.

20 A JUROR: -- do have less numbers. Now, if
21 you're going to come back to us and we're redoing up to 265
22 people --

23 MR. BORCHERT: Right.

24 A JUROR: -- there could come a time when there's
25 enough people in here that enough of us, maybe even on one

1 person, don't believe --

2 MR. BORCHERT: I see your point.

3 A JUROR: -- that you're going to, you know, come
4 number 265, you only have 11 people, and everybody else
5 says no, do you then lose it on all of the other ones?

6 A JUROR: No. No, because if it doesn't fail,
7 then if that fails with 265 people on it in this room, then
8 we vote on each person individually. In this room.

9 A JUROR: Hmmm.

10 A JUROR: So once it gets down to --

11 MR. BORCHERT: Yes.

12 A JUROR: -- so your diminishing returns, then
13 we're going to have to go back --

14 A JUROR: Yes.

15 A JUROR: -- and revote on the 265 individuals?

16 A JUROR: Yes.

17 A JUROR: I'm just --

18 MR. BORCHERT: I'm hoping it doesn't --

19 A JUROR: -- putting it out there.

20 MR. BORCHERT: It's a number over -- I'm not sure
21 -- and I'm not sure it will get quite that high, but it is
22 -- it's there. Yes, ma'am, in the back?

23 A JUROR: So I'm confused with the Gaither part.
24 We don't vote individually -- well, the No. 1 to 11 -- 122,
25 on that Wednesday vote.

1 MR. BORCHERT: You can vote -- you'll vote on
2 this page on each person --

3 A JUROR: Okay.

4 MR. BORCHERT: -- present, ignore, and noted
5 here --

6 A JUROR: Gotcha.

7 MR. BORCHERT: -- rather than -- yesterday I know
8 you folks made up a separate sheet each time, and I'm
9 trying to save that work.

10 A JUROR: Yeah.

11 MR. BORCHERT: At least that work.

12 A JUROR: And in the past with the
13 Gaitherization, you -- like, in a batch, but that was when
14 it was one defendant with multiple charges? But in the
15 case where it's individuals -- a revote for each
16 individual?

17 A JUROR: No.

18 A JUROR: Is that right?

19 A JUROR: No, no.

20 A JUROR: I spoke with Tomaselli yesterday.

21 MR. BORCHERT: Yes, the Dean of Gaitherization.

22 A JUROR: He said that if we have 230 people on
23 -- even on a number of different charges, we indict the
24 whole thing or not. If we don't get enough, if we get 11
25 -- 20 or whatever -- then we go through it and then we vote

1 on each person. And it's just the Gaitherization part.

2 Before Gaitherization, we vote on each person.

3 A JUROR: Will they sequester us?

4 A JUROR: And if on the list of 11, you don't
5 believe that one of those 11 should go forward, then you
6 have to vote no for the whole thing?

7 A JUROR: When you Gaitherize.

8 A JUROR: Gaitherize.

9 MR. BORCHERT: At the Gaitherization stage.

10 A JUROR: We can tell -- on Wednesdays.

11 A JUROR: That's -- when we do the
12 Gaitherization, if there's an issue --

13 A JUROR: Well, we only have one more --

14 A JUROR: -- if there's an issue with one, we can
15 mention that, and then --

16 A JUROR: Okay.

17 A JUROR: -- maybe they can --

18 A JUROR: That's fair.

19 MR. BORCHERT: And then we can figure out if --

20 A JUROR: If there's maybe two people, say, pull
21 those two people out, do the rest, and then vote on those
22 two people --

23 MR. BORCHERT: That's a good suggestion. Yes.
24 Then --

25 A JUROR: When was this again? I missed that.

1 MR. BORCHERT: Basically, the idea was to flag at
2 the time of Gaitherization if there are any individuals --

3 A JUROR: Oh, there? Okay.

4 MR. BORCHERT: -- that might present this.

5 A JUROR: That are problematic.

6 A JUROR: We pull out the ones that we have a
7 question about, and then we --

8 MR. BORCHERT: Yes, of course.

9 A JUROR: Before Gaitherization?

10 MR. BORCHERT: Before Gaitherization, we'll know.

11 A JUROR: We're going to know who didn't --

12 MR. BORCHERT: Right.

13 A JUROR: I mean, assuming the number of people
14 within --

15 MR. BORCHERT: Yes.

16 A JUROR: -- stays the same --

17 MR. BORCHERT: Correct.

18 A JUROR: -- in the room, you're going to know
19 which ones have potential issues.

20 MR. BORCHERT: Right. Which -- and -- right.

21 And we can identify those and try to avoid that, I hope.

22 But we'll see where that comes -- no, and I appreciate you
23 looking ahead to that.

24 A JUROR: There are insane issues.

25 A JUROR: And you know the -- when you --

1 MR. BORCHERT: This is unusual in a lot of ways,
2 I know, yeah. Go ahead.

3 A JUROR: When you gave kind of more information
4 on some people than others, that ended up kind of confusing
5 things -- too.

6 MR. BORCHERT: I think we heard you loud and
7 clear on that yesterday. And so what I think we're going
8 to do, what I propose doing for each one of these 21 people
9 is I'm basically going to ask the detective about three
10 areas. We'll put up a picture, we'll establish that they
11 were there for the arrest, that they were in dark clothing
12 or whatever they're wearing, I'll put up a picture for you.
13 I'll let you know -- and I'll ask the detective about any
14 property that was specifically recovered from that person,
15 if we have any. You know, like if the person had a bandana
16 or a mask or something like that.

17 And then I'll ask about where the person was
18 from. You will start to hear that there are some
19 Washington, D.C., addresses in this batch of folks, but
20 there weren't any yesterday, but you'll start to hear some
21 of that today.

22 But, you know, my hope then is that we can at
23 least move through these jackets pretty succinctly.
24 Obviously, if there is any social media that we identify
25 that we think is exculpatory, we will of course present it

1 to you and let you know about it. That would be our
2 obligation. But I think that, you know, based on what the
3 back and forth we had yesterday, I'm not sure social media
4 was very helpful at all in terms of trying to, you know,
5 help this Grand Jury do what it needs to do.

6 A JUROR: Yeah, it kind of muddled things I
7 think.

8 MR. BORCHERT: I'm sorry?

9 A JUROR: It kind of muddled things a little.

10 MR. BORCHERT: Yes. Right. I think we got that.

11 A JUROR: The additional photo really muddled
12 things I think.

13 MR. BORCHERT: Yes, okay. Understood,
14 understood. Yep, we will -- yes, ma'am, in the back?

15 A JUROR: If you just ask for each defendant the
16 exact same question, that would be helpful also.

17 MR. BORCHERT: I will keep it -- I will do it so
18 that there is very little variation. I'll try my best.
19 Yes, sir?

20 A JUROR: The last hypothetical legal question
21 that you may or may not be able to answer.

22 MR. BORCHERT: Sure.

23 A JUROR: What would be a typical sentence for
24 the felony rioting charge? Just out of my own curiosity.

25 MR. BORCHERT: Gosh, I can't -- I don't know that

1 I can answer that.

2 A JUROR: Okay.

3 MR. BORCHERT: But sentences in -- I can answer
4 generally and say that in Superior Court, just like in
5 Federal Court, sentencing is based on a combination of
6 factors. There are sentencing guidelines that the Superior
7 Court has which judges follow. Those sentencing guidelines
8 are based on the seriousness of the offense and also take
9 into account a defendant's prior criminal history in coming
10 up with a range of what might be an appropriate sentence.

11 Factors like -- and then beyond that, a judge
12 would look to things like the nature and circumstances of
13 the offense, the need to promote deterrence, whether it
14 general deterrence at large or specific deterrence as to a
15 specific defendant.

16 The judge looks at the need to provide
17 restitution, interests of any victim. These are all the
18 types of factors that influence what a sentence would be.
19 So that's the best I can answer that.

20 A JUROR: Okay.

21 A JUROR: John?

22 MR. BORCHERT: All right.

23 A JUROR: It sounds like you're going to ask
24 standardized questions about every individual --

25 MR. BORCHERT: Yes.

1 A JUROR: -- because yesterday there was one that
2 was, you know, also there was some additional behavior that
3 was --

4 MR. BORCHERT: Right.

5 A JUROR: -- brought out.

6 MR. BORCHERT: Right.

7 A JUROR: And so that kind of question --

8 MR. BORCHERT: I will not be asking that today.

9 A JUROR: Okay.

10 MR. BORCHERT: I will not, not for any of these
11 folks.

12 A JUROR: Okay.

13 MR. BORCHERT: So my hope is that it can -- and
14 I've prepared the detective to sort of I hope march through
15 folks somewhat systemically. But I don't want that to be
16 at the expense of if folks have questions or want to
17 discuss things. We can do that too.

18 A JUROR: All righty.

19 MR. BORCHERT: Yes, ma'am?

20 A JUROR: This is I guess a silly question.

21 MR. BORCHERT: Yep.

22 A JUROR: Why does it say a true bill/ignoramus?

23 A JUROR: Yeah.

24 MR. BORCHERT: Isn't that what they always put on
25 the form?

1 A JUROR: Yeah, they do.

2 A JUROR: They do, you just don't see it.

3 A JUROR: That's what it always says.

4 MR. BORCHERT: There are times when Grand Juries
5 ignore --

6 A JUROR: They turn them down.

7 MR. BORCHERT: Yes.

8 A JUROR: If you want to see this, this is what
9 we normally vote on. So he's just putting it together so
10 it's easier for me.

11 A JUROR: I understand. I just don't know what
12 true bill/ignoramus means.

13 MR. BORCHERT: Oh. Oh, I'm sorry. True bill
14 means there's an indictment.

15 A JUROR: The ignoramus part?

16 MR. BORCHERT: Ignoramus, it's the Latin for "it
17 ought be ignored," I think is the Latin. It's a
18 subjunctive. I don't know if anybody took Latin. You did?
19 I think it's -- the m-u-s, I think that's how they do the
20 first person plural, so I think it's "we ought ignore," I
21 think is what it is. So anyway, "ignore this matter."
22 Yes, in the back?

23 A JUROR: -- this sheet, because we have AKAs.
24 How do you all determine the AKA?

25 MR. BORCHERT: Oh, the most typical way -- I'll

1 let the detective answer that, and I'll ask him about that
2 when we get to Mr. [REDACTED] or [REDACTED]. Very often
3 people can end up with an AKA though just simply because at
4 booking --

5 A JUROR: A typo?

6 MR. BORCHERT: A typo. And then the next time if
7 a person is arrested, there is a fingerprint hit. Then all
8 of a sudden, they're like, oh. It automatically populates
9 what they -- with an alias.

10 A JUROR: Okay.

11 MR. BORCHERT: But yeah, that can happen. All
12 right then. Although for No. 17, I'm not sure.

13 A JUROR: Yeah.

14 MR. BORCHERT: I'm not sure what the answer is
15 there. And I don't know that the detective would know
16 either. But I'll ask him. All right. I'll go ahead and
17 get the detective then.

18 (Whereupon, the witness was called in at 2:24
19 p.m., and was excused at 2:54 p.m.)

20 MR. BORCHERT: Okay. I just wanted to circle
21 back on the questions about property. I only asked about
22 the question when there is some property, just so that it
23 streamlines things a little bit, if folks want me to ask
24 that every time whether there was property recovered --

25 A JUROR: Or just --

1 MR. BORCHERT: -- just so he can say no.

2 A JUROR: I made that deduction, but I wasn't --

3 A JUROR: Do you think maybe --

4 MR. BORCHERT: No, no, no. I gotcha. Yeah.

5 A JUROR: And you're saying -- what he clarified,
6 what he said was, likely property in general taken from
7 everyone, whether it was evidence or just -- as property.

8 MR. BORCHERT: Correct.

9 A JUROR: -- referred -- you had him only read
10 off if there was evidence --

11 A JUROR: Evidentiary.

12 MR. BORCHERT: Exactly, exactly. That's what I
13 was having him do.

14 A JUROR: And I wasn't -- personal property, not
15 for evidential purposes. They give that stuff back?

16 MR. BORCHERT: Yes, you get back your personal
17 property.

18 A JUROR: They won't give back --

19 A JUROR: But this stuff though, that's supposed
20 to be evidence --

21 MR. BORCHERT: That's right. That's right.
22 That's how it works, yes.

23 A JUROR: Gotcha.

24 MR. BORCHERT: That is -- that's exactly the
25 system.

1 A JUROR: And it sounds like that some of the
2 clothing, it was because you identified -- a baseball hat
3 or -- colored scarf.

4 MR. BORCHERT: Right, right. Those kinds of
5 things have evidentiary value.

6 A JUROR: And it's for identification, not for
7 use --

8 A JUROR: For any weapons -- charges that they --

9 MR. BORCHERT: For identification or for -- yeah.
10 It is -- I mean, the detective described pretty standard
11 police practice of, you know, if there is personal property
12 that could be of evidentiary value, police officers usually
13 keep that rather than returning it to the defendant. Any
14 other questions before you consider voting?

15 A JUROR: I don't want to get hung up on it, but
16 I'm still a little concerned about the identification self
17 versus -- I mean, how do you know that you're -- if you
18 don't have a paper record, how do you know you're indicting
19 a real person instead of some name they just happened to
20 throw at you?

21 MR. BORCHERT: Okay. As a matter of process, you
22 know, when a person is booked, when you're out on the scene,
23 the way that an arrest works is, obviously if you have an
24 ID, so the person shows the ID --

25 A JUROR: And that --

1 MR. BORCHERT: -- right, right. The person shows
2 their ID, and that would be used to either to write down a
3 person's name or to -- in this case, or to start the
4 initial sort of booking process. Then a person is taken
5 back to a station or back to a processing center, wherever
6 the person is going to be processed, for what would be the
7 other steps of fingerprinting the individual, seeing if the
8 person wants to make a custodial statement, and identifying
9 things like property that might be taken.

10 Now, in the course of that, there are analysts
11 that do check people for their identifications. And so
12 that's how generally speaking the police identify people.

13 Things like addresses are often subject to self-
14 reporting unless they can be verified through a process,
15 basically through an intelligence analyst going and looking
16 to make sure it's the right person.

17 A JUROR: And are you saying like, if -- I mean,
18 I guess there's a possibility that out of these 200-some
19 people there may be people like that either intentionally,
20 or not intentionally, have an ID on them. And if they say,
21 "I'm Joe Shmoe," will they go through that process --

22 A JUROR: I mean, I wouldn't have -- if I was
23 going to participate in this thing, I would never have gone
24 through it with my wallet or --

25 MR. BORCHERT: Right.

1 A JUROR: -- an ID, or --

2 MR. BORCHERT: Right.

3 A JUROR: I mean --

4 A JUROR: So how did they --

5 MR. BORCHERT: Well, let me --

6 A JUROR: I want to very smart about it. I
7 probably would have a fake one made.

8 MR. BORCHERT: Right.

9 A JUROR: With a dummy name on it.

10 MR. BORCHERT: Right. I think that -- give me
11 just a moment. I think there might be a couple of
12 questions that I could ask the detective that might give
13 you a comfort on this issue.

14 A JUROR: Okay.

15 A JUROR: One more --

16 MR. BORCHERT: Oh, sure.

17 A JUROR: My question too is the dark clothes are
18 so important to Black Bloc. I noticed, and how do you
19 define dark clothes. I ask this because one of the 11
20 people yesterday had a red sweatshirt on. When he says
21 "dark outer garment," I noticed a flannel shirt. I noticed
22 a blue shirt. I wrote it down. Blue shirt, black
23 sweatshirt. How do you define argyle sweater? How do you
24 define black clothing? So if somebody has a blue shirt on
25 or a red sweatshirt, that's not black clothing. There's --

1 A JUROR: He testified that they took clothes off
2 and put clothes on. So if you're wearing an argyle sweater
3 in the photo, that may be one of the black sweatshirts that
4 was left behind.

5 MR. BORCHERT: Right. Recall that there -- we
6 don't --

7 A JUROR: He testified that --

8 MR. BORCHERT: We don't know either way. Yes, I
9 think right here.

10 A JUROR: Like, some of the various -- chatted
11 online -- Destruct J20. Like, some -- some had green
12 masks, some had red. So like -- or -- boots. Are they
13 like -- color -- one's all black, one's black and green,
14 one's black and red, one's black and white.

15 MR. BORCHERT: Maybe. I honestly don't know the
16 answer to that.

17 A JUROR: -- black and white sweaters a few
18 times.

19 A JUROR: Yeah, but I --

20 A JUROR: -- scarves a few times.

21 A JUROR: -- black and white.

22 MR. BORCHERT: Right.

23 A JUROR: -- if -- you wear black and green.

24 MR. BORCHERT: Right, like your sports team
25 banner or something kind of thing, I guess.

1 A JUROR: You have those black and white banners.

2 MR. BORCHERT: Right. Okay. Yes?

3 A JUROR: So this isn't a question for the
4 detective, but maybe it'll help other people in the Grand
5 Jury. Do you have the body-cam footage that shows people
6 taking off clothes?

7 MR. BORCHERT: Do I have it? Well, I will tell
8 you that there are 600 hours of body-camera footage --

9 A JUROR: Oh.

10 MR. BORCHERT: -- that is out there. And do I
11 have it? Yes. I don't know that I can show it to you, you
12 know, any time reasonably -- and I'm not sure you need it
13 for the probable cause determination. But -- but yes,
14 that's out there.

15 A JUROR: The reason I'm asking it is because
16 dark clothing seems to be a major factor in determining
17 whether these folks were in the riot. And therefore the
18 definition I think of black, dark clothing --

19 A JUROR: Not black clothing.

20 A JUROR: -- dark clothing, if that's a major
21 element, should be defined. Somebody wearing a red
22 sweatshirt.

23 A JUROR: This is probable --

24 A JUROR: I know. But I'm still --

25 MR. BORCHERT: And also I want to --

1 A JUROR: -- asking it.

2 MR. BORCHERT: -- and I think it's maybe a --

3 A JUROR: Here we go with the probable cause
4 standard.

5 MR. BORCHERT: But here, respectful or
6 disrespectful, I don't want to insert myself into -- it
7 sounds like you're talking about a factual question that
8 may be is best for the Grand Jury to sort through. I'm not
9 sure I can answer or define what is dark or what is -- but
10 that's maybe a --

11 A JUROR: Well, I think part of the testimony --

12 A JUROR: Well, you can ask him.

13 A JUROR: -- that you asked him originally when
14 he first started was how cordoned off it actually was. So
15 once that core group of people got there --

16 MR. BORCHERT: Right.

17 A JUROR: -- there really wasn't any way to get
18 back out.

19 A JUROR: Right.

20 MR. BORCHERT: Correct.

21 A JUROR: Some pushed through.

22 MR. BORCHERT: Well, after -- that's right.
23 There's the big surge --

24 A JUROR: After that happened --

25 MR. BORCHERT: -- where a lot of people run out,

1 and then there's that core --

2 A JUROR: More to the point, there wasn't any way
3 to get in. So it's not like people were wandering out like
4 he said for a gallon milk

5 A JUROR: Right.

6 A JUROR: -- and ending up in the middle of this
7 thing. Once they cordoned them off, they were cordoned
8 off.

9 A JUROR: Right.

10 MR. BORCHERT: Correct.

11 A JUROR: Might get out, but you're not getting
12 in by accident.

13 A JUROR: Nobody's going to try to get into that.

14 MR. BORCHERT: Right.

15 A JUROR: Right.

16 MR. BORCHERT: Yes, sir, in the back.

17 A JUROR: I have a question. This is directed --
18 directed to you the attorney. Don't you think it would be
19 much helpful for us to at least have five minutes of
20 viewing for us to see where some piece of clothing was
21 taken off of someone because the witness testified that
22 there was clothing taken off. And there was evidence
23 yesterday of two photographs where they showed us this guy
24 was probably wearing black, but he did change into red.
25 And he was probably wearing -- wasn't --

1 A JUROR: He took it off.

2 A JUROR: -- so in our mind, you know, where it
3 is that there was some little piece of evidence which tells
4 us that yes, there's a probability that clothes were taken
5 off.

6 A JUROR: -- how --

7 A JUROR: He already testified.

8 A JUROR: You don't need that evidence.

9 A JUROR: How the clothes were --

10 A JUROR: -- the ground, the yellow, the black --

11 MR. BORCHERT: I'm sorry. There were a couple
12 questions going back and forth here. The first one was
13 would it be helpful to have about five --

14 A JUROR: Five minutes or ten minutes --

15 MR. BORCHERT: -- minutes for each of the
16 defendants or --

17 A JUROR: No, just showing --

18 A JUROR: -- clothing in that crowd.

19 A JUROR: Even though the defendant -- even
20 though --

21 A JUROR: Seeing it actually happen.

22 A JUROR: Just cue up five minutes.

23 MR. BORCHERT: Right.

24 A JUROR: Five minutes, two minutes, to prove to
25 us that this is what happened.

1 MR. BORCHERT: I think that what you're asking
2 about, and I don't mean to be -- I'm not trying to be cute
3 about this or something, but we -- one can always think of
4 additional evidence that would be helpful. You know, it's
5 -- you know, it would be great if there was a, you know, a
6 wiretap that explained -- a sign that -- or a wiretap or
7 things like that. And really, it's up for the Grand Jury
8 to sort of assess probable cause and to decide where the
9 evidence is there.

10 But your point is, sure, your point is a fair one
11 that there could possibly be, you know, that evidence out
12 there, and it might well be evidence that we would want to
13 have and would try to have for a trial. But it maybe isn't
14 what is necessary for now that we'd ask you to consider.

15 A JUROR: It sounded like -- so one question
16 obviously -- which was maybe not the footage of the video,
17 but the tally sheet, because it sounds like there is --
18 well, you can see it on the screen, a tally sheet of things
19 that were recovered from individuals, but is there --

20 MR. BORCHERT: Right.

21 A JUROR: -- a tally sheet of some of the -- that
22 was recovered from the street? That wasn't in the --

23 A JUROR: Like that --

24 A JUROR: -- it's something he talked about.

25 MR. BORCHERT: That's here. That is your --

1 A JUROR: He talked about --
2 MR. BORCHERT: -- Exhibit --
3 A JUROR: -- shirts and jackets or gloves --
4 A JUROR: Right. That pile of stuff.
5 MR. BORCHERT: I think it is --
6 A JUROR: The direct focus of this --
7 A JUROR: I think, I mean --
8 A JUROR: Yeah, I --
9 MR. BORCHERT: I mean --
10 A JUROR: An explanation for why some were not in
11 black.
12 A JUROR: Why some people wearing argyle or red
13 because they had --
14 A JUROR: The jacket on the outside and --
15 A JUROR: How much -- black and white -- dark
16 clothes.
17 A JUROR: The one guy with the argyle --
18 MR. BORCHERT: I do want to give -- I want to
19 make sure I give you folks time to vote. Let me get -- let
20 me check the detective on the -- am I forgetting someone
21 else who had their hand up? Oh, yeah, sure.
22 A JUROR: I just wanted to know, did he see it
23 himself while was there, people switching off clothes? Did
24 he see video of people switching, taking of clothes? Or
25 did he hear from other officers that people were switching

1 clothes?

2 MR. BORCHERT: The testimony is that he heard
3 from the lieutenant that -- the Park Police person -- that
4 people in that cluster were changing clothes.

5 A JUROR: Okay. Thank you.

6 A JUROR: Maybe I could ask him, but does the
7 Park Police typically wear body-cams?

8 MR. BORCHERT: I'm sorry?

9 A JUROR: Do the Park Police typically wear body-
10 cams?

11 MR. BORCHERT: I think the answer is yes. I know
12 MPD officers are now required to wear body-cameras. And
13 certainly many Park Police officers are also wearing body-
14 cameras. All right. Give me just a moment here.

15 (Whereupon, the witness was called in at 3:07
16 p.m., and was excused at 3:10 p.m.)

17 MR. BORCHERT: All right. Well, I will leave the
18 Exhibits here with you in the same order. Any other
19 questions here? I think that covered it. Or at least I
20 think your question, I think was -- yeah, does NCIC was
21 everybody's biological data.

22 A JUROR: He used the example of if was arrested
23 and --

24 MR. BORCHERT: Right.

25 A JUROR: -- and gave your name --

1 identification, about the valid ID, but he's never been
2 arrested before.

3 MR. BORCHERT: Right.

4 A JUROR: I get it. They do a --

5 MR. BORCHERT: They do it, yes.

6 A JUROR: Got it. But they won't know that he's
7 lied until --

8 A JUROR: So he doesn't talk?

9 MR. BORCHERT: It could be years later, right,
10 that you know that's lied, yes. It could be years later,
11 right if somebody gives a false name, but that's the
12 importance of the PDID. And why it's actually included in
13 the indictments. The indictments are always associated
14 with a specific PDID that tracks, you know, it tracks back
15 to a --

16 A JUROR: And so what they're saying is if
17 someone gave a -- if one of these names is a fake name, but
18 it's an actual real person, that other person's not going
19 to be indicted because it's still the person that showed up
20 at the fingerprint?

21 A JUROR: Right.

22 A JUROR: Yes.

23 A JUROR: So it -- it'll just be an open case.
24 That's what -- in court.

25 MR. BORCHERT: Right.

1 A JUROR: So the PDID, is that a police
2 department ID?

3 MR. BORCHERT: Yes.

4 A JUROR: Okay.

5 MR. BORCHERT: Yes. Police department ID. Okay.

6 A JUROR: I have a question.

7 MR. BORCHERT: Yes, ma'am. I'm sorry?

8 A JUROR: All --

9 MR. BORCHERT: Yeah.

10 A JUROR: -- questions. Everyone got arrested in
11 that block area, even if they wasn't wearing all black
12 clothing, but they were in that group when they was stopped
13 by a police, it's assumed, probable cause, that they were
14 part of the riots?

15 MR. BORCHERT: Correct.

16 A JUROR: Yeah.

17 A JUROR: Yes, ma'am.

18 MR. BORCHERT: Correct. At that point, there is
19 probable cause. That's the car case. All right. Thank
20 you all.

21 A JUROR: Thank you.

22 A JUROR: Are we done?

23 A JUROR: Yeah.

24 (Whereupon, the discussion was concluded.)

25 (Whereupon, at 3:12 p.m., the discussion

1 reviewing the charges in the presence of a full quorum of
2 the Grand Jury was concluded.)

3 * * * * *

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-225

C-E-R-T-I-F-I-C-A-T-E

I, Desha Devor, the reporter for the United States Attorney's Office, do hereby certify that the

discussion, in the foregoing pages in the above-referenced case of U.S. v. NATHANIEL JAFFE, et al, Case No. 2017-CF2-001147, heard on February 2, 2017, with the Grand Jury when there was a full quorum of the Grand Jury present; that the said discussion was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the discussion.

Desha Devor

Desha Devor, Official Reporter

Desha Devor

Desha Devor, Transcriber

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - X
:
UNITED STATES OF AMERICA :
:
VS. :
:
NATHANIEL JAFFE : Criminal Case
: No: 2017-CF2-001147
:
- - - - - X

Grand Jury No. January 2
Superior Court for the District
of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Thursday, February 2, 2017

The testimony of GREGGORY PEMBERTON was taken in
the presence of a full quorum of the Grand Jury, commencing
at 2:24 p.m., before:

JOHN BORCHERT
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-227

C O N T E N T S

WITNESS:	PAGE
GREGGORY PEMBERTON	3

GRAND JURY EXHIBIT(S):

No. 33 - List of property	6
No. 34-36 - Photos of suspects	7
No. 37-54 - Photos of suspects	12

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

2 Whereupon,

3 GREGORY PEMBERTON

4 was called as a witness and, after being first duly sworn
5 by the Foreperson or the Deputy Foreperson of the Grand
6 Jury, was examined and testified as follows:

7 EXAMINATION

8 BY MR. BORCHERT:

9 Q Sir, could you state your name for the record?

10 A Sure, it's Detective Gregory Pemberton.

11 Q And could you spell that for the benefit of the
12 court reporter?

13 A Sure, G-r-e-g-g-o-r-y, P-e-m-b-e-r-t-o-n.

14 Q And you are a detective with the Metropolitan
15 Police Department?

16 A Yes.

17 Q And you have appeared before this Grand Jury
18 previously in their case number 44?

19 A Yes, I have.

20 Q Is that correct?

21 A Mm-hmm.

22 Q All right, I think there was a question from the
23 Grand Juror?

24 A JUROR: Were there permits for this march?

25 THE WITNESS: No, not that I'm aware of. There's

1 no -- no one has informed me that there was a permit.

2 BY MR. BORCHERT:

3 Q All right, Detective Pemberton, you've been
4 before this Grand Jury previously to discuss the events
5 concerning the arrest of -- of a number of people on felony
6 riot charges on January 20th of this year, is that correct?

7 A Yes, sir.

8 Q And those arrests occurred on L Street between
9 the blocks of -- between 12th and 13th Street, Northwest,
10 is that right?

11 A Yes, sir.

12 Q In the time since your last testimony before the
13 Grand Jury, have you had an opportunity to have a follow-up
14 conversation with a lieutenant from the park police?

15 A I did, yes.

16 Q Could you tell the Grand Jury about that
17 conversation?

18 A So, the lieutenant I spoke with was actually
19 overseeing the CD platoon, CDU, Civil Disturbance Unit, the
20 individuals you see with sort of the gear, dealing with
21 this rioters, and the platoon that he was overseeing
22 actually came to relieve the riot squad or the CDU platoon
23 that was -- that had detained the individuals that were
24 later placed under arrest. So, when the Park Police
25 officers arrived, they then relieved that unit, and their

1 primary function was to just make sure that nobody that was
2 in that group left, that that group of individuals remained
3 detained, and they held that position for several hours
4 until all off those people were pulled out of that, what we
5 were referring to as the kettle, and then subsequently
6 processed and arrested and taken away from the scene. So,
7 when I spoke with the lieutenant, one of the questions that
8 I had with him was, as those individuals were sort of
9 pulled out of that area and that area became less
10 populated, was there anything left behind, and he stated
11 that there was quite a bit of property left behind, that
12 there were black jackets, windbreakers, hoodies, mask,
13 gloves. He said that there were weapons that were
14 recovered out of there that he believes sort of later ended
15 up in the hands of the Department of Forensic Sciences, Asp
16 batons, umbrellas, things of that nature. He also stated
17 that during the period of time where they were detaining
18 those individuals that they saw individuals changing their
19 clothing, whether it was taking off masks, putting on
20 masks, or taking off jackets and putting jackets back on,
21 that there was just -- that they didn't have any way to
22 sort of prevent them from doing that at that time, they
23 just detained those individuals, but they did observe some
24 of that behavior.

25 A JUROR: I have a question.

1 MR. BORCHERT: Question in the back?

2 A JUROR: Yes, and you may not know. Were they
3 trading clothes?

4 THE WITNESS: So, that -- that was a question
5 that I asked him and he said that he wasn't sure of that.
6 He didn't see anyone actually exchanging clothes with one
7 another, but he did say that there were people that -- that
8 he saw, like, an individual, like, take some clothes out of
9 a backpack and put it on and vice versa, but he didn't --
10 he couldn't recall any specific instance of anyone saying,
11 "You take this jacket and I'll take your sweatshirt." He
12 didn't report that.

13 BY MR. BORCHERT:

14 Q Presumably, though, I guess it could have
15 happened, the lieutenant just didn't see it, is that right?

16 A Yes. He didn't say that he was -- he couldn't
17 say that it certainly didn't happen, but he just didn't
18 recall a specific instance of that happening.

19 Q For the record, I'm now having Grand Jury Exhibit
20 33 marked.

21 (Grand Jury Exhibit No. 33
22 was marked for identification)

23 BY MR. BORCHERT.

24 Q Detective Pemberton, I'm now showing you what's
25 marked as Grand Jury Exhibit 33. Is that a list of

1 property that was recovered from certain individuals who
2 were arrested that day?

3 A Yes.

4 Q And will having that with you, that list with you
5 assist you in answering questions about each of those
6 individuals today?

7 A Yes, sir.

8 Q Okay. Here's 34 and 35 and 36

9 (Grand Jury Exhibits No. 34-36
10 were marked for identification)

11 BY MR. BORCHERT:

12 Q Detective Pemberton, I'm now showing you what's
13 been marked as Grand Jury Exhibit 34. Is this is a picture
14 of someone named [REDACTED]?

15 A Yes, sir.

16 Q That was taken on January 20th of 2017?

17 A Yes.

18 Q And was Ms. [REDACTED] arrested that day?

19 A Yes.

20 Q Did she have any property on her person or that
21 could be attributed to her?

22 A She did.

23 Q What was that?

24 A Officers collected a cellphone, a hard drive, a
25 walkie-talkie, some clothing, and pepper spray from her

1 person?

2 A And, in this picture, is she wearing dark
3 clothing?

4 A Yes.

5 Q And Ms. [REDACTED] report an address of
6 Washington, D.C.?

7 A She did.

8 Q I'm going to ask you about number 35. Oh, pardon
9 me, I'll put this up so you can see it.

10 A JUROR: Sir? The spelling is different on Ms.
11 [REDACTED] name than on the sheet?

12 MR. BORCHERT: I'm sorry?

13 A JUROR: Her last name is spelled different on
14 that board than it is our sheet, I just wanted to point
15 that out.

16 MR. BORCHERT: Oh, thank you, okay.

17 A JUROR: It's [REDACTED]

18 MR. BORCHERT: Okay, I think we can address that.
19 Well, let me see if the detective knows the answer.

20 BY MR. MORCHERT:

21 Q Do you know, Detective, whether the information
22 here that's on this picture is self-reported by the person
23 on the scene or whether it's -- or whether it's possible it
24 could be erroneous?

25 A This would have been collected from the

1 defendant. I 'm not sure which the correct spelling is.

2 Q Okay. I'm now showing you Grand Jury Exhibit 35.

3 Is this a picture of someone named [REDACTED] who was
4 arrested on January 20th of this year?

5 A Yes, sir.

6 Q And was Ms. -- is Ms. [REDACTED] in that picture
7 wearing dark clothing?

8 A She is.

9 Q And is Ms. [REDACTED] -- did she report being from
10 Pittsburgh, Pennsylvania?

11 A That's correct.

12 Q Okay. I'm showing you Grand Jury Exhibit 36.

13 A JUROR: Is there a reason why everybody's face
14 is blue? Is that some light --

15 MR. BORCHERT: I'm sorry --

16 A JUROR: Why the faces are blue?

17 BY MR. BORCHERT:

18 Q Can you say, sir, Detective, do you know why the
19 -- about the -- the shading of the picture?

20 A So, in a situation like this, there would have
21 been a number of police vehicles around, and under police
22 protocol, we leave our light in Position 1, which is that
23 the two blue lights that are innermost on our emergency
24 bars remain lit all times, so that people can sort of see
25 where the police are located better, and I -- I would

1 imagine that that blue light is -- there's probably a
2 police vehicle opposite wherever this cameraman was and
3 that those blue lights were in Position 1, and they
4 probably illuminated this area in that blue hue that you
5 see. So, unfortunately, these pictures didn't come out too
6 well, but you can see that that some dark clothing there,
7 and the officers' jackets are black, so, if you can use
8 that as comparison when you look through the photos. But
9 this -- this portion of officers' jackets are black.

10 MR. BORCHERT: Is there a question here? Sure.

11 A JUROR: Yeah, when -- were the photos taken at
12 the time of arrest or later at the -- the station, I guess,
13 when they were booked? Can you just give us a sense of
14 when these photos might have been taken?

15 THE WITNESS: Sure, so these are mass arrest
16 photos, or what we refer to as field arrest photos. So,
17 anytime we make an arrest of a group of individuals like
18 this, prior to them being placed on a transport vehicle, we
19 take a photograph of the arrestee with the arresting
20 officer and we use this whiteboard to document that. So,
21 these people would have been removed from that kettle where
22 they were detained in and this would have been just prior
23 to them being loaded onto a transport and, if you can see
24 that metal plate in the back, that's the back of a
25 transport wagon. So, this defendant had probably been

1 pulled out of the -- that group, and that officer there
2 than completed -- you know, filled out this whiteboard with
3 that information, and then another officer took a picture
4 of them together and then she was probably loaded on that
5 transport and taken to a processing facility.

6 A JUROR: Okay. I was just trying to set a sense
7 of, like, you know, the time of day or whatever, just to
8 have some background.

9 A JUROR: It says 10:22.

10 THE WITNESS: So, this is the arrest time.

11 A JUROR: Okay.

12 THE WITNESS: All right? That's the time of the
13 arrests.

14 A JUROR: And that's the time the photo was
15 taken? Is that correct?

16 THE WITNESS: So, I don't have a time for when
17 the photo was taken. There may be a way to get that, but,
18 as you can tell, this is obviously nighttime, so this was
19 some significant amount of time later that they were
20 removed.

21 A JUROR: Thank you.

22 BY MR. BORCHERT:

23 Q All right, back to Grand Jury Exhibit 36. Is
24 this a picture of someone named [REDACTED] who was
25 arrested on January 20th of 2017?

1 A Yes.

2 Q And in this picture, is she wearing dark
3 clothing?

4 A Yes, sir.

5 Q Did Ms. [REDACTED] have any property that could be
6 attributed to her?

7 A Yes, she did.

8 Q What did she have?

9 A She had a black backpack, clear goggles, a black
10 mask, a black rain jacket, and a cellphone.

11 Q And is Ms. [REDACTED]?

12 A She is.

13 (Grand Jury Exhibits No. 37-54
14 were marked for identification)

15 BY MR. BORCHERT:

16 Q I'm going to Grand Jury Exhibit 37. Is this,
17 Grand Jury Exhibit 37, a picture of someone named [REDACTED]
18 [REDACTED], who was arrested on January 20th?

19 A Yes.

20 Q And in this picture, is Mr. [REDACTED] wearing dark
21 clothing?

22 A Yes.

23 Q And is his address [REDACTED]?

24 A Yes.

25 A JUROR: Property?

1 BY MR. BORCHERT:

2 Q I'm now showing you Grand Jury Exhibit 38 -- oh,
3 I'll ask about property if it's -- well, do you know if he
4 had any property?

5 A He did not have any property recovered from his
6 person.

7 Q Okay. I'm now asking -- I'm now showing you
8 Grand Jury Exhibit 38. Is this a picture of someone named
9 [REDACTED]?

10 A Yes.

11 Q And [REDACTED] was arrested on January 20th of this
12 year?

13 A That's correct?

14 Q In this picture, is this the defendant -- this
15 defendant, [REDACTED], wearing dark clothing?

16 A That's correct.

17 Q And did [REDACTED] provide an address of The Bronx,
18 New York?

19 A She did.

20 Q I'm now showing you Grand Jury Exhibit 39. Is
21 this a picture of someone named [REDACTED] who
22 was arrested on January 20th?

23 A Yes.

24 Q And, in this picture, is Mr. [REDACTED] wearing
25 dark clothing?

1 A His outer garment is dark, yes.

2 Q And was any property recovered that's attributed
3 to Mr. [REDACTED]?

4 A Yes, he had a black book bag, a black and white
5 scarf, a red bandana, and that was it.

6 Q And does Mr. [REDACTED], does he give an address
7 of [REDACTED]?

8 A Yes.

9 Q I'm now showing you Grand Jury Exhibit 40. Is
10 this a picture of someone named [REDACTED] who was
11 arrested on January 20th of this year?

12 A Yes.

13 Q And in this picture, I'm not sure you could say
14 he's wearing a -- he's wearing more of an argyle sweater,
15 is he wearing dark pants?

16 A Mr. [REDACTED] does have dark pants on.

17 Q And was there any property that -- that can be
18 attributed to Mr. [REDACTED]?

19 A Yes, he -- recovered from his person was a
20 bullhorn.

21 Q And did Mr. [REDACTED] give an address of [REDACTED]
22 [REDACTED]?

23 A He did.

24 Q Okay. I'm now showing you Grand Jury Exhibit 41.
25 Is this a picture of someone named [REDACTED], who was

1 arrested on January 20th of this year?

2 A Yes.

3 Q And in this picture, is Mr. [REDACTED] wearing dark
4 clothing?

5 A He is.

6 Q And did Mr. [REDACTED] provide an address of
7 [REDACTED]?

8 A Yes, sir.

9 Q I'm now showing you Grand Jury Exhibit 42. Is
10 this a picture of someone named [REDACTED] -- [REDACTED],
11 pardon me, who was arrested on January 20th of this year?

12 A Yes, it is.

13 Q Was any property recovered from Mr. [REDACTED] that
14 could be attributed to him?

15 A Yes. He had a -- some black recording device, a
16 brown hat, a white and black scarf and a pair of black
17 gloves.

18 Q And did Mr. [REDACTED] provide an address of
19 Brooklyn, New York?

20 A He did.

21 Q I'm now showing you Grand Jury Exhibit 43. Is
22 this a picture of someone named [REDACTED] who was
23 arrested on January 20th of this year?

24 A Yes.

25 Q Is he wearing dark clothing in that picture?

1 A He is.

2 Q And did Mr. [REDACTED] provide an address of
3 [REDACTED]?

4 A Yes, sir.

5 Q I'm now showing you Grand Jury Exhibit 44. Is
6 that a picture of someone named [REDACTED] who was
7 arrested on January 20th of this year?

8 A Yes.

9 Q And, in that picture, is he wearing dark
10 clothing?

11 A Yes.

12 Q Was any property recovered from Mr. [REDACTED]?

13 A I believe so. Recovered from Mr. [REDACTED] was a
14 green helmet, white goggles, and a camera.

15 Q And did Mr. [REDACTED] -- his address is [REDACTED],
16 New York, is that correct?

17 A I believe so, yes.

18 Q Would looking at PD-163, or pardon me, the arrest
19 paperwork refresh your recollection?

20 A Yes. Yeah, [REDACTED], New York, I'm sorry, it
21 is.

22 Q [REDACTED], New York, okay. I am now showing you
23 Grand Jury Exhibit Number 45. Is this a picture of someone
24 named [REDACTED] who was arrested on January 20th of this
25 year?

1 A Yes.

2 Q And in that picture, is Mr. [REDACTED] wearing dark
3 clothing?

4 A He is, yes.

5 Q And did Mr. [REDACTED] give an address of
6 Washington, D.C.?

7 A Yes.

8 Q I'm now showing you Grand Jury Exhibit 46. This
9 is a picture -- is this a picture e of someone [REDACTED]
10 who was arrested on January 20th?

11 A Yes.

12 Q And in that picture, is Mr. [REDACTED] wearing dark
13 clothing?

14 A He has a dark sort of flannel shirt on and dark
15 pants, dark or black pants.

16 Q And was any property recovered from Mr. [REDACTED]?

17 A Yes, a pair of black gloves, a lighter, a book of
18 matches, and a baseball hat

19 A JUROR: Did you say baseball hat or bat?

20 THE WITNESS: Hat, hat, I'm sorry.

21 BY MR. BORCHERT:

22 Q And he provided an address of [REDACTED],
23 Maryland, is that correct?

24 A Yes, sir.

25 Q I'm now showing you Grand Jury Exhibit 47. Is

1 this a picture of someone named [REDACTED] who was
2 arrested on January 20th of this year?

3 A Yes.

4 Q And in that picture, is Mr. [REDACTED] wearing dark
5 clothing?

6 A Yes.

7 Q Was any property recovered from Mr. [REDACTED] or
8 attributed to Mr. [REDACTED]?

9 A I don't think so.

10 Q And did Mr. [REDACTED] provide an address of
11 [REDACTED], Connecticut?

12 A He did, yes.

13 Q I'm now showing you Grand Jury Exhibit 48. Is
14 this a picture of someone named [REDACTED] who was
15 arrested on January 20th?

16 A Yes.

17 Q and in that picture, is Mr. [REDACTED] wearing dark
18 clothing?

19 A Yes, he is.

20 Q Was there any property attributed to Mr. [REDACTED]?

21 A Yes, a green backpack and a black shirt.

22 Q And is Mr. [REDACTED] from Chicago, Illinois?

23 A Yes.

24 Q I'm now showing you Grand Jury Exhibit 49. Is
25 this a picture of someone named [REDACTED] or [REDACTED]

1 who was arrested on January 20th?

2 A Yes.

3 Q and in that picture, is this individual wearing
4 dark clothing?

5 A Yes, he is.

6 Q And this individual is from Baltimore, Maryland,
7 is that correct?

8 A That's correct.

9 Q I'm now showing you a picture of someone named
10 [REDACTED], who also has an aka of [REDACTED] who
11 was arrested on January 20th, is that correct?

12 A Yes.

13 Q Do you know why he would -- he has the alias?

14 A I do not.

15 Q In this picture, is he wearing dark clothing?

16 A Yes.

17 Q And is this individual from Washington, D.C.?

18 A Yes.

19 Q All right, I am now showing you Grand Jury

20 Exhibit 51. Is this a picture of someone named [REDACTED]

21 [REDACTED] who was arrested on January 20th?

22 A Yes.

23 Q And in this picture -- excuse me, I n this
24 picture, is Mr. [REDACTED] wearing dark-colored clothing?

25 A Yes, he is.

1 Q And Mr. Vasquez is from Baltimore, Maryland, is
2 that correct?

3 A Correct.

4 Q All right, I am now showing you Grand Jury
5 Exhibit 52. Is this a picture of someone named [REDACTED]
6 [REDACTED] who was arrested on January 20th of this year?

7 A Yes.

8 Q And in that picture, is Mr. [REDACTED] wearing dark-
9 colored clothing?

10 A Yes, he is.

11 Q And is Mr. [REDACTED] from Wilmington, Delaware?

12 A He is.

13 Q I'm now showing you Grand Jury Exhibit 53. Is
14 this a picture of someone named [REDACTED] who was
15 arrested on January 20th of this year?

16 A Yes.

17 Q And in this picture, is Mr. [REDACTED] wearing dark-
18 colored clothing?

19 A Yes.

20 Q Is there any property that was attributed to Mr.
21 [REDACTED]?

22 A Yeah, Mr. [REDACTED] had a black and white flag, a
23 black and white scarf, and a black and white mask.

24 Q And was Mr. [REDACTED] from [REDACTED], Connecticut?

25 A He is.

1 Q I'm now showing you Grand Jury Exhibit 54. Is
2 this a picture of someone named [REDACTED] who was
3 arrested on January 20th?

4 A Yes.

5 Q And in this picture, is Mr. [REDACTED] wearing
6 dark-colored clothing?

7 A He is, yes.

8 Q And is Mr. [REDACTED] from Baltimore, Maryland?

9 A That's correct.

10 MR. BORCHERT: That's all I have for this
11 witness, any questions from the Grand Jury? Yes, in the
12 back?

13 A JUROR: You asked very specific questions on
14 what property was recovered. Was there any other property
15 recovered? How did you positively identify these people
16 under these names? Did they have ID on them, did they have
17 change, cash, credit cards?

18 BY MR. BORCHERT:

19 Q There's a few things. Let's go -- let's go one
20 step -- take that maybe one piece at a time. When you say
21 that property is recovered from someone or property is
22 attributed to someone, what does that mean?

23 A So, property -- there's two different types of
24 property that are recovered from any prisoner, in this case
25 it was either prisoners' property or evidence. So,

1 prisoners' property would be things that we were going to
2 return to those individuals that we wouldn't consider
3 evidentiary, like, for example, a driver's license. So, if
4 we took a driver's license, or say they had a wallet with
5 credit cards and cash in it, that -- that is not
6 evidentiary to us or germane to our investigation, so those
7 items would have gone into prisoners' property, which means
8 that once they were released, they could come back to the
9 stations and that property would be returned to them. The
10 items that -- that you're hearing me read off as being
11 collected as property, are items that we marked as
12 evidence, items that detectives or officers that were
13 involved in arresting that individual determined, "Hey,
14 this could be evidentiary to the investigation," whether it
15 means an item that showed that they had some propensity to
16 be there or an item that could sort of identify them as
17 having been involved in some specific part of it, those
18 items were seized and then marked as evidence. So, the
19 items that you're hearing me read off as associated with
20 these individuals are items that were seized as evidence
21 and marked as such as associated with having been taken
22 from that specific person.

23 Q And I think your second question was about how
24 identification is established on the scene of an arrest.

25 A So, it's -- I don't have any way to tell you for

1 each particular person. Some of them would have been word
2 of mouth if they did not have identification on them. All
3 of the --

4 A JUROR: It was their word, kind of them telling
5 the officer what their name was?

6 THE WITNESS: That's right.

7 A JUROR: So --

8 THE WITNESS: I'm just -- I was just noticing in
9 some cases you said they reported to be from, and then in
10 other cases, in other different names, you say, "They are
11 from," and you said, "Yes, they are from." So, I'm
12 assuming that you have some that are -- that were recorded
13 out of their word of mouth, there were some that you had
14 this non-evidentiary backup of an identification of some
15 sort.

16 MR. BORCHERT: It might be you're referring to a
17 problem with my -- the way in which I've worded my
18 question. Maybe I can clear it up this way.

19 BY MR. BORCHERT:

20 Q Detective Pemberton, are defendants typically
21 required to self-report an address when they're arrested?

22 A Yes.

23 Q I think that clears it up, or I hope it does.
24 All right, I see a few others here. We'll start in the
25 back this time.

1 A JUROR: Excuse me, [REDACTED], had some
2 property. It's a shirt and most -- mostly I'm focused on
3 the lighter. Did someone carry a lighter?

4 THE WITNESS: What is your question? What is --

5 A JUROR: My question is, the lighter that has
6 been recovered, is that evidence or property?

7 THE WITNESS: So, all of the items that I
8 reported to you that were seized from these individuals
9 were logged as evidence, yes, were marked as evidence.

10 A JUROR: So, his lighter becomes an evident --
11 evidence. Is someone permitted to carry a lighter?

12 THE WITNESS: Not if they're going to light fires
13 in the street with it, no.

14 A JUROR: Was there any fire lighting?

15 THE WITNESS: Yes.

16 A JUROR: In the trashcans?

17 MR. BORCHERT: Okay, I think there was -- the
18 next question was here. Then over here, and then back of
19 over here.

20 A JUROR: Yeah, there were of couple of instances
21 where one of the possessions was a camera or recording
22 device. Is that something that we might use in the
23 investigation, something that we might at some point see as
24 we hear this different cases?

25 THE WITNESS: Yeah.

1 A JUROR: Or is that something that would stretch
2 beyond our time her?

3 THE WITNESS: All the electronic devices that
4 were on individuals were seized as evidence. However, in
5 order for us to look at those, we need to go through the
6 process of applying for a search warrant. So, that's sort
7 of a long process, given the amount of evidence, but we are
8 in the process of trying to make sure that we have the
9 appropriate permission to go into those items. But once we
10 do, if we get that permission and we collect that, yeah,
11 certainly you guys will be able to look at that.

12 MR. BORCHERT: I think you were over here first
13 in the back?

14 A JUROR: That's okay. My question's simple. Of
15 these 21, and it may have been directed to you, there were
16 some notations of property and for other not. Does that
17 mean or can we infer that where there was no direct
18 questioning of you, Detective Pemberton, as to property
19 that was taken, that there was no property on those
20 individuals?

21 THE WITNESS: So, if there's nothing associated
22 with a particular defendant, there was nothing evidentiary
23 that seized from them. So, I can't say -- any item that
24 was taken as prisoner's property, like I described before,
25 like a wallet, I can't tell you whether they had or didn't

1 have a wallet.

2 A JUROR: I understand. I guess this is to you
3 because the question of what property was taken or did you
4 find any property was not asked of each of the 21, it was
5 asked, I was noting, about a third of it.

6 THE WITNESS: Right.

7 A JUROR: So, you didn't ask that of each. Any
8 my question is, and I don't know if it's to you, the
9 detective, or to you, the assistant U.S. Attorney, is that
10 because there was no property that was evidentiary or you
11 chose not to ask that question for some other reason?

12 MR. BORCHERT: Maybe I can address that
13 separately. Over here, yes.

14 A JUROR: This is part -- well, sort of related.
15 So, you talked earlier about property that was recovered
16 from the scene and then, in this instance, you were talking
17 about evidence that was collected from individuals. Does
18 that mean that as they were processed, that was taken
19 directly from that individual, either from their pockets or
20 their bags, so that's how it was attributed to each person?

21 THE WITNESS: Yes. So, any of the items that we
22 went over today in reference to these defendants were
23 seized directly from their person. There's -- it's not,
24 like, they found it on the ground later and then -- this
25 is, they took out of their pocket or off of their face or

1 head or something -- it was directly related to that
2 person, the officer physically removed it from that
3 person's possession.

4 MR. BORCHERT: All right, seeing nothing further,
5 Detective Pemberton, this concludes your testimony.

6 THE WITNESS: Thanks again.

7 (Whereupon, the witness was excused at 2:54 p.m.
8 and recalled at 3:07 p.m.)

9 BY MR. BORCHERT:

10 Q Okay, for the record, I've recalled Detective
11 Pemberton, and Detective Pemberton, you're still under
12 oath. Just one limited question that we wanted to follow
13 up with you about. If a person is arrested and gives a
14 false name, what does law enforcement do to either verify
15 that person's identity or to establish that -- the person's
16 identity for purposes of charging them?

17 A So, it -- I'll give you an example. If someone
18 has not identification on them and they've never been
19 arrested before, and they -- and let's say for example they
20 were arrested and they give a fraudulent name, false name
21 and address, they will be booked under that name, but the
22 way that they're booked is what's called through Live Scan.
23 So, Live Scan is a digital machine that takes all of your
24 fingerprints and palm prints and your photograph from
25 multiple angles. All of that information is then uploaded

1 into NCIC, which is a -- basically, nationwide database.
2 So, these charges and this arrest will be associated with
3 that photograph and those fingerprints.

4 Now, if, for example, I had been arrested, and I
5 gave John's name and I don't show up, if later on, the
6 police run into John, they'll quickly find out that it
7 isn't the same person, either through the photograph or
8 through the fingerprints if they try to book him. So, the
9 charges that we'd be placing on anyone today, whether it's
10 their correct name or their incorrect name, are going to be
11 associated with the fingerprints and the photographs that
12 are taken in the Live Scan system. So, regardless of what
13 information they gave us, the -- only the correct person
14 will be charged, based on the -- the biological data that
15 we collected from them that day.

16 A JUROR: Does that assume that there is
17 biological data on everybody at NCIC?

18 BY MR. BORCHERT:

19 Q I'm not sure if -- I don't know if you can answer
20 that or not, but I think the question is, to the extend you
21 know, does NCIC collect information only on people who are
22 arrested? Is that when the Live Scan process is used?

23 A That's right. It's -- the charges that will be
24 placed on the biological data that's collected, so the
25 photograph and the fingerprints, and whatever information

1 they provided verbally will be attached there, but that
2 sort of be secondary to whether or not we're charging that
3 person. So, if someone gave us a false name and false
4 address, ultimately we can still out who that person is,
5 even if they never back to court, if they ever have a run-
6 in with law enforcement and their fingerprints are run,
7 they'll understand that that person, regardless of what
8 their true name is, has -- has an open case in the District
9 of Columbia, because their fingerprints come back to that
10 case and the photograph comes back to that case.

11 Q Thank you, sir.

12 A All right, thanks.

13 (Whereupon, the witness was excused.)

14 (Whereupon, at 3:10 p.m., the taking of the
15 testimony in the presence of a full quorum of the Grand
16 Jury was concluded.)

17 * * * * *

18

19

20

21

22

23

24

25

1

2

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-256

C-E-R-T-I-F-I-C-A-T-E

I, Desha Devor, the reporter for the United States Attorney's Office, do hereby certify that the witness, Gregory Pemberton, whose testimony appears in the foregoing pages in the case of U.S. v. , Case No. 2017-CF2-001147, heard on February 2, 2017, was first duly sworn by the Foreperson or the Deputy Foreperson of the Grand Jury when there was a full quorum of the Grand Jury present; that the testimony of said witness was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the testimony given by said witness.

Desha Devor, Official Reporter

Peter Rouleau, Transcriber

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, VA 22314
Phone: 202-467-9208
Fax: 202-296-3468

DCX 5-257

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - x
:
UNITED STATES OF AMERICA :
:
 v. :
: Criminal Case
NATHANIEL JAFFE, ET AL. : No: 2017-CF2-001147
:
- - - - - x

Grand Jury No. January 2
Superior Court for the District
of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Friday, February 3, 2017

The testimony of GREGGORY PEMBERTON was taken in
the presence of a full quorum of the Grand Jury, commencing
at 9:40 a.m., before:

JOHN BORCHERT
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-289

C O N T E N T S

WITNESS:	PAGE
Greggory Pemberton	3

GRAND JURY EXHIBITS:

No. 55	Property List	4
No. 56	Photo	5
No. 57	Photo	5
No. 58	Photo	6
No. 59	Photo	6
No. 60	Photo	7
No. 61	Photo	8
No. 62	Photo	8
No. 63	Photo	9
No. 64	Photo	9
No. 65	Photo	9
No. 66	Photo	10
No. 67	Photo	11
No. 68	Photo	11
No. 69	Photo	12

GRAND JURY EXHIBITS (CONTINUED) :

No. 70	Photo	12
No. 71	Photo	13
No. 72	Photo	13
No. 73	Photo	14
No. 74	Photo	14
No. 75	Photo	15
No. 76	Photo	16
No. 77	Photo	16
No. 78	Photo	17
No. 79	Photo	17
No. 80	Photo	18
No. 81	Photo	18
No. 82	Photo	19
No. 83	Photo	19
No. 84	Photo	20
No. 85	Photo	20
No. 86	Photo	21

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

2 Whereupon,

3 GREGGORY PEMBERTON

4 was called as a witness and, after being first duly sworn
5 by the Foreperson or the Deputy Foreperson of the Grand
6 Jury, was examined and testified as follows:

7 EXAMINATION

8 BY MR. BORCHERT:

9 Q Good morning, sir. Could you please start off by
10 stating your name for the record, and spelling it for the
11 benefit of our court reporter?

12 A Sure, Detective Gregory Pemberton,
13 G-r-e-g-g-o-r-y, P-e-m-b-e-r-t-o-n.

14 Q And you are a Detective with the Metropolitan
15 Police Department. Is that correct?

16 A That's correct.

17 Q And you have testified before this Grand Jury
18 previously in connection with the rioter cases that stem
19 from January 20th. Is that right?

20 A Yes, sir.

21 (Grand Jury Exhibit No. 55
22 was marked for identification.)

23 BY MR. BORCHERT:

24 Q I'm going to show you what is now marked as Grand
25 Jury Exhibit 55. Is this a list of property items that

1 were recovered from four defendants in this matter?

2 A Yes.

3 Q Thank you. And will having that in front of you
4 assist you in testifying today?

5 A Yes, sir.

6 (Grand Jury Exhibit No. 56
7 was marked for identification.)

8 BY MR. BORCHERT:

9 Q Detective Pemberton, I am showing you what is
10 marked as Grand Jury Exhibit 56. Is this a picture of
11 someone named [REDACTED] --

12 A Yes.

13 Q -- who was arrested, he was arrested on January
14 20th? Is that right?

15 A Yes, sir.

16 Q And in that picture, does he appear to be wearing
17 dark colored pants, and he's wearing a white colored shirt,
18 but does he also appear to be wearing a dark colored jacket
19 over that shirt?

20 A Yes, that's correct, sir.

21 Q And Mr. [REDACTED] is from Raleigh, North Carolina.
22 Is that correct?

23 A Yes, sir.

24 (Grand Jury Exhibit No. 57
25 was marked for identification.)

1 BY MR. BORCHERT:

2 Q Detective Pemberton, I'm now showing you what's
3 been marked as Grand Jury Exhibit 57. Do you know what
4 that is?

5 A Yes, it's a field arrest photo of [REDACTED].
6 He was arrested on January 20th in reference to the riots.
7 He's wearing dark colored pants and a brown sweater.

8 Q I'm now showing you Grand Jury Exhibit -- oh,
9 pardon me. As to 57, [REDACTED], is he from North Carolina?

10 A Yes. He is.

11 (Grand Jury Exhibit No. 58
12 was marked for identification.)

13 BY MR. BORCHERT:

14 Q I'm now showing you Grand Jury Exhibit 58. Is
15 that a picture of someone named [REDACTED] who was
16 arrested on January 20th of this year?

17 A Yes, sir.

18 Q And in this picture, does he appear to be wearing
19 a dark colored shirt?

20 A Yes.

21 Q And is Mr. [REDACTED] from Washington, D.C.?

22 A He is.

23 (Grand Jury Exhibit No. 59
24 was marked for identification.)

25 BY MR. BORCHERT:

1 Q I'm now showing you Grand Jury Exhibit 59. This
2 is a picture of someone named [REDACTED] who was
3 arrested on January 20th. Is that correct?

4 A Yes.

5 Q And in this picture, is Mr. [REDACTED] wearing dark
6 colored clothing?

7 A Yes.

8 Q And is Mr. [REDACTED] from North Carolina?

9 A That's correct.

10 (Grand Jury Exhibit No. 60
11 was marked for identification.)

12 BY MR. BORCHERT:

13 Q I'm now showing you what is marked as Grand Jury
14 Exhibit 60. Is that a picture of someone named [REDACTED]
15 [REDACTED] who was arrested on January 20th?

16 A Yes.

17 Q And was any property recovered from Mr. [REDACTED]
18 on the day of his arrest?

19 A Yes. He was in possession of an external hard
20 drive, a face mask, gloves, a hat, and a beanie. I imagine
21 a black beanie.

22 Q A black beanie? Is that right?

23 A Yes. Mm-hmm.

24 Q And Mr. [REDACTED] is from Colorado. Is that
25 right?

1 A That's correct.

2 (Grand Jury Exhibit No. 61
3 was marked for identification.)

4 BY MR. BORCHERT:

5 Q I'm now showing you what is marked as Grand Jury
6 Exhibit 61. Do you know what that is -- oh, is this a
7 picture of someone named [REDACTED] who was arrested on
8 January 20th?

9 A Yes, sir.

10 Q And is Mr. [REDACTED] from North Carolina?

11 A He is. He's also wearing all dark clothing.

12 (Grand Jury Exhibit No. 62
13 was marked for identification.)

14 BY MR. BORCHERT:

15 Q I'm now showing you Grand Jury Exhibit 62. Is
16 that a picture of [REDACTED] who was arrested on
17 January 20th?

18 A It is. Yes. I promise it is. It's hard to
19 tell, but yes, that is a picture of --

20 Q I'm just going to cut the lights for a second if
21 that helps.

22 A Okay. That is a picture of Mr. [REDACTED].
23 He was arrested on January 20th. He is wearing all dark
24 clothing.

25 0 And is Mr. [REDACTED] from Illinois?

1 A He is from Illinois.

2 (Grand Jury Exhibit No. 63
3 was marked for identification.)

4 BY MR. BORCHERT:

5 Q I'm now showing you Grand Jury Exhibit 63. Is
6 this a picture of someone named [REDACTED] who was
7 arrested on January 20th?

8 A Yes, it is.

9 Q And is he wearing dark colored clothing?

10 A Yes, he is.

11 Q And Mr. [REDACTED] is from Pennsylvania. Is that
12 correct?

13 A Also correct, yes.

14 (Grand Jury Exhibit No. 64
15 was marked for identification.)

16 BY MR. BORCHERT:

17 Q I'm now showing you Grand Jury Exhibit 64. Is
18 that a picture of someone named [REDACTED]?

19 A Yes.

20 Q And was Mr. [REDACTED] arrested on January 20th?

21 A Yes, he was.

22 Q And is Mr. [REDACTED] from Maryland?

23 A He is. Baltimore, I believe.

24 (Grand Jury Exhibit No. 65
25 was marked for identification.)

1 BY MR. BORCHERT:

2 Q I'm now showing you what is marked as Grand Jury
3 Exhibit 65. Is that a picture of someone named [REDACTED]
4 [REDACTED]?

5 A Yes, it is.

6 Q And was Mr. [REDACTED] arrested on January 20th?

7 A That's correct.

8 Q Is he wearing dark colored clothing in this
9 picture?

10 A He is.

11 Q And was any property recovered from Mr. [REDACTED]?

12 A Yes. He was in possession of a black backpack, a
13 white Russian cap, a black ski mask, a Samsung cell phone,
14 and a lighter.

15 Q And is Mr. [REDACTED] from Maryland?

16 A He is from Maryland, yes.

17 (Grand Jury Exhibit No. 66
18 was marked for identification.)

19 BY MR. BORCHERT:

20 Q I'm now showing Grand Jury Exhibit 66. Is this a
21 picture of someone named [REDACTED] who was arrested on
22 January 20th?

23 A That's correct.

24 Q And is Mr. [REDACTED] wearing dark clothing in that
25 picture?

1 A Yeah. He has sort of a dark gray jacket and
2 black pants.

3 Q And is Mr. [REDACTED] from Connecticut?

4 A He is.

5 (Grand Jury Exhibit No. 67
6 was marked for identification.)

7 BY MR. BORCHERT:

8 Q I'm now showing you Grand Jury Exhibit 67. Is
9 that a picture of someone named [REDACTED] who was
10 arrested on January 20th?

11 A Yes, it is.

12 Q And is he wearing dark colored clothing in that
13 picture?

14 A That's correct.

15 Q And is Mr. [REDACTED] from Ohio?

16 A He is.

17 (Grand Jury Exhibit No. 68
18 was marked for identification.)

19 BY MR. BORCHERT:

20 Q I'm now showing you Grand Jury Exhibit 68. Is
21 that a picture of someone named [REDACTED]
22 (phonetic)? Ladies and gentleman, your indulgence, just
23 one moment. I'm now showing you Grand Jury Exhibit 68. Is
24 that a picture of someone named [REDACTED]?

25 A Yes, it is.

1 Q And is Mr. [REDACTED] wearing dark clothing in that
2 picture?

3 A He is.

4 Q And is Mr. [REDACTED] from Brooklyn, New York?

5 A That's correct.

6 (Grand Jury Exhibit No. 69
7 was marked for identification.)

8 BY MR. BORCHERT:

9 Q I'm now showing you Grand Jury Exhibit 69. Is
10 that a picture of someone named [REDACTED] who was
11 arrested on January 20th?

12 A Yes, it is.

13 Q And is he wearing dark clothing in that picture?

14 A Yes.

15 Q And is Mr. [REDACTED] from Maryland?

16 A He is from Maryland, yes.

17 (Grand Jury Exhibit No. 70
18 was marked for identification.)

19 BY MR. BORCHERT:

20 Q I'm now showing you Grand Jury Exhibit 70. Is
21 that a picture of someone named [REDACTED] who was
22 arrested on January 20th?

23 A Yes, it is.

24 Q And was he wearing dark clothing?

25 A Yes, all dark clothing.

1 Q And Mr. [REDACTED], is he from Pennsylvania?

2 A He is from Pennsylvania.

3 (Grand Jury Exhibit No. 71
4 was marked for identification.)

5 BY MR. BORCHERT:

6 Q I'm now showing you Grand Jury Exhibit 71. Is
7 that a picture of someone named [REDACTED] who was
8 arrested on January 20th?

9 A Yes, and I'm just going to turn this light off
10 real quick so --

11 Q Is Mr. [REDACTED] wearing dark clothing?

12 A Yes, he's wearing all dark clothing.

13 Q And is Mr. [REDACTED] from Greenbelt, Maryland?

14 A That's correct.

15 (Grand Jury Exhibit No. 72
16 was marked for identification.)

17 BY MR. BORCHERT:

18 Q I'm now showing you a picture of someone named
19 [REDACTED]. This is Grand Jury Exhibit 72. Is this
20 someone who was arrested on January 20th?

21 A Yes, it is.

22 A JUROR: Is the person to the left a woman,
23 right? I can't tell.

24 MR. BORCHERT: Oh, I'm sorry.

25 BY MR. BORCHERT:

1 Q And is the person -- the one on the left who was
2 arrested?

3 A Yes. The defendant is a female.

4 Q And is this defendant from Florida?

5 A She is from Florida, yes.

6 (Grand Jury Exhibit No. 73
7 was marked for identification.)

8 BY MR. BORCHERT:

9 Q I'm now showing you Grand Jury Exhibit 73. Is
10 this a picture of [REDACTED] who was arrested on
11 January 20th?

12 A That's correct.

13 Q And is Mr. [REDACTED] wearing dark clothing in that
14 picture?

15 A Yes, he has on all black clothing.

16 Q And is Mr. [REDACTED] from Maryland?

17 A Yes.

18 (Grand Jury Exhibit No. 74
19 was marked for identification.)

20 BY MR. BORCHERT:

21 Q Now, I'm showing you Grand Jury Exhibit 74. Is
22 that a picture of someone named [REDACTED] who was arrested
23 on January 20th?

24 A Yes, it is.

25 Q And is [REDACTED] wearing dark clothing in this

1 picture?

2 A Yes, all dark clothing.

3 Q Did [REDACTED] have any property on her person at
4 the time of her arrest?

5 A Yes. She had a bag, a black vest, a face mask,
6 and bottles with a liquid substance.

7 (Grand Jury Exhibit No. 75
8 was marked for identification.)

9 BY MR. BORCHERT:

10 Q I'm now showing you Grand Jury Exhibit 75. Is
11 that a picture of someone named [REDACTED] who was
12 arrested on January 20th?

13 A Yes, sir.

14 A JUROR: And where's [REDACTED] from?

15 THE WITNESS: [REDACTED] from Colorado.

16 MR. BORCHERT: Oh, I'm sorry.

17 BY MR. BORCHERT:

18 Q [REDACTED] is from Colorado. Is that correct?

19 A Yes, sir.

20 Q I'm now showing you [REDACTED]. Was Mr. --
21 this is Grand Jury Exhibit 75. Was Mr. [REDACTED] arrested on
22 January 20th?

23 A Yes.

24 Q And is he wearing dark clothing in that picture?

25 A Yes, all dark clothing.

1 Q And is Mr. [REDACTED] from Virginia?

2 A Yes, he is.

3 (Grand Jury Exhibit No. 76
4 was marked for identification.)

5 BY MR. BORCHERT:

6 Q I'm now showing you Grand Jury Exhibit 76. Is
7 that a picture of someone named [REDACTED] who was
8 arrested on January 20th?

9 A Yes, it is.

10 Q And is Ms. [REDACTED] wearing dark colored clothing?

11 A Yes, she has on all black clothing, other than
12 her boots.

13 Q And is Ms. [REDACTED] from Maryland?

14 A She is.

15 (Grand Jury Exhibit No. 77
16 was marked for identification.)

17 BY MR. BORCHERT:

18 Q I'm now showing you Grand Jury Exhibit 77. Is
19 that a picture of someone named [REDACTED] who was
20 arrested on January 20th?

21 A Yes, it is.

22 Q Can you describe Mr. [REDACTED] clothing?

23 A Mr. [REDACTED] is wearing a white dress shirt and a
24 blue, some sort of silk or velvety blazer.

25 Q And is Mr. [REDACTED] from Missouri?

1 A He is from Missouri.

2 (Grand Jury Exhibit No. 78
3 was marked for identification.)

4 BY MR. BORCHERT:

5 Q I'm now showing you Grand Jury Exhibit 78. Is
6 that a picture of someone named [REDACTED] who was
7 arrested on January 20th?

8 A Yes, it is.

9 Q And is Mr. [REDACTED] wearing -- well, it looks like
10 he's wearing two colors of clothing. Could you describe
11 that for the Grand Jury?

12 A He has on dark clothing. It looks like he has an
13 outer garment that has some like lighter colored panels,
14 like a light brown or a light-colored panel that go down
15 the front sides of it. Most, most of his clothing is dark,
16 though.

17 Q Is Mr. [REDACTED] from Maryland?

18 A Yes, he is.

19 (Grand Jury Exhibit No. 79
20 was marked for identification.)

21 BY MR. BORCHERT:

22 Q I'm now showing you Grand Jury Exhibit 79. Is
23 that a picture of someone named [REDACTED] who was
24 arrested on January 20th?

25 A Yes.

1 Q And is Ms. [REDACTED] wearing dark clothing?

2 A Yes.

3 Q And is Ms. [REDACTED] from Vermont?

4 A She is from Vermont.

5 (Grand Jury Exhibit No. 80
6 was marked for identification.)

7 BY MR. BORCHERT:

8 Q I'm now showing you Grand Jury Exhibit 80. Is
9 this someone named [REDACTED] who was arrested on January
10 20th?

11 A Yes.

12 Q And can you describe the clothing that he's
13 wearing?

14 A He has on all dark clothing.

15 Q And is Mr. [REDACTED] from Virginia?

16 A He is.

17 (Grand Jury Exhibit No. 81
18 was marked for identification.)

19 BY MR. BORCHERT:

20 Q I'm now showing you Grand Jury Exhibit 81.
21 Maybe, could you hit the light there, Detective?

22 A It doesn't help.

23 Q Okay, maybe it doesn't help. Well, I will pass
24 the picture over to you, Detective, so you can see it.

25 A This is a picture of [REDACTED], I think it's [REDACTED]

1 (phonetic). I'm not sure if I'm saying that right.

2 Q Or [REDACTED]?

3 A [REDACTED], yes.

4 Q And he was arrested on January 20th?

5 A Yes.

6 Q And can you describe for the Grand Jury the color
7 of the clothing, and the picture will be made available to
8 the Grand Jury?

9 A So he has a dark jacket over what looks like a
10 light-blue patterned shirt.

11 Q And is Mr. [REDACTED] from Virginia?

12 A He is.

13 (Grand Jury Exhibit No. 82
14 was marked for identification.)

15 BY MR. BORCHERT:

16 Q I am now showing you -- oh, no, pardon me. No,
17 never mind. Strike that. Sorry. I'm now showing you
18 Grand Jury Exhibit 82. Is this a picture of someone named
19 [REDACTED] who was arrested on January 20th?

20 A Yes, it is.

21 Q Is Ms. [REDACTED] wearing dark colored clothing?

22 A Yes, all black clothing.

23 Q And is [REDACTED] from New York?

24 A She is.

25 (Grand Jury Exhibit No. 83

1 was marked for identification.)

2 BY MR. BORCHERT:

3 Q I'm now showing you Grand Jury Exhibit 83. Is
4 that a picture of someone named [REDACTED] who was
5 arrested on January 20th?

6 A Yes.

7 Q And is Ms. [REDACTED] wearing dark colored clothing?

8 A Yes, her outer garments are all dark. She has on
9 a red flannel shirt underneath a black jacket.

10 Q And is Ms. [REDACTED] from Maryland?

11 A She is.

12 (Grand Jury Exhibit No. 84
13 was marked for identification.)

14 BY MR. BORCHERT:

15 Q I'm now showing you Grand Jury Exhibit 84. Is
16 this a picture of someone named [REDACTED] who was
17 arrested on January 20th?

18 A Yes.

19 Q Is [REDACTED] wearing dark colored clothing?

20 A Yes.

21 Q And is Ms. [REDACTED] from Massachusetts?

22 A She is.

23 (Grand Jury Exhibit No. 85
24 was marked for identification.)

25 BY MR. BORCHERT:

1 Q I'm now showing you Grand Jury Exhibit 85. Oh,
2 let's go back. Before I show you Grand Jury Exhibit 85,
3 did Ms. [REDACTED] have any property on her person?

4 A She did. She had a black backpack, a black-and-
5 white bandana, a blue bandana, green gloves, a red rag, a
6 mask, goggles, and a map of Washington, D.C.

7 Q I'm now showing you Grand Jury Exhibit 85 which
8 is a picture -- is this a picture of someone named [REDACTED]
9 [REDACTED] who was arrested on January 20th?

10 A Yes.

11 Q And is [REDACTED] wearing dark colored clothing
12 in that picture?

13 A Yes, all black clothing.

14 Q And is she from Delaware?

15 A She is.

16 (Grand Jury Exhibit No. 86
17 was marked for identification.)

18 BY MR. BORCHERT:

19 Q I'm now showing you Grand Jury Exhibit 86. Is
20 that a picture of someone named [REDACTED] who was
21 arrested on January 20th?

22 A Yes.

23 Q And is she wearing dark colored clothing?

24 A Yes.

25 Q And [REDACTED] from the District

1 of Columbia?

2 A She is.

3 MR. BORCHERT: I'm sorry. Was there a question?

4 A JUROR: The number?

5 MR. BORCHERT: 86.

6 A JUROR: Thank you

7 MR. BORCHERT: All right. That's all I have for
8 the Detective. Are there any questions from the Grand
9 Jurors? Yes?

10 A JUROR: So [REDACTED] and [REDACTED]
11 live in D.C.? Were there any others that lives in D.C.?

12 MR. BORCHERT: In this group today?

13 A JUROR: Yes.

14 THE WITNESS: Those are the only two that I'm
15 aware of that were from Washington, D.C. Those two.

16 A JUROR: And do you know if they live in the
17 immediate area of where the arrest took place?

18 THE WITNESS: They do not, no. Ms. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 A JUROR: Yeah.

22 THE WITNESS: I believe he lives in [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 A JUROR: Thank you.

1 THE WITNESS: You might double-check on that.

2 MR. BORCHERT: I'm sorry. Who's the second name
3 you had asked about?

4 THE WITNESS: [REDACTED]

5 A JUROR: [REDACTED]

6 BY MR. BORCHERT:

7 Q Detective, would looking at the complaint filed
8 against Mr. [REDACTED] refresh your recollection as to his
9 address?

10 A Yes, absolutely. So yes.

11 Q Is your recollection refreshed?

12 A Yes. So Mr. [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q And would looking at the complaint against [REDACTED]
16 [REDACTED] refresh your recollection as to her address?

17 A Yes.

18 Q I'll pass this to you. Is your recollection
19 refreshed, sir?

20 A Yes. [REDACTED]

21 [REDACTED]

22 MR. BORCHERT: All right. Any other questions
23 from the Grand Jurors?

24 THE WITNESS: Too early. Thank you, guys. I
25 appreciate it.

1 MR. BORCHERT: Thank you, everyone. Thank you,
2 Detective. You can step out.

3 (Whereupon, the witness was excused.)

4 (Whereupon, at 10:03 a.m., the taking of the
5 testimony in the presence of a full quorum of the Grand
6 Jury was concluded.)

7 * * * * *

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C-E-R-T-I-F-I-C-A-T-E

I, Roxanne Parsons, the reporter for the United States Attorney's Office, do hereby certify that the witness, Gregory Pemberton, whose testimony appears in the foregoing pages in the case of U.S. v. Nathaniel Jaffe, et al., Case No. 2017-CF2-001147, heard on February 3, 2017, was first duly sworn by the Foreperson or the Deputy Foreperson of the Grand Jury when there was a full quorum of the Grand Jury present; that the testimony of said witness was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the testimony given by said witness.

Roxanne Parsons, Official Reporter

Jacquelyn Carter, Transcriber

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, VA 22314
Phone: 202-467-9208
Fax: 202-296-3468

DCX 5-313

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - x
:
UNITED STATES OF AMERICA :
:
v. :
: Criminal Case
NATHANIEL JAFFE, et al. : No: 2017-CF2-001147
:
- - - - - x

Grand Jury No. January 2
Superior Court for the
District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Monday, February 6, 2017

The discussion in the above-referenced case was
taken in the presence of a full quorum of the Grand Jury,
commencing at 3:59 p.m., before:

JOHN BORCHERT
Assistant United States Attorney

JENNIFER KERKHOFF
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-314

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

2 MR. BORCHERT: All right. Again, everyone. Good
3 afternoon. We're on the record. My name is John Borchert.
4 That's J-o-h-n, last name Borchert, B-o-r-c-h-e-r-t. This
5 is your case number 44, United States versus Nathaniel
6 Jaffe, 2017-CF2-1147.

7 I know the Grand Jury has voted previously as to
8 63 defendants. I'm going to start presenting evidence
9 today as to another 73. I anticipate -- or pardon me, 78.
10 I know we have an hour here. We'll see how far we get, you
11 know. And, if not, we'll pick up tomorrow. And I don't
12 know if you'll have time to vote today or not, but, but
13 I've prepared a vote sheet that I've passed out to folks
14 here to assist either with note-taking or the eventual
15 voting.

16 The witness, the Grand Jury has heard from him
17 before. It will be Detective Pemberton. Any other
18 questions before I bring in the Detective Pemberton? As
19 in, as in the past, what I'm going to be doing with respect
20 to each one of the arrestees is I will present their
21 picture. I'll ask the detective about the location. I'll
22 ask about any property that was recovered as evidence from
23 that person, and that's it.

24 Those will just be the questions that I'm asking.
25 Yes?

1 A JUROR: I was going to ask, so after the first
2 batch, that's pretty much the way it's gone for the last --

3 MR. BORCHERT: Yes, ma'am.

4 A JUROR: -- is he your sole -- is that --
5 through the 233 odd or is there going to be a point where
6 there's just -- on some people or not?

7 MR. BORCHERT: No. I would -- I think that it's
8 going to be pretty straight forward --

9 A JUROR: Because I --

10 MR. BORCHERT: -- from here on out. A lot of --
11 and I don't know. The best theory that I have here is that
12 a lot of people with lower case numbers were people that
13 were processed later in the day when it was darker.

14 A JUROR: Mm-hmm.

15 MR. BORCHERT: And I think you'll start to see
16 now that a lot of these people who have been processed
17 earlier in the day on January 20th, many of them, it's very
18 clear they're in dark clothing or in all black. And we can
19 talk about that more if it's helpful in deliberations.

20 Okay. With that I will bring in the Detective
21 Pemberton.

22 (Whereupon, at 3:59 p.m., the witness Gregory
23 Pemberton, was called and testified before a full quorum of
24 the Grand Jury.)

25 (Whereupon, the discussion was concluded.)

1 (Whereupon, at 5:00 p.m., the discussion
2 reviewing the charges in the presence of a full quorum of
3 the Grand Jury was concluded.)

4 * * * * *

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

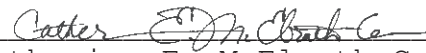
DCX 5-317

C-E-R-T-I-F-I-C-A-T-E

I, Kayla Regan, the reporter for the United States Attorney's Office, do hereby certify that the discussion, in the foregoing pages in the above-referenced case of U.S. v. Nathaniel Jaffe, et al., Case No. 2017-CF2-001147, heard on February 6, 2017, with the Grand Jury when there was a full quorum of the Grand Jury present; that the said discussion was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the discussion.



Kayla Regan, Official Reporter



Catherine E. McElrath-Carr, Transcriber

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - x
:
UNITED STATES OF AMERICA :
:
 v. :
:
 Criminal Case
NATHANIEL JAFFE, et al. : No: 2017-CF2-001147
:
- - - - - x

Grand Jury No. January 2
Superior Court for the
District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Monday, February 6, 2017

The testimony of GREGGORY PEMBERTON was taken in
the presence of a full quorum of the Grand Jury, commencing
at 3:59 p.m., before:

JOHN BORCHERT
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-319

C O N T E N T S

WITNESS:	PAGE
Greggory Pemberton	6

GRAND JURY EXHIBIT(S) :

No. 87	Photograph	6
No. 88	Photograph	7
No. 89	Photograph	8
No. 90	Photograph	9
No. 91	Photograph	10
No. 92	Photograph	10
No. 93	Photograph	10
No. 94	Photograph	11
No. 95	Photograph	12
No. 96	Photograph	12
No. 97	Photograph	13
No. 98	Photograph	14
No. 99	Photograph	16
No. 100	Photograph	16
No. 101	Photograph	17
No. 102	Photograph	17

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-320

No. 103	Photograph	19
No. 104	Photograph	19
No. 105	Photograph	20
No. 106	Photograph	20
No. 107	Photograph	21
No. 108	Photograph	22
No. 109	Photograph	22
No. 110	Photograph	23
No. 111	Photograph	23
No. 112	Photograph	24
No. 113	Photograph	25
No. 114	Photograph	26
No. 115	Photograph	27
No. 116	Photograph	27
No. 117	Photograph	28
No. 118	Photograph	28
No. 119	Photograph	29
No. 120	Photograph	30
No. 121	Photograph	30
No. 122	Photograph	31
No. 123	Photograph	32
No. 124	Photograph	32
No. 125	Photograph	33

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-321

No. 126	Photograph	34
No. 127	Photograph	34
No. 128	Photograph	35
No. 129	Photograph	36
No. 130	Photograph	36
No. 131	Photograph	37
No. 132	Photograph	37
No. 133	Photograph	38
No. 134	Photograph	38
No. 135	Photograph	39
No. 136	Photograph	39
No. 137	Photograph	40
No. 138	Photograph	40
No. 139	Photograph	41
No. 140	Photograph	42
No. 141	Photograph	42
No. 142	Photograph	43
No. 143	Photograph	45
No. 144	Photograph	46
No. 145	Photograph	46
No. 146	Photograph	47
No. 147	Photograph	47
No. 148	Photograph	48

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-322

No. 149	Photograph	49
No. 150	Photograph	49
No. 151	Photograph	50
No. 152	Photograph	51
No. 153	Photograph	52
No. 154	Photograph	53
No. 155	Photograph	54

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-323

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

2 Whereupon,

3 GREGGORY PEMBERTON

4 was called as a witness and, after being first duly sworn
5 by the Foreperson or the Deputy Foreperson of the Grand
6 Jury, was examined and testified as follows:

7 EXAMINATION

8 BY MR. BORCHERT:

9 Q Good afternoon, sir.

10 A Hi, how are you?

11 Q Could you start off, please, by stating your name
12 for the record and spelling it for the benefit of our court
13 reporter?

14 A Detective Gregory Pemberton, G-r-e-g-g-o-r-y,
15 P-e-m-b-e-r-t-o-n.

16 Q And sir, the grand jury has seen you before, but
17 you are the -- providing this to the court reporter -- you
18 are the lead detective for the arrest -- the arrest in
19 connection with the riots on January 20th, is that correct?

20 A That's correct.

21 Q All right. I am going to show you what is marked
22 as grand jury Exhibit 87.

23 (Grand Jury Exhibit No. 87
24 was marked for identification.)

25 BY MR. BORCHERT:

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-324

1 Q Is that a list of property items that were
2 recovered from certain defendants?

3 A Yes, it is.

4 Q And these are -- those are all people who were
5 arrested on -- just a moment, sorry -- oh, this should be
6 for -- I'm just giving you this so you'd have the
7 spellings. I'm sorry, I just thought that would be easier.
8 Okay. Thanks.

9 A 87.

10 Q Grand jury Exhibit 87, is that a list of property
11 that was recovered from persons who were arrested on
12 January 20th in connection with those riots?

13 A Yes, sir.

14 Q Will having that in front of you assist you in
15 testifying before the grand jury today?

16 A Yes, sir.

17 Q All right. I am now going to show you grand jury
18 Exhibit No. 88.

19 (Grand Jury Exhibit No. 88
20 was marked for identification.)

21 BY MR. BORCHERT:

22 Q Is this a picture of someone named [REDACTED]
23 [REDACTED] who was arrested on January 20th of this year?

24 A Yes, it is.

25 Q And in that picture, is Mr. [REDACTED] wearing dark

1 clothing?

2 A Yes, he is.

3 Q Was any property recovered from Mr. [REDACTED] on
4 that day as evidence?

5 A Yes. One black face mask, two black kneepads, on
6 black journal, a white lighter, one pair of black gloves,
7 two shin guards, one coat, one backpack, one voice
8 recorder, two cameras in a bag, one radio with a headset
9 and a black shirt.

10 Q Is Mr. [REDACTED]

11 A Yes, he is.

12 Q For the record, I'm now showing you what's marked
13 as grand jury Exhibit 89.

14 (Grand Jury Exhibit No. 89
15 was marked for identification.)

16 BY MR. BORCHERT:

17 Q Is that a picture of someone named [REDACTED]
18 who was arrested on January 20th in connection with this
19 matter?

20 A Yes.

21 Q And is Mr. [REDACTED] wearing dark clothing?

22 A Yes, he is.

23 Q Was any property recovered from Mr. [REDACTED] --

24 A Yeah.

25 Q -- on that day as evidence?

1 A Yes. One black camera, one gray camera, two
2 disposable cameras, one pair of blue gloves, and a green
3 lighter.

4 Q And is Mr. [REDACTED] from Texas?

5 A Yes.

6 A JUROR: Could you zoom in a little bit more on
7 the camera? I'm sorry.

8 MR. BORCHERT: Sure.

9 A JUROR: Thank you.

10 MR. BORCHERT: Is that good?

11 A JUROR: Yeah, I just wanted to be able to see
12 the --

13 MR. BORCHERT: Sure.

14 A JUROR: -- names.

15 BY MR. BORCHERT:

16 Q I'm now showing you grand jury Exhibit 90.

17 (Grand Jury Exhibit No. 90
18 was marked for identification.)

19 BY MR. BORCHERT:

20 Q Is that a picture of someone named [REDACTED],

21 who was arrested on January 20th?

22 A Yes.

23 Q And is Mr. [REDACTED] from New York?

24 A He is.

25 Q I'm now showing you grand jury Exhibit 91.

1 (Grand Jury Exhibit No. 91
2 was marked for identification.)

3 BY MR. BORCHERT:

4 Q Is that a picture of someone named [REDACTED] who
5 was arrested on January 20th of this year?

6 A Yes.

7 Q And is Mr. [REDACTED] in this photo wearing dark
8 clothing?

9 A Yes, he is.

10 Q Is Mr. [REDACTED] from Illinois?

11 A He is.

12 Q I'm now showing you grand jury Exhibit 92.

13 (Grand Jury Exhibit No. 92
14 was marked for identification.)

15 BY MR. BORCHERT:

16 Q Is that a picture of someone named [REDACTED],
17 who was arrested on January 20th of this year?

18 A Yes, it is.

19 Q And is Mr. [REDACTED] wearing dark clothing?

20 A Yes, he is.

21 Q And is Mr. [REDACTED] from Utah?

22 A He is.

23 Q I'm now showing you grand jury Exhibit 93.

24 (Grand Jury Exhibit No. 93
25 was marked for identification.)

1 BY MR. BORCHERT:

2 Q Is that a picture of someone named [REDACTED]
3 [REDACTED], who was arrested on January 20th in connection with
4 this matter?

5 A It is.

6 Q And is Mr. [REDACTED] wearing dark clothing?

7 A Yes, he is.

8 Q And is he from North Carolina?

9 A He is.

10 Q I'm now showing you what's marked as grand jury
11 Exhibit 94.

12 (Grand Jury Exhibit No. 94
13 was marked for identification.)

14 BY MR. BORCHERT:

15 Q Is that a picture of someone named [REDACTED],
16 who was arrested on January 20th in connection with this
17 matter?

18 A Yes, sir.

19 Q Is Mr. [REDACTED] wearing dark clothing in this
20 picture?

21 A He is.

22 Q And is Mr. [REDACTED] from North Carolina?

23 A He is, yes.

24 Q Detective Pemberton, I'm now showing you what's
25 marked as grand jury Exhibit 95.

1 A JUROR: Can you lower --

2 MR. BORCHERT: Pardon me?

3 A JUROR: Can you lower her --

4 A JUROR: Can you lower her --

5 MR. BORCHERT: Oh, pardon me.

6 A JUROR: Please?

7 MR. BORCHERT: I'm a little too close.

8 A JUROR: I can't see.

9 MR. BORCHERT: Detective Pemberton, I'm now
10 showing you grand jury Exhibit 95.

11 (Grand Jury Exhibit No. 95
12 was marked for identification.)

13 BY MR. BORCHERT:

14 Q Is that a picture of someone named [REDACTED],
15 who was arrested on Jnauary 20th of this year in connection
16 with this matter?

17 A Yes.

18 Q And is Ms. [REDACTED] wearing dark clothing?

19 A Yes, she is.

20 Q And is Ms. [REDACTED] from New York?

21 A She is.

22 Q I'm now showing you grand jury Exhibit 96.

23 (Grand Jury Exhibit No. 96
24 was marked for identification.)

25 BY MR. BORCHERT:

1 Q Is that a picture of someone named [REDACTED]

2 [REDACTED]

3 A Yes.

4 Q -- who was arrested on January 20th in connection
5 with this matter?

6 A Yes.

7 Q Was -- and is Ms. [REDACTED] wearing dark clothing?

8 A Yes. You can see the lining of her coat is red,
9 but the exterior of her coat is a dark color.

10 Q And was any property recovered from Ms. [REDACTED]

11 A Yes.

12 Q -- on that day?

13 A A black beanie, a multi-colored scarf, a red
14 purse, a black scarf, and a white iPhone.

15 A JUROR: Where is she from?

16 BY MR. BORCHERT:

17 Q Detective, is Ms. [REDACTED] from Illinois?

18 A She is.

19 Q I'm now showing you grand jury Exhibit 97.

20 (Grand Jury Exhibit No. 97
21 was marked for identification.)

22 BY MR. BORCHERT:

23 Q Is that a picture of someone named [REDACTED],
24 who was arrested on January 20th in this matter?

25 A Yes.

1 Q In that photograph, is Ms. [REDACTED] wearing dark
2 colored clothing?

3 A She has all dark clothing, but she's also wearing
4 sort of an outer garment that looks like a scarf of some
5 type that has some --

6 Q Some sort of multi-color --

7 A Yes.

8 Q -- item on the -- the --

9 A But --

10 Q -- accessory garment.

11 A -- her actual items of clothing are all black.

12 Q Is Ms. [REDACTED] from Illinois?

13 A Yes.

14 A JUROR: We have her name as [REDACTED] on the list.

15 THE WITNESS: The first name?

16 A JUROR: Yeah, [REDACTED].

17 BY MR. BORCHERT:

18 Q Is that [REDACTED] -- detective, is [REDACTED] an
19 a/k/a for Ms. [REDACTED]?

20 A I believe it is. Can I see the complaint,
21 please? So, the complaint has her listed as [REDACTED]
22 [REDACTED]

23 Q Thank you, detective. Detective, I'm now showing
24 you grand jury Exhibit 98.

25 (Grand Jury Exhibit No. 98)

1 was marked for identification.)

2 BY MR. BORCHERT:

3 Q Is that a picture of someone named [REDACTED]
4 [REDACTED], who was arrested on January 20th in connection
5 with this matter?

6 A Yes.

7 A JUROR: We don't have her.

8 A JUROR: We don't have her.

9 BY MR. BORCHERT:

10 Q Thank you. Detective -- I'll make a note to add
11 that to the vote sheet. Detective, in this photo, is Ms.
12 [REDACTED] wearing dark clothing?

13 A Yes, she is.

14 Q And is Ms. [REDACTED] from Pennsylvania?

15 A She is, Pittsburgh.

16 A JUROR: Do you have a case number for her?

17 MR. BORCHERT: Detective, I'm now showing you --
18 I'm sorry, what was that?

19 A JUROR: Do you have a case number for her?

20 MR. BORCHERT: For --

21 A JUROR: [REDACTED]

22 A JUROR: [REDACTED]

23 BY MR. BORCHERT:

24 Q Ms. [REDACTED], her case number will be [REDACTED]
25 [REDACTED]. Detective, this is grand jury Exhibit 99.

1 (Grand Jury Exhibit No. 99
2 was marked for identification.)

3 BY MR. BORCHERT:

4 Q Is that a picture of someone named [REDACTED],
5 who was arrested on January 20th in this matter?

6 A Yes.

7 Q And in this photo, is Ms. [REDACTED] wearing dark
8 colored clothing?

9 A Yeah, she has on a gray T-shirt, but it looks
10 like she's in a black jacket and black pants.

11 Q Was any property recovered as evidence for Ms.
12 [REDACTED] on this date?

13 A Yes. A black face mask, a black bandana, and
14 black ear plugs.

15 Q And is Ms. [REDACTED] from Virginia?

16 A Yes, Richmond, or -- yeah, Richmond.

17 Q Detective, I'm now showing you grand jury Exhibit
18 100.

19 (Grand Jury Exhibit No. 100
20 was marked for identification.)

21 BY MR. BORCHERT:

22 Q Is this a picture of someone named [REDACTED]
23 [REDACTED], who was arrested on January 20th in connection
24 with this matter?

25 A Yes.

1 Q Can you describe the clothing that she's wearing?

2 A Her outer jacket and her pants are dark clothing.

3 She has -- it looks like she has a blue jacket underneath.

4 A light blue, royal blue jacket.

5 Q And is Ms. [REDACTED] from Baltimore, Maryland?

6 A Yes.

7 Q Detective, I'm now showing you grand jury Exhibit

8 101.

9 (Grand Jury Exhibit No. 101

10 was marked for identification.)

11 BY MR. BORCHERT:

12 Q Is this a picture of someone named [REDACTED]

13 [REDACTED], who was arrested on January 20th in this matter?

14 A Yes.

15 Q And in this picture is Ms. [REDACTED] wearing dark

16 or black colored clothing?

17 A Yes.

18 Q And is Ms. [REDACTED] from Virginia?

19 A Yes. [REDACTED]

20 Q I'm now showing you grand jury Exhibit 102.

21 (Grand Jury Exhibit No. 102

22 was marked for identification.)

23 BY MR. BORCHERT:

24 Q I'll zoom in a little bit. Is this -- is this a

25 photograph of someone named [REDACTED], who was

1 arrested on January 20th of this year?

2 A Yes.

3 Q And is Ms. [REDACTED] wearing dark colored clothing
4 in this picture?

5 A Yes, she is.

6 Q And is she from Massachusetts?

7 A Yes.

8 A JUROR: What's the name on there? It's out of
9 place. It's --

10 MR. BORCHERT: I'll zoom up a little bit closer
11 so you can see.

12 A JUROR: Oh.

13 MR. BORCHERT: It's [REDACTED] with -- right,
14 it's a different spelling.

15 A JUROR: Can you pull it down --

16 MR. BORCHERT: As I was looking at it for just a
17 moment --

18 A JUROR: -- down -- yeah?

19 MR. BORCHERT: Sorry, as I was looking at that --
20 for the record, I had to pause a moment before looking at
21 this --

22 A JUROR: Okay.

23 MR. BORCHERT: -- to make sure I had the name
24 right.

25 A JUROR: Okay.

1 MR. BORCHERT: Detective Pemberton, I'm now
2 showing you what is marked as grand jury Exhibit 103.

3 (Grand Jury Exhibit No. 103
4 was marked for identification.)

5 BY MR. BORCHERT:

6 Q Is this a picture of someone named [REDACTED],
7 who was arrested on January 20th in this matter?

8 A Yes.

9 Q And is Ms. [REDACTED] wearing dark or black colored
10 clothing?

11 A Yes.

12 Q And is Ms. [REDACTED] from Rhode Island?

13 A Yes.

14 Q Detective Pemberton, I'm now showing you what's
15 marked as grand jury Exhibit 104.

16 (Grand Jury Exhibit No. 104
17 was marked for identification.)

18 BY MR. BORCHERT:

19 Q Is this a picture of someone named [REDACTED]
20 [REDACTED], who was arrested on January 20th in this matter?

21 A Yes.

22 Q And is Mr. [REDACTED] wearing dark colored clothing
23 in this picture?

24 A Yes, he is.

25 Q Okay. Was any property recovered as evidence

1 from Mr. [REDACTED]?

2 A Yes, a black backpack, some miscellaneous
3 clothing items, and a pair of industrial gloves.

4 Q And is Mr. [REDACTED] from Maryland?

5 A Yes.

6 Q Detective, I'm now showing you what's been marked
7 as grand jury Exhibit 105.

8 (Grand Jury Exhibit No. 105
9 was marked for identification.)

10 BY MR. BORCHERT:

11 Q Is this a picture of someone named [REDACTED],
12 who was arrested on January 20th of this year?

13 A Yes, it is.

14 Q Was any property recovered from Mr. [REDACTED] as
15 evidence?

16 A Yes. A pair of black and white gloves, a black
17 hat, a multi-colored scarf, and a red and black bandana.

18 Q Is Mr. [REDACTED] from Pennsylvania?

19 A Yes.

20 Q Detective Pemberton, I'm now showing you grand
21 jury Exhibit 106.

22 (Grand Jury Exhibit No. 106
23 was marked for identification.)

24 BY MR. BORCHERT:

25 Q Is this a picture of someone named [REDACTED]

1 [REDACTED]

2 A Yes.

3 Q -- who was arrested -- was he arrested on January
4 20th in this matter?

5 A Yes, he was.

6 Q In this photograph, is he wearing black clothing?

7 A Yes, he is.

8 Q And is Mr. [REDACTED] from Washington, D.C.?

9 A He is.

10 Q Detective, I'm now showing you grand jury Exhibit
11 107.

12 (Grand Jury Exhibit No. 107
13 was marked for identification.)

14 BY MR. BORCHERT:

15 Q Is this a picture of someone named [REDACTED],
16 who was arrested on January 20th in this matter?

17 A Yes.

18 Q Is he wearing black or dark colored clothing in
19 this picture?

20 A Yes, he is.

21 Q Was any property recovered as evidence from Mr.
22 [REDACTED]?

23 A Yes, just one red lighter.

24 Q And is Mr. [REDACTED] from Ohio?

25 A Yes [REDACTED].

1 Q Detective Pemberton, I'm now showing you what's
2 marked as grand jury Exhibit 108.

3 (Grand Jury Exhibit No. 108
4 was marked for identification.)

5 BY MR. BORCHERT:

6 Q Is this a picture of someone named [REDACTED]
7 [REDACTED] who was arrested on January 20th in this matter?

8 A Yes, it is.

9 Q And is Mr. [REDACTED] wearing dark clothing?

10 A Yes, he is.

11 Q Is Mr. [REDACTED] from Washington, D.C.?

12 A Yes.

13 Q Detective Pemberton, I'm showing you grand jury
14 Exhibit 109. I'll zoom out.

15 (Grand Jury Exhibit No. 109
16 was marked for identification.)

17 BY MR. BORCHERT:

18 Q Is this a picture of someone named [REDACTED] who
19 was arrested on January 20th of this year?

20 A Yes.

21 Q Is he wearing black clothing in this picture?

22 A Yes.

23 Q Was any property recovered from Mr. [REDACTED]?

24 A Yes. Black sunglasses, a pair of black gloves,
25 and a black scarf.

1 Q Is Mr. [REDACTED] from New York?

2 A He is.

3 Q Detective Pemberton, I'm now showing you what's
4 been marked as grand jury Exhibit 110.

5 (Grand Jury Exhibit No. 110
6 was marked for identification.)

7 BY MR. BORCHERT:

8 Q Is this a photograph of someone named [REDACTED]
9 [REDACTED], who was arrested on January 20th in this matter?

10 A Yes.

11 Q Is Mr. [REDACTED] wearing a black colored sweat
12 shirt?

13 A Yes.

14 Q Was any property recovered from Mr. [REDACTED] on the
15 day of his arrest as evidence?

16 A Yes. One black anti-fascist actions flag, two
17 black beanies, a red bandana, and one blue backpack.

18 Q And is Mr. [REDACTED] from Washington, D.C.?

19 A Yes.

20 Q For the record, I'm now showing you grand jury
21 Exhibit 111. 111, excuse me.

22 (Grand Jury Exhibit No. 111
23 was marked for identification.)

24 BY MR. BORCHERT:

25 Q Is this a photo of someone named [REDACTED]

1 [REDACTED], who was arrested on January 20th in this matter?

2 A Yes.

3 Q And is Mr. [REDACTED] wearing a black colored hooded
4 sweat shirt?

5 A Yes.

6 Q And is Mr. [REDACTED] from
7 Virginia?

8 A Yes.

9 Q Detective Pemberton, I'm showing you grand jury
10 Exhibit 112.

11 (Grand Jury Exhibit No. 112
12 was marked for identification.)

13 BY MR. BORCHERT:

14 Q Is this a picture of someone named -- whoops, I
15 zoomed in too close --

16 A JUROR: We don't have --

17 MR. BORCHERT: Thank you. I'll add that to the
18 vote sheet.

19 A JUROR: The name?

20 BY MR. BORCHERT:

21 Q Is this someone named [REDACTED]
22 [REDACTED]?

23 A Yes.

24 A JUROR: Case number?

25 MR. BORCHERT:

1 Q And for the grand juror's benefit, his case
2 number is [REDACTED]. Detective Pemberton, is Mr.
3 [REDACTED] wearing a black colored sweat shirt in this picture?

4 A Yes.

5 Q And is Mr. [REDACTED] from Virginia?

6 A Yes.

7 Q Detective Pemberton, I'm now showing you grand
8 jury Exhibit --

9 A JUROR: We don't have her ID number.

10 A JUROR: We don't have her --

11 MR. BORCHERT: Grand jury Exhibit 113.

12 (Grand Jury Exhibit No. 113
13 was marked for identification.)

14 BY MR. BORCHERT:

15 Q Is this a photo of someone named [REDACTED]
16 [REDACTED], who was arrested on January 20th in this matter?

17 A Yes.

18 Q Thank you. I will add her to the vote sheet
19 also.

20 A JUROR: [REDACTED]

21 BY MR. BORCHERT:

22 Q [REDACTED] Is Ms. [REDACTED] wearing dark colored
23 clothing in this picture?

24 A Yes.

25 Q And is she from Illinois?

1 A She is.

2 A JUROR: Do you have her case number?

3 BY MR. BORCHERT:

4 Q For the benefit of the grand jurors, her case
5 number will be [REDACTED]. There will be one more add
6 on. Detective Pemberton, is this -- I'm now showing you
7 grand jury Exhibit 114.

8 (Grand Jury Exhibit No. 114
9 was marked for identification.)

10 BY MR. BORCHERT:

11 Q Is this a photograph of someone named [REDACTED]
12 [REDACTED], who was arrested on January 20th in
13 this matter?

14 A Yes.

15 Q For the grand jurors, Ms. [REDACTED] case number
16 is [REDACTED]. Is Ms. [REDACTED] wearing dark colored
17 clothing in this picture?

18 A Yes.

19 Q And is she from Pennsylvania?

20 A Yes.

21 Q Box number two.

22 A JUROR: Yikes.

23 A JUROR: Oh, there's three of them.

24 MR. BORCHERT: Detective Pemberton, I'm now
25 showing you grand jury Exhibit 115.

1 (Grand Jury Exhibit No. 115
2 was marked for identification.)

3 BY MR. BORCHERT:

4 Q Is this a picture of someone named [REDACTED]
5 [REDACTED], who was arrested on January 20th in this matter?

6 A Yes.

7 Q Is Ms. [REDACTED] wearing black clothing here?

8 A Yes.

9 Q And is she from Wisconsin?

10 A That's correct.

11 A JUROR: Is that [REDACTED]?

12 MR. BORCHERT: [REDACTED] On grand jury
13 Exhibit 115, it says [REDACTED]. Detective
14 Pemberton, I'm now showing you grand jury Exhibit 116.

15 (Grand Jury Exhibit No. 116
16 was marked for identification.)

17 BY MR. BORCHERT:

18 Q Is this a photograph of someone named [REDACTED]
19 [REDACTED], who was arrested on January 20th in connection with
20 this matter?

21 A Yes.

22 Q Is Ms. [REDACTED] wearing black colored clothing?

23 A Yes.

24 Q And is Ms. [REDACTED] from North Carolina?

25 A That's correct.

1 Q Detective Pemberton, I'm showing you grand jury
2 Exhibit 117. It's a little hard to see, so I'll zoom in.
3 Detective, would you mind hitting the lights for just a
4 moment?

5 A JUROR: There's no --

6 A JUROR: It's not better.

7 (Grand Jury Exhibit No. 117
8 was marked for identification.)

9 BY MR. BORCHERT:

10 Q Okay. Detective, I'm showing you -- is this a
11 picture of someone named [REDACTED], who was arrested
12 on January 20th of this year?

13 A Yes, it is.

14 Q Is this photograph, is Mr. [REDACTED] wearing dark
15 colored clothing?

16 A Yes, he is.

17 Q And is Mr. [REDACTED] from Virginia?

18 A He is.

19 Q Detective Pemberton, I'm now showing you grand
20 jury Exhibit 118.

21 (Grand Jury Exhibit No. 118
22 was marked for identification.)

23 BY MR. BORCHERT:

24 Q Is this a picture of someone named [REDACTED],
25 who was arrested on January 20th in this matter?

1 A Yes, it is.

2 Q Can you describe the clothing that Ms. [REDACTED] is
3 wearing here?

4 A She has what appears to be, like, a multi-colored
5 orange sort of vest or jacket, but there's also a black
6 sort of windbreaker that's draped over her shoulders.

7 Q Was any property recovered as evidence from Ms.
8 [REDACTED] that day?

9 A Yes. She had a black flashlight -- excuse me, a
10 fanny pack, a gym bag, assorted clothing, and a lighter.

11 Q And is Ms. [REDACTED] from Illinois?

12 A She is.

13 Q Detective Pemberton, I'm showing you grand jury
14 Exhibit 119.

15 A JUROR: Somebody else not on the case.

16 (Grand Jury Exhibit No. 119
17 was marked for identification.)

18 BY MR. BORCHERT:

19 Q Ladies and gentlemen, my apologies for the delay
20 here. This will be another add on. This is United States
21 v. [REDACTED]. It's case number
22 [REDACTED]. Detective Pemberton, is grand jury
23 Exhibit 119 a photo of Mr. [REDACTED], who was arrested on
24 January 20th in connection with this matter?

25 A Yes.

1 Q And is -- in this picture, is Mr. [REDACTED] wearing
2 dark colored clothing?

3 A Yes.

4 Q Is Mr. [REDACTED] from Maryland?

5 A Yes.

6 Q Detective Pemberton, I'm now showing you what's
7 marked as grand jury Exhibit 120.

8 (Grand Jury Exhibit No. 120
9 was marked for identification.)

10 BY MR. BORCHERT:

11 Q Is this a photo of someone named [REDACTED] --
12 pardon me -- [REDACTED], who was arrested in this matter
13 on January 20th?

14 A Yes.

15 Q Is Ms. [REDACTED] wearing dark colored clothing?

16 A Yes.

17 Q Was any property recovered from Ms. [REDACTED] on the
18 day of her arrest?

19 A Yes. Two black lighters, three sets of goggles,
20 various clothing, and a black backpack.

21 Q Is Ms. [REDACTED] from North Carolina?

22 A Yes.

23 Q Detective Pemberton, I'm showing you grand jury
24 Exhibit 121.

25 (Grand Jury Exhibit No. 121

1 was marked for identification.)

2 BY MR. BORCHERT:

3 Q Is this a photo of someone named [REDACTED], who
4 was arrested on January 20th in this matter?

5 A Yes.

6 Q And is Mr. [REDACTED] wearing dark colored clothing
7 in this picture?

8 A Yes.

9 Q And is Mr. [REDACTED] from Washington, D.C.?

10 A That's correct.

11 Q Detective Pemberton, I'm now showing you grand
12 jury Exhibit 122.

13 (Grand Jury Exhibit No. 122
14 was marked for identification.)

15 BY MR. BORCHERT:

16 Q Is this a photo of someone named [REDACTED],
17 who was arrested on January 20th in this matter?

18 A Yes.

19 Q Is Mr. [REDACTED] wearing black clothing in this
20 picture?

21 A Yes, he is.

22 Q Was any property recovered from Mr. [REDACTED]?

23 A Yes. A pair of gloves, a black ski mask, a black
24 hat, and a black scarf.

25 Q Is Mr. [REDACTED] from New York?

1 A Yes.

2 Q Detective Pemberton, I'm now showing you grand
3 jury Exhibit 123.

4 (Grand Jury Exhibit No. 123
5 was marked for identification.)

6 BY MR. BORCHERT:

7 Q Is this a picture of someone named [REDACTED],
8 who was arrested on January 20th in this matter?

9 A I think it's [REDACTED].

10 Q Pardon me, [REDACTED].

11 A Yes, it is.

12 Q And is Ms. [REDACTED] wearing dark colored clothing?

13 A Yes, she is.

14 Q And is Ms. [REDACTED] from Pennsylvania?

15 A That's correct.

16 Q Detective Pemberton, I'm now showing you grand
17 jury Exhibit 124.

18 (Grand Jury Exhibit No. 124
19 was marked for identification.)

20 BY MR. BORCHERT:

21 Q Is this a picture of someone named [REDACTED],
22 who was arrested on January 20th in this matter?

23 A Yes.

24 Q And in this photo, is Ms. [REDACTED] wearing black
25 clothing?

1 A Yes.

2 Q Was any property recovered from Ms. [REDACTED]

3 A Yes.

4 Q -- taken as evidence that day?

5 A A green skull cap, black gloves, a black lighter,
6 and also a black skull cap.

7 Q Is Ms. [REDACTED] from the state of Washington?

8 A Yes.

9 Q Detective Pemberton, I'm showing you grand jury
10 Exhibit 125.

11 (Grand Jury Exhibit No. 125
12 was marked for identification.)

13 BY MR. BORCHERT:

14 Q Is this a picture of someone named [REDACTED],
15 who was arrested on January 20th in this matter?

16 A Yes.

17 Q And in this picture is Ms. [REDACTED] wearing black
18 clothing?

19 A She is.

20 Q Was any property recovered from Ms. [REDACTED]?

21 A Yes, an iPhone, a black winter hat, a black ski
22 mask, a pair of gray gloves, a pair of black gloves, one
23 red pliers, goggles, assorted clothing, a red scarf, a red
24 jacket, and a black bag.

25 Q Is Ms. [REDACTED] from Virginia?

1 A Yes.

2 Q Detective Pemberton, I'm now showing you grand
3 jury Exhibit 126.

4 (Grand Jury Exhibit No. 126
5 was marked for identification.)

6 BY MR. BORCHERT:

7 Q Is this a photo of someone named [REDACTED]
8 [REDACTED], who was arrested on January 20th in this matter?

9 A Yes.

10 Q And in this picture, is Ms. [REDACTED] wearing dark
11 colored clothing?

12 A That's correct.

13 Q And is Ms. [REDACTED] -- is she of no fixed
14 address?

15 A That's correct.

16 Q And can you explain to the grand jury what it
17 means when someone is of no fixed address?

18 A Either that individual does not report an
19 address, or we're unable to corroborate the -- unable to
20 find an address in the system for her, but she most likely
21 did not report an address to the police.

22 Q Detective Pemberton, I am now providing -- I am
23 now showing you grand jury Exhibit 127.

24 (Grand Jury Exhibit No. 127
25 was marked for identification.)

1 BY MR. BORCHERT:

2 Q Is this a photo of someone named [REDACTED]
3 [REDACTED], who was arrested on January 20th in this matter?

4 A Yes.

5 Q And in this picture, is Mr. [REDACTED] wearing dark
6 colored clothing?

7 A Yes.

8 Q Was any property recovered as evidence from Mr.
9 [REDACTED] that day?

10 A Yes. A blue jacket, two black hats, a blue
11 bandana, clear goggles, a set of ear plugs, and a pair of
12 black gloves.

13 Q And is Mr. [REDACTED] from New York?

14 A Yes.

15 Q I'm now showing you grand jury Exhibit 128.

16 (Grand Jury Exhibit No. 128
17 was marked for identification.)

18 BY MR. BORCHERT:

19 Q Is this a picture of someone -- someone named
20 [REDACTED], who was arrested on January 20th
21 in this matter?

22 A Yes.

23 Q In this picture, is Mr. [REDACTED] wearing dark
24 colored clothing?

25 A Yes. He has a dark blue jacket on. I think it's

1 also black on the bottom half, but it's a two tone jacket.

2 Q And is Mr. [REDACTED] from New York?

3 A Yes.

4 Q Detective Pemberton, I'm now showing you grand
5 jury Exhibit 129.

6 (Grand Jury Exhibit No. 129
7 was marked for identification.)

8 BY MR. BORCHERT:

9 Q Is this a -- is this a picture of someone named
10 [REDACTED], who was arrested on January
11 20th in this matter?

12 A Yes.

13 Q And is Ms. [REDACTED] wearing black or dark
14 colored clothing in this picture?

15 A Yes.

16 Q Was any property recovered as evidence from Ms.
17 [REDACTED] that day?

18 A Yes. Two shin guards.

19 Q Two shin guards?

20 A Yes.

21 Q And is Ms. [REDACTED] from North Carolina?

22 A Yes.

23 Q This is grand jury Exhibit 130, 130.

24 (Grand Jury Exhibit No. 130
25 was marked for identification.)

1 BY MR. BORCHERT:

2 Q Is this a picture of someone named [REDACTED]
3 [REDACTED], who was arrested on January 20th of this year in
4 this matter?

5 A Yes.

6 Q And in this picture, is Mr. [REDACTED] wearing dark
7 colored clothing?

8 A Yes.

9 Q And is Mr. [REDACTED] from New York?

10 A He is.

11 Q I'm now showing you grand jury Exhibit 131.

12 (Grand Jury Exhibit No. 131
13 was marked for identification.)

14 BY MR. BORCHERT:

15 Q Is this a photo of someone named [REDACTED]
16 [REDACTED], who was arrested on January 20th in this matter?

17 A Yes.

18 Q And is Ms. [REDACTED] wearing black clothing in this
19 picture?

20 A Yes.

21 Q And is Ms. [REDACTED] -- is she from Michigan?

22 A Yes.

23 Q This is grand jury Exhibit 132.

24 (Grand Jury Exhibit No. 132
25 was marked for identification.)

1 BY MR. BORCHERT:

2 Q Detective Pemberton, is this a picture of someone
3 named [REDACTED], who was arrested on January 20th in this
4 matter?

5 A Yes.

6 Q Is Ms. [REDACTED] wearing dark or black colored
7 clothing?

8 A Yes.

9 Q And is Ms. [REDACTED] from Maryland?

10 A Yes.

11 Q Detective Pemberton, this is grand jury Exhibit
12 133.

13 (Grand Jury Exhibit No. 133
14 was marked for identification.)

15 BY MR. BORCHERT:

16 Q Is this a picture of someone named [REDACTED],
17 who was arrested on January 20th in this matter?

18 A Yes.

19 Q Is Ms. [REDACTED] wearing black clothing in this
20 picture?

21 A Yes.

22 Q And is Ms. [REDACTED] from Brooklyn, New York?

23 A That's correct.

24 Q This is grand jury Exhibit 134.

25 (Grand Jury Exhibit No. 134

1 was marked for identification.)

2 BY MR. BORCHERT:

3 Q Is this a picture of someone named [REDACTED]
4 [REDACTED], who was arrested on January 20th in this
5 matter?

6 A Yes.

7 Q Is he wearing black clothing in this picture?

8 A Yes.

9 Q And is Mr. [REDACTED] from New York?

10 A Yes.

11 Q This is grand jury Exhibit 135.

12 (Grand Jury Exhibit No. 135
13 was marked for identification.)

14 BY MR. BORCHERT:

15 Q Is this a picture of someone named [REDACTED]
16 [REDACTED], who was arrested on January 20th in this matter?

17 A Yes.

18 Q And in this picture is Mr. [REDACTED] wearing
19 black clothing?

20 A Yes.

21 Q And is Mr. [REDACTED] from -- pardon me --
22 [REDACTED] from Virginia?

23 A Yes.

24 Q This is grand jury Exhibit 136.

25 (Grand Jury Exhibit No. 136

1 was marked for identification.)

2 BY MR. BORCHERT:

3 Q Detective Pemberton, is this a picture of someone
4 named [REDACTED], who was arrested on January 20th in
5 this matter?

6 A Yes.

7 Q Is Mr. [REDACTED] wearing dark or black colored
8 clothing here?

9 A Yes.

10 Q And is Mr. [REDACTED] from Maryland?

11 A Yes.

12 Q This is grand jury Exhibit 137.

13 (Grand Jury Exhibit No. 137
14 was marked for identification.)

15 BY MR. BORCHERT:

16 Q Is this a picture of someone named [REDACTED],
17 who was arrested on January 20th in this matter?

18 A Yes.

19 Q And is Ms. [REDACTED] wearing black clothing in this
20 picture?

21 A Yes.

22 Q And is Ms. [REDACTED] from New York?

23 A Yes.

24 Q This is grand jury Exhibit 138.

25 (Grand Jury Exhibit No. 138

1 was marked for identification.)

2 BY MR. BORCHERT:

3 Q Is this a photo of someone named [REDACTED],
4 pardon me -- [REDACTED], who was arrested on January
5 20th in this matter?

6 A Yes, sir.

7 Q Is Ms. [REDACTED] wearing black clothing?

8 A Yes, she is.

9 Q And is she from Virginia?

10 A Yes.

11 Q This is grand jury Exhibit 139.

12 (Grand Jury Exhibit No. 139
13 was marked for identification.)

14 BY MR. BORCHERT:

15 Q Is this a picture of someone named [REDACTED],
16 who was arrested on January 20th in this matter?

17 A Yes.

18 Q Is she wearing black clothing in this picture?

19 A She has black clothing on. I believe she has an
20 outer garment that has that red plaid design on it.

21 Q And you can see it on the shoulder there in the
22 picture. It's this sort of plaid-ish design on the -- on
23 the outside. Is that it?

24 A Yes.

25 Q Did Ms. [REDACTED] have any property that was taken as

1 evidence on that day?

2 A Yes. Some assorted clothing, a bandana, glasses,
3 one ear plug, two lighters, a respirator mask, and two shin
4 guards.

5 Q Is Ms. [REDACTED] from North Carolina?

6 A Yes.

7 Q This is grand jury Exhibit 140.

8 (Grand Jury Exhibit No. 140
9 was marked for identification.)

10 BY MR. BORCHERT:

11 Q Is this a picture of someone named [REDACTED]
12 [REDACTED], who was arrested on January 20th of this year in
13 this matter?

14 A Yes.

15 Q Is Ms. [REDACTED] wearing black clothing in this
16 picture?

17 A Yes.

18 Q Was any property recovered from Ms. [REDACTED] as
19 evidence on that day?

20 A Yes. A blue helmet, a gray bandana, yellow
21 goggles, clear goggles, and a black bookbag.

22 Q Is Ms. [REDACTED] from Pennsylvania?

23 A Yes.

24 Q This is grand jury Exhibit 141.

25 (Grand Jury Exhibit No. 141

1 was marked for identification.)

2 BY MR. BORCHERT:

3 Q Is this a photo of someone named [REDACTED]
4 who was arrested on January 20th of this year in this
5 matter?

6 A Yes.

7 Q Is Mr. [REDACTED] wearing black colored clothing in
8 this picture?

9 A Yes, he is.

10 Q Was any property recovered from Mr. [REDACTED] as
11 evidence that day?

12 A Yes. Two green shin guards, two black and white
13 shin guards, one black knit hat, one lighter, one pair of
14 goggles, two black gloves, one black bandana, and one red
15 bandana.

16 Q And is Mr. [REDACTED] from North Carolina?

17 A Yes.

18 Q This is grand jury Exhibit 142.

19 (Grand Jury Exhibit No. 142
20 was marked for identification.)

21 BY MR. BORCHERT:

22 Q Is this a picture of someone named [REDACTED]
23 [REDACTED], who was arrested on January 20th in this matter?

24 A Yes.

25 Q Is Mr. [REDACTED] wearing black colored clothing in

1 this picture?

2 A Yes.

3 Q Was any property recovered as evidence from Mr.
4 [REDACTED] that day?

5 A Yes. One black backpack -- one black backpack,
6 one black shirt, one scarf, two radios, sunglasses, one
7 pair of gloves, one removable hard drive, and three smoke
8 bombs.

9 Q Did you say smoke bombs?

10 A Yes. Three smoke bombs.

11 Q And is Mr. [REDACTED]?

12 A Yes.

13 A JUROR: One question, smoke bombs, is that like
14 a cherry bomb, or like a firework for the 4th of July, or
15 like a tear gas canister?

16 THE WITNESS: No, they looked like cheap, like
17 fireworks that you would buy at the 4th of July --

18 A JUROR: Right.

19 THE WITNESS: -- from the stand. It was just,
20 like, a small ball --

21 A JUROR: No, I understand --

22 THE WITNESS: -- with a wick.

23 A JUROR: -- what it was, but it wasn't, like,
24 tear gas --

25 THE WITNESS: Yeah.

1 A JUROR: -- or, like, yeah, just novelty
2 fireworks.

3 THE WITNESS: It did not look like a professional
4 device, no.

5 A JUROR: All right.

6 MR. BORCHERT: Detective, I'm showing you grand
7 jury Exhibit 143.

8 (Grand Jury Exhibit No. 143
9 was marked for identification.)

10 BY MR. BORCHERT:

11 Q Is this a picture of someone named [REDACTED]
12 [REDACTED], who was arrested on January 20th in this matter?

13 A Yes.

14 Q And in this picture, is Ms. [REDACTED] wearing black
15 clothing?

16 A Yes.

17 Q Did Ms. [REDACTED] have any property that was
18 recovered as evidence that day?

19 A Yes. She had a black iPod, a green knitted cap,
20 and two gloves -- I'm sorry, two purple gloves.

21 Q And is Ms. [REDACTED] from Connecticut?

22 A Yes.

23 Q Detective, this is grand jury Exhibit 144.

24 (Grand Jury Exhibit No. 144
25 was marked for identification.)

1 BY MR. BORCHERT:

2 Q Is this a picture of someone named [REDACTED]
3 [REDACTED], who was arrested on January 20th in this matter?

4 A Yes.

5 Q Is Mr. [REDACTED] wearing black clothing in this
6 picture?

7 A Yes.

8 Q And was any property recovered from Mr. [REDACTED]
9 as evidence that day?

10 A Yes, a black bag, a black hat, black goggles, and
11 black tape.

12 Q Is Mr. [REDACTED] from Massachusetts?

13 A Yes.

14 Q Detective Pemberton, this is grand jury Exhibit
15 145.

16 (Grand Jury Exhibit No. 145
17 was marked for identification.)

18 BY MR. BORCHERT:

19 Q Is this a picture of someone named [REDACTED]
20 who was arrested on January 20th in this matter?

21 A Yes.

22 Q Is Mr. [REDACTED] wearing black clothing in this
23 picture?

24 A Yes.

25 Q As any property recovered from Mr. [REDACTED] as

1 evidence that day?

2 A Yes. Two black gloves, a black shirt, a black
3 hat, a black hood, a black backpack, and a black cellphone.

4 Q Is Mr. [REDACTED] from New York?

5 A Yes.

6 Q This is grand jury Exhibit 146.

7 (Grand Jury Exhibit No. 146
8 was marked for identification.)

9 BY MR. BORCHERT:

10 Q Is this a picture of someone named [REDACTED], who
11 was arrested on January 20th in this matter?

12 A Yes.

13 Q And is Ms. [REDACTED] wearing black clothing in this
14 picture?

15 A Yes, she is.

16 Q Was any property recovered as evidence from Ms.
17 [REDACTED] that day?

18 A Yes, various clothing and an iPhone 5.

19 Q Is Ms. [REDACTED] from New York?

20 A Yes.

21 Q This is grand jury Exhibit 147.

22 (Grand Jury Exhibit No. 147
23 was marked for identification.)

24 BY MR. BORCHERT:

25 Q Detective Pemberton, is this a picture of someone

1 named [REDACTED], who was arrested on January 20th in
2 this matter?

3 A Yes.

4 Q And in this picture is Mr. [REDACTED] wearing black
5 clothing?

6 A Yes.

7 Q And is Mr. [REDACTED] from Ohio?

8 A He is.

9 Q Detective Pemberton, this is grand jury Exhibit
10 148.

11 (Grand Jury Exhibit No. 148
12 was marked for identification.)

13 BY MR. BORCHERT:

14 Q Is this a -- is this a picture of someone named
15 [REDACTED], arrested on January 20th in this matter?

16 A Yes.

17 Q I'm going to zoom out just a bit. Is Ms. [REDACTED]
18 wearing dark colored clothing?

19 A Yes.

20 Q Was any property recovered as evidence from Ms.
21 [REDACTED] that day?

22 A Yes. One black pair of gloves, one black and red
23 plaid scarf, one waist pack, one goggles, one helmet, and
24 some first aid supplies.

25 Q Is Ms. [REDACTED] from Pennsylvania?

1 A Yes.

2 A JUROR: For her, the CF2 number, or the case
3 number? I guess that's not on the list.

4 MR. BORCHERT: Pardon me. For the record, [REDACTED]
5 [REDACTED]. Did everyone catch that?

6 A JUROR: Mm-hmm.

7 BY MR. BORCHERT:

8 Q Number 56 on your vote sheet, it should be [REDACTED]
9 [REDACTED]. Thank you. This is grand jury Exhibit 149.

10 (Grand Jury Exhibit No. 149
11 was marked for identification.)

12 BY MR. BORCHERT:

13 Q Detective Pemberton, is this a picture of someone
14 named [REDACTED], who was arrested on January 20th in
15 this matter?

16 A Yes.

17 Q Is Ms. [REDACTED] wearing black clothing in this
18 picture?

19 A Yes.

20 Q And is Ms. [REDACTED] from Virginia?

21 A Yes. She is.

22 Q Detective Pemberton, this is grand jury Exhibit
23 150.

24 (Grand Jury Exhibit No. 150
25 was marked for identification.)

1 BY MR. BORCHERT:

2 Q Is this a picture of someone named [REDACTED]
3 [REDACTED], who was arrested on January 20th in this
4 matter?

5 A Yes.

6 Q Is Ms. [REDACTED] wearing black clothing in this
7 picture?

8 A Yes.

9 Q And is Ms. [REDACTED] from [REDACTED], Pennsylvania?

10 A That's correct.

11 Q This is grand jury Exhibit 151.

12 (Grand Jury Exhibit No. 151
13 was marked for identification.)

14 BY MR. BORCHERT:

15 Q Detective Pemberton, is this a picture of someone
16 named [REDACTED], who was arrested on January 20th in this
17 matter?

18 A Yes.

19 A JUROR: [REDACTED]

20 BY MR. BORCHERT:

21 Q Is [REDACTED], does he have an -- does he have an
22 a/k/a of [REDACTED]

23 A Yes.

24 Q [REDACTED] Is Mr. [REDACTED] wearing dark colored
25 clothing in this picture?

1 A Yes.

2 Q And is Mr. [REDACTED] from Pennsylvania?

3 A That's correct.

4 Q This is grand jury Exhibit 152.

5 A JUROR: Oh my god.

6 MR. BORCHERT: I know this is a tricky one to see
7 here. Let me zoom in as close as I can.

8 (Grand Jury Exhibit No. 152
9 was marked for identification.)

10 BY MR. BORCHERT:

11 Q Detective Pemberton, is this a photo of someone
12 named [REDACTED], who was arrested on January
13 20th in this matter?

14 A Yes, it is.

15 Q Is [REDACTED] wearing dark colored clothing in
16 this picture?

17 A Yes.

18 Q Was any property recovered as evidence from
19 [REDACTED]?

20 A Yes. A black cellphone, black ski goggles, a
21 black bandana, and a black gas mask.

22 Q Is [REDACTED] from Pennsylvania?

23 A She is.

24 Q This is grand jury Exhibit 153.

25 A JUROR: Can you make it --

1 A JUROR: He's not on our sheet.

2 A JUROR: Yeah.

3 MR. BORCHERT: This will be an add on to your
4 vote sheet --

5 A JUROR: Okay.

6 MR. BORCHERT: -- which will be amended, or which
7 I'll amend, I should say. This is United States v. [REDACTED]
8 [REDACTED].

9 A JUROR: [REDACTED]

10 MR. BORCHERT: [REDACTED]

11 A JUROR: I thought you said [REDACTED]

12 MR. BORCHERT: Did I say [REDACTED]

13 A JUROR: Yeah.

14 MR. BORCHERT: [REDACTED] Pardon me. It's [REDACTED]
15 [REDACTED]

16 (Grand Jury Exhibit No. 153
17 was marked for identification.)

18 BY MR. BORCHERT:

19 Q Detective Pemberton, is Exhibit 153 a photograph
20 of Mr. [REDACTED], who was arrested on January 20th in this
21 matter?

22 A Yes.

23 Q Is Mr. [REDACTED] wearing dark colored clothing?

24 A He is.

25 Q And is Mr. [REDACTED] from Vermont?

1 A He is.

2 Q Detective Pemberton, this is grand jury Exhibit
3 154.

4 (Grand Jury Exhibit No. 154
5 was marked for identification.)

6 BY MR. BORCHERT:

7 Q Is this a photograph of someone named [REDACTED]
8 [REDACTED], who was arrested on January 20th in this matter?

9 A Yes, it is.

10 Q Can you describe the clothing in this picture?

11 A Yeah, I can tell you that he's wearing all dark
12 clothing. It's a -- it's a bad representation, but yes,
13 he's wearing all dark clothing.

14 Q Was any particular recovered from Mr. [REDACTED] on
15 that day?

16 A Mm-hmm.

17 Q Is that yes?

18 A Yes. A brown knit hat, black knit gloves, a
19 black mask, gray ski goggles, a white dust mask, a red
20 lighter, a white iPhone, and one red star pin.

21 Q And is Mr. [REDACTED] from Georgia?

22 A Yes.

23 Q It's right at 5:00, so this will be the last one
24 here.

25 A JUROR: Oh.

1 A JUROR: Someone wants to leave.

2 MR. BORCHERT: This is grand jury Exhibit 155.

3 (Grand Jury Exhibit No. 155
4 was marked for identification.)

5 BY MR. BORCHERT:

6 Q Is this a picture --

7 A JUROR: He's not on the list.

8 A JUROR: He's not.

9 MR. BORCHERT: He's not?

10 A JUROR: Yes, he's not --

11 A JUROR: Is he [REDACTED]?

12 A JUROR: What?

13 A JUROR: [REDACTED]

14 A JUROR: [REDACTED], is that the same person?

15 A JUROR: Is that an a/k/a?

16 A JUROR: Okay.

17 BY MR. BORCHERT:

18 Q Yes. Thank you. Detective Pemberton, is this
19 someone -- is this -- is grand jury Exhibit 155 a picture
20 of someone named [REDACTED], a/k/a [REDACTED], who
21 was arrested on January 20th of this year?

22 A Yes.

23 Q And in this picture, is Mr. [REDACTED] wearing dark
24 colored clothing?

25 A Yes. He's also wearing an antifa pin.

1 Q That's an antifa pin?

2 A Yes.

3 A JUROR: What's that?

4 BY MR. BORCHERT:

5 Q Can you tell the grand jury what that is?

6 A Sure. Antifa is one of the groups that was out
7 rioting that day. It's short for anti-fascist, or
8 Antifascista, and that is their emblem, which you'll see on
9 some of the flags that were waved that day, or that were
10 later recovered.

11 Q And is Mr. [REDACTED] from New York?

12 A Yes.

13 Q And it's 5:00 o'clock on the dot, Detective
14 Pemberton. This will conclude your testimony for the day.
15 Thank you all.

16 A See you guys tomorrow.

17 Q Thank you all.

18 (Whereupon, the witness was excused.)

19 (Whereupon, at 5:00 p.m., the taking of the
20 testimony in the presence of a full quorum of the Grand
21 Jury was concluded.)

22 * * * * *

23

24

25

C-E-R-T-I-F-I-C-A-T-E

I, Kayla Reagan, the reporter for the United States Attorney's Office, do hereby certify that the witness, Gregory Pemberton, whose testimony appears in the foregoing pages in the case of US v. Nathaniel Jaffe, et al., Case No. 2017-CF2-001147, heard on February 6, 2017, was first duly sworn by the foreperson or the deputy foreperson of the Grand Jury when there was a full quorum of the Grand Jury present; that the testimony of said witness was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the testimony given by said witness.



Kayla Reagan, Official Reporter



Eric Axt, Transcriber

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-374

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - x
:
UNITED STATES OF AMERICA :
:
v. :
: Criminal Case
NATHANIEL JAFFE, ET AL : No: 2017-CF2-001147
:
- - - - - x

Grand Jury No. January 2
Superior Court for the
District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Tuesday, February 7, 2017

The discussion in the above-referenced case was
taken in the presence of a full quorum of the Grand Jury,
commencing at 1:45 P.m., before:

JOHN BORCHERT
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-375

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

2 MR. BORCHERT: Are we on the record? Great.

3 Ladies and gentlemen, good afternoon. My name is John
4 Borchert. For the record, that's J-o-h-n, last name is B-
5 o-r-c-h-e-r-t. I'm back before you in your Case No. 44.
6 That's the United States v. Nathaniel Jaffe, No. 2017-CF2-
7 1147. This is the Rioting Act cases.

8 And at the outset, let me say I apologize, just
9 carrying around a lot of boxes and shuffling paperwork
10 here, I'm without a jacket this afternoon.

11 A JUROR: Well, we are insulted, but that's okay.

12 MR. BORCHERT: I apologize. Or at least I
13 noticed that. Let me go ahead and pass out the voting
14 sheets here. I made some changes since yesterday, which
15 I'll walk through.

16 You'll see that there's also been some more add-
17 ons to the vote sheet, which take the vote sheet up to 131
18 on this sheet. I am asking for a vote today on those 131
19 defendants. I've also brought your vote sheets from last
20 time so that you don't have to vote each one of them
21 individually.

22 There were -- I guess some of you who were year
23 yesterday will recall there were a number of them that I
24 added on, and for whatever reason there were typographic
25 errors made. Let me walk folks through those quickly while

1 I'm providing votes for the vote sheets here. Here are the
2 old vote sheets from the last three votes, and this will be
3 the new sheet for today.

4 If you're looking at this and you're -- the
5 numbering will change slightly, but if you're wondering
6 what's different from the last vote sheet that you were
7 taking notes on -- I'm sorry?

8 A JUROR: I just --

9 MR. BORCHERT: Oh, an extra one? Great.

10 A JUROR: Thank you.

11 MR. BORCHERT: This is on the new vote sheet.

12 No. 11, [REDACTED] was an add-on from yesterday. I can
13 actually show this to you here on the ELMO. At the bottom
14 of the first page, Nos. 24 and 25, [REDACTED]
15 [REDACTED], were add-ons yesterday as we were going through
16 Detective Pemberton's testimony.

17 At the top of the second page, No. 26, [REDACTED]
18 [REDACTED], was an add-on. And then No. 33, [REDACTED], was
19 an add-on.

20 If you go to the third page, again from
21 yesterday,

22 A JUROR: Wait a minute.

23 A JUROR: Just one moment. I think [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 MR. BORCHERT: Oh, good catch. Good catch. No,
2 that did come up yesterday.

3 A JUROR: Okay.

4 MR. BORCHERT: No. -- thank you. Thank you.
5 Gosh, and I didn't carry that through from yesterday? My
6 apologies.

7 A JUROR: -- like it's out of order, my sheet
8 from yesterday.

9 MR. BORCHERT: I'm sorry?

10 A JUROR: [REDACTED] on my sheet I have
11 [REDACTED].

12 MR. BORCHERT: That's correct. It should be that
13 way because the numbers have moved down on the new vote
14 sheet as the add-ons have been added in.

15 A JUROR: Right.

16 A JUROR: Yeah, so on my sheet, I have [REDACTED]
17 [REDACTED]

18 A JUROR: Right.

19 MR. BORCHERT: Correct. This was the sheet
20 yesterday. Sorry, and I apologize again for this
21 confusion. This was yesterday's sheet. We had [REDACTED]
22 [REDACTED] at 28 and [REDACTED] at 27. [REDACTED] is now
23 inserted there, but his new number is 33 because of [REDACTED]
24 [REDACTED] -- oh, I see your point.

25 A JUROR: Uh-huh, yes. He's above her.

1 MR. BORCHERT: Sorry. I'll change the order.
2 The order that you're seeing in the new vote sheet will be
3 the order in the indictment.

4 A JUROR: Okay.

5 MR. BORCHERT: But thank you, thank you for
6 pointing that out. Okay. Now, one other change to note.
7 If you go to Page -- the next page, [REDACTED], who is No.
8 66, that's been added on. And I drew a line on my sheet at
9 [REDACTED]. That's where we had stopped yesterday
10 with Grand Jury Exhibit 155.

11 A JUROR: Yes. That was the last one we went
12 through --

13 A JUROR: Yeah.

14 A JUROR: The morning --

15 A JUROR: We did [REDACTED] as well.

16 A JUROR: The order doesn't matter, right?

17 A JUROR: Right.

18 MR. BORCHERT: I'm sorry, what happened?

19 A JUROR: Does the order count --

20 MR. BORCHERT: Probably not, but I want to make
21 sure I understand your point so we don't mess it up. Is it
22 that [REDACTED] yesterday was not No. 68. Yesterday
23 he --

24 A JUROR: 62?

25 MR. BORCHERT: He was No. --

1 A JUROR: On yesterday's sheet, second page, the
2 last name is [REDACTED].

3 A JUROR: Yeah, but that was --

4 A JUROR: Huh?

5 A JUROR: Now the first name is [REDACTED].

6 A JUROR: Yeah.

7 A JUROR: You're right.

8 A JUROR: You add the --

9 A JUROR: [REDACTED]

10 A JUROR: Yeah.

11 A JUROR: What do you mean, the last one on the
12 second page is [REDACTED]?

13 MR. BORCHERT: If we look at the last page from
14 yesterday, No. 59 was [REDACTED].

15 A JUROR: That should be [REDACTED].

16 A JUROR: No, it could be [REDACTED].

17 MR. BORCHERT: [REDACTED]. It was an AKA. And then
18 we added [REDACTED] after [REDACTED], and the
19 [REDACTED] was the last person we did yesterday. And
20 yesterday, he was our No. 62, but today with the add-ons,
21 he's now No. 68. Think we're all squared away? I hope,
22 anyways.

23 A JUROR: Mm-hmm.

24 MR. BORCHERT: But -- I remember this picture. I
25 remember that was the last one from yesterday.

1 A JUROR: The [REDACTED]

2 MR. BORCHERT: Yeah, I definitely that's where we
3 stopped.

4 A JUROR: That was 155?

5 MR. BORCHERT: Yes, that was 155. Yes, ma'am?

6 A JUROR: I have another couple of questions
7 about the names.

8 MR. BORCHERT: Yes.

9 A JUROR: On 36, I think the name was [REDACTED]
10 [REDACTED]

11 MR. BORCHERT: Yes, that was noted just now.

12 A JUROR: Oh, okay.

13 MR. BORCHERT: And on your current vote sheet --

14 A JUROR: It's 36.

15 MR. BORCHERT: I apologize, but if you could
16 interline the D -- well, which page is it?

17 A JUROR: It's on Page 2, and it's the name, 36,
18 on the new sheet.

19 MR. BORCHERT: I tell you what, I'll make that
20 change and bring you folks a revised vote sheet so to
21 correct when you're voting.

22 A JUROR: And the other name was [REDACTED], which
23 might have been [REDACTED], but then it was [REDACTED] on the
24 whiteboard.

25 MR. BORCHERT: I'm sorry, remind me which one

1 that is.

2 A JUROR: It's No. 10 --

3 A JUROR: It's [REDACTED]

4 A JUROR: It's [REDACTED]

5 A JUROR: It's No. 10 on the sheet.

6 MR. BORCHERT: [REDACTED]

7 A JUROR: Okay.

8 A JUROR: A first name is [REDACTED]?

9 A JUROR: It was misspelled.

10 A JUROR: It's just a misspelling?

11 MR. BORCHERT: Then you end up with an AKA.

12 Yeah. What was the --

13 A JUROR: No. 10.

14 MR. BORCHERT: [REDACTED] on the new sheet is No. 36.

15 A JUROR: Right.

16 MR. BORCHERT: Got it. All right. I have one
17 witness that I'll be presenting today. It's Detective
18 Pemberton again. Anything further before I bring in
19 Detective Pemberton? All right. As I said before, the
20 Exhibits are pre-marked. I'll be asking the same basic
21 questions as previously about asking for an identification
22 of the person, asking for a description of their clothing,
23 the state where they live, and any property that had been
24 recovered from evidence.

25 Because these are pre-marked, we'll probably be

1 moving a little bit quicker, or I hope to. And if I don't
2 look up or for any reasons, folks want to stop me, or we
3 have -- or there are questions, please just say the word.

4 All right. I'll bring in -- yes, in the back?

5 A JUROR: I have a question.

6 MR. BORCHERT: Yeah, sure.

7 A JUROR: My question is -- this is suggestion
8 because you're going through these defendants one by one,
9 asking the same questions, each one of them. The only
10 thing like differ is the state. This just my suggestion to
11 U.S. Attorney --

12 MR. BORCHERT: Yeah.

13 A JUROR: -- the group that we have here, instead
14 of going through them one by one, just make a general
15 comparison and we have all included.

16 MR. BORCHERT: Oh, I see what you're saying.
17 Rather than having to go through them one at a time --

18 A JUROR: Go through one by one. You go through
19 them one by one, and is the same question you've been
20 asking over and over.

21 MR. BORCHERT: Right.

22 A JUROR: And we can just make a general
23 comparison and collectively put it in one.

24 MR. BORCHERT: So --

25 A JUROR: What does that mean, a general

1 comparison?

2 A JUROR: We asking the same questions of all
3 individuals --

4 A JUROR: It has to be a matter of the record.

5 A JUROR: -- same question.

6 A JUROR: It's more procedure than it is
7 anything.

8 MR. BORCHERT: I think I understand your point,
9 like, it would seem to make sense that, you know, maybe I
10 could just leave a big stack of stuff here, and ask for a
11 vote and walk away, but I do think that for purposes of
12 keeping a record clear, it makes sense to go defendant by
13 defendant and ask these topics. But like I said, I'll try
14 to do what I can to streamline it here. I know that
15 everyone's time is valuable and repetition can sometimes be
16 painful for all of us I know.

17 Okay. I'll bring in Detective Pemberton. Thank
18 you for the suggestion.

19 (Whereupon, the witness was called in to testify
20 at 1:55 p.m., and was excused at 2:44 p.m.)

21 MR. BORCHERT: All right, everyone. Why don't we
22 take the -- I'm well ahead of schedule here. I had
23 actually block in til 4:00.

24 A JUROR: That was way more efficient.

25 MR. BORCHERT: Before we turn to your question,

1 ma'am, I want to make sure I got the typos right because a
2 couple of people caught them. I will provide an amended
3 vote sheet for No. 36, [REDACTED] rather than [REDACTED],
4 and for No. 85, which it should be [REDACTED].

5 Were there any others that folks noticed?

6 A JUROR: The one below that, [REDACTED], I
7 don't know if it was [REDACTED]

8 [REDACTED]

9 MR. BORCHERT: [REDACTED]

10 A JUROR: The R wasn't on the --

11 A JUROR: He doesn't know --

12 A JUROR: He doesn't have the case number either.

13 A JUROR: Yeah.

14 MR. BORCHERT: Let me fix that then. Thank you.

15 A JUROR: 173 was the --

16 MR. BORCHERT: All right. I will amend to
17 provide that for you. Thank you.

18 A JUROR: No. 74, on her -- on the arrest it was
19 just one T instead of two.

20 MR. BORCHERT: On No. 74? I'm sorry, is?

21 A JUROR: [REDACTED]

22 MR. BORCHERT: [REDACTED]. Oh, but the
23 picture had two Ts?

24 A JUROR: No, the picture had one T.

25 MR. BORCHERT: The picture had one T. It should

1 be with two.

2 A JUROR: 97, [REDACTED] was spelled differently.

3 MR. BORCHERT: Oh, no, pardon me. 97 you said?

4 A JUROR: Yes. It was a U instead of a W.

5 MR. BORCHERT: It should be [REDACTED]? We
6 have it with a W officially.

7 A JUROR: The picture said U. And [REDACTED], right
8 number -- low, it was Y and not U.

9 MR. BORCHERT: And it should be a -- that is also
10 a U. This Grand Jury I know is getting an education in how
11 police aliases get created, and oftentimes it's from
12 innocent spelling errors. In any event, okay, two
13 questions over here now.

14 A JUROR: I had a spelling thing. We're still on
15 spelling?

16 MR. BORCHERT: Oh, sure.

17 A JUROR: I heard on 85 you said [REDACTED] -- I head
18 [REDACTED], but here it's [REDACTED]. But I think it was an O.

19 MR. BORCHERT: It is with an O, yes.

20 A JUROR: Okay. And then [REDACTED], No. 90. I head
21 [REDACTED]?

22 MR. BORCHERT: I mispronounced it. It is spelled
23 correctly here. It's [REDACTED].

24 A JUROR: [REDACTED]

25 A JUROR: And the last one is, did we already say

1 this, No. 10, is it [REDACTED]? The first
2 name of No. 10?

3 A JUROR: [REDACTED]

4 A JUROR: [REDACTED]

5 A JUROR: Name doesn't make it different, picture
6 doesn't make it different.

7 A JUROR: The spelling --

8 A JUROR: But then --

9 A JUROR: The name don't --

10 A JUROR: It can be John Doe for everybody.

11 A JUROR: It doesn't matter.

12 A JUROR: Should just read the case numbers.

13 A JUROR: I think that's -- the court. This
14 isn't --

15 A JUROR: You're --

16 A JUROR: They'll have -- they'll have
17 fingerprints.

18 MR. BORCHERT: Okay. It is -- I'm going to show
19 you here. It is [REDACTED]

20 A JUROR: [REDACTED]

21 A JUROR: [REDACTED]

22 MR. BORCHERT: [REDACTED] I will fix that. Thank
23 you. All right. Other typos, and then I think there was a
24 substantive question in the back.

25 A JUROR: 86 doesn't have a full case number.

1 MR. BORCHERT: Number 86 does not have a full
2 case number. Yes. Thank you very much. All right. Yes,
3 in the back?

4 A JUROR: That was the question I had. Like, I
5 know we're doing this for the record, but I don't like that
6 -- an indictment in their names. How you -- how you know
7 who's who in the indictment? Is it based on their number,
8 the name, or fingerprints? What is it?

9 MR. BORCHERT: The ultimate thing that controls
10 as a matter of process is the fingerprints.

11 A JUROR: Okay.

12 MR. BORCHERT: Which is tied to what is called a
13 PDID number, and if you haven't noticed, it is in every
14 indictment. It's included along with the person's name.
15 So it'll say United States v. [REDACTED]. And
16 then it goes on.

17 So it's that PDID number that is tied to
18 fingerprints and controls no matter what someone says is,
19 you know, their name. So that's the key metric that
20 controls. But I really do appreciate the diligence that
21 everyone's showing on this so that we can at least make
22 sure all of the names are spelled right as best we can have
23 them. So thank you.

24 A JUROR: -- the name it gets thrown out of court
25 because of misspelling or incorrect name?

1 MR. BORCHERT: Yes, exactly, exactly. Other
2 questions? Yes, ma'am?

3 A JUROR: When they run the fingerprints, I know
4 there's a center here. I think it's in Virginia for
5 nationwide, but isn't that only if you've had -- well, my
6 education -- is that only if you've been convicted or
7 previously arrested?

8 MR. BORCHERT: Yes, when you are arrested, your
9 information goes into NCIC.

10 A JUROR: In perpetuity?

11 A JUROR: That'd be a lot of fingerprint files.

12 MR. BORCHERT: If the question is a legal one, as
13 a legal matter, I think you can get it expunged from NCIC,
14 but for practical purposes almost always it's there
15 indefinitely.

16 A JUROR: My question is somebody says, "I'm
17 Donald Duck," and their fingerprints don't show up, then
18 you have to wait until he or she is -- how's fingerprints
19 reported to know their real name? Is that correct?

20 MR. BORCHERT: Okay. Here's how -- here's how I
21 have seen this happen. Someone is arrested and says their
22 name is Donald Duck and is fingerprinted. That person
23 they'll be -- their case will be papered as U.S. v. Donald
24 Duck, and it'll be tied to those fingerprints. Maybe that
25 person then doesn't show up in court for their court date.

1 And then, you know, when they're arrested on some other
2 charge, they said their name is Mickey Mouse. When their
3 fingerprints are run, the fingerprint match will hit, and
4 that person will forevermore be known as Mickey Mouse AKA
5 Donald Duck.

6 A JUROR: And if they're never arrested again?

7 MR. BORCHERT: And if they're never arrested
8 again, right.

9 A JUROR: Unless they go through a background
10 check --

11 A JUROR: That's the -- for employees.

12 MR. BORCHERT: Oh, sure. Now, for employment,
13 you go through a background check --

14 A JUROR: Yeah, right.

15 MR. BORCHERT: -- your fingerprints. It'll pop
16 up that you have an arrest and that your name is --

17 A JUROR: Donald Duck.

18 MR. BORCHERT: -- Donald Duck as an alias.

19 A JUROR: -- if you avoid --

20 MR. BORCHERT: Right. That's the --

21 A JUROR: I guess the question that becomes, were
22 these people run, and if real identities or quote/unquote
23 real identities came across a check, this is who's being
24 indicted?

25 MR. BORCHERT: Exactly.

1 A JUROR: It just seems insane to me that we're
2 just dealing with made up names and --

3 MR. BORCHERT: No, none of these are --

4 A JUROR: -- some cases pictures you can't see
5 or --

6 MR. BORCHERT: Every single one of these people
7 has been run through NCIC. All right. Yes, over here, and
8 then over here.

9 A JUROR: Sorry, just another name thing.

10 MR. BORCHERT: Sure.

11 A JUROR: 124, just to clarify, [REDACTED]

12 [REDACTED]

13 MR. BORCHERT: This is on No.?

14 A JUROR: 124.

15 MR. BORCHERT: 124. I said -- I have it as [REDACTED]

16 [REDACTED]

17 A JUROR: It might just be the copy.

18 A JUROR: Yeah, it was hard to tell between the I
19 and the L.

20 A JUROR: I think on the thing it was an I.

21 A JUROR: It was an I? I couldn't see.

22 MR. BORCHERT: I think it's an [REDACTED]

23 A JUROR: It is.

24 MR. BORCHERT: That should be an [REDACTED]. I'll
25 make sure it's that way on your vote sheet.

1 A JUROR: Hey.

2 A JUROR: 124.

3 MR. BORCHERT: All right. Yes, ma'am?

4 A JUROR: I don't know if this is a substantive
5 question, but No. 111 who was [REDACTED]. This is the
6 one I asked Tuesday.

7 MR. BORCHERT: Yes. I made a note to come back
8 to that. So thank you.

9 A JUROR: We will go by what the person
10 identifies themselves as in terms of gender. And I don't
11 know that it's relevant but I wanted to ask anyway.

12 MR. BORCHERT: I think that --

13 A JUROR: It's [REDACTED]

14 MR. BORCHERT: David, I think that -- it's No.
15 111 you said?

16 A JUROR: Mm-hmm.

17 A JUROR: 111.

18 A JUROR: On the sheet.

19 A JUROR: 199 Exhibit?

20 MR. BORCHERT: Oh, Exhibit 199 or 111 -- oh,
21 Exhibit 199. Thank you. I mean, I -- my two cents, you
22 know, look, I think that it does look like it's a
23 transgendered person. I'm not sure that it is particularly
24 relevant. The person's name legally is [REDACTED], you
25 know, and I think that one of the Grand Jurors pointed out

1 that could be just simply because someone hasn't done any
2 legal name change to reflect their identity. The only
3 other thing that I could tell you that might quiet us to
4 some extent is the complaint has to state the actual
5 biological gender.

6 A JUROR: Sex. Its sex?

7 MR. BORCHERT: Pardon me?

8 A JUROR: Its sex, not gender.

9 MR. BORCHERT: Did I say biological -- biological
10 sex, yes, yes. Thank you. No, no, no. You're right.
11 Thank you. It has to state your biological sex.

12 A JUROR: You don't have to find it I don't
13 think, if it's not relevant. Then we don't need to see it.

14 MR. BORCHERT: Okay. Very well. Thank you.
15 Thank you. Was there one down here or?

16 A JUROR: Are we going to see more?

17 MR. BORCHERT: Are there any more coming? There
18 might be some more tomorrow morning. I'm not sure yet on
19 that. I think that -- I'm hopeful that we can get through,
20 you know, pretty much all of these here before the Grand
21 Jury is done, but I do -- I know this Grand Jury has asked
22 a lot of questions about sort of broader scope of the
23 investigation. And all very good questions, and there will
24 be going to ones we end of addressing on a recall date.

25 But I think that remains to be seen. We want to

1 find -- if there is a recall date for you folks on this, we
2 want to make sure we have -- we don't just bring you in to
3 do more of the same. We can actually look at some other
4 things that you haven't had a chance to see before.

5 A JUROR: Are you asking for a vote on these
6 today?

7 MR. BORCHERT: Yes, ma'am.

8 A JUROR: Therefore, I was not here yesterday.
9 Now, I'm kind of afraid to ask, unless they're in order, to
10 go through 1 through 68, the photos. Because I could do it
11 quickly, but I don't know that they're organized in your --
12 and if it involves taking pictures out of your files, I
13 won't bother.

14 MR. BORCHERT: I defer to you as to how you want
15 to handle that. I mean, you certainly can look at the
16 pictures, and I'll leave them all for deliberations.

17 A JUROR: My question is are they -- you know,
18 they're going to be all exhibited. Okay.

19 MR. BORCHERT: Yes. They're --

20 A JUROR: Do you have to know the Exhibit number?

21 A JUROR: And I can tell you what it is.

22 A JUROR: Okay.

23 A JUROR: And we can all -- I mean, that's --

24 A JUROR: Fill you in.

25 A JUROR: -- like, we can fill you in --

1 A JUROR: Yesterday --

2 A JUROR: I have some of these photos, by the
3 way.

4 A JUROR: So Cynthia came in one day. We had a
5 question about --

6 A JUROR: Sure.

7 MR. BORCHERT: Like, 99, you missed one of them.
8 You can still look at those --

9 A JUROR: Those are pictures there --

10 A JUROR: Right.

11 MR. BORCHERT: You can --

12 A JUROR: Yeah, it looks like it's sort of been
13 wiped away there, and it's -- I would bet --

14 MR. BORCHERT: Yeah, when I found those as I went
15 through, I thought I bet that's what he's thinking of.
16 Does that --

17 A JUROR: Yeah, I just thought -- put these back
18 in --

19 MR. BORCHERT: You can just put them back. Well,
20 we'll get them here. I'm not sure -- keep them in the
21 right order. I'll do my best here. All right. I will --
22 I don't know if you plan to take a break. We should have
23 an extra hour here. Yes, go ahead.

24 A JUROR: So when we get to these high count of
25 Exhibits, hundreds of them, we have the stills

1 individually. So --

2 MR. BORCHERT: You do have to vote each
3 defendant, yes. But the good news is you don't have to
4 vote for the people that you already voted.

5 A JUROR: Okay.

6 MR. BORCHERT: Those are -- I've given those vote
7 sheets to you folks here, so. You just can simply revote
8 en masse.

9 A JUROR: That vote sheet?

10 MR. BORCHERT: Yes, on that. All right. I'm
11 going to go make these changes to the vote sheet that I
12 mentioned so that you folks have some time to look at them.
13 And obviously, you -- I'll leave the Exhibits here as well.

14 A JUROR: Do you want us to wait to vote until
15 you get back with the new sheet?

16 MR. BORCHERT: I think that probably makes sense,
17 just -- are you okay with that?

18 A JUROR: Yeah.

19 MR. BORCHERT: It makes -- then it's a clean vote
20 sheet for you to work from. Is that okay?

21 A JUROR: Yep.

22 MR. BORCHERT: I'll do this very quickly.

23 A JUROR: Okay.

24 MR. BORCHERT: All right. Thank you all.

25 (Whereupon, the discussion was concluded.)

1 (Whereupon, at 3:04 p.m., the discussion
2 reviewing the charges in the presence of a full quorum of
3 the Grand Jury was concluded.)

4 * * * * *

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-397

C-E-R-T-I-F-I-C-A-T-E

I, Desha DeVor, the reporter for the United States Attorney's Office, do hereby certify that the discussion, in the foregoing pages in the above-referenced case of U.S. v. Nathaniel Jaffe, et al, Case No. 2017-CF2-001147, heard on February 7, 2017, with the Grand Jury when there was a full quorum of the Grand Jury present; that the said discussion was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the discussion.



Desha DeVor, Official Reporter



Desha DeVor, Transcriber

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - X
:
UNITED STATES OF AMERICA :
:
 v. :
: Criminal Case
NATHANIEL JAFFE, et al. : Nos: 2017-CF1-1147
(Gabriel Mielke) : 2017-CF2-1149
:
- - - - - X

Grand Jury No. January 2
Superior Court for the District
of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Tuesday, February 2, 2017

The testimony of GREGGORY PEMBERTON was taken in
the presence of a full quorum of the Grand Jury, commencing
at 1:55 p.m., before:

JOHN BORCHERT
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-399

C O N T E N T S

WITNESS:	PAGE
Greggory Pemberton	3
GRAND JURY EXHIBIT(S) :	
No. 156 Photo	6
No. 157 Photo	7
No. 158 Photo	7
No. 159 Photo	8
No. 160 Photo	8
No. 161 Photo	9
No. 162 Photo	9
No. 163 Photo	10
No. 164 Photo	10
No. 165 Photo	11
No. 166 Photo	11
No. 167 Photo	12
No. 168 Photo	12
No. 169 Photo	13
No. 170 Photo	13
No. 171 Photo	14
No. 172 Photo	16
No. 173 List of Property	16

No. 174	Photo	17
No. 175	Photo	17
No. 176	Photo	18
No. 177	Photo	18
No. 178	Photo	19
No. 179	Photo	19
No. 180	Photo	20
No. 181	Photo	20
No. 182	Photo	21
No. 183	Photo	21
No. 184	Photo	22
No. 185	Photo	22
No. 186	Photo	23
No. 187	Photo	23
No. 188	Photo	24
No. 189	Photo	24
No. 190	Photo	25
No. 191	Photo	26
No. 192	Photo	26
No. 193	Photo	27
No. 194	Photo	27
No. 195	Photo	27
No. 196	Photo	29

Exhibits Continued

No. 197	Photo	31
No. 198	Photo	31
No. 199	Photo	32
No. 200	Photo	34
No. 201	Photo	34
No. 202	Photo	35
No. 203	Photo	36
No. 204	Photo	36
No. 205	Photo	37
No. 206	Photo	37
No. 207	Photo	38
No. 208	Photo	39
No. 209	Photo	39
No. 210	Photo	40
No. 211	Photo	40
No. 212	Photo	41
No. 213	Photo	41
No. 214	Photo	42
No. 215	Photo	42
No. 216	Photo	43
No. 217	Photo	44
No. 218	Photo	44

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-402

Exhibits Continued

No. 219 Photo

45

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-403

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

2 Whereupon,

3 GREGGORY PEMBERTON

4 was called as a witness and, after being first duly sworn
5 by the Foreperson or the Deputy Foreperson of the Grand
6 Jury, was examined and testified as follows:

7 EXAMINATION

8 BY MR. BOCHERT:

9 Q Sir, could you please start off by stating your
10 name for the record and spelling it for the court reporter?

11 A Detective Gregory Pemberton, G-r-e-g-g-o-r-y,
12 P-e-m-b-e-r-t-o-n.

13 Q And sir, you are the lead detective on this
14 rioters case and you've appeared before this Grand Jury
15 previously. Is that correct?

16 A Yes.

17 Q Detective Pemberton, I'm showing you what is
18 marked as Grand Jury Exhibit 156.

19 (Whereupon Grand Jury Exhibit Number 156 was
20 marked for identification.)

21 Q Is this a picture of someone named [REDACTED]
22 [REDACTED] who was arrested on January 20th of this year in
23 connection with this matter?

24 A Yes.

25 Q And is Ms. [REDACTED] from Virginia?

1 A Yes.

2 Q I'm now showing you Grand Jury Exhibit 157.

3 (Whereupon Grand Jury Exhibit 157 was marked for
4 identification.)

5 Q Is this a picture of -- actually, let me go back
6 to Exhibit 156 for just a moment. Is Ms. [REDACTED] wearing
7 dark clothing?

8 A Yes, she is.

9 Q Now back to Exhibit 157. Is this a picture of
10 [REDACTED] who was arrested in connection with this
11 matter on January 20th?

12 A Yes.

13 Q Is Ms. [REDACTED] wearing dark colored clothing?

14 A Yes, she is.

15 Q Was any property recovered as evidence that day
16 from Ms. [REDACTED]?

17 A Yes. A black hat, two black bandanas, two black
18 shin guards, one set of black goggles and two black gloves.

19 Q Is Ms. [REDACTED] from North Carolina?

20 A Yes.

21 Q I'm showing you Grand Jury Exhibit 158.

22 (Whereupon Grand Jury Exhibit 158 was marked for
23 identification.)

24 Q Is this a picture of [REDACTED] who was arrested
25 on January 20th in connection with this matter?

1 A Yes, it is.

2 Q Is Mr. [REDACTED] wearing dark colored clothing?

3 A Yes.

4 Q And is Mr. [REDACTED] from New York?

5 A That's correct.

6 Q I'm now showing you Grand Jury Exhibit 159.

7 (Whereupon Grand Jury Exhibit Number 159 was
8 marked for identification.)

9 Q Is this a picture of someone named [REDACTED]
10 [REDACTED] who was arrested on January 20th of this year
11 in connection with this matter?

12 A Yes.

13 Q Is Mr. [REDACTED] from Michigan?

14 A Yes.

15 Q For the record, I'm showing you Grand Jury
16 Exhibit 160.

17 (Whereupon Grand Jury Exhibit Number 160 was
18 marked for identification.)

19 Q Is this a picture of someone named [REDACTED]
20 [REDACTED] who was arrested on January 20th of 2017?

21 A Yes.

22 Q And is [REDACTED] wearing dark colored
23 clothing?

24 A Yes, she is.

25 Q Was any property recovered from Ms. [REDACTED] as

1 evidence?

2 A Yes. A bandana, a pair of gloves and sunglasses.

3 Q Would looking at the complaint prepared against

4 Ms. [REDACTED] refresh your recollection as to Ms. [REDACTED]
5 address?

6 A Yes.

7 Q Take a look at that and look up when you've had a
8 chance to have your recollection refreshed.

9 A Yes. Ms. [REDACTED] reported no fixed address.
10 There is no address on file for Ms. [REDACTED].

11 Q I'm now showing you Grand Jury Exhibit 161.

12 (Whereupon Grand Jury Exhibit Number 161 was
13 marked for identification.)

14 Q Is this a picture of someone named [REDACTED]
15 [REDACTED] who was arrested on January 20th in connection with
16 this matter?

17 A Yes.

18 Q Is Ms. [REDACTED] from Pennsylvania?

19 A Yes.

20 Q I'm showing you Grand Jury Exhibit 162.

21 (Whereupon Grand Jury Exhibit Number 162 was
22 marked for identification.)

23 Q Is this someone named [REDACTED] who was
24 arrested on January 20th of this year in connection with
25 this matter?

1 A Yes.

2 Q And is he wearing dark colored clothing?

3 A Yes. His exterior garments are all dark.

4 Q Is Mr. [REDACTED] from New York?

5 A Yes.

6 Q This is Grand Jury Exhibit 163.

7 (Whereupon Grand Jury Exhibit Number 163 was
8 marked for identification.)

9 Q Is this a picture of someone named [REDACTED]
10 who was arrested on January 20th in connection with this
11 matter?

12 A Yes.

13 Q Is he wearing dark colored clothing?

14 A He is.

15 Q Is he from North Carolina?

16 A Yes.

17 Q I'm now showing you Grand Jury Exhibit 164.

18 (Whereupon Grand Jury Exhibit Number 164 was
19 marked for identification.)

20 Q is this a photo of someone named [REDACTED]
21 who was arrested on January 20th of this year?

22 A Yes.

23 Q And he was arrested in connection with the riot
24 matter?

25 A Yes, that's correct.

1 Q Is Mr. [REDACTED] from Michigan?

2 A Yes.

3 Q I'm now showing you Grand Jury Exhibit 165.

4 (Whereupon Grand Jury Exhibit Number 165 was
5 marked for identification.)

6 Q Is this someone named [REDACTED] who was
7 arrested on January 20th in connection with this matter?

8 A Yes.

9 Q And was any property recovered from Mr. [REDACTED]
10 [REDACTED] and taken as evidence?

11 A Yes, a back pack, some sort of clothing, goggles
12 and a facial scarf.

13 Q Is Mr. [REDACTED] from the state of Illinois?

14 A Yes.

15 Q I may be pronouncing -- it's [REDACTED]. Did I
16 pronounce it [REDACTED]? It looks like [REDACTED], you're right.

17 I'm now showing you Grand Jury Exhibit 166.

18 (Whereupon Grand Jury Exhibit Number 166 was
19 marked for identification.)

20 Q Is this someone named [REDACTED] who was
21 arrested on January 20th in connection with this matter?

22 A Yes.

23 Q Is she wearing dark colored clothing?

24 A Yes.

25 Q Was any property recovered from Ms. [REDACTED] and

1 taken as evidence that day?

2 A Yes. A black back pack, black gloves, a black
3 ski mask, a black knit hat, a black bandana and green
4 goggles.

5 Q Is Ms. [REDACTED] from Florida?

6 A Yes.

7 Q This is Grand Jury Exhibit 167.

8 (Whereupon Grand Jury Exhibit Number 167 was
9 marked for identification.)

10 Q Is this a picture of someone named [REDACTED]
11 who was arrested on January 20th in this matter?

12 A Yes.

13 Q Is Ms. [REDACTED] wearing dark colored clothing?

14 A She is.

15 Q Was Ms. [REDACTED] -- was any property recovered
16 from her person that day?

17 A Yes. One green lighter.

18 Q I'm showing you Grand Jury Exhibit 168.

19 (Whereupon Grand Jury Exhibit Number 168 was
20 marked for identification.)

21 Q Detective, is Ms. [REDACTED] from Baltimore, MD?

22 A Yes.

23 Q I'm now showing you Grand Jury Exhibit 168. Is
24 this a picture of someone named [REDACTED] who was
25 arrested on January 20th in this matter?

1 A Yes, it is.

2 Q Is Ms. [REDACTED] wearing dark colored clothing?

3 A She is.

4 Q And is Ms. [REDACTED] from California?

5 A That's correct.

6 Q This is Grand Jury Exhibit 169.

7 (Whereupon Grand Jury Exhibit Number 169 was
8 marked for identification.)

9 Q Is this a picture of [REDACTED] who was
10 arrested on January 20th in this matter?

11 A Yes, it is.

12 Q Is Ms. [REDACTED] wearing dark colored clothing in
13 this picture?

14 A Yes.

15 Q Did [REDACTED] provide an address of Washington,
16 D.C. [REDACTED]?

17 A Yes.

18 Q This is Grand Jury Exhibit 170.

19 (Whereupon Grand Jury Exhibit Number 170 was
20 marked for identification.)

21 Q Is this a picture of someone named [REDACTED]
22 who was arrested on January 20th of this year in connection
23 with this matter?

24 A Yes.

25 Q And in this picture, is Mr. [REDACTED] wearing dark

1 colored clothing?

2 A His outer garments are all black, yes.

3 Q Is Mr. [REDACTED] from Michigan?

4 A Yes, he is.

5 Q I'm showing you Grand Jury Exhibit 171.

6 (Whereupon Grand Jury Exhibit Number 171 was
7 marked for identification.)

8 Q Is this a picture of someone named [REDACTED]
9 who was arrested on January 20th in connection to this
10 matter?

11 A Yes, it is.

12 Q Was any property recovered from Mr. [REDACTED] on
13 the day of his arrest?

14 A Yes. Two red flags, one pair of black pants, one
15 grey sweater, one black sweater, one red book bag, one pair
16 of gloves, one red bandana, one black ski mask, one black
17 case, one black wrist band, one red book, one pair of black
18 sunglass, one black sunglass case holder, four red paint
19 markers, one yellow epi pen, one silver flashlight, 13
20 various medical equipment and one red membership card.

21 Q Is Mr. [REDACTED] from North Carolina?

22 A Yes.

23 A JUROR: Just a question about the epi pen. I
24 mean --

25 BY MR. BORCHERT:

1 Q I guess the question is what is the evidentiary
2 value of the epi pen?

3 A So, there's also what is listed here as 13
4 various pieces of medical equipment. I imagine he had some
5 sort of medical bag that he was carrying with him with
6 gauze, bandages and I also imagine it contained an epi pen
7 which was listed separately. That's my guess.

8 A JUROR: And the dark clothing here?

9 MR. BORCHERT: In this picture Mr. [REDACTED] is
10 wearing -- looks like a white t-shirt with a District of
11 Columbia flag on it. Is that correct?

12 THE WITNESS: Yes. However, there were other
13 items of clothing seized from him which included a black
14 sweater, a grey sweater, red bandana and a black ski mask.
15 Also, black pants were seized from him.

16 A JUROR: The red membership card was it --

17 MR. BORCHERT: Do you know the answer?

18 THE WITNESS: So there was a photograph of a red
19 book and a red membership card that did belong to an
20 organization. I am not, at this time, entirely sure if
21 that's the same one that belonged to him but in the
22 evidence book I did see there was a red membership card
23 that went to one of these sort of socialist organizations.

24 BY MR. BORCHERT:

25 Q I'm now showing you Grand Jury Exhibit 172.

1 (Whereupon Grand Jury Exhibit Number 172 was
2 marked for identification.)

3 Q Is this a picture of [REDACTED] who was
4 arrested on January 20th in this matter?

5 A Yes.

6 Q Is Ms. [REDACTED] from Pennsylvania?

7 A Yes.

8 A JUROR: It says [REDACTED] on the sheet.

9 MR. BORCHERT: You're referring to the vote
10 sheet? Which number is that?

11 A JUROR: 85.

12 MR. BORCHERT: Thank you very much. If we could,
13 if there are additional typographical errors on the vote
14 sheet, if folks notice them, if you wouldn't mind just hold
15 them until the end and I'll go through them and get them
16 all. But thank you.

17 BY MR. BORCHERT:

18 Q Detective Pemberton, I'm now showing you Grand
19 Jury Exhibit 173. Is this a list of property that was
20 taken as evidence in connection with this matter?

21 (Whereupon Grand Jury Exhibit Number 173 was
22 marked for identification.)

23 A Yes.

24 Q And will referring to that exhibit assist you in
25 your testimony here today?

1 A Yes, sir.

2 Q Detective Pemberton, this is Grand Jury Exhibit
3 174.

4 (Whereupon Grand Jury Exhibit Number 174 was
5 marked for identification.)

6 Q Is this a picture of someone named [REDACTED]
7 [REDACTED] who was arrested on January 20th in connection
8 with this matter?

9 A Yes.

10 Q And in this picture is he wearing dark colored
11 clothing?

12 A He has a black jacket on, yes.

13 Q Was any property recovered from Mr. [REDACTED]
14 that day?

15 A A pair of gloves and a grey knitted hat.

16 Q And is Mr. [REDACTED] from New York?

17 A Yes.

18 Q This is Grand Jury Exhibit 175.

19 (Whereupon Grand Jury Exhibit Number 175 was marked
20 for identification.)

21 Q Is this a picture of someone named [REDACTED]
22 [REDACTED] who was arrested on January 20th in connection with
23 this matter?

24 A Yes, it is.

25 Q And is Mr. [REDACTED] wearing dark colored clothing

1 in this picture?

2 A His outer garments are black, yes.

3 Q Was any property recovered from Mr. [REDACTED] as
4 evidence that day?

5 A Yes, one green camera.

6 Q Is Mr. [REDACTED] from Michigan?

7 A Yes.

8 Q This is Grand Jury Exhibit 176

9 (Whereupon Grand Jury Exhibit Number 176 was
10 marked for identification.)

11 Q Is this a picture of someone named [REDACTED]
12 [REDACTED] who was arrested on January 20th in connection with
13 this matter?

14 A Yes.

15 Q Is Ms. [REDACTED] wearing dark colored clothing in
16 this picture?

17 A Yes, she is.

18 Q And is Ms. [REDACTED] from Pennsylvania?

19 A Yes, she is.

20 Q This is Grand Jury Exhibit 177.

21 (Whereupon Grand Jury Exhibit Number 177 was
22 marked for identification.)

23 Q Is this a picture of someone named [REDACTED]
24 [REDACTED] who was arrested on January 20th in this matter?

25 A Yes.

1 Q Was any property recovered from Ms. [REDACTED] as
2 evidence that day?

3 A Yes. One pair of black gloves, a lighter, a
4 white iPhone, an iPhone case, a black and white bandana, a
5 blue knit beanie, a white -- I'm not sure what this is.
6 Looks like a white beanie and 16 GB USB drive.

7 Q And is Ms. [REDACTED] from New York?

8 A Yes.

9 Q This is Grand Jury Exhibit 178.

10 (Whereupon Grand Jury Exhibit Number 178 was
11 marked for identification.)

12 Q Is this someone named [REDACTED] who was
13 arrested on January 20th in connection with this matter?

14 A Yes.

15 Q Is Ms. [REDACTED] wearing dark colored
16 clothing?

17 A Yes.

18 Q And is Ms. [REDACTED] from Illinois?

19 A Yes, she is.

20 Q This is Grand Jury Exhibit 179.

21 (Whereupon Grand Jury Exhibit Number 179 was
22 marked for identification.)

23 Q Is this someone named [REDACTED] who was
24 arrested on January 20th of this year in connection with
25 this matter?

1 A Yes.

2 Q And is Ms. [REDACTED] wearing dark colored clothing
3 in this picture?

4 A Yes, she is.

5 Q And is Ms. [REDACTED] from North Carolina?

6 A Yes.

7 Q This is Grand Jury Exhibit 180.

8 (Whereupon Grand Jury Exhibit Number was marked
9 for identification.)

10 Q Is this a picture of someone named [REDACTED]
11 [REDACTED] who was arrested on January 20th in this matter?

12 A Yes.

13 Q Is Ms. [REDACTED] wearing dark colored clothing?

14 A She is.

15 Q And is Ms. [REDACTED] from California?

16 A That's correct.

17 Q This is Grand Jury Exhibit 181.

18 (Whereupon Grand Jury Exhibit Number 181 was
19 marked for identification.)

20 Q Is this someone named [REDACTED] who was arrested
21 on January 20th in connection with this matter?

22 A Yes.

23 Q Is Mr. [REDACTED] wearing dark colored clothing?

24 A Yes, he is.

25 Q And is Mr. [REDACTED] from Pennsylvania?

1 A He is.

2 Q This Grand Jury Exhibit 182.

3 (Whereupon Grand Jury Exhibit Number 182 was
4 marked for identification.)

5 Q Is this a picture of someone named [REDACTED]
6 [REDACTED] who was arrested on January 20th in connection with
7 this matter?

8 A Yes.

9 Q Is Mr. [REDACTED] wearing dark colored clothing?

10 A Yes, he is.

11 Q And was any property recovered from Mr. [REDACTED]
12 that day as evidence?

13 A Yes. One black hat, a black t-shirt and a black
14 cell phone.

15 Q And is Mr. [REDACTED] from New York?

16 A Yes, he is.

17 Q This is Grand Jury Exhibit 183.

18 (Whereupon Grand Jury Exhibit Number 183 was
19 marked for identification.)

20 Q Is this someone named [REDACTED] who was
21 arrested on January 20th in connection with this matter?

22 A Yes.

23 Q And in this picture is Mr. [REDACTED] wearing dark
24 colored clothing?

25 A Yes.

1 Q Is Mr. [REDACTED] from Illinois?

2 A Yes, he is.

3 Q This is Grand Jury Exhibit 184.

4 (Whereupon Grand Jury Exhibit Number 184 was
5 marked for identification.)

6 Q Is this a picture of someone named [REDACTED]
7 who was arrested on January 20th in connection with this
8 matter?

9 A Yes.

10 Q Is he wearing dark colored clothing in this
11 picture?

12 A Yes.

13 Q Was any property recovered from Mr. [REDACTED] and
14 taken as evidence that day?

15 A Yes. One pair of green goggles and two black
16 shin guards.

17 Q Is Mr. [REDACTED] from Pennsylvania?

18 A Yes.

19 Q I'm now showing you Grand Jury Exhibit 185.

20 (Whereupon Grand Jury Exhibit Number 185 was
21 marked for identification.)

22 Q Is this a picture of someone named [REDACTED]
23 who was arrested on January 20th of this year in connection
24 with this matter?

25 A Yes.

1 Q Is Mr. [REDACTED] wearing dark colored clothing?

2 A Yes.

3 Q And is Mr. [REDACTED] from New York?

4 A Yes.

5 Q This is Grand Jury Exhibit 186.

6 (Whereupon Grand Jury Exhibit Number 186 was
7 marked for identification.)

8 Q Is this a photo of someone named [REDACTED] who
9 was arrested on January 20th in connection with this matter?

10 A Yes.

11 Q In this picture is Ms. [REDACTED] wearing dark colored
12 clothing?

13 A Yes.

14 Q Was any property taken from her as evidence that
15 day?

16 A Yes. A Samsung Galaxy X6, a black two-way radio
17 and one pair of clear goggles.

18 Q Is Ms. [REDACTED] from Indiana?

19 A Yes.

20 Q This is Grand Jury Exhibit 187.

21 (Whereupon Grand Jury Exhibit Number 187 was
22 marked for identification.)

23 Is this a picture of someone named [REDACTED]
24 who was arrested on January 20th in connection with this
25 matter?

1 A Yes.

2 Q In this picture is Ms. [REDACTED] wearing dark
3 colored clothing?

4 A Yes.

5 Q Was any property taken from Ms. [REDACTED] as
6 evidence that day?

7 A Yes. She had a black and grey gas mask, a clear
8 gas mask and one pair of clear goggles.

9 Q Is Ms. [REDACTED] from Virginia?

10 A Yes.

11 Q This is Grand Jury Exhibit 188.

12 (Whereupon Grand Jury Exhibit Number 188 was
13 marked for identification.)

14 Q Is this a picture of someone named [REDACTED]
15 who was arrested on January 20th in this matter?

16 A Yes.

17 Q Is Mr. [REDACTED] wearing dark colored clothing?

18 A Yes, he is.

19 Q Is Mr. [REDACTED] from Tennessee?

20 A Yes, he is.

21 Q I'm showing you Grand Jury Exhibit 189.

22 (Whereupon Grand Jury Exhibit Number 189 was
23 marked for identification.)

24 Q Is this a picture of someone named [REDACTED]
25 [REDACTED] who was arrested on January 20th in connection with

1 this matter?

2 A Yes.

3 Q Is Ms. [REDACTED] wearing dark colored clothing?

4 A Yes.

5 Q Was any property recovered from Ms. [REDACTED] as
6 evidence on that day?

7 A Yes. One pair of scissors, one black face mask,
8 one pair of black gloves, a red whistle, a blue bandana,
9 multi-colored lighter and a teal headlamp.

10 Q Is Ms. [REDACTED] from Virginia?

11 A Yes.

12 Q This is Grand Jury Exhibit 190.

13 (Whereupon Grand Jury Exhibit Number 190 was
14 marked for identification.)

15 Q Is this a picture of someone named [REDACTED]
16 who was arrested on January 20th in connection with this
17 matter?

18 A Yes.

19 Q Is Ms. [REDACTED] wearing dark colored clothing?

20 A It's difficult to see there but she's wearing a
21 black jacket, yes.

22 Q And is Ms. [REDACTED] from Virginia?

23 A Yes.

24 Q This is Grand Jury Exhibit 191.

25 (Whereupon Grand Jury Exhibit Number 191 was

1 marked for identification.)

2 Q Is this a picture of someone named [REDACTED]
3 [REDACTED] who was arrested on January 20th in connection with
4 this matter?

5 A Yes.

6 Q And in this picture is Mr. [REDACTED] wearing dark
7 colored clothing?

8 A Yes, he is.

9 Q Is Mr. [REDACTED] from New York?

10 A Yes, he is.

11 Q This is Grand Jury Exhibit 192.

12 (Whereupon Grand Jury Exhibit Number 192 was
13 marked for identification.)

14 Q Is this a picture of someone named [REDACTED]
15 who was arrested on January 20th in connection with this
16 matter?

17 A Yes.

18 Q And in this picture is Mr. [REDACTED] wearing dark
19 colored clothing?

20 A Yes.

21 Q And is Mr. [REDACTED] from Idaho?

22 A Yes, he is.

23 Q This is Grand Jury Exhibit 193.

24 (Whereupon Grand Jury Exhibit Number 193 was
25 marked for identification.)

1 Q Is this a picture of someone named [REDACTED]
2 [REDACTED] who was arrested on January 20th in connection with
3 this matter?

4 A Yes.

5 Q Is Mr. [REDACTED] wearing dark colored clothing?

6 A Yes, he is.

7 Q Is Mr. [REDACTED] from New York?

8 A Yes.

9 Q This is Grand Jury Exhibit 194.

10 (Whereupon Grand Jury Exhibit Number 194 was
11 marked for identification.)

12 Q Is this a picture of someone named [REDACTED]
13 who was arrested on January 20th in connection with this
14 matter?

15 A Yes.

16 Q And is he wearing dark colored clothing?

17 A Yes, he is.

18 Q Is Mr. [REDACTED] from Pennsylvania?

19 A Yes.

20 Q This is Grand Jury Exhibit Number 195.

21 (Whereupon Grand Jury Exhibit Number 195 was
22 marked for identification.)

23 Q Is this a picture of someone named [REDACTED]
24 who was arrested on January 20th in connection with this
25 matter?

1 A Yes.

2 Q And in this picture is he wearing dark colored
3 clothing?

4 A Yes.

5 Q And is he from Pennsylvania?

6 A Yes, he is.

7 A JUROR: Is that backwards? Is it [REDACTED]

8 [REDACTED]?

9 BY MR. BOCHERT:

10 Q Well let me just ask the detective about the
11 picture. Grand Jury Exhibit 195, can you read for the
12 Grand Jury how it appears to be listed there?

13 A It's [REDACTED]. So the name would be [REDACTED]

14 [REDACTED] but I think he may have been booked under [REDACTED]

15 [REDACTED]

16 Q Would showing the complaint refresh your
17 recollection on that matter?

18 A Yes. So, here's the complaint which is the
19 charging document and he's listed as first name [REDACTED]

20 [REDACTED]

21 Q Does that mean in the booking process his name
22 was likely switched?

23 A Yes.

24 Q But I may have described this before for the
25 Grand Jury but is that how -- what role does the PDID

1 number play in reconciling that difference?

2 A His police department identification which is a
3 six digit number would be associated with his biological
4 information which would be his photograph and his
5 fingerprints. So, likely, whichever one is his real name
6 I'm not entirely sure if his name is [REDACTED]
7 [REDACTED]. Those will be AKA's for him or his real
8 name will be listed and his AKA will also be listed. But
9 his ID is generated by the police department and will be
10 associated with his fingerprints and his photograph.

11 Q This is Grand Jury Exhibit 196.

12 (Whereupon Grand Jury Exhibit Number 196 was
13 marked for identification.)

14 (Jurors talking at once.)

15 A JUROR: Somebody named Joe Schmoe won't
16 accidentally get arrested because they --

17 BY MR. BOCHERT:

18 Q I'm sorry. I'm not -- just to make sure we
19 understand the question -- I think the question that is
20 being asked by both of the Grand Jurors is whether if
21 someone gives a false name at the time of the arrest, how
22 the police department would figure that out.

23 A So, if someone provided a false name like Donald
24 Duck, they would be booked as Donald Duck with those
25 fingerprints and that photograph. Then forever in NCIC they

1 would be known as Donald Duck AKA their real name when it
2 was found out.

3 But we would only be arresting the person whose
4 fingerprints and photograph matched that particular
5 individual. So, if, obviously we're not going to go
6 looking for someone named Donald Duck but if that person
7 ever came in contact with the police again and had their
8 fingerprints or photograph taken, the warrant would come up
9 in the system as a justifiable warrant and they would be
10 brought back here from the Judge.

11 Q Does this particular defendant in Grand Jury
12 Exhibit 195, does he have a PDID number?

13 A Yes.

14 Q And would looking at the complaint refresh your
15 recollection as to what that PDID number is?

16 A Sure. It's [REDACTED]. It's a unique ID number that
17 will only be associated with [REDACTED]

18 [REDACTED]

19 A JUROR: So when they give the indictment --
20 it's given -- the indictment sheet, their name and that
21 PDID number?

22 MR. BOCHERT: That's something I can answer here
23 in deliberations when we get there but I'll make a note of
24 that.

25 BY MR. BOCHERT:

1 Q This is Grand Jury Exhibit Number 196. Is this a
2 picture of someone named [REDACTED] who was arrested on
3 January 20th in connection with this matter?

4 A Yes.

5 Q And is Mr. [REDACTED] wearing dark colored clothing?

6 A Yes.

7 Q And is Mr. [REDACTED] from Virginia?

8 A Yes.

9 Q I'm now showing you Grand Jury Exhibit 197.

10 (Whereupon Grand Jury Exhibit Number 197 was
11 marked for identification.)

12 Q Is this a picture of someone named [REDACTED]
13 who was arrested on January 20th in connection with this
14 matter?

15 A Yes.

16 Q And is Ms. [REDACTED] wearing dark colored
17 clothing?

18 A Yes, she is.

19 Q Was any property recovered from Ms. [REDACTED] on
20 evidence on that day?

21 A One black t-shirt and one black lighter was
22 recovered.

23 Q And is Ms. [REDACTED] from Virginia?

24 A Yes.

25 Q This is Grand Jury Exhibit 198.

1 (Whereupon Grand Jury Exhibit Number 198 was
2 marked for identification.)

3 Q Is this a picture of someone named [REDACTED]
4 who was arrested on January 20th in connection with this
5 matter?

6 A Yes.

7 Q Might be easier if I pass this to you. I'm
8 showing you Grand Jury Exhibit 198. Is he wearing dark
9 colored clothing?

10 A He has what looks like a black hoody and black
11 pants but he's also wearing like an olive drab army-style
12 jacket, a dark green.

13 Q Was any property recovered as evidence from Mr.
14 [REDACTED] on January 20th?

15 A Yes. A black back pack and a red scarf.

16 Q Is Mr. [REDACTED] from Tennessee?

17 A Yes.

18 Q This is Grand Jury Exhibit 199.

19 (Whereupon Grand Jury Exhibit Number 199 was
20 marked for identification.)

21 Q Is this a picture of someone named [REDACTED]
22 who was arrested on January 20th in connection with this
23 matter?

24 A Yes.

25 Q Is [REDACTED] wearing dark colored clothing?

1 A Yes. All the garments are dark, yes.

2 Q And is -- was any property recovered from [REDACTED]
3 on this day?

4 A Yes. Two black bandanas, one pair of black
5 goggles, two white water bottles and a roll of silver duct
6 tape.

7 A JUROR: Is it significant that we think that is
8 not a man?

9 THE WITNESS: So --

10 MR. BOCHERT: I guess -- is the question whether
11 [REDACTED] picture here is a man, woman or transgender?

12 THE WITNESS: Yeah.

13 A JUROR: This person can be transgender but
14 their ID --

15 MR. BOCHERT: What's the question, I guess?

16 A JUROR: Is gender significant in deciding --
17 I'm just asking. I'm not making a statement one way or
18 another. I'm asking whether --

19 MR. BOCHERT: Let's talk about that in
20 deliberation, I think.

21 A JUROR: Can you just go back to [REDACTED]?

22 BY MR. BOCHERT:

23 Q Oh, pardon me. Did we cover property recovered
24 from Mr. [REDACTED]?

25 A Yes.

1 Q Is [REDACTED] from Virginia?

2 A Yes.

3 Q This is Grand Jury Exhibit 200.

4 (Whereupon Grand Jury Exhibit Number 200 was
5 marked for identification.)

6 Q Is this a picture of someone named [REDACTED]
7 [REDACTED] who was arrested on January 20th in connection with
8 this matter?

9 A Yes, it is.

10 Q Is [REDACTED] wearing dark colored clothing in that
11 picture? I'll pass you Grand Jury Exhibit 200.

12 A Yes. It's some sort of a plaid patter on a
13 jacket but it's black, navy blue and then it looks like
14 there's some green in her jacket. Yes, and it's dark, dark
15 colored.

16 Q Was any property recovered as evidence from Ms.
17 [REDACTED] on this date?

18 A Yes. A black hood, a pair of black gloves, a
19 black visor and some miscellaneous papers.

20 Q Is Ms. [REDACTED] from New York?

21 A Yes.

22 Q This is Grand Jury Exhibit 201.

23 (Whereupon Grand Jury Exhibit Number 201 was
24 marked for identification.)

25 Q Is this a picture of someone named [REDACTED]

1 [REDACTED] who was arrested on January 20th in connection with
2 this matter?

3 A Yes.

4 Q Is [REDACTED] wearing dark colored clothing in this
5 picture?

6 A Yes.

7 Q Was any property recovered from [REDACTED] on this
8 date?

9 A Yes. A black hood, a black hat and a black
10 bandana.

11 Q And is [REDACTED] from Pennsylvania?

12 A Yes, she is.

13 Q This is Grand Jury Exhibit 202.

14 (Whereupon Grand Jury Exhibit Number 202 was
15 marked for identification.)

16 Q Is this a picture of someone named [REDACTED]
17 [REDACTED] who was arrested on January 20th in connection with
18 this matter?

19 A Yes.

20 Q And in this picture, is [REDACTED]
21 wearing dark colored clothing?

22 A Yes. His outer garments are all dark.

23 Q Was there any property recovered as evidence from
24 this defendant on that date?

25 A Yes. A black back pack, a respiratory mask, a

1 trauma kit, a tape marker and a water bottle with white
2 liquid.

3 Q Is this defendant from Pennsylvania?

4 A Yes, he is.

5 Q This is Grand Jury Exhibit 203.

6 (Whereupon Grand Jury Exhibit Number 203 was
7 marked for identification.)

8 Q Is this a picture of someone named [REDACTED]
9 [REDACTED] who was arrested on January 20th of this year in
10 connection with this matter?

11 A Yes.

12 Q In this picture is Mr. [REDACTED] wearing dark
13 colored clothing?

14 A Yes. He has dark pants and his outer garments
15 are black.

16 Q Is Mr. [REDACTED] from Tennessee?

17 A Yes.

18 Q I'm showing you Grand Jury Exhibit 204.

19 (Whereupon Grand Jury Exhibit Number 204 was
20 marked for identification.)

21 Is this a picture of someone named [REDACTED] who
22 was arrested on January 20th in connection with this matter?

23 A Yes.

24 Q Is Mr. [REDACTED] wearing dark colored clothing?

25 A Yes, he is.

1 Q Was any property recovered as evidence from Mr.
2 [REDACTED] on this date?

3 A Yes. A blue back pack.

4 Q Is Mr. [REDACTED] from Pennsylvania?

5 A Yes, he is.

6 Q I'm now showing you Grand Jury Exhibit 205.

7 (Whereupon Grand Jury Exhibit Number 205 was
8 marked for identification.)

9 Q Detective, I'll ask you to turn off the lights if
10 you could. See if that helps. Could you turn the light
11 back on Detective and I'll pass you this picture so you can
12 see it.

13 In Grand Jury Exhibit 205, is that a picture of
14 someone named [REDACTED] who was arrested on January 20th
15 in connection with this matter?

16 A Yes.

17 Q And in that picture, is he wearing dark colored
18 clothing?

19 A Yes. It looks like he has maybe jeans on but he
20 has a black sweatshirt or a black jacket on.

21 Q And is [REDACTED] from Massachusetts?

22 A Yes.

23 Q This is Grand Jury Exhibit 206.

24 (Whereupon Grand Jury Exhibit Number 206 was
25 marked for identification.)

1 Q Oh, pardon me. Before we move on to 206, was
2 [REDACTED] in possession of any property that was taken as
3 evidence that day?

4 A Yes. A black back pack, a brown scarf and an LG
5 cell phone.

6 Q This is Grand Jury Exhibit 206. Is this a
7 picture of someone named [REDACTED] who was arrested on
8 January 20th in connection with this matter?

9 A Yes, it is.

10 Q Is [REDACTED] wearing dark colored clothing in this
11 picture?

12 A Yes, he is.

13 Q Was any property recovered from [REDACTED] at the
14 time of his arrest?

15 A Yes. Says two head caps and a pair of gloves.

16 Q Is [REDACTED] from Pennsylvania?

17 A Yes, he is.

18 Q This is Grand Jury Exhibit 207.

19 (Whereupon Grand Jury Exhibit Number 207 was
20 marked for identification.)

21 Q Is this a picture of someone named [REDACTED]
22 who was arrested on January 20th in connection with this
23 matter?

24 A Yes.

25 Q And in this picture is [REDACTED] wearing dark

1 colored clothing?

2 A He has dark colored clothing but he's also
3 wearing dark blue outer garment, an overcoat.

4 Q Was any property recovered from [REDACTED] and taken
5 as evidence on the day of his arrest?

6 A Yes. A grey back pack, a water bottle with white
7 liquid, a black hooded sweatshirt, a black shirt, grey
8 gloves. It says here a paper on fascists and one lighter.

9 Q And is [REDACTED] from Maryland?

10 A Yes, he is.

11 Q This is Grand Jury Exhibit 208.

12 (Whereupon Grand Jury Exhibit Number 208 was
13 marked for identification.)

14 Q Is this a picture of someone named [REDACTED]
15 who was arrested on January 20th in connection with this
16 matter?

17 A Yes.

18 Q Is [REDACTED] wearing dark colored clothing in this
19 picture?

20 A Yes, he is.

21 Q And is [REDACTED] from Vermont?

22 A Yes.

23 Q This is Grand Jury Exhibit 209.

24 (Whereupon Grand Jury Exhibit Number 209 was
25 marked for identification.)

1 Q Is this someone named [REDACTED] who was
2 arrested on January 20th in connection with this matter?

3 A Yes.

4 Q Is [REDACTED] wearing dark colored clothing?

5 A Yes, he is.

6 Q And is [REDACTED] from New York?

7 A Yes.

8 Q This is Grand Jury Exhibit 210.

9 (Whereupon Grand Jury Exhibit Number 210 was
10 marked for identification.)

11 Q Is this a picture of someone named [REDACTED]
12 [REDACTED] who was arrested on January 20th in connection
13 with this matter?

14 A Yes.

15 Q Is [REDACTED] wearing dark colored clothing in
16 this picture?

17 A Yes, he is.

18 Q Is [REDACTED] from Pennsylvania?

19 A That's correct.

20 Q This is Grand Jury Exhibit 211.

21 (Whereupon Grand Jury Exhibit Number 211 was
22 marked for identification.)

23 Q Is this a picture of someone named [REDACTED] who
24 was arrested on January 20th in connection with this matter?

25 A Yes.

1 Q And is this picture is [REDACTED] wearing dark colored
2 clothing?

3 A Yes, she is.

4 Q And is [REDACTED] from New York?

5 A Yes.

6 Q This is Grand Jury Exhibit 212.

7 (Whereupon Grand Jury Exhibit Number 212 was
8 marked for identification.)

9 Q Is this a picture of someone named [REDACTED]
10 [REDACTED] who was arrested on January 20th in connection
11 with this matter?

12 A Yes.

13 Q In this picture is [REDACTED] wearing dark
14 colored clothing?

15 A Her outer garments are all black, yes.

16 Q And is [REDACTED] from New York?

17 A Yes.

18 Q This is Grand Jury Exhibit 213.

19 (Whereupon Grand Jury Exhibit Number 213 was
20 marked for identification.)

21 Q Is this a picture of someone name [REDACTED]
22 [REDACTED] who was arrested on January 20th in connection with
23 this matter?

24 A Yes.

25 Q Is [REDACTED] wearing dark colored clothing?

1 A Yes.

2 Q Is [REDACTED] from New York?

3 A Yes, she is.

4 Q This is Grand Jury Exhibit Number 214.

5 (Whereupon Grand Jury Exhibit Number 214 was
6 marked for identification.)

7 Q Is this a picture of someone named [REDACTED]
8 who was arrested on January 20th in connection with this
9 matter?

10 A Yes.

11 Q And in this picture is [REDACTED] wearing dark
12 colored clothing?

13 A Yes, he is.

14 Q Was any property recovered from [REDACTED] and
15 taken as evidence on this day?

16 A Yes. A black cell phone, a black and red back
17 pack with linen, a Red Cross certificate and assorted
18 clothing.

19 Q Is [REDACTED] from Pennsylvania?

20 A Yes.

21 Q This is Grand Jury Exhibit 215.

22 (Whereupon Grand Jury Exhibit Number 215 was
23 marked for identification.)

24 Q Is this a picture of someone named [REDACTED]
25 also known as [REDACTED] who was arrested on January

1 20th in connection with this matter?

2 A Yes.

3 Q Is Mr. [REDACTED] wearing dark colored clothing in
4 this picture?

5 A Yes, he is.

6 Q And is Mr. [REDACTED] from Washington, D.C.?

7 A Yes.

8 Q This is Grand Jury Exhibit 216.

9 (Whereupon Grand Jury Exhibit Number 216 was
10 marked for identification.)

11 Q Is this a picture of someone named [REDACTED]
12 who was arrested on January 20th in connection with this
13 matter?

14 A Yes.

15 Q In this picture is Mr. [REDACTED] wearing dark
16 colored clothing?

17 A Yes, he is.

18 Q Was any property recovered as evidence on that
19 day from Mr. [REDACTED]?

20 A Yes. Nine items of assorted clothing, a camera
21 and a bookbag.

22 Q And is [REDACTED] from New York?

23 A Yes, he is.

24 Q I'm now showing you Grand Jury Exhibit Number
25 217.

1 (Whereupon Grand Jury Exhibit Number 217 was
2 marked for identification.)

3 Q Is this a picture of someone named [REDACTED]
4 who was arrested on January 20th in connection with this
5 matter?

6 A Yes.

7 Q And is [REDACTED] wearing dark colored clothing in
8 this picture?

9 A Yes, he is.

10 Q Is [REDACTED] from Pennsylvania?

11 A Yes.

12 Q Was any property recovered from [REDACTED] and taken
13 as evidence on the day of his arrest?

14 A Yes. A white bandana, a blue t-shirt and three
15 various colored hats.

16 Q This is Grand Jury Exhibit 218.

17 (Whereupon Grand Jury Exhibit Number 218 was
18 marked for identification.)

19 Q Is this a picture of someone named [REDACTED]
20 [REDACTED] who was arrested on January 20th in connection with
21 this matter?

22 A Yes.

23 Q In this picture is [REDACTED] wearing dark colored
24 clothing?

25 A Yes. She has what looks like a red hoody or a red

1 scarf or something but under that is a black jacket.

2 Q Is [REDACTED] from Maryland?

3 A Yes.

4 Q Was any property recovered from [REDACTED] on the
5 day of her arrest?

6 A Yes. A pair gloves, what's described here as a
7 skeleton hat/mask and a bandana.

8 Q This is Grand Jury Exhibit 219.

9 (Whereupon Grand Jury Exhibit Number 219 was
10 marked for identification.)

11 Q Is this the picture of someone named [REDACTED]
12 [REDACTED] who was arrested on January 20th in connection with
13 this matter?

14 A Yes.

15 Q Is [REDACTED] wearing dark colored clothing?

16 A Yes, she is.

17 Q Is [REDACTED] from California?

18 A Yes, she is.

19 Q Was any property recovered from [REDACTED] on the day
20 of her arrest and taken as evidence?

21 A Yes. One blue bandana and two blue gloves.

22 Q That's all the questions I have for Detective
23 Pemberton at this time. Any questions from the Grand
24 Jurors? In the back first.

25 A JUROR: Some of the items that were recovered

1 were white liquid. Was it clear liquid or like white
2 liquid?

3 THE WITNESS: So, what we learned in the
4 investigation is that people believed that sort of antacids
5 like Maalox or Milk of Magnesia sort of would mitigate the
6 effects of Pepper Spray, which I believe is some sort of
7 urban legend. But a lot of the people who were arrested
8 and a lot of what was left behind in the street were sport
9 bottles with like a sport top, is I guess what you call it,
10 and they were filled with these items or they were diluted
11 with water but that's what people -- and I think you saw in
12 some of the pictures it looked like people had it on their
13 face.

14 People were spraying it on their faces in an
15 attempt to mitigate the effects of the Pepper Spray. So,
16 when you hear people were recovered with a bottle of white
17 liquid, most likely it's some concoction that was supposed
18 to mitigate the effects of Pepper Spray.

19 A JUROR: You mentioned that evidence taken in --
20 if it was part of the investigation -- we heard that some
21 people had cell phones that were listed as evidence. Some
22 people didn't. Was there a particular reason for that?
23 Were they using those cell phones to film or they were
24 taken in different procedures for different people?

25 THE WITNESS: If they had a cell phone on them,

1 the cell phone was seized ideally.

2 A JUROR: Okay.

3 THE WITNESS: That was the instructions given to
4 the officers as they processed them.

5 A JUROR: Is it safe to assume that most of these
6 people did not have cell phones on them?

7 THE WITNESS: Yeah. If we didn't list it then
8 most likely they did not have a cell phone.

9 A JUROR: I'm curious, did anyone claim that they
10 didn't understand what was going on or they needed an
11 interpreter?

12 THE WITNESS: Not that I spoke to and not that
13 any officer reported to me that anyone had any language
14 difficulties.

15 A JUROR: I have a few questions. The first,
16 yesterday some of the location for the -- that little thing
17 they're holding up, the white board, the location was
18 erased. Was that because -- were they arrested in the
19 kettle, was it was called or did it just get wiped off?

20 THE WITNESS: I didn't -- most of this was on the
21 1200 block of L St.

22 A JUROR: So I'm referring to -- I think the
23 first few of yesterday's batch.

24 THE WITNESS: I would guess that it probably just
25 got rubbed. All of these people that were arrested that

1 you guys are looking at were at that same location.

2 A JUROR: And um --

3 MR. BOCHERT: Just for the record, all of these
4 photos will be made available to you for deliberation. I'm
5 not sure I see -- you said you had another question also?

6 A JUROR: Yeah.

7 MR. BOCHERT: Yeah, sure.

8 A JUROR: The D.C. residents, did any of them
9 live or reside a few blocks of this arrest?

10 THE WITNESS: No. The closest one I found was [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 A JUROR: And then was there one that was
15 arrested or in this list, are they all over 18?

16 THE WITNESS: The only people that you'll be
17 seeing is adults. Yes.

18 A JUROR: I noticed a lot of the defendants were
19 from kind of more specific states. Has your investigation
20 led to like for like -- Illinois, for example. That's kind
21 of a far away state. A lot of people from Illinois. Has
22 your investigation led to a sort of headquarters for any of
23 these organization?

24 THE WITNESS: Not specifically but I think that
25 as we get a little bit more information about each of these

1 defendants we're starting to learn that they came in groups
2 or with each other. But I don't have any specific
3 information to say that they're affiliated with a certain
4 group or they came from a certain -- that they claim some
5 affiliation to some group in that area.

6 There are obviously pockets of people from New
7 York, Pennsylvania, Virginia, North Carolina and Chicago as
8 well.

9 A JUROR: Kind of the same question as the one
10 before because obviously a lot of the people look young and
11 one person was mentioned as a D.C. address, [REDACTED]
12 [REDACTED], but I guess that my thinking is that many of
13 these people could have a driver's license from another
14 state but they could be in D.C. for college if they are
15 young. They could have a California license but going to
16 school here.

17 THE WITNESS: Sure. So, if they didn't report
18 that and their home address with their parents or whatever
19 is in Utah and they're actually living here because they're
20 a student of a university, we would only know that if they
21 provided that information. There is no part of this
22 investigation that would have said well let's see if they
23 also reside here.

24 So, if they do it's a possibility but however, I
25 don't have that information.

1 A JUROR: I guess that's why I wasn't too much
2 into what state they're from because they could be going to
3 school here.

4 A JUROR: I think you may have answered this last
5 week so I apologize but all these people were arrested on
6 that kettle on 12th & L. Were there any other arrests made
7 in other parts of the vicinity maybe around Franklin Park?
8 Were those cases separate from the --

9 THE WITNESS: As we get along we're learning
10 about other arrests of things, sort of less in nature.
11 Sort of single events of destruction of property that
12 either occurred after this incident, these people were
13 arrested.

14 In this incident these people were arrested --
15 incident of an individual for crossing the police line or
16 after the police had sort of roped off that area. People
17 tried to come through. Those people were arrested and
18 those people were charged in sort of different incidents.
19 You probably won't be hearing about them.

20 A JUROR: Wait. So, they were trying to get into
21 it?

22 THE WITNESS: So there is one individual -- yes,
23 was after the police sort of began to protect this area.
24 They put up police tape to make sure people could identify
25 where they should and shouldn't be. An individual, after

1 being warned not to come across, willingly came across and
2 was arrested for crossing the police line.

3 A JUROR: So there's a potential that there could
4 be other felony rioting charges for other people who might
5 not be part of this group?

6 MR. BOCHERT: Maybe I can change the question
7 slightly.

8 A JUROR: Yes. Please.

9 BY MR. BOCHERT:

10 Q All of the people that we've been talking about
11 here in this case number 44 before this Grand Jury, are
12 those all people who were in the kettle?

13 A Yes, that's correct. Those were people who were
14 all detained at or shortly after 10:30 at that area of 12th
15 & L after this sort of charge on the police. There are
16 other subsequent investigations that I'm not sure whether
17 or not they will get mixed in.

18 A JUROR: Right and those are potentially
19 separate from this? I mean, separate in terms of location
20 but separate in terms of the --

21 BY MR. BOCHERT:

22 Q Let me try asking the question this way. Do you
23 know whether there were arrests made on January 20th other
24 than the people who have been presented here in case number
25 44?

1 A Yes, there are.

2 Q Thanks.

3 A JUROR: Did anybody, after the arrests, on
4 social media claim to have been involved in protest groups?
5 Like after somebody -- they might come out saying we were
6 part of this.

7 THE WITNESS: So did anyone take credit for
8 conducting the criminal offenses?

9 A JUROR: Yeah.

10 MR. BOCHERT: To your knowledge.

11 THE WITNESS: Not that I'm aware of at this time
12 but I'll be honest with you, there are other people
13 involved in this investigation that are trying to uncover
14 that stuff as we find it -- if we find it I will present it
15 to you.

16 MR. BOCHERT: All right. Detective Pemberton,
17 that's all we have for you.

18 (Whereupon, the witness was excused.)

19 (Whereupon, at 2:44 p.m., the taking of the
20 testimony in the presence of a full quorum of the Grand
21 Jury was concluded.)

22 * * * * *

23

24

25

C-E-R-T-I-F-I-C-A-T-E

I, Desha DeVor, the reporter for the United States Attorney's Office, do hereby certify that the witness, Gregory Pemberton, whose testimony appears in the foregoing pages in the case of U.S. v. Nathaniel Jaffe et al., Case No. 2017-cF2-001147 heard on February 7, 2017, was first duly sworn by the Foreperson or the Deputy Foreperson of the Grand Jury when there was a full quorum of the Grand Jury present; that the testimony of said witness was taken by me and thereafter reduced to typewritten form; and that the transcript is a true record of the testimony given by said witness.

Desha DeVor, Official Reporter

Cathy Carr, Transcriber

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-296-3468

DCX 5-451

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

- - - - - x
:
UNITED STATES OF AMERICA :
:
v. :
: Criminal Case
NATHANIEL JAFFE, et al. : 2017-CF2-001147, et al.
:
- - - - - x

Grand Jury No. January 2
Superior Court for the
District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530

Wednesday, February 8, 2017

The discussion in the above-referenced case was
taken in the presence of a full quorum of the Grand Jury,
commencing at 9:49 a.m., before:

JOHN BORCHERT
Assistant United States Attorney

Diversified Reporting Services, Inc.
1426 Duke Street
Alexandria, Virginia 22314
Phone: 202-467-9208
Fax: 202-293-1254

DCX 5-452

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

2 A JUROR: I just thought it was interesting.

3 MR. BORCHERT: You didn't know that things
4 change, I guess, over time -- dinosaur.

5 A JUROR: You said -- I mean --

6 MR. BORCHERT: I'll explain it for the record.

7 A JUROR: Okay.

8 MR. BORCHERT: Will that be helpful?

9 A JUROR: You'll give the number, yeah.

10 MR. BORCHERT: Yes. Good morning ladies and
11 gentlemen. My name is John Borchert. That's J-o-h-n
12 B-o-c-h-e-r-t. I am back before you in your case number
13 44. It is United States versus Nathaniel Jaffe,
14 2017-CF2-001147. This is the D.C. Riot Act cases. I am
15 going to pass out to you as I -- as I've been doing in the
16 previous times we've been together this week.

17 I'm going to pass out a copy of a vote sheet that
18 you're free to use to take notes. This is an additional 16
19 individuals for whom I'll be asking for a vote today. I
20 have pre-marked photo exhibits so hopefully this will not
21 take too, too long to move through 16. I know you -- this
22 Grand Jury has seen much longer ones.

23 A JUROR: What's the worst we've seen?

24 MR. BORCHERT: I believe this is going to be the
25 last time that I will be before you. This will be --

1 unless there's something unpredicted, but I think that's
2 it.

3 A JUROR: What about the others?

4 A JUROR: One more back here.

5 MR. BORCHERT: I am sorry.

6 A JUROR: Does that make all 231 then?

7 A JUROR: What does the other -- yeah, what --

8 MR. BORCHERT: I think we had mentioned before
9 previously that -- and I also have one correction I need to
10 make or one change I want to make sure I let you folks know
11 about, about yesterday vote.

12 I think you've heard testimony from the -- from
13 Detective Pemberton previously that there were certain
14 individuals who had media credentials that were left inside
15 of that cordoned off area or that -- and, you know, those
16 are individuals at least for those -- those types of
17 individuals that are also people --

18 A JUROR: Excuse me.

19 MR. BORCHERT: Oh, pardon me. Who in a
20 hyper-technical sense I guess are considered legal
21 observers. And, you know, those people who -- I'm sorry.

22 A JUROR: I'm sorry about this.

23 MR. BORCHERT: No problem. People who have
24 fallen into those sort of categories are people that we
25 have just sort of moved to one side for now. They may be

1 people we talk about more on a future recall date, but at
2 least for now they're not individuals that we're
3 comfortable presenting to the Grand Jury and requesting an
4 indictment on.

5 In that -- actually in that precisely same
6 vein -- yesterday, I requested a vote, and you folks voted
7 on number 86 whose name was [REDACTED].

8 A JUROR: Yeah.

9 MR. BORCHERT: His name will not appear in the
10 indictment that is being Gaitherized later today. He -- I
11 learned last night has a cable access show.

12 A JUROR: Oh.

13 MR. BORCHERT: I'm not sure that, that
14 necessarily makes him a member of the media, but that is
15 the type of sort of First Amendment issue that I think we
16 want to just be very careful about. And I would not be
17 comfortable asking this Grand Jury to indict until there is
18 some resolution on that. I was surprised that -- I guess
19 cable access is still a thing.

20 A JUROR: Yeah. In, in a rural area.

21 MR. BORCHERT: I guess it can be. I --

22 A JUROR: Where is he from?

23 MR. BORCHERT: It still exists.

24 A JUROR: Yeah. It does.

25 MR. BORCHERT: And so -- yeah, that's why you

1 will not see that name in the indictment that'll be
2 Gaitherized. Again, and that is number 86 from yesterday's
3 vote sheet, [REDACTED]. I only have one witness
4 for today. That'll be detective Pemberton. Any questions
5 before I bring in Detective Pemberton?

6 (Whereupon, the discussion was concluded at 9:53
7 a.m. and then later resumed at 10:09 a.m.)

8 MR. BORCHERT: All right. I think that you have
9 the other Grand Jury -- I think I heard from the clerk that
10 they were left overnight here --

11 A JUROR: Yeah.

12 MR. BORCHERT: -- with you folks so they're
13 probably in the safe behind me. I have your vote sheets
14 which you may want with Mr. Tomaselli. I think you'll need
15 these. And again, I think I said this before but just so
16 it's clear, number 86 from yesterday, [REDACTED]
17 that's the gentleman who [REDACTED]. And
18 we're not requesting that an indictment be returned against
19 him pending further investigation. Yes.

20 A JUROR: On today's list there's a [REDACTED],
21 but on the board it says [REDACTED].

22 A JUROR: Yeah, it does.

23 MR. BORCHERT: How he is on --

24 A JUROR: Number 7.

25 MR. BORCHERT: [REDACTED] Let me see how it

1 was. [REDACTED]

2 A JUROR: Okay.

3 MR. BORCHERT: [REDACTED]

4 A JUROR: Okay.

5 MR. BORCHERT: All right. Thank you all.

6 A JUROR: Thank you.

7 (Whereupon, the discussion was concluded.)

8 (Whereupon, at 10:11 a.m., the discussion
9 reviewing the charges in the presence of a full quorum of
10 the Grand Jury was concluded.)

11 * * * * *

12

13

14

15

16

17

18

19

20

21

22

23

24

25