

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CRUZ

DEPARTMENT 6

HON. PAUL P. BURDICK, JUDGE

THE PEOPLE OF THE)
STATE OF CALIFORNIA)

PLAINTIFF(S),)

VS.)

BRENT ELLIOTT ADAMS)
FRANKLIN CRUZ ALCANTARA)
DESIREE CHRISTINE FOSTER)
BECKY ANN JOHNSON)
ROBERT NORRIS KAHN)
CAMERON STEPHENS LAURENDEAU)
GABRIELLA CELESTE)
RIPLEYPHIPPS,)

DEFENDANT(S) .)

) SUPERIOR COURT
) CASE NO. F22197, F22689,
) F22191, F22194, F22196,
) F22698, F22198
)
) PRELIMINARY EXAMINATION

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, JANUARY 7, 2013

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I-N-D-E-X

	<u>WITNESS :</u>	<u>PAGE :</u>
3	<u>LARRY RICHARD</u>	
	DIRECT EXAMINATION	7
4	BY MS. YOUNG	
	CROSS EXAMINATION	36
5	BY RUBEN	
	CROSS EXAMINATION	44
6	BY MR. HACKETT	
	CROSS EXAMINATION	52
7	BY MR. BEAUVAIS	
	CROSS EXAMINATION	55
8	BY MR. CLYMO	
	CROSS EXAMINATION	57
9	BY MS. BRIGGS	
	CROSS EXAMINATION	63
10	BY MS. MC CAMEY	
11	<u>MICHAEL HARMS</u>	
	DIRECT EXAMINATION	71
12	BY MS. YOUNG	
	CROSS EXAMINATION	85
13	BY MR. RUBEN	
	CROSS EXAMINATION	95
14	BY MR. HACKETT	
	CROSS EXAMINATION	101
15	BY MR. BEAUVAIS	
	CROSS EXAMINATION	104
16	BY MR. CLYMO	
	CROSS EXAMINATION	107
17	BY MS. MC CAMEY	
	CROSS EXAMINATION	141
18	BY MS. PORTER	
	REDIRECT EXAMINATION	142
19	BY MS. YOUNG	
	RECROSS EXAMINATION	144
20	BY MR. RUBEN	
	RECROSS-EXAMINATION	146
21	BY MR. BEAUVAIS	
	RECROSS-EXAMINATION	147
22	BY MR. CLYMO	
23	<u>MICHAEL HEDLEY</u>	
	DIRECT EXAMINATION	153
24	BY MS. YOUNG	
	CROSS EXAMINATION	179
25	BY MR. RUBEN	
	CROSS EXAMINATION	187
26	BY MR. HACKETT	

1	CROSS EXAMINATION BY MR. BEAUVAIS	191
2	CROSS EXAMINATION BY MR. CLYMO	205

3
4
5 **INDEX OF EXHIBITS**

6	<u>EXHIBIT NO</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
7	PEOPLE'S	PHOTOGRAPHS	9
8	EXHIBIT(S) 1 & 2		
9	PEOPLE'S	COPY OF POLICE POST, RECEIVED	11
10	EXHIBIT NO. 1	IN EVIDENCE	
11	PEOPLE'S	POST, RECEIVED IN EVIDENCE	22
11	EXHIBIT NO. 2		
12	DEFENDANT'S	PHOTOGRAPHS, MARKED FOR ID	58
13	EXHIBIT G AND H		
14	PEOPLE'S	PHOTOGRAPHS	173
14	EXHIBIT(S) 3 - 37		
15	PEOPLE'S	PHOTOGRAPHS, RECEIVED IN	176
16	EXHIBIT(S) 3 - 14	EVIDENCE	
17	PEOPLE'S	PHOTOGRAPHS	177
17	EXHIBIT(S) 15-36		
18	PEOPLE'S	DESCRIPTION, RECEIVED IN	178
19	EXHIBIT(S) 15- 36	EVIDENCE	
20	DEFENDANT'S	PHOTOGRAPH, MARKED FOR ID	208
20	EXHIBIT D		

1 MONDAY, JANUARY 7, 2013; SANTA CRUZ, CALIFORNIA

2 P-R-O-C-E-E-D-I-N-G-S

3 -000-

4
5 THE COURT: All right. So we're back on the
6 record in the People versus Adams, et al. Have defense
7 counsel decided order of cross-examination here?

8 MR. BEAUVAIS: Start in the order as we're seated.

9 THE COURT: The order is in which they are seated.

10 MS. YOUNG: Okay.

11 THE COURT: So I've received briefs from both
12 sides. I have Miss Young's brief that was filed I believe
13 back in April or May in connection with the earlier
14 preliminary examinations concerning the People's legal
15 theories as it relates to the anticipated holding order.

16 I also have various briefs that have been filed
17 by defense counsel. Having presided over earlier
18 preliminary examinations, I'm well familiar with the legal
19 issues which we are all confronted with. So as I mentioned,
20 we'll deal with the sanction issue at the conclusion of the
21 preliminary examination.

22 So are the People ready with their first
23 witness?

24 MS. YOUNG: Yes. So, Your Honor, the first
25 witness as I noted before would be Lieutenant Larry Richard.
26 And he is for defendants Adams, Ripleyphipps and Laurendeau

1 only.

2 MS. BRIGGS: Before we go on, I wanted to renew
3 the objection I made in my motion to dismiss regarding the
4 contamination of the defendant identification of my client.
5 I won't be attempting to sequester identification as it's
6 already been contaminated by all the officers that are going
7 to identify.

8 THE COURT: Objections so noted.

9 MS. MC CAMEY: Motion to exclude any witnesses.

10 THE COURT: All right. Motion to exclude
11 witnesses is granted. Anyone who has been subpoenaed to
12 testify as a witness in today's proceeding or anyone who
13 anticipates being called as a witness in today's proceedings
14 is ordered to remain outside of the courtroom until after
15 your testimony has been completed.

16 MS. YOUNG: Okay.

17

18 **LARRY RICHARD**

19 called as a witness by and on behalf of
20 the PEOPLE, having been duly sworn, was
21 examined and testified as follows:

22

23 THE COURT: Tell us your first and last name;
24 spell the last name, please.

25 THE WITNESS: Larry Richard, R-I-C-H-A-R-D.

26 THE COURT: Proceed, Miss Young.

DIRECT EXAMINATION

1
2 BY MS. YOUNG:

3 Q Good morning.

4 A Good morning.

5 Q Who are you provided by?

6 A City of Santa Cruz Police Department.

7 Q And what's your title in the police department?

8 A I'm a police lieutenant.

9 Q How long have you been with Santa Cruz PD?

10 A Over 12 and-a-half years.

11 Q What's your current assignment?

12 A I'm a patrol watch commander.

13 Q Were you working in that capacity on Wednesday,
14 November 30th of 2011?

15 A Yes, I was.

16 Q And just to kind of set the scene, can you just
17 give us a short summary of what was happening on 75 River
18 Street on that day?

19 A I understood that there was a protest march for
20 Occupy Santa Cruz that had illegally entered a building at
21 75 River Street.

22 MR. RUBEN: Objection. Assumes facts not in
23 evidence.

24 THE COURT: Sustained.

25 BY MS. YOUNG:

26 Q Do you have -- did you have any involvement at 75

1 River Street on that day?

2 A I did not.

3 Q Okay. So did your involvement begin on Thursday
4 December first of that day of that year?

5 A That is correct.

6 Q Okay. And in what capacity -- what was your task
7 on that day? What was one of your first tasks on that day?

8 A Was to negotiate with the group that had entered
9 the building.

10 Q Was that your main task?

11 A That was.

12 Q And did you have any other task with respect to
13 the flyers at Santa Cruz PD had created?

14 A That is correct; the trespass flyers.

15 Q Let's start with that task in particular. Where
16 were those -- who had created those flyers?

17 A I did.

18 Q Okay. Where were they to be posted?

19 A On the building itself.

20 MS. YOUNG: Your Honor, may I have one moment?

21 THE COURT: Yes.

22 BY MS. YOUNG:

23 Q May I approach?

24 THE COURT: Yes.

25 BY MS. YOUNG:

26 Q So /PWE you not yet the been marked for

1 identification. What I'm going to show you marked for
2 identification People's 1 and 2; do you recognize what I put
3 before you?

4 A I do.

5

6 **(People's Exhibit(s) 1 and 2, Photographs, Marked for ID)**

7

8 BY MS. YOUNG:

9 Q What are they?

10 A They appear to be a copy of the flyers that I
11 posted.

12 Q Are they a fair and accurate representation of
13 what you generated?

14 A That is correct.

15 MS. YOUNG: Your Honor, the People would move to
16 admit 1 and 2.

17 MS. BRIGGS: Objection. Vague as to time.
18 Regarding December first posting.

19 MR. RUBEN: I object. Compound. Two flyers?

20 THE COURT: First of all, has defense counsel seen
21 the flyers that he's just identified?

22 MR. CLYMO: I believe two of us have. I have not.

23 MS. MC CAMEY: I have not either.

24 THE WITNESS: Your Honor, I'm not wearing my
25 hearing aids today. I'm going to ask if I might need
26 clarification on stuff.

1 THE COURT: All right. We will all do our best to
2 keep our voices up.

3 THE WITNESS: Sorry.

4 MS. YOUNG: Let me know if I'm not speaking
5 loudly enough.

6 THE WITNESS: Okay.

7 THE COURT: Let's go ahead, have you lay the
8 foundation for these one at a time.

9 MS. YOUNG: Yes.

10 BY MS. YOUNG:

11 Q Let's begin with -- right now let's just focus on
12 People's Exhibit 1; do you recognize that?

13 A I do.

14 Q What is that?

15 A That's the flyer that I created on that Thursday.

16 Q December first?

17 A Correct.

18 Q And was that the only flyer that you posted on
19 Thursday?

20 A That is correct.

21 Q Okay. And was this -- at this point, Your Honor,
22 the People move to admit 1 only. We'll get testimony on 2

23 MS. MC CAMEY: Still no indication which Exhibit
24 is 1 or 2; there's two. There hasn't been anything other
25 than this is the one that's posted. They each say different
26 things.

1 THE COURT: He just testified Plaintiff's 1 was
2 created on Thursday December 1 and posted.

3 MS. MC CAMEY: My question is which one. They
4 weren't marked when they were handed to us.

5 THE COURT: Go ahead read to us into the record
6 what Plaintiff's 1 says.

7 THE WITNESS: Okay. At the top is the City of
8 Santa Cruz logo with the words "City of Santa Cruz. Anyone
9 on this property is trespassing in violation of section 602
10 subsection 0 of the Penal Code."

11 THE COURT: You don't need to read the whole body.
12 You quote the Code section there?

13 THE WITNESS: That is correct.

14 THE COURT: How does it conclude?

15 THE WITNESS: Concludes with "Santa Cruz Police
16 Department has been authorized by the property owners to
17 take enforcement action for this violation. Violators need
18 to leave this property immediately. Anyone remaining on
19 this property is subject to enforcement action."

20 THE COURT: All right. So I'm going to admit
21 People's 1.

22

23 **(People's Exhibit No. 1, Copy of Police Post, Received in**
24 **evidence.)**

25

26 BY MS. YOUNG:

1 Q At about what time are you posting these flyers?

2 A This one is at approximately 1506 hours 3:06 p.m.

3 Q And can you specify where on the building on 75
4 River Street were the flyers being posted?

5 A On each of the doors, exterior doors.

6 Q And is this -- is this posting being videotaped by
7 Santa Cruz PD?

8 A It is.

9 Q And you had noted that you had another task that
10 day as well; what was that?

11 A It was to attempt to negotiate with members of the
12 group.

13 Q Was there anyone in particular you were attempting
14 to contact?

15 A I was given information about a person known as
16 "Wild Cat," which was Gabriella Ripleyhipps.

17 MR. HACKETT: Objection. Foundation.

18 THE COURT: Overruled. I'm just considering it as
19 to his state of mind as to why he selected a particular
20 individual to speak to.

21 BY MS. YOUNG:

22 Q And were those kind of your main tasks on that
23 day?

24 A That is correct.

25 Q Okay. And did you also speak with a man who was
26 later identified as Brent Adams during this time period?

1 A Yes.

2 Q How did that conversation -- where did that
3 conversation take place? How did it come about?

4 A It was on the property of 75 River Street on the
5 outside of the building.

6 Q And was this conversation videotaped by Santa Cruz
7 PD?

8 A Yes.

9 MS. YOUNG: Your Honor, I have video clips of this
10 conversation. And what I'd like to do is, it's been
11 provided to defense counsel. They have the time codes. It
12 is just for counsels purposes, video from camera two, clip
13 00082 dot MTS, beginning at 0423 continuing to 0918.

14 MS. MC CAMEY: I'm not sure a foundation's been
15 laid. It's my understanding this video was taken on a
16 different day.

17 THE COURT: So why don't you lay a foundation if
18 you can with this witness concerning what it is you
19 apparently intend to show to me.

20 BY MS. YOUNG:

21 Q Sure. This conversation takes place on December
22 first?

23 A That is correct.

24 Q Okay. And at about what time; do you recall?

25 A Right after I started posting the flyers. So now
26 3:06 p.m.

1 MS. BRIGGS: Objection, Your Honor. The only
2 video the defense counsel's been made aware of is video that
3 corresponds with report regarding December 2nd. So unless
4 there's additional video that defense counsel still not been
5 provided with, I believe that --

6 THE COURT: At this point we're talking about two
7 different things. We're talking about his personal
8 knowledge and participation in a conversation with Mr. Adams
9 on December 1. And you're now making reference to a video
10 tape which he may or may not know whether it depicts the
11 conversation he's having with Mr. Adams, whether he's seen
12 this video before, who he knows took it, the like.

13 MS. BRIGGS: I may have misheard the names, that
14 Ms. Young was referring to as to Adams rather than
15 Laurendeau.

16 MR. CLYMO: I would also like to object. My
17 understanding is when we set this time for four to six
18 hours, when we've been coming to court, videos were not
19 going to be used at the preliminary hearing; that we didn't
20 need it. Part of that argument the videos tend to assure
21 she was going to use them. I'd like to inform the Court I
22 do think playing videos and laying foundation is going to
23 open up 356 issues on cross-examination. I ask that under
24 352 --

25 THE COURT: I don't recall the conversation that
26 there was some agreement or commitment not to use videos. I

1 anticipated that videos would be displayed in one form or
2 another. I'm not sure what it is you're offering the video
3 that you just referred to for, given that he has personal
4 knowledge of this conversation.

5 MS. YOUNR: No. That's true. That is true. Let
6 me just clarify.

7 Q This conversation you're having on December first,
8 is this in fact -- do you recall it being videotaped while
9 you're having the conversation?

10 A There was videotape being done. I can't recall if
11 it was of this conversation or not but there was videotape.

12 Q Because you were -- when you were posting the
13 flyers, the procedure in and of itself was being videotaped?

14 A That's correct.

15 Q Okay. And -- well, Your Honor simply, I mean --

16 THE COURT: We don't need it at this point.

17 MS. YOUNG: Okay. And for every -- on that note,
18 for every video clip I've got in here I'll ask the Court to
19 permit them beforehand --

20 THE COURT: Let me inquire. Have you seen a
21 videotape which depicts you conversing with Mr. Adams?

22 THE WITNESS: I have seen it.

23 THE COURT: All right.

24 BY MS. YOUNG:

25 Q And can you summarize that conversation with
26 Mr. Adams for us?

1 A Essentially I was giving him a cell phone because
2 he informed me that he was not the voice of the group and
3 that the cell phone was for me to contact anybody to
4 negotiate with them. And it had a wall charger with it as
5 well. I informed him that it would receive incoming calls,
6 couldn't dial out on it. And because I was not going to
7 enter the building with multiple people inside to
8 face-to-face negotiate with them for my safety. So as to
9 start a negotiation with hopefully somebody or the group
10 itself.

11 Q Where did Mr. Adams come from before you gave him
12 the cell phone?

13 A He was actually inside the building then came out.

14 Q And did you give him that cell phone in order to
15 give it to Wild Cat?

16 A Actually I gave it to him for anybody in the group
17 at that time.

18 Q And, I'm sorry, did you already know who Wild Cat
19 had been identified as?

20 A I did not have her complete name at that time. I
21 just knew her as Gabriella.

22 Q Were you able to speak with someone named
23 Gabriella on that -- via that cell phone that day?

24 A Not on that cell phone. That cell phone never had
25 any contact with anybody. I attempted to.

26 Q Again, we're just going to go in chronological

1 order. Again on December first, did you eventually meet
2 with this Gabriella?

3 A I did.

4 Q And when and where did that take place?

5 A At the Santa Cruz Police Department lobby, one of
6 the interview rooms. It was a little after 8 p.m. I can't
7 tell you exactly. I think it's 8:36 p.m., 2036 hours.

8 Q Actually I should note for the record the person
9 you spoke with outside would come out of the building and
10 met with you and to whom you'd given the cell phone; do you
11 see that person in court today?

12 A I do.

13 Q Can you please state where he's seated, what he's
14 wearing.

15 A Appears to be the first bench behind the defense
16 attorneys. Going to be seated from my far left. He's
17 wearing a black vest, tie, seems to appears to have a small
18 goatee.

19 THE COURT: All right. So the record will reflect
20 the witness identified Miss Ripleyhipps.

21 MS. YOUNG: No. No, Your Honor.

22 THE COURT: Pardon me?

23 MS. YOUNR: No, that was identification of
24 Mr. Adams.

25 THE COURT: I'm sorry.

26 MS. YOUNG: I'd asked him to identify Mr. Adams,

1 the person he met with outside of the building.

2 THE COURT: One more time.

3 THE WITNESS: Okay. The bench directly behind the
4 -- where the defense attorneys are sitting. The person on
5 the very far left with the black, looks like a black vest;
6 he's waiving at me now with a smile on his face.

7 THE COURT: All right. Identified Mr. Adams.

8 BY MS. YOUNG:

9 Q Now, you said you met with Gabriella at the Santa
10 Cruz PD at about the 8:36 p.m. that day?

11 A That's correct.

12 Q At that time had she been fully identified? Were
13 you able to fully identify her at that time?

14 A I think actually I still only knew her as
15 Gabriella or "Wild Cat" at that point.

16 Q For the record, do you see that person in court
17 today?

18 A I do. And actually again the first bench behind
19 the defense attorneys. Third person from the left. Appears
20 red scarf, brown scarf as well with a black jacket on.

21 THE COURT: Now identified Miss Ripleyhipps.

22 BY MS. YOUNG:

23 Q Was she alone or was she with anyone else?

24 A She was actually with another gentleman.

25 Q Do you recall who that is?

26 A Actually, I do not.

1 Q And what did you tell Miss Ripleyhipps during
2 this particular conversation?

3 A During this conversation essentially the same
4 thing from all my conversations; that the group needed to
5 leave the building immediately; that the they were
6 trespassing. We wanted to know what their exit strategy was
7 at the time and we wanted to do it safely.

8 Q And as the kind of negotiator with Santa Cruz PD,
9 are you using kind of the same script each time you
10 negotiate with the group?

11 A That is correct.

12 Q And did you also discuss the trespass posting
13 flyers that you put up earlier that day?

14 A Yes.

15 Q What did you tell them?

16 A That that was their warning for the trespassing
17 section that was needed to begin with.

18 Q Did you also discuss the property owners
19 standpoint on their occupation?

20 A Yes. That they wanted them to leave immediately.

21 Q And what was Miss Ripleyhipps' response to you?

22 A That she needed to go back to the group and
23 discuss the plan.

24 Q Did she identify her role within the group?

25 A That she was essentially the spokesperson for the
26 group with the police department at that time.

1 Q The cell phone that you had provided to Mr. Adams
2 to give to whoever in the group that was in charge of
3 negotiating, did you try calling that cell phone after this
4 conversation?

5 A I believe I did once that evening.

6 Q And was there someone -- did somebody answer that
7 phone?

8 A No, that phone had never been answered through the
9 whole time of negotiations.

10 Q Got it. Okay. Were you able to reach
11 Miss Ripleyhipps by phone later that night?

12 A That is correct.

13 Q And so on what phone number are you calling her?
14 Just on her personal phone?

15 A That's correct.

16 Q Okay. What time were you able to reach her?

17 A I believe that was about 10, 11 p.m. 2211 hours.

18 Q And what did she tell you during this
19 conversation?

20 A That the group had come to a consensus they
21 weren't leaving at this time; they wanted more negotiations.

22 Q And what was your response?

23 A Same as always; that they were illegally
24 trespassing; they needed to exit the facility. What's their
25 exit strategy.

26 Q And were they -- was she warned about what would

1 happen if they didn't exit?

2 A Ya, that the police would have to take enforcement
3 action.

4 Q Was that the end of your involvement on Thursday,
5 December first?

6 A That is correct.

7 Q Did your involvement continue on to Friday
8 December 2nd?

9 A It did.

10 Q Okay. And in the same capacity, did you have the
11 same task that you had on December first?

12 A That is correct.

13 Q Okay. So would that include again posting flyers?

14 A That's correct.

15 Q Now, on December 2nd, did your flyers change?

16 A It did.

17 Q Tell me about that.

18 A I was made aware that 602(o) wasn't the only
19 section that could fit this occupation of the building; that
20 other trespassing sections might be applicable including 602
21 subsection M. So I was requested that the flyer be for the
22 whole 602 section since multiple could apply.

23 Q Could I address your attention to People's Exhibit
24 Number 2?

25 A You can.

26 Q Is that -- do you recognize that?

1 A I do.

2 Q What is it?

3 A It looks like a copy of the flyer that I made on
4 that Friday.

5 MS. YOUNG: And, Your Honor, the People move to
6 admit People's 2.

7 THE COURT: People's 2 is what you created on that
8 day, Friday, December 2nd, you posted it that same day?

9 THE WITNESS: That's correct.

10 THE COURT: Why don't you go ahead and read the
11 opening of that posting

12 THE WITNESS: "Anyone on this property is
13 trespassing in violation in Section 602 of the Penal Code
14 which may include any of its subsections."

15 THE COURT: All right. Thank you. It will be
16 admitted.

17

18 **(People's Exhibit No. 2, Post, Received in evidence.)**

19

20 BY MS. YOUNG:

21 Q And flyer number two I'll call it, when did you
22 start posting that flyer?

23 A That one I believe was at 3:36 or 3:37 p.m. 1536
24 hours.

25 Q Where are you posting that flyer?

26 A Again on the exterior doors of the building at 75

1 River Street.

2 Q And is this posting videotaped as well by Santa
3 Cruz PD?

4 A That is correct.

5 Q During this time did you speak with a man later
6 identified as Cameron Laurendeau?

7 A I did.

8 Q For the record, before we begin, do you see that
9 person in court today?

10 A I do.

11 Q Could you please state where he's seated, what
12 he's wearing.

13 A Again, we're on the first bench behind the defense
14 attorneys. Fifth person over wearing a black button up long
15 sleeved shirt and blue jeans.

16 THE COURT: All right. Record will reflect
17 witness identified Mr. Laurendeau.

18 BY MS. YOUNG:

19 Q And as with the day before, was this conversation
20 videotaped by Santa Cruz PD?

21 A It was.

22 MS. YOUNG: Your Honor, I had prepared a clip as
23 well. Just for the record I'll just note the time code.
24 It's video from camera two. Clip 00085, dot MTS. Beginning
25 at 0610 and continuing to 0932.

26 MR. RUBEN: Objection 352.

1 MS. BRIGGS: Your Honor, actually prefer that the
2 Court does view the video as far as I think that
3 conversation A bit of a strong characterization.

4 THE COURT: Why don't you go ahead and have him
5 describe his personal knowledge. Then you can go ahead and
6 view the videotape which depicts what it is he's verbally
7 described to me.

8 BY MS. YOUNG:

9 Q Can you summarize this conversation for us?

10 A Essentially it was the same thing that I'd given
11 to the spokesperson for the group; that they needed to leave
12 the building. They were trespassing. They needed to exit
13 immediately.

14 Q Were you present when it was -- was the video
15 camera present when you were having this conversation?

16 A I believe so.

17 MS. YOUNG: Your Honor, with that --

18 THE COURT: Did he respond in any way?

19 THE WITNESS: I don't remember any responses from
20 him.

21 THE COURT: All right. Do you want to go ahead
22 and show the video.

23 MS. YOUNG: Sure. I can do that.

24 MR. CLYMO: Has this been marked as an Exhibit?

25 MS. YOUNG: That's a good question. The way that
26 I have it now is each clip is its own, its own separate

1 clip. And I simply identified the time code where
2 particular defendants could be located. I'll leave it to
3 the Court's discretion on how you would like that admitted
4 as an exhibit. I can either provide the entire -- the
5 actual hard drive. I can put simply that clip on a CD or,
6 excuse me, on a DVD; however the Court would like it
7 provided for the record.

8 THE COURT: All right. So the raw material that
9 you are using to show selected clips, has it been discovered
10 in full to each of the defense counsel?

11 MS. YOUNG: Yes. This is what's on the external
12 hard drive that each attorney received.

13 THE COURT: And you're referring to it as material
14 retrieved from camera two; is that it?

15 MS. YOUNG: Yes. What I did is I identified for
16 counsel the path that you take in order to get to the clip.

17 THE COURT: So we can identify what's being
18 depicted and then at the conclusion of the cross-examination
19 we can mark it as an exhibit, everything that's been
20 referred to.

21 MS. YOUNG: Okay.

22 THE COURT: We'll decide in what form that will
23 take place.

24 MS. YOUNG: Okay. Fine. So what I'm going to
25 do, I'm simply going to show you 0610 through 0932 to the
26 best of my ability to start and stop at the right place.

1 (Video played)

2 THE COURT: Could you just go back through this.
3 Is that Mr. Laurendeau depicted in the video clip that was
4 just displayed?

5 THE WITNESS: That's correct, Your Honor.

6 THE COURT: Are you also depicted in that video
7 clip we're seeing the back of your head?

8 THE WITNESS: That's correct, your honor.

9 THE COURT: All right. Are those tents that I'm
10 seeing on the lawn?

11 THE WITNESS: That is correct, Your Honor.

12 THE COURT: All right.

13 (Video continued playing)

14 THE COURT: That's the back of your head there

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: Just for reference point, that is
17 appearing where? As a reference point, we're seeing the
18 back of Lieutenant Richard's head looking into the inside of
19 75 River Street; where is that between 0610 and 0932?

20 MS. YOUNG: Actually that's at 0604, I believe.

21 THE COURT: All right. Are we looking now at
22 Mr. Laurendeau inside the building or outside the building?

23 THE WITNESS: Inside, Your Honor.

24 THE COURT: All right.

25 MS. YOUNG: That's at 0614.

26 (Video played)

1 THE COURT: The two pictures reflected in that
2 frame, are they tents outside on the lawn or are those more
3 tents inside the building?

4 THE WITNESS: I believe those are reflections,
5 Your Honor.

6 THE COURT: Go ahead.

7 MS. YOUNG: Okay. Continuing.

8 (Video played)

9 THE COURT: There are two officers depicted in
10 that frame.

11 THE WITNESS: That's Sergeant John Bush and
12 myself.

13 THE COURT: And yourself?

14 THE WITNESS: Yes.

15 (Video played)

16 BY MS. YOUNG:

17 Q I'm going to back up for a second. Did you see
18 the man in the video who came out in sunglasses?

19 A I did.

20 Q Let me back up.

21 A I did.

22 Q Okay. Do you know who that is?

23 A Yes, that's the defendant Cameron however you
24 pronounce his name. I don't want to butcher it.

25 Q Laurendeau?

26 THE COURT: And what portion of the clip is this?

1 MS. YOUNG: 0843.

2 THE COURT: As the two of you are walking past each
3 other is this when you advised him to leave the building;
4 that he was trespassing and needed to leave immediately

5 THE WITNESS: I believe so and also believe he
6 stopped at some point.

7 BY MS. YOUNG:

8 Q I'm sorry. I missed that.

9 A I believe he stopped at some point.

10 Q I'll continue playing.

11 (Video played)

12 Q Is that the end of the conversation where
13 Mr. Laurendeau was present?

14 A Yes.

15 Q Stop at 0950. And during this day, again going in
16 chronological order, on December 2nd, were you able to
17 contact Miss Ripleyhipps by cell phone?

18 A I was, yes.

19 Q Again on her personal cell?

20 A Yes.

21 Q When did that takes place?

22 A Approximately 1611 hours, 4:11 p.m.

23 Q What did she tell you at this point?

24 A That the group was still meeting and discussing
25 their plans.

26 Q And what did you tell her?

1 A Same as always; that they needed to leave
2 immediately. They're illegally trespassing. What's their
3 exit strategy? The police didn't want to see anyone get
4 hurt.

5 Q At some point during this day was the power to 75
6 River Street turned off?

7 A It was.

8 Q Do you know about what time?

9 A It was between our two conversations when I
10 learned about it somewhere between 1611 hours, I believe --

11 MR. RUBEN: Objection. Foundation. Hearsay.

12 THE COURT: Overruled.

13 THE WITNESS: 1611 hours which is 4:11 p.m. to I
14 believe our recontact was around 6:32 p.m., 1832 hours.

15 BY MS. YOUNG:

16 Q That brings me to my next question. Did you have
17 another phone call with Miss Ripleyphipps?

18 A I did.

19 Q What time was that?

20 A About 6:32 p.m., 1832 hours.

21 Q What did she tell you at this point?

22 A That I believe that they were still meeting at
23 that point as well discussing what their plans were.

24 Q And did you call her later on that night?

25 A I did.

26 Q I believe it was around 8:17 p.m., 2017 hours?

1 Q And what did she tell you at this point?

2 A That they, I believe due to the power and other
3 things that they were going to meet again the next morning.

4 Q For what end?

5 A To discuss further what they were going to do.

6 Q And did they have a deadline when they'd make that
7 decision as to whether or not to leave?

8 A You know, I don't recall right.

9 Q And what did you tell her?

10 A They were illegally trespassing. Everyone needed
11 to leave immediately; that police would be required to take
12 enforcement action.

13 Q And was this the end of your involvement on
14 December 2nd?

15 A That's correct.

16 Q Okay.

17 THE COURT: Let me just clarify. When you had the
18 conversation with her first at 6:32 then another
19 conversation at 8:17, did she tell you she was inside the
20 building?

21 THE WITNESS: She did not.

22 THE COURT: Did you visualize her as you were
23 speaking in the phone, inside the building?

24 THE WITNESS: I did.

25 THE COURT: All right.

26 BY MS. YOUNG:

1 Q And did she actually, to clarify that during that
2 8:17 conversation, did she clarify whether or not the group
3 had left or were they still there, according to her?

4 A You know, I would have to look at my notes, if I
5 have anything. But I don't recall. I assume they would
6 still be there.

7 MR. HACKETT: I don't mean to interrupt here. I
8 just need a little clarification. When you asked the
9 officer if he visualized Miss Ripleyhipps in the building,
10 I want to be clear that was in his head, not with his eyes.

11 THE WITNESS: That's correct, Your Honor.

12 THE COURT: All right. So my question is: Did
13 you see her talking to you on the phone while you were
14 engaging her in conversation on the telephone?

15 THE WITNESS: I did not.

16 THE COURT: You were not present at the location
17 when the phone conversations were occurring?

18 THE WITNESS: I was at the PD for each of the
19 phone conversations I had with her.

20 MR. HACKETT: Thank you, Your Honor.

21 BY MS. YOUNG:

22 Q Did your involvement continue on Saturday,
23 December third?

24 A It did.

25 Q And did you try calling Miss Ripleyhipps again on
26 that day?

1 A I did.

2 Q Did she answer? Did you have a conversation at
3 that time?

4 A We did not have a conversation that morning.

5 Q Did you go back to 75 River Street on that day?

6 A I did.

7 Q At about what time?

8 A 11:50 a.m., 1150 hours.

9 Q What did you do when you got there?

10 A Again posting flyers.

11 Q And during the time, did anyone contact you when
12 you were posting those flyers?

13 A Actually believe Miss Ripleyphipps.

14 Q Was she alone or was see with anyone else?

15 A She was with another gentleman.

16 Q And do you remember that -- do you remember who
17 that was?

18 A He identified himself to me as Kelly. Later I
19 learned it was a gentleman by the name of Daniel Walters, I
20 believe.

21 Q And did you have a conversation with
22 Miss Ripleyphipps?

23 A I did.

24 Q And what did you tell her?

25 A Same thing. That they were illegally trespassing.
26 They needed to leave the building immediately. What was

1 their exit strategy. The police didn't want to see anyone
2 get hurt.

3 Q And was that the extent of the conversation? Did
4 she leave after that? Where did she go?

5 A I don't know. I left after that conversation.

6 Q This Daniel Walters person who called himself
7 Kelly, did you speak with him as well?

8 A It was part of the same conversation.

9 Q And was she present for that conversation with
10 Mr. Walters?

11 A I believe so.

12 Q And did you put anything --

13 A Same thing. They needed to exit. They were
14 illegally trespassing. The police would take enforcement
15 action.

16 Q Was there any response that he had?

17 A You know, I'd have to look at my notes for that
18 one. I do not recall. I know there is something.

19 Q Would it refresh your recollection to review your
20 report?

21 A It would.

22 Q Do you have that? Do I need to provide it?

23 A I actually have a copy of my report.

24 Q If you can take a look, let us know when you've
25 been refreshed.

26 THE COURT: You can do that.

1 THE WITNESS: Thank you, Your Honor. I don't see
2 what he told me inside my notes.

3 BY MS. YOUNG:

4 Q I'm sorry?

5 A I do see a brief conversation with he had engaged
6 me in my notes.

7 Q Does that refresh your recollection?

8 A It does.

9 Q What did he tell you?

10 A Essentially there was damage inside the bank; the
11 group should leave.

12 Q And did you speak after this conversation with
13 Miss Ripleyhipps at about, I guess it was about 1150 or
14 what time was this conversation?

15 A It was around 1150 hours.

16 Q Did you have another conversation with her?

17 A I did.

18 Q And about what time did that take place?

19 A That would be one of the ones I'd have to refer to
20 the notes for the time.

21 Q Okay. If that would refresh your recollection.

22 THE WITNESS: Your Honor?

23 THE COURT: Go ahead.

24 BY MS. YOUNG:

25 Q Just for the record, when you say "notes," you're
26 talking about your report?

1 A That's correct.

2 Q Okay.

3 A I did -- it was 1427 hours which would be 2:27
4 p.m.

5 Q And what did Miss Ripleyphipps tell you at this
6 point?

7 A That the group needed 24 hours to leave the bank
8 and that at this point they had made their point and that
9 they were going to cease their illegal activity.

10 Q Did she tell you anything about the condition of
11 the building, what needed to be done?

12 A They needed 24 hours to clean up.

13 Q And what did you tell her?

14 A That they needed to leave immediately.

15 Q And was there response or was that just the end of
16 the conversation?

17 A I believe they wanted the 24 hours and we ended
18 the conversation.

19 Q And did you talk to her later on that day?

20 A Again, I would have to review my report.

21 Q Please.

22 THE COURT: Yes, you can do that.

23 THE WITNESS: Yes, I did.

24 BY MS. YOUNG:

25 Q At about what time?

26 A 1627 hours, 4:27 p.m.

1 Q And what did Miss Ripleyhipps tell you at this
2 time?

3 A That they were still continuing to clean up.

4 Q And what did you tell her?

5 A That the group needed to leave immediately; that
6 they were trespassing.

7 Q And did you end up going back to the building
8 later on that day?

9 A I did.

10 Q About what time was that?

11 A 2213 hours, 10:15 p.m.

12 Q What did you do when you got there?

13 A What appeared to me to be a vacant bank building.

14 Q Were you able to enter the building at that time?

15 A I did after fire department came to get me in.

16 Q Were you able to confirm that there wasn't anyone
17 within the building?

18 A I did confirm that.

19 MS. YOUNG: All right. Thank you.

20 THE COURT: Anything further?

21 MS. YOUNG: No, Your Honor. Thank you.

22 THE COURT: Cross examination.

23 MR. RUBEN: Thank you, Judge.

24

25 **CROSS EXAMINATION**

26 BY RUBEN:

1 Q I just wanted to ask you clarification questions
2 regarding the video clip that we looked at, still up there.

3 First, I didn't hear verbal -- were you making
4 verbal commands for people to leave the building during that
5 day?

6 A I was telling them, informing them of the flyer
7 that they needed to exit.

8 Q You were directing them to the flyer?

9 A Yes.

10 Q And then I also -- I pulled out what I believe are
11 quotes. I want to make sure I had the words right. "Let me
12 know what you're exit strategy is"?

13 A That's correct.

14 Q "Give me a call"?

15 A I don't think it was "give me a call." "Let me
16 know your exit strategy"; they're not together.

17 Q Okay. Did you see or hear with your own eyes or
18 ears a man named Mr. Franklin Alcantara during your
19 involvement in this case?

20 A No.

21 Q So then assumedly you didn't see him enter any
22 agreements, have any knowledge of him entering into any
23 agreements?

24 A No.

25 Q Did you see or hear any of the following things
26 happen at 75 River Street. I'll just give you a list. You

1 can answer "yes" or "no" as we go; okay? Did you see anyone
2 break into a lock box that contained keys to the building?

3 A No.

4 Q Did you see anyone using keys to gain entry into
5 the building?

6 A No.

7 Q Did you see anyone entering the building?

8 A On which dates?

9 Q At any time.

10 A Yes.

11 Q Could you estimate how many?

12 A People? You have to look at the videotape; those
13 are the ones that I saw.

14 Q Let me be clear. What you saw with your own eyes,
15 how many people did you see entering the building, an
16 estimate?

17 A Probably between 10 and 20 over a three day
18 period.

19 Q Okay. Then you also reviewed video?

20 A I didn't review all of it.

21 Q Did you review some of it?

22 A Yes.

23 Q Did you see other people entering in those videos?

24 A Same people.

25 Q Same people?

26 A Uh-huh.

1 Q Did you see anyone posting signs or banners?

2 A No.

3 Q Did you see people remaining in the building after
4 being given verbal warnings to leave?

5 A The ones that stayed in the building -- I dind't
6 give them verbal commands. I guess the answer's no to that.

7 Q Did you see anyone physically blocking the entry
8 of the police into the building?

9 A Yes.

10 Q That depicted in this video?

11 A Not that video right there, no.

12 Q But in that video actually there's an open door
13 people coming out of it?

14 A There is.

15 Q And those people, did they say anything to you
16 saying, "No, you can't come in"?

17 A No.

18 Q Did you see people bringing items into the
19 building?

20 A Just what they were carrying; maybe backpacks and
21 other stuff.

22 Q Okay. Did you see people barricading doors or
23 windows?

24 A Yes, I did.

25 Q Okay. Were you able to identify any of them?

26 A No.

1 Q How many people were you able to -- well, I'll
2 leave it at that.

3 Besides, you mentioned backpacks kind of
4 personal effects, besides that, can you tell us what you saw
5 people bringing into the building?

6 A No.

7 Q Did you witness or hear any meetings being
8 conducted inside the building I assume?

9 A No.

10 Q Did you see anyone repurposing or relabeling a
11 room in the building?

12 A No.

13 Q Did you see people gaining access to the roof?
14 Let me be clear. Not did you see people on the roof. Did
15 you see people gain access to it?

16 A Thank you. No.

17 Q Did you see somebody posting another person on the
18 roof?

19 A No.

20 Q Did you see people hoisting buckets of rocks on to
21 the roof?

22 A No.

23 Q Did you see people using the utilities inside the
24 building? I assume they had the lights on.

25 A Other than that, no.

26 Q Okay. But did you actually see someone turning on

1 the lights?

2 A No.

3 Q Did you see someone messing with the electric box?

4 A No.

5 Q Did you see somebody, like if I'm going to
6 repurpose the electrical guy turn it on?

7 A No.

8 Q Okay. In fact you guys cut the utilities off;
9 correct?

10 A I don't know who cut them off.

11 Q You don't? It wasn't a police action?

12 A Not to my knowledge.

13 Q Okay. Thank you. Now, we're back to this idea of
14 who comes in and out of the building. Did you see people
15 preventing people from coming into the building?

16 A Just me on the first day.

17 Q On the first day that you're not invited?

18 A No, they were putting a desk and things front of
19 the door that you saw people exiting and leaving on day two.

20 Q Those would be the people you weren't actually
21 able to identify later at 4:30?

22 A That's correct.

23 Q Okay. And did you actually see anyone painting a
24 slogan or writing?

25 A No.

26 Q Okay. So now specific to Mr. Alcantara, are you

1 familiar let me use the term broadly vandalism; does that
2 make sense to you?

3 A It does.

4 Q So did you see or hear with your own eyes, with
5 your own ears, mister -- any acts of vandalism actually
6 being committed?

7 A Did I see it? No.

8 Q Okay. And then therefore obviously not by
9 Mr. Alcantara?

10 A No.

11 Q And you've seen you believe to be, I guess, a
12 product of vandalism?

13 A When I went into the building on the night of
14 December third, Saturday when I cleared the building, yes.

15 Q Okay. But did you see or hear any evidence that
16 Mr. Alcantara himself was aware that somebody had committed
17 these acts of vandalism?

18 A No.

19 MS. YOUNG: Your Honor, I'm sorry. I just to, to
20 be as clear as possible. Lieutenant Richard is, the only
21 testimony that he's here for is for defendants Adams,
22 Laurendeau and Ripleyhipps. The other attorneys if they
23 want but their clients, I'm going to tell you he's not going
24 to be able to answer that.

25 THE COURT: Given he's not being offered for that
26 purpose, what you're engaging in then would be discovery.

1 So

2 MR. RUBEN: It was going to be a limited amount of
3 questions to the counts charged and witness called at the
4 prelim. If the Court's telling me you want me to
5 discontinue --

6 THE COURT: Why don't we wait until the person
7 that are called to identify your client.

8 MR. RUBEN: If I could just ask a last question.

9 Q Are you familiar with what these people, what
10 these folks are charged with?

11 A I have and idea, yes.

12 Q Okay. Do you have any evidence that Mr. Alcantara
13 violated any laws?

14 A No.

15 MR. RUBEN: Thank you. No further questions.

16 THE COURT: All right. So, Mr. Hackett. Let me
17 just go back. Hang on before we go to Mr. Hackett, you
18 indicated in response to one of Mr. Ruben's questions that
19 you didn't give a verbal command to persons who ended up
20 staying in the building. And I thought I heard you say you
21 did give verbal commands to at least Gabriella Ripleyhipps
22 and Mr. Laurendeau to leave the building.

23 THE WITNESS: The question I understood from him
24 was verbal commands to people who I saw inside the building
25 at the time to leave. Each person I gave it to, as you can
26 see, Your Honor, were outside the building or on a cell

1 phone at that time. So I didn't verbally see them in the
2 building.

3 THE COURT: Am I understanding correctly then you
4 did not give a generalized verbal command to the group in
5 the building? You merely engaged specific individuals?

6 THE WITNESS: That's correct, Your Honor.

7 THE COURT: All right.

8 MR. RUBEN: If I can ask a followup question? I
9 assume actually obvious given the answer, you didn't have
10 that conversation with Mr. Alcantara?

11 A No

12 MR. RUBEN: Thank you.

13 THE COURT: Mr. Hackett?

14

15 **CROSS EXAMINATION**

16 BY MR. HACKETT:

17 Q With the Court's permission, I'll question while
18 seated.

19 THE COURT: Yes.

20 BY MR. HACKETT:

21 Q Bryan Hackett on behalf of Gabriella Ripleyhipps.
22 Good morning, lieutenant.

23 A Good morning.

24 Q How are you doing this morning?

25 A So far so good.

26 Q I'll try to be brief. I want to go through a

1 little bit of testimony that we've heard already this
2 morning.

3 So December first, 2011 was the first time you
4 were at 75 River Street or involved at 75 River Street?

5 A That's correct.

6 Q Okay. And I understand your main task was to -- I
7 thought I heard you say was to negotiate with the group that
8 had entered the building?

9 A That's correct.

10 Q Okay. And obviously at the end of that hopefully
11 to facilitate some sort of peaceful and uneventful exit from
12 the building?

13 A That's correct.

14 Q Okay. And you also had -- you also had some
15 flyers you were placing on the outside of the doors?

16 A That's correct.

17 Q Now, you at one point said that you were given
18 information about Wild Cat. Who did you receive that
19 information from?

20 A Officer Dan Forbus.

21 Q Forbus? Okay. And then you provided basically in
22 an effort to facilitate this discussion or conversation or
23 negotiation you provided a cellular phone to someone outside
24 the building?

25 A That's correct.

26 Q And said here's the phone and charger; give it to,

1 you know, I will call it basically?

2 A Yes.

3 Q It only received calls?

4 A That's correct.

5 Q And to your knowledge that phone was never given
6 to Gabriella Ripleyhipps?

7 A Not to my knowledge, no.

8 Q As a matter of fact, you called that phone a
9 number of times but never spoke with anyone?

10 A That's correct.

11 Q Okay. And when you met with Miss Ripleyhipps on
12 December first at roughly 8:36, that was at the Santa Cruz
13 Police Department; correct?

14 A That's correct.

15 Q Okay. And she came there voluntarily?

16 A That's correct.

17 Q And she was accompanied by someone else?

18 A That's correct.

19 Q And you don't know who that was?

20 A He gave a first name, I believe, I don't recall.
21 But they were weren't worried about identifying themselves
22 at this point.

23 Q Okay.

24 A He wasn't the main spokesperson. Gabriella
25 informed me she was.

26 Q But he participated in that conversation?

1 A He had some questions, I believe.

2 Q Is he in the room?

3 A I have no idea.

4 Q Okay. Now, you used the word spokesperson but in
5 your report a number of times you used the word liaison.
6 Sort of interchangeable?

7 A For me they are, yes.

8 Q Okay. Now, you went through a number of times
9 where you were provided a cell phone number that you called
10 and spoke with someone on the other end?

11 A That's correct.

12 Q And this was not the phone that you gave to
13 someone to bring inside the building?

14 A That's correct.

15 Q Okay. And so on December 1st at roughly 10:21 you
16 spoke with someone at the number Officer Forbus provided
17 you?

18 A That's correct.

19 Q And you really can't confirm one way or the other
20 who that was?

21 A I'm not a voice recognition expert.

22 Q Whoever it was, you can't confirm where they were
23 when they called?

24 A That's correct.

25 Q And assuming for the sake of argument that
26 Miss Ripleyhipps was the person on the other end of that

1 phone and you met her at the police station, if I'm
2 understanding the role of police liaison, you were basically
3 giving her information to tell the people in the bank?

4 A That's correct.

5 Q Making clear to them what your view of the
6 situation was?

7 A That's correct.

8 Q And that you wanted to facilitate a quick,
9 painless exit from the building?

10 A That is correct.

11 Q And her role was then to convey that information
12 to the people in the building?

13 A That is correct.

14 Q Through whatever means were at her disposal?

15 A That is correct.

16 Q Like maybe a cell phone?

17 A That is correct.

18 Q Okay. So you had no information that she was
19 actually involved in any decision-making process whatsoever;
20 correct?

21 A That is correct.

22 Q She was just a messenger?

23 A That is correct.

24 Q All right. Now, when you did go to the bank again
25 -- when I say "the bank," I'm referring to 75 River Street,
26 obviously on December 2nd at roughly 1537 hours, you had

1 that brief conversation we saw the video, she -- you were
2 told she's not there?

3 A That's correct.

4 Q Okay. And then you had a conversation via
5 telephone with her at, if I had it correct, 1832. I'm just
6 kind of walking through chronologically here the questions
7 and testimony you gave. That the next contact you had with
8 her was -- I'm sorry 4:11 on December 2nd?

9 A Uh-huh.

10 Q She informed you that the group was still meeting
11 and discussing plans?

12 A That's correct.

13 Q You don't know where she was when you talked to
14 her on the phone?

15 A That is correct.

16 Q And you don't know if she was involved in that
17 discussion of plans?

18 A That is correct.

19 Q Okay. And then at 1832 you had another
20 conversation with her via telephone again; correct?

21 A That's correct.

22 Q And she informed you basically the same
23 information, the group is still meeting and they're
24 discussing the plans?

25 A That's correct.

26 Q You don't know where she was at the time?

1 A That's correct.

2 Q You don't know if she was involved in the
3 discussion at all?

4 A That's correct.

5 Q Okay. And then on December 3rd of 2011, you did
6 have personal contact with Miss Ripleyhipps but that was
7 outside of the building?

8 A That is correct.

9 Q And you said you didn't know where she went after
10 that?

11 A No.

12 Q Okay. She was still outside of the building last
13 time you saw her?

14 A That's correct.

15 Q Then on December 3rd again at 1427 hours, you have
16 another telephone conversation with her?

17 A That's correct.

18 Q And again all of these telephone conversations are
19 happening not on the phone that you provided to be brought
20 into the building?

21 A That is correct.

22 Q Okay. So this final conversation you had with her
23 on December 3rd she says basically the group is packing up
24 and leaving?

25 A That's correct.

26 Q So essentially your and her efforts to assist a

1 smooth and painless exit from the building are ultimately
2 successful?

3 A That is correct.

4 Q Okay. And just a quick clarification on something
5 the Judge asked you at the end. He asked you about giving
6 verbal commands. And any verbal commands you gave to
7 Miss Ripleyphipps were (A) given to her outside the
8 building; correct?

9 A That's correct.

10 Q And were largely designed to have her convey to
11 those inside the building, whoever they were, to get out?

12 A It was for everyone in the building.

13 Q In the building; okay.

14 MR. HACKETT: I have nothing further of this
15 witness, Your Honor.

16 THE COURT: All right. And let me just ask some
17 clarifying questions. How did you set up? Was the meeting
18 where she came to the Santa Cruz Police Department office
19 something you set up with her or did she just show up?

20 THE WITNESS: She actually just showed up.

21 THE COURT: And where did you get this phone
22 number that you engaged in these conversations with her?

23 THE WITNESS: Someone gave it. I assumed it was
24 her, to Officer Forbus on the night of the original
25 occupation which would have been Wednesday.

26 THE COURT: All right.

1 MR. HACKETT: I'm going to object as to vague and
2 foundation.

3 THE COURT: Sustained. All right. Mr. Beauvais?

4 ///

5 **CROSS EXAMINATION**

6 BY MR. BEAUVAIS:

7 Q Good afternoon, lieutenant.

8 A Good afternoon. Good morning.

9 Q Did you work at all on November 30th?

10 A I did.

11 Q Were you -- you weren't involved in any of the
12 planning with regard to the police response on this incident
13 on November 30th?

14 A I was dealing with something else on that day; I
15 can't recall exactly but I did not get involved with any of
16 the stuff of the occupy.

17 Q Who was the person who was primarily in control of
18 the police response on November 30th?

19 A Lieutenant Colleen McMahon.

20 Q I'm sorry?

21 A Lieutenant Colleen McMahon.

22 Q Was there any -- were there any meetings of police
23 officials that you participated in either on November 30th
24 or December first regarding the incident taking place?

25 A From my recollection -- from my report it was that
26 Thursday morning regarding the plan. Was there meetings

1 Wednesday, November 30th? That's very possible. I don't
2 recall at this point.

3 Q Do you recall being in a meeting on Thursday?

4 A I do.

5 Q Okay. And who else was in the meeting?

6 A Deputy Chief Steve Clark.

7 Q This where the plan was formulated to post the
8 notices?

9 A That is correct.

10 Q What other plans were made at that time?

11 A For me to negotiate with the group because of my
12 experience in that area.

13 Q Anything else? Do you know approximately what
14 time this meeting took place?

15 A No, I do not.

16 Q Were there any writings ever generated to
17 memorialize that meeting?

18 A No.

19 Q Were there any outside agencies involved in
20 planning for police response?

21 A Are you going to give me dates? On Thursday?

22 Q At any time.

23 A Yes, I believe so. I wasn't involved in those
24 meetings so I don't know.

25 Q What agencies were involved?

26 A Well, we're talking about government property

1 that's on the outside. I assume Santa Cruz Sheriff's
2 Office.

3 Q Anyone else?

4 A Again, since I wasn't involved in meetings with
5 outside agencies, you're asking me to speculate.

6 Q Whether you were personally involved or not, what
7 do you know about or what have you heard about it?

8 MS. YOUNG: Your Honor, beyond the scope.

9 THE COURT: Yes, sustained. Requires him to
10 speculate as well.

11 BY MR. BEAUVAIS:

12 Q Did you personally make contact with any
13 representative of Wells Fargo regarding lack of intent to be
14 in the building?

15 A I did not.

16 Q Do you know who did that?

17 A I believe the original trespass stuff came from --
18 I was told by Deputy Chief Steve Clark.

19 Q Of what?

20 A That the officials wanted the people out
21 immediately.

22 Q "Officials" meaning the Wells Fargo people?

23 A That's correct.

24 Q Do you know when they communicated that
25 information to the police department?

26 A No, I do not.

1 Q You don't even know what day that happened?

2 A Well, since I was informed on it on Thursday
3 morning, December first, I'm going to assume it was either
4 Wednesday night when the initial occupation happened or some
5 time within that 24 hour period.

6 MR. BEAUVAIS: I have nothing further.

7 THE COURT: Mr. Clymo?

8

9

CROSS EXAMINATION

10 BY MR. CLYMO:

11 Q Daniel Clymo on behalf of Becky Johnson. So I'm
12 clear, you did make posters on 75 River Street on November
13 30th?

14 A That's correct.

15 Q The first posting you -- it was on December first;
16 is that correct?

17 A That's correct.

18 Q And I think on that date, on December first, how
19 many people did you observe to be inside the bank?

20 A Probably about 10 to 20.

21 Q Was there people congregating outside the bank
22 facility?

23 A There was.

24 Q How many people did you observe outside the bank
25 on December first?

26 A About the same, 10 or 20 that was coming and

1 going.

2 Q Total between 20 and 30 people you saw that day?

3 A That would be correct.

4 Q And you indicated you -- on December first you
5 could -- I believe Exhibit 1 flyer up around the building?

6 A That is correct.

7 Q If understood, you put it on the doors?

8 A That's correct.

9 Q How many doors did you put the flyer on?

10 A Eight.

11 Q And when you went back on December 2nd, you posted
12 Exhibit 2; correct?

13 A That's correct.

14 Q How many people did you observe inside the bank on
15 December second?

16 A About the same; about 10 or 20.

17 Q Same amount of people outside the bank?

18 A Outside I think was a little less at this time but
19 same range.

20 Q To your knowledge, did Santa Cruz Police
21 Department never had to do any enforcement action; correct?
22 Whoever was inside the bank left voluntarily; correct?

23 A Okay. To my knowledge, which is what you're
24 asking, Wednesday, November 30th, there was enforcement
25 action attempted to take to get people outside the bank. I
26 was not involved in that enforcement action, but I can tell

1 you that there was enforcement action on that date.

2 Q Were you involved in any enforcement action?

3 A I was not.

4 Q Now, when you were at the bank on December first,
5 December 2nd, December 3rd, you never saw Becky Johnson
6 there; correct?

7 MR. CLYMO: Thank you.

8 THE COURT: Ms. Briggs?

9 MS. BRIGGS: Alexis Briggs for Mr. Laurendeau.

10

11

CROSS EXAMINATION

12 BY MS. BRIGGS:

13 Q Good morning, lieutenant. You returned on
14 December 2nd to post notices; correct?

15 A That's correct.

16 Q And the purpose of that was to serve as notice to
17 people arriving they did not have permission to be present;
18 is that accurate?

19 A And for people inside the bank.

20 Q And for people inside the bank.

21 A Uh-huh.

22 Q To be given notice?

23 A Uh-huh; correct.

24 Q So those flyers served as notice absence of law
25 enforcement presence?

26 A That is correct.

1 Q And when you returned on December 2nd, were the
2 flyers that you posted on December first still on the doors
3 that they'd been posted on?

4 A There were some left and some gone. So --

5 MS. BRIGGS: If I may approach?

6 THE COURT: Yes.

7 MS. BRIGGS: I have two paragraphs marked Defense
8 Exhibit G and H.

9

10 **(Defendant's Exhibit G and H., Photographs, Marked for ID)**

11

12 BY MS. BRIGGS:

13 Q Lieutenant, do you recognize these photographs,
14 stills from the videos that we just played?

15 A Yes.

16 Q Do they appear to be accurate representations of
17 how the building appeared that day?

18 A It does.

19 Q And on -- did these appear to be the doors that
20 you observed Mr. Laurendeau exit?

21 A For Exhibit H?

22 Q Yes.

23 A No.

24 Q They do not?

25 A No.

26 Q Which doors are those?

1 A Those are the doors on the back of the bank that
2 are completely barricaded so no one can come in or out of --

3 Q Exhibit G represents the doors that you observed
4 Mr. Laurendeau come out of?

5 A That's a possibility, yes.

6 Q And does it appear that the flyers posted on
7 December first are still there?

8 A Pieces.

9 Q Pieces. Are they legible pieces?

10 A No.

11 Q Do they contain any of the important writings?

12 A No.

13 Q So it would appear at least as to that set of
14 doors, there was no notice remaining?

15 A That's correct.

16 Q And that was your purpose there to replace notice?

17 A That's correct.

18 Q When you observed Mr. Laurendeau inside the
19 building, did he appear to be observing law enforcement
20 posting notices?

21 A He was watching us do what we were doing.

22 Q He was observing you?

23 A Appeared that way, yes.

24 Q And then he exited the building?

25 A He did.

26 Q And did he remain, to your knowledge, after being

1 informed?

2 A I don't know.

3 Q So the best of your knowledge, he was simply
4 attempt to assess the legality of being present in the
5 building?

6 MS. YOUNG: Objection. Calls for speculation.

7 THE COURT: Sustained.

8 MS. BRIGGS: Your Honor in -- sorry.

9 BY MS. BRIGGS:

10 Q In your report, Lieutenant Richard, you do make
11 conclusions about his purpose being present; correct?

12 A I would have to refer to my report to look at
13 that.

14 Q All right. At any point did Mr. Laurendeau speak
15 to you?

16 A If you look in the film, looked like he mouthed
17 something to me. I don't know what he said. I don't know
18 if any of us could hear what he said. I don't know if it
19 was verbal reaction or not when we reverse paths on the way
20 out, you can see his mouth open. I can't hear what he's
21 saying. I know at that point I'm telling people they need
22 to leave; they're trespassing. I don't know what he's
23 saying back if there's anything that he actually says back
24 but it's very brief. Other than that, I don't recall
25 anything.

26 Q In fact in that video doesn't appear that he was

1 trying to calm down someone aggressively engaging you?

2 A No, he's actually telling them not to give me any
3 further information if you look at video.

4 Q I'm sorry.

5 A They're giving me information. He's telling them
6 that they need to stop, Gabriella's the one giving me
7 information.

8 Q I'm sorry. Didn't you just say he didn't utter
9 anything in your presence?

10 A No, to me.

11 Q To you. So what is the content of the statement
12 that you're alleging that he made?

13 A He was talking -- someone's trying to give me
14 information.

15 Q There are quite a few individuals in various
16 shots, there are quite a group gathering as you're informing
17 people.

18 A Right.

19 Q So which of those individuals? Person that
20 stepped outside of them or one of the two people that you
21 were directly engaged with?

22 A The one that's stepped outside of them, one he
23 turned to and said something to.

24 Q What was that individual saying?

25 A He was given me some -- I believe he was giving me
26 information just and he calmed him down saying that

1 Gabriella's the spokesperson. Someone else is the
2 spokesperson.

3 Q I'm sorry. On the clip that was played, I didn't
4 hear Gabriella's name mentioned at all?

5 A Then we'd have to look at the clip. From my
6 recollection from my knowledge of that day, they were trying
7 to say something to me and he cut them off from saying it.

8 Q That part I believe was represented.

9 A Okay.

10 Q I don't believe that either -- how you're now
11 characterizing that conversation contained anywhere in the
12 report that you made near the time of the incident?

13 A I do not believe it is.

14 Q Okay. At any point that you know of did
15 Mr. Laurendeau return to the building after this moment in
16 the video?

17 A Not that I know of.

18 Q Do you have any knowledge what time he may have
19 arrived at the knowledge?

20 A I do not have that knowledge.

21 Q Do you have any basis to believe his presence was
22 anything other than transitory?

23 A That's correct.

24 Q And do you have any knowledge of what his purpose
25 in being present was?

26 A No, I do not.

1 MS. BRIGGS: I believe I have no further
2 questions.

3 THE COURT: All right. Ms. McCamey?

4 MS. MC CAMEY: Lisa McCamey on behalf of Brad
5 Adams.

6

7

CROSS EXAMINATION

8 BY MS. MC CAMEY:

9 Q Good morning, Lieutenant.

10 A Good morning.

11 Q Lieutenant, you indicated it was on December first
12 that Deputy Chief Clark approached you to ask you to
13 negotiate with the people AT 75 River; is that correct?

14 A That's correct.

15 Q I believe you testified previously that was based
16 on the fact that you got information from Detective Clark,
17 or Deputy Chief Clark, that the owners at this point were
18 asking the police to remove the people from 75 River; is
19 that correct?

20 A That's correct.

21 Q Okay. And I understand that you had a meeting
22 with Deputy Chief Clark regarding how these negotiations
23 would take place; is that correct?

24 A That's correct.

25 Q And part of that process you agree would involve
26 giving cell phones to individuals; is that correct?

1 A That's correct.

2 Q And the purpose of handing out these cell phones
3 was to engage in communication with people; is that right?

4 A That's correct.

5 Q And you start to negotiate with them; is that
6 correct?

7 A That's correct.

8 Q With regard to how, as I think you said, to
9 facilitate exiting the building; is that right?

10 A That's correct.

11 Q Okay. And I believe you recall you arrived there
12 about 3:06 on the first of December; is that right?

13 A Ya, that's about the time frame. I believe that
14 was dispatch. We put ourselves out on scene each time.

15 Q And this was the first time notices were being
16 posted on the building; is that right?

17 A That's correct.

18 Q Okay. And you and I think you said Officer Bush?

19 A That's the next day. I believe Officer Hoppe was
20 the one with me on the first day.

21 Q You and Officer Hoppe were walking around the
22 building and posting signs on doors; is that right?

23 A That's correct.

24 Q On various doors all the way around the building?

25 A That's correct.

26 Q And you were posting these signs facing outward,

1 is that correct, facing the street?

2 A That's correct.

3 Q You did not post any signs facing in toward the
4 building; is that correct?

5 A That's correct.

6 Q At one point you walked up to the door and posted
7 a sign and you saw somebody on the inside?

8 A That's correct.

9 Q Did you recognize that individual?

10 A I did.

11 Q At that time?

12 A I didn't know his name. I saw the individual,
13 yes.

14 MS. YOUNG: I'm sorry. What day are we talking
15 about?

16 THE WITNESS: We're on Thursday, the first.

17 MS. YOUNG: Thursday, December first?

18 BY MS. YOUNG:

19 Q When that individual saw you posting this on that
20 particular door, he came outside; is that right?

21 A Yes, he eventually came outside, yes.

22 Q He came outside to speak to you; is that right?

23 A That's correct.

24 Q Okay. And you were filming him; is that right?

25 A I was not.

26 Q Somebody was?

1 A That's correct.

2 Q Do you recall who was doing the filming that day?

3 A I do not.

4 Q It was one of the other detectives?

5 A I assume so, yes.

6 Q Do you recall whether the detectives accompanied
7 you that day on December first?

8 A I do not.

9 Q Other than Hoppe?

10 A He wasn't a detective. He was a patrol officer.
11 I know detectives were the ones tasked with filming.

12 Q He came out to speak to you; is that right?

13 A Mr. Adams, yes.

14 Q At that point you didn't know he was Mr. Adams;
15 you were informed by another officer; is that right?

16 A That's correct.

17 Q You had no interaction with him previously to
18 this; is that correct?

19 A That's correct, to my knowledge.

20 Q Okay. And he's asking you what you're doing; is
21 that right?

22 A That's correct.

23 Q Okay. And you informed him you were putting
24 flyers around the building regarding your -- because the
25 owners had asked them to leave; is that right?

26 A That's correct.

1 Q And then you made a comment to the effect of that
2 you realize you're violating Penal Code Section 602(o) or
3 something like that; is that right?

4 A I believe so, yes.

5 Q Okay. Mr. Adams responded "I don't know that";
6 isn't that right?

7 A More than likely; that's correct.

8 Q And you said that your purpose in being there was
9 to talk to people on the inside; is that right?

10 A That's correct.

11 Q Okay. And in fact Mr. Admas was the first person
12 you engaged to hand the phone to; is that right?

13 A That's correct.

14 Q Okay. When you attempted to hand the phone to
15 Mr. Adams, he specifically said to you that he was not
16 responsible for these negotiations; is that right? That he
17 wasn't the person in charge?

18 A That's correct.

19 Q Okay. And he specifically told you that he was
20 not promising to take that phone into the building; is that
21 right?

22 A That's correct.

23 Q He did however appreciate your gesture; is that
24 correct?

25 A That is correct.

26 Q Okay. And he mentioned that there was a general

1 assembly later in the evening; is that right?

2 A I believe so.

3 Q And you spoke to him at some length about your
4 desire to have someone call you. In fact I think you said,
5 would you have someone call me in about an hour; is that
6 right?

7 A That is not correct because the phone could only
8 receive calls. So it was me that I was calling in about an
9 hour and was hoping that someone would pick up that that
10 could facilitate the negotiations.

11 Q That's correct. You told him that you were going
12 to call in about an hour?

13 A That's correct.

14 Q Your purpose again was to talk to them about
15 exiting the building?

16 A That's correct.

17 Q Okay. And again Mr. Adams made it clear that he
18 wasn't making any promises. He was not in charge and that
19 he was passing along your message?

20 A That's correct.

21 Q Okay. And at that point you left; is that fair to
22 say?

23 A I think we had post -- posted one more after
24 essentially I walked around the other side of the building
25 where there's no window and exited right after that.

26 Q I believe you put one more on an electrical door

1 or something like that?

2 A That's correct.

3 Q Okay. And then you left; is that right?

4 A I believe that's right.

5 Q Okay. And you indicated I believe on direct
6 examination that the phone that you handed to Mr. Adams you
7 called it several times; is that right?

8 A I believe on the first day, yes.

9 Q And you also called again on the second day; is
10 that right?

11 A I believe so.

12 Q Okay. And at all times that phone was never
13 answered; is that right?

14 A That's correct.

15 Q And you have no idea what happened to that phone;
16 is that fair to say?

17 A That's fair.

18 Q And when you went back on December 2nd, Mr. Adams
19 was not there; is that right?

20 A That's correct.

21 Q And as a matter of fact Mr. Adams, that
22 conversation that you had with him on December first, that
23 was the last time you saw him; is that fair to say?

24 A That's correct.

25 MS. MC CAMEY: I have nothing further.

26 THE COURT: Miss Porter?

1 MS. PORTER: I have no questions for this witness.

2 THE COURT: All right. Why don't we take our
3 morning recess. We'll reconvene at 11:15. Are you to have
4 going redirect?

5 MS. YOUNG: The only thing that I was going to
6 suggest if the court wanted is because Ms. McCamey had
7 alluded to the conversation we captured on the video between
8 Lieutenant Richard and defendant Adams. I was going to
9 offer again to play it.

10 THE COURT: I don't need that. This witness can be
11 excused?

12 MS. YOUNG: Yes.

13 THE COURT: All right. Very good.

14

15 (Whereupon, a recess was taken.)

16

17 THE COURT: We're back on the record. People's
18 next witness.

19 MS. YOUNG: Sergeant Harms.

20

21 **MICHAEL HARMS**

22 called as a witness by and on behalf of
23 the PEOPLE, having been duly sworn, was
24 examined and testified as follows:

25

26 THE COURT: Good morning. Bring the microphone up

1 to you. Keep your voice up so everybody can hear you. Tell
2 us your first and last name; spell the last name.

3 THE WITNESS: Michael Harms, H-A-R-M-S.

4 THE COURT: Thank you. You may proceed,
5 Miss Young.

6

7

DIRECT EXAMINATION

8 BY MS. YOUNG:

9 Q Good morning.

10 A Good morning.

11 Q Who are you employed by?

12 A City of Santa Cruz Police Department.

13 Q What's your job title?

14 A I'm a police sergeant.

15 Q How long have you been with Santa Cruz PD?

16 A Just short of 16 years.

17 Q And how would you describe your current assignment
18 with Santa Cruz PD?

19 A Current assignment is in the community services; I
20 supervise that unit.

21 Q Were you on duty Wednesday November 30th, 2011?

22 A Yes, I was.

23 Q And were you assigned to respond to 75 River
24 Street here in the County of Santa Cruz that day?

25 A Actually at that time I was at training that day.
26 So I wasn't assigned to that. I was just doing training and

1 I was called back from training to deal with it.

2 Q And to respond to this, that particular location?

3 A Correct.

4 Q What time did that happen?

5 A Somewhere around 4:30.

6 Q And what were you tasked with on that particular
7 day?

8 A I was tasked with taking a group of about 20
9 officers over to 75 River Street to secure some open doors.

10 Q Where was the location of those doors?

11 A They were on the southeast side of the Building,
12 two double doors.

13 Q And for the directionally impaired -- on the River
14 Street side?

15 A On the River Street side, side with the river on
16 it.

17 Q What was the condition -- were you able to inspect
18 the other doors leading into the building?

19 A Not until I got there.

20 Q Okay. What did you see when you got there?

21 A When I got there, I could see a large group of
22 people gathered out more towards the sidewalk closer to the
23 street. Probably about 150 people or so. And they were a
24 couple people going in out. There were about, I'd say, 15
25 officers kind of milling around the area kind of on the same
26 River Street side. And when I walked up to the two open

1 doors, I could see inside the other doors that had been
2 barricaded.

3 Q How had they been barricaded?

4 A Furniture and things stacked up in front of it.
5 The windows had been covered with cardboard and other things
6 like that.

7 Q And in addition to the barricade, was there
8 anything else preventing entry through those particular
9 doors?

10 A When I first got there, those doors were wide
11 open. And we could enter, somebody could exit. Within a
12 matter of a minute or within five minutes I'd say a very
13 large desk was shoved in front of those doors.

14 Q And what was your goal? What was your task on
15 this day at that time?

16 A I was supposed to go up, make sure that we could
17 keep those doors open, given the fact that I'd been given
18 information that several of the doors were either chained
19 shut or locked shut. There was no egress or access -- or
20 exit points available to the people inside. That we were
21 going to keep those doors open so if we needed to come in,
22 we could go in. If we needed to get people out, that would
23 be the exit point for them.

24 Q And had you been told anything about what the
25 property owners wanted done at that point?

26 A Yes. The property owner said whoever was in the

1 building was trespassing. They didn't have authorization to
2 be in the building and they asked us to have them leave.

3 Q And so what did you do at that point?

4 A When I walked up to the door, the first thing we
5 did is we secured the doors in an open position so they
6 couldn't be shut behind us. And I began to engage the
7 people inside, let them know they'd broken in. They were
8 doing damage to the building and they needed to leave.

9 Q And are you speaking to a group at this point?

10 A Yes. There were somewhere around 20, 25 people
11 inside. And I could see probably about eight to ten right
12 just inside the door. And one person in particular, Brent
13 Adams, actually made eye contact with him and spoke to him.

14 Q Let's turn to that then. You actually know
15 Mr. Adams; had you seen Mr. Admas before?

16 A Yes.

17 Q Was that just in prior contacts?

18 A Ya, I have had several prior contacts with him.

19 Q Just for the record do you see that person in
20 court today?

21 A Yes, I do.

22 Q Could you please state where he's seated, what
23 he's wearing.

24 A Seated over on the -- well, right side of the
25 courtroom left side to me, in the first row all the way at
26 the end wearing a black jacket, black vest, I think.

1 THE COURT: All right. Record will reflect that
2 the witness has identified Mr. Adams.

3 BY MS. YOUNG:

4 Q Now, on November 30th, where do you see him at the
5 building?

6 A He was directly inside the open doors probably
7 about five feet inside.

8 Q And did you see him do anything at that point?

9 A Within, like I said, within a couple of minutes he
10 pushed that very large bookshelf or desk in front of the two
11 open doors.

12 Q And was this -- can you give us a description of
13 the kind of the size of the desk?

14 A I'd say it was probably, you know, equivalent of
15 the desk you're sitting at, it was solid and dark color.

16 Q And where was it placed against the doors?

17 A It was pushed directly in front of the doors and
18 completely blocked access to it about three-and-a-half feet
19 high, I'm estimating.

20 Q What did you do at that point?

21 A At this point I continued to talk to him. And
22 Mr. Adams actually said something to the effect that we had
23 in the past negotiated some things which was true. And I
24 said I'd like to do that at this point but as long as he was
25 stacking furniture kind of prevents that. It was making it
26 very difficult to speak with him.

1 Q Did he tell you who the -- I guess the liaison was
2 for the group within the building?

3 A Ya. When I was talking to him, he said for me to
4 contact somebody by the name of Gabby.

5 Q And after this conversation with -- well, let me
6 ask: During this conversation with Mr. Adams, you had said
7 you told the group they were trespassing; that something you
8 told Mr. Adams directly?

9 A It was basically to the group but I was directing
10 it at him because he's the one I had eye contact with.

11 Q He was in the small group you were just talking
12 about?

13 A Correct.

14 Q And after Mr. Adams tells you about Gabby being
15 the liaison, what did you see him do at that point?

16 A Actually at that point I asked him to call her so
17 I could speak with her and I didn't get any response to
18 that. And at this point more furniture and things began to
19 be barricaded at the door; they continued stacking stuff on
20 the desk.

21 Q What kind of furniture?

22 A There was a sofa, a relatively large sofa that was
23 put up on top and looked like a medium sized bookshelf that
24 was thrown up on top of that and several other things. And
25 at this point there were also people climbing into the
26 furniture. It was at the bottom. They were weighing it

1 down with their actual bodies.

2 Q And was this something Mr. Adams was participating
3 in?

4 A I'm sorry.

5 Q I apologize. I'm speaking quickly. I'm sorry.
6 Was this something that Mr. Adams was directly participating
7 in that you saw?

8 A Yes.

9 Q What was he doing specifically?

10 A He was pushing furniture, stacking the furniture
11 and holding on to it as well.

12 Q Were you able to remove this furniture at all?

13 A We've tried a few things. When the bookshelf got
14 up, it wasn't really stable. I was trying to move that out
15 of the way so it didn't fall either on us or back inside the
16 building upon anybody. So I tried to pull that out. It was
17 pulled back in. So I tried to push it back in all the way
18 to get it out. Then it was thrust back at us.

19 Q When you say "us," how many other officers are
20 there?

21 A There were probably four other officers right at
22 the threshold of that door with me off to the sides.

23 Q And at this point are you saying anything after
24 this furniture's being thrust against the doors?

25 A I'm continuing to go talk to them making sure I'm
26 trying to make eye contact with everybody I can. I'm asking

1 anybody injured, anybody need any assistance. And that
2 again reiterating they need to leave and if anybody is
3 wishing to leave, should do so.

4 Q Did Mr. Adams in particular have a response to
5 that warning?

6 A I don't remember his exact words. Something along
7 the lines he had no interest in leaving or no intention to
8 leave.

9 Q And during this time was there anyone else in
10 particular that attracted your attention?

11 A Yes. I noted somebody that I recognized from
12 other officers prior contact, Franklin Alcantara.

13 Q For the record, Do you see that person in court
14 today?

15 A Yes, I do.

16 Q Could you please state where he's seated, what
17 he's wearing.

18 A Seated in the first row to my left also in the
19 right side of the courtroom as you enter, in the black
20 leather jacket.

21 THE COURT: The record will reflect the witness
22 identified Mr. Alcantara.

23 BY MS. YOUNG:

24 Q And about -- is this during the same time period
25 you see Mr. Alcantara?

26 A It's all occurring at the same time, yes?

1 Q He was in the same group as Mr. Adams or --

2 A He's right at the front, yes. He actually hopped
3 up on top of the desk that was thrust in front of the doors
4 and was twisting a video camera that was up in the upper
5 corner above the door.

6 Q Is this a video camera that belongs to the -- is
7 it attached to the building?

8 A Attached to the building on the inside.

9 Q What did you see him do with it?

10 A He was twisting the camera around, looked like he
11 was trying to break it off the wall.

12 Q What did you do?

13 A I told him to stop vandalizing the building. And
14 looked at him directly. He looked back at me. I asked him
15 if he was going to leave willingly. He just kind of looked
16 at me, smiled a little bit, shook his head no.

17 Q And focusing back on Mr. Adams for a second. What
18 did you see -- after this interaction with Mr. Alcantara,
19 did you then see Mr. Adams again?

20 A I could see him for the entire time I was standing
21 there.

22 Q What did Mr. Adams do at this point?

23 A Again, all these things were happening kind of
24 simultaneously. It was not in chronological order but while
25 I was trying to speak to him, he did -- started shouting out
26 to the crowd that was on the sidewalk asking him to advance

1 forward on us.

2 Q And where are the officers situated at that point?

3 A Probably the midpoint between the building and the
4 sidewalk. In between where the protestors out on the
5 sidewalk were and front entrance to where they were, they
6 were kind of in a semicircle protecting us.

7 Q What exactly did you see Mr. Adams tell the crowd
8 to do?

9 A I don't have exact words but something "move
10 toward the building so we can secure the doors."

11 Q And after saying this to the crowd, did he talk to
12 -- or any of the things that he's saying, is he directing
13 the crowd in any way to interact with the police?

14 A Nothing directly. Just to move forward. Just to
15 take space.

16 Q You were between the protestors and the doors?

17 A Correct.

18 Q What did the crowd do in response?

19 A They responded by --

20 MS. MC CAMEY: Object to the characterization of
21 "in response."

22 THE COURT: Overruled.

23 THE WITNESS: They actually started to advance
24 forward and began chanting "baby steps forward" and started
25 moving

26 MR. HACKETT: I'm going to object as far as them --

1 previous reference between the protestors and the doors.
2 I'm very confused where we're talking about at that point.

3 THE COURT: Was it your intention to -- well, why
4 don't you clarify your answer. When you say they began to
5 move forward, in response to what was your observation?

6 THE WITNESS: Okay. There were probably 150 to
7 200 people out on the sidewalk area closer to the street
8 probably about 40 or 50 feet from the actual entrance to the
9 bank.

10 This group of protestors was shouting back and
11 forth to the people inside the bank. The people inside the
12 bank were shouting to them. Mr. Adams specifically asked
13 them to move forward to occupy that space so that they could
14 secure those front doors.

15 MR. HACKETT: "Them" being?

16 THE WITNESS: They, the group on the outside.

17 MR. HACKETT: Okay.

18 THE WITNESS: The large group began to chant "baby
19 steps forward" and they started to inch toward our location
20 toward the bank.

21 MR. HACKETT: Thank you, Your Honor. I'm sorry.

22 BY MS. YOUNG:

23 Q And how would you describe the mood of the crowd
24 or demeanor?

25 A Inside.

26 Q I'm sorry. That's vague. I'm sorry. The crowd

1 that's now advancing.

2 A Of the crowd that was outside, I could tell they
3 were very emotionally charged. There was a lot of anger,
4 lot of hostility. There was a lot of swearing. A lot of
5 derogatory statements being made about the police in general
6 and about the banks, lot of other things.

7 Q How -- at this point how many officers are there
8 and how many protestors are there at this point?

9 A Numerous. I'd state about at least five to one
10 protestors to officers.

11 Q Based on those, on that ratio, what did you
12 decided to do?

13 A I was relaying information during the same time
14 back to our command post, superior, senior officers in the
15 area and monitoring the situation with the fact that they
16 were beginning to advance on us. We were headed toward
17 potentially and probably very serious and final
18 confrontation.

19 Q What was your recommendation?

20 A My recommendation was to pull out and to readdress
21 it.

22 Q And after you make that determination, what did
23 you -- what did the officers do? What did you direct the
24 officers to do?

25 A Actually went to each of the officers and let them
26 know we were going to move out in one solid group. So once

1 that was done, we started to withdraw and the crowd began to
2 follow us chanting and screaming like they just won the
3 super bowl.

4 Q While you guys were leaving?

5 A Yes.

6 Q Same group that had been advancing on you before?

7 A Yes.

8 Q And again what -- how would you describe their
9 demeanor?

10 A Still hostile, aggressive. Like I said, they were
11 cheering as if they just won a victory.

12 Q And the this Gabby that Mr. Adams had told you
13 about, did you eventually locate her?

14 A Yes, while I was leaving. I don't remember how
15 many but I heard somebody say her name, when I turned back,
16 she was there so I engaged her.

17 Q You had contact with her?

18 A Yes, I did. I spoke to her.

19 Q For the record, that person that you spoke with on
20 that day, do you see her in court today?

21 A Yes, I do.

22 Q Could you please state where she's seated, what
23 she's wearing.

24 A She's seated two spaces in toward the center of
25 the aisle from Brent in the black blazer, looks like red and
26 black blouse.

1 THE COURT: The record will reflect the witness
2 identified Miss Ripleyhipps.

3 BY MS. YOUNG:

4 Q What did you say to -- actually at that point did
5 you know her full name or did you only know her as Gabby?

6 A Only knew as Gabby. Never seen her before in my
7 life.

8 Q What did you say to her?

9 A I told her I was trying to peacefully remove
10 ourselves from the situation and that I couldn't do that
11 effectively if the crowd continued to advance on us.

12 Q And what did she do in response to that?

13 A She started shouting to the crowd for them to
14 stop. And it actually worked the crowd basically silenced;
15 she was able to get the message out we were going to
16 withdraw if they held their ground where they were, didn't
17 continue to follow us.

18 Q Were you able to leave at that point?

19 A Yes.

20 Q Now, this is all on November 30th; did you return
21 to the location at any subsequent days?

22 A No.

23 Q Okay. That's what I've got. Your Honor, just
24 no -- just for cross-examination sake, Sergeant Harms' only
25 two defendants to which he's testified and can testify
26 defendants Adams and to Miss Ripleyhipps.

1 THE COURT: And Alcantara?

2 THE COURT: Forgive me. Yes, and Alcantara. Yes,
3 thank you.

4 THE COURT: Cross examination, Mr. Ruben?

5 MR. RUBEN: Thank you, Judge.

6

7

CROSS EXAMINATION

8 BY MR. RUBEN:

9 Q Good morning, Sergeant Harms.

10 A Good morning.

11 Q I want to go back through that a little bit and
12 ask you a couple questions. You say that there was -- a
13 desk was shoved in the way that was sort of the first
14 barricaded item, if you will?

15 A Yes.

16 Q And you saw Mr. Adams do that?

17 A With several other people. They just began
18 shoving things toward those doors, yes.

19 Q Did you see any conversation about doing it?

20 A Ya, I can't see conversation. I can see people.

21 Q You saw action but you didn't see people making
22 agreement, for instance, to move the desk?

23 A I couldn't hear them if they were saying that. I
24 would infer that's what was occurring.

25 Q You inferred that based on that you actually
26 didn't see Mr. Adams moving the desk, now you see more than

1 Mr. Adams move the desk?

2 A Correct.

3 Q And did you see Mr. Alcantara as one of the people
4 that moved the desk?

5 A I didn't see him specifically touch that desk. I
6 I didn't see him until afterward when he was up on top of
7 it.

8 Q As far as the moving the desk in front of the
9 door, did you see Mr. Alcantara engaged in that act?

10 A I don't recall seeing him do that.

11 Q So no?

12 A No.

13 Q This was directly in front of you; correct?

14 A Correct.

15 Q Nothing impeding your view of what was going on?

16 A No.

17 Q And do you know Mr. Alcantara from prior contacts?
18 Correct?

19 A Correct.

20 Q And so had you seen him moving the desk, you would
21 have been able to clearly identify him doing it; correct?

22 A Yes.

23 Q And nothing would prevent you from that; correct?

24 A Correct.

25 Q Okay. Did you see him talking to Mr. Admas before
26 the desk was moved?

1 A No, I didn't.

2 Q Did you really see him prior to him standing on
3 the desk? Did you see him in relation to the desk at all?

4 A I did not.

5 Q So you also mentioned there's this 20 to 25 people
6 inside the door approximately eight or ten of them kind of
7 closer to you, more easily seen; is that correct?

8 A Yes.

9 Q Okay. So -- and you say that you told the group
10 they were trespassing?

11 A I don't know if I used the word "trespassing." I
12 don't believe I did. I told them they had broken into the
13 bank, they had to leave.

14 Q "You've broken into the bank. You have to leave"?

15 A Yes.

16 Q You actually said that to Mr. Adams while you make
17 eye contact with him much as we are?

18 A Yes.

19 Q So it's as if I said to you, "Sergeant Harms,
20 you've broken into the bank, you have to leave"?

21 A But I didn't directly. I said, "you guys." "You"
22 meaning the group.

23 Q Did you know who was able to hear you?

24 A Everyone should have been able to hear me that was
25 within that door shot.

26 Q Why is that?

1 A Based that on the fact when Brent was
2 communicating to the group behind him, they heard him and as
3 well I heard everything that they were talking about and
4 they could hear hear me from that threshold.

5 MS. MC CAMEY: Move to strike. Speculation as to
6 what anybody heard. If he wants to talk about how it was
7 expressed --

8 THE COURT: Specified everyone should have been
9 able to hear him given the voice that he used and their
10 location to each other. Overruled.

11 BY MR. RUBEN:

12 Q Everybody in this experience including you, should
13 have been able to hear any conversation about the event;
14 correct?

15 A Maybe not any and all of it, but at that point and
16 when I specifically looked at each one of them when they
17 were in there, asked them if they were willing to leave
18 willingly, each one of them shook their head no or actually
19 said the word "no" to me and I was able to hear that.

20 Q Let me back up. You're saying on the one hand
21 everyone should have been able to hear, but now you're
22 responding that maybe, maybe not?

23 A They're two different things. When I first got
24 there, everyone should have been able to hear me. When I
25 asked them if anybody was injured. Everybody actually
26 acknowledged me. When I pointed to them or asked them, they

1 all acknowledged me. At the end when I specifically asked
2 if they were going to leave, I was acknowledged.

3 Q You went 25 times: Are you injured? Are you
4 injured? Are you injured? Are you injured? And got
5 responses from all of them?

6 A In the groups that they were in, yes. I didn't do
7 it 25 times. I just went to the general region and made eye
8 contact with every individual person.

9 Q This before the doors then?

10 A This in front of the doors, yes.

11 Q In front of the doors? And going back to --
12 you're talking with Mr. Adams he is at this point pushed the
13 desk in front of the door?

14 A Correct.

15 Q And he tells you to contact Gabby?

16 A Yes.

17 Q Did he tell you to contact anyone else?

18 A No.

19 Q Did he mention Mr. Alcantara?

20 A No.

21 Q You say then more furniture was pushed in front of
22 the door; correct?

23 A Pushed and lifted, hoisted, stacked on top of the
24 desk, yes.

25 Q Okay. And you did not see Mr. Alcantara do any of
26 that, did you?

1 A No.

2 Q Now, you say that Mr. Alcantara at some point gets
3 on top of the desk and you recognize him; is that right?

4 A That's the first time I recognized him because I
5 actually was able to see his face.

6 Q Okay. So prior to that, had you seen him you
7 would have recognized him because you know who is?

8 A Had I seen his face, yes.

9 Q First time you really become aware of his presence
10 whatsoever?

11 A Correct.

12 Q Anything that pre-happened before him getting to
13 that desk, you can't testify as to his involvement in
14 whatsoever?

15 A Correct.

16 Q Okay. So he's on the desk, and he twists the
17 camera; is that right?

18 A Yes.

19 Q Okay. So do you see in any way that you're aware
20 of, did he destroy the camera?

21 A I never examined to look at that camera again. I
22 have no idea.

23 Q But there was no obvious destroying? For instance
24 he didn't hit it with a rock?

25 A Correct.

26 Q He didn't hit it with a bookcase?

1 A Right.

2 Q Didn't hit it with a chair?

3 A Right.

4 Q Didn't hit it with any of a number of things that
5 seem to have been flying about; correct?

6 A No. He just used his hands to twist it.

7 Q To reposition which way it was pointing?

8 A Looked more like he was trying to tear it off the
9 wall, but, sure.

10 MR. RUBEN: If I can have one second?

11 BY MR. RUBEN:

12 Q So then -- so that I understand this. This
13 security camera Mr. Alcantar's on top of the desk. He's
14 trying to rip it off the wall, he wasn't able to?

15 A He didn't. I don't know if he was able to are
16 not. He didn't rip it off the wall.

17 Q You said he was trying to?

18 A Yes.

19 Q Well, he didn't, I guess is enough of an answer.
20 So best of your knowledge it was not destroyed?

21 A Ya, I can't answer that.

22 Q Did you even notice whether it was damaged?

23 A No.

24 Q You also mentioned that you spoke with the owners
25 of the property.

26 A I don't know if they were the owners; they were

1 representing the owners.

2 Q When was that?

3 A That was shortly before and shortly after they
4 were in the bank across the street. I don't know who they
5 were or -- but they represented themselves as having
6 interest in that property.

7 Q So somebody told you that they had some interest
8 and they wanted those folks out?

9 A Yes.

10 Q Fair enough?

11 A Fair enough.

12 Q Okay. And you did not at any time tell this group
13 of 20 to 25 people "I represent the owners and I want you
14 out"?

15 A I didn't say anything with those words, no.

16 Q Now, specifically Mr. Alcantara, did you ever see
17 him being removed from the building?

18 A No.

19 Q So as to be clear, you never saw Mr. Alcantara
20 enter into any agreement with anyone else to do something;
21 correct?

22 A Correct.

23 Q You did not see Mr. Alcantara damage or deface
24 anything; correct?

25 A Not that I could tell, no.

26 Q You did not see Mr. Alcantara stay in that

1 building continuously until he was removed; correct?

2 A Correct.

3 Q Nor did you see or represent to that crowd that
4 you were acting as an agent of the owner and you were
5 demanding that they leave; correct?

6 A When I first walked up to the open doors --

7 Q Officer Harms, Sergeant Harms, I apologize. Did
8 you say to somebody -- I'd object. Nonresponsive. Possible
9 narrative. I'd like to rephrase the question.

10 THE COURT: Go ahead, rephrase the question

11 BY MR. RUBEN:

12 Q Did you tell this group of people "I represent the
13 owners of the building. Get out"?

14 A Not like that, no.

15 Q Did you ever tell them you represent the owners of
16 that building?

17 A Something to that effect but not with those words.

18 Q What words if any?

19 A It was "you guys broke into this bank" and
20 something along the lines of "property owner or owners
21 demand you leave," something along those lines.

22 Q Did you -- you did not say that in your direct
23 examination; correct?

24 A Correct.

25 Q You did not say that at any other prelim
26 pre-dating this; correct?

1 A I haven't been to any other prelim.

2 Q That would make an easy answer, I suppose. And
3 you did not place that in your report, did you?

4 A That I was representing --

5 Q The bank owners.

6 A -- the bank owners? No, I did not mention that.

7 Q Your testimony is today you told this group of
8 people "I represent the owners of this building, go"?

9 MS. YOUNG: Your Honor, that misstates the
10 testimony.

11 THE COURT: Sustained.

12 BY MR. RUBEN:

13 Q It's a question.

14 A No.

15 Q The -- now, as to the people you did see moving
16 furniture, you didn't have any evidence before you that
17 Mr. Alcantara knew they were going to do this?

18 A No.

19 Q You didn't have any evidence before you that
20 Mr. Alcantara intended to have them do this?

21 A No.

22 Q And really the extent of what you talked about
23 with Mr. Alcantara that he was inside the building.

24 A Yes.

25 Q And manipulated this camera in a way that didn't
26 harm it in any way that you're aware of?

1 A Yes.

2 Q And may or may not have heard you say something
3 along the lines of "The owners of this building want you
4 out"?

5 A Yes.

6 MR. RUBEN: Okay. Thank you. No further
7 questions.

8 THE COURT: Mr. Hackett?

9 MR. HACKETT: Thank you, Judge. Brian Hackett.
10 Good morning.

11

12 **CROSS EXAMINATION**

13 BY MR. HACKETT:

14 Q My the name's Bryan Hackett. I represent
15 Miss Gabriella Ripleyphipps. I have a couple questions
16 largely based on I'm trying to get a picture of how this all
17 looked physically so bear with me.

18 There were roughly 150 approximately people outside
19 of the bank when you arrived?

20 A Yes.

21 Q And somewhere between 20 and 25 in your estimation
22 inside the bank?

23 A Yes.

24 Q And you arrived with a group of about 20 officers?

25 A Correct.

26 Q Now, you were -- at one point you said you went to

1 secure the doors in an open position, the one remaining set
2 of double doors, I guess, and we're talking about the doors
3 on the River Street side of the bank; correct?

4 A Yes.

5 Q And when you said you wanted to secure the doors
6 in an open position, I'm envisioning you sort of in the
7 threshold; is that where that's occurring?

8 A Yes.

9 Q Okay. So you indicated that you interacted with
10 a few people who were actually inside the threshold?

11 A Yes.

12 Q And so this is sort of an exchange happening over
13 the doorway?

14 A Correct.

15 Q Okay. And someone inside the building told you to
16 contact Gabby?

17 A Yes.

18 Q When you asked, you know, if there was some way to
19 negotiate?

20 A Yes.

21 Q Okay. And you indicated to that same person, I
22 think you said "Would you call her"?

23 A Something along those lines.

24 Q Nothing happened right then?

25 A Right.

26 Q You had indicated at one point that there was a

1 small group and this is that 20 to 25 people you were
2 addressing directly right in sort of the threshold just
3 inside the threshold?

4 A Yes.

5 Q And Gabby was not one of them?

6 A Right.

7 Q Okay. So -- and you asked someone to get her,
8 nothing happened. Presumably she wasn't among that group of
9 20 to 25 people; correct?

10 A It was my understanding from the conversation that
11 I had with Mr. Adams, she was somewhere outside.

12 Q Outside of the bank?

13 A Yes.

14 Q Okay. So now as you started to back away from the
15 doors to the bank -- when I say you, I'm referring to your
16 whole group -- you guys all remained in like a group
17 together. You and the 20 officers were more or less in a
18 group; correct?

19 A The majority of the officers were actually
20 probably midway between the sidewalk and the building.

21 Q Okay.

22 A The five of us were actually right at the
23 threshold. So we were probably 15, 20 feet apart.

24 Q So when you began, by "you," I mean you and the
25 front five began to back away and sort of rejoin the bulk of
26 the officers who were on the lawn?

1 A We didn't do that. The other four officers
2 remained there as I moved back and forth. So when I was
3 communicating with our command post I moved away from the
4 front entry of that door and the other four stayed right at
5 the threshold.

6 Q Okay. And then at one point you said basically it
7 was your decision or the decision was made that things were
8 getting a little bit heated and maybe it was time to back up
9 and reassess; correct?

10 A Yes.

11 Q When you did that, you did that as a whole group
12 of all of the officers; correct?

13 A Yes.

14 Q Okay. And so that's the point at which, if I'm
15 envisioning this correctly, the group of officers is heading
16 sort of towards that corner of the building that would be
17 the River Street and --

18 A River and River.

19 Q River and River by that weird three way
20 intersection?

21 A Yes.

22 Q Heading toward that corner away from the doors
23 away from Water Street?

24 A Yes.

25 Q And the crowd on the lawn sort of filled in the
26 space you had vacated on the front lawn of the bank?

1 A Yes. Actually moved all the way to the parking
2 lot.

3 Q Okay. So you were continuing to go further away
4 from those doors to the bank towards the purely River Street
5 side of the parking lot?

6 A Yes.

7 Q And that's the point at which you made contact
8 with Gabby?

9 A Yes.

10 Q Outside the bank?

11 A Outside the bank.

12 Q Around the corner from the open doors?

13 A Yes.

14 Q On the lawn or on the sidewalk?

15 A On the parking lot.

16 Q On the parking lot? Okay. And at that point she
17 sort of -- if I got the gist of it -- acted as the voice of
18 reason in some way to those behind her?

19 A She was the voice for the group, yes.

20 Q But I guess my point is that she sort of said, I
21 will be the liaison; what do you want, to you; correct?

22 A She didn't ask me any of that but she did
23 represent a spokesperson for the group.

24 Q And at one point she was able to turn and sort of
25 calm down the group of people in the parking lot at that
26 point and just say, you know, "These guys are leaving. We

1 can," you know, "just stay and everything's cool," that sort
2 of quelled the situation.

3 A Ya, she began to shout out "Mic check," and would
4 get the response back from the rest of the group and then
5 the group silenced. She was able to get her message across.
6 She asked for a consensus. She said, yes, they understood
7 what she was asking them to do; they did that.

8 Q When you say, "Get her message across," it was
9 actually your message she was getting across?

10 A It was a message from me.

11 Q She was conveying your message to the group?

12 A Yes.

13 Q Helping you facilitate sort of a seamless
14 departure or quelling of that situation?

15 A Yes.

16 Q And sort of joining you in the attempt to avoid
17 any further conflagration (SIC) at that point because it had
18 gotten a little heated? Yes? No?

19 A Yes. I wasn't sure you were done.

20 Q I have a tendency to trail off. But to your
21 knowledge, she was never in the building but on the sidewalk
22 or front lawn or parking lot?

23 A As far as I know.

24 MR. HACKETT: Okay. I have nothing further of
25 this witness.

26 THE COURT: Mr. Beauvais?

1 MR. BEAUVAIS: Yes, Your Honor

2

3

CROSS EXAMINATION

4 BY MR. BEAUVAIS:

5 Q Good morning. My name is Dave Beauvais. Is this
6 true that you arrived at the location at 1433 hours?

7 A No.

8 Q What time did you arrive?

9 A I actually arrived like right in front of the
10 bank? Or where did I arrive?

11 Q The group of 20 that were dispatched to the bank;
12 right?

13 A That was closer to 6:30.

14 Q Oh, 6:30. Okay. So the date that you have on the
15 report, the date and time that you have on the report is
16 November 30th at 1433; is that an estimate of time when this
17 whole thing began when the marchers arrived at 75 River
18 Street?

19 A That information is auto populated by the person
20 who takes the original report.

21 Q Okay.

22 A Not me.

23 Q I'm just trying to figure out the significance of
24 that time in the report; is that correct this is when it all
25 began?

26 A Not necessarily when it all began. That's when

1 the officer that originally wrote this report entered the
2 time they were involved.

3 Q Okay. So we're talking 6:30 when you arrived. By
4 that point you had already made contact with somebody who
5 purported to be a representative of Wells Fargo bank; right?

6 A I was never spoken to directly. I was in the room
7 where representatives from the bank owners, managers,
8 whatever they may be, were speaking with my superior
9 officers.

10 Q Okay. So you were present for the conversation?

11 A Brief bits of it, yes, sir.

12 Q Okay. This happened before 6:30?

13 A Yes.

14 Q Did it happen immediately before 6:30?

15 A It was within half hour, 45 minutes before that
16 time.

17 Q So no earlier than 6 p.m. there was this initial
18 conversation with Wells Fargo representatives; right?

19 A I know there was. There were other negotiations,
20 other things going on before I got there. And I know
21 representatives from my office were already speaking to
22 members of that bank for probably a couple hours before I
23 got there.

24 Q Where were these discussions taking place?

25 A The ones that I'm aware of were at the Wells Fargo
26 directly across the street.

1 Q So did you go there with your 20 officers to the
2 Wells Fargo first?

3 A That's where we responded and where we responded
4 from, yes.

5 Q Okay. And who was your superior officer that day?

6 A I had several.

7 Q Okay. Who was the highest ranking one?

8 A The chief of police.

9 Q He was there?

10 A He was there.

11 Q And was deputy chief there too?

12 A There was a deputy chief there, yes.

13 Q A deputy chief; do you know who that was?

14 A Deputy Chief Steve Clark.

15 Q Did you then have further discussions with Wells
16 Fargo people after the incident that you've been describing
17 in your testimony when you went to the door and it was
18 barricaded and so forth?

19 A No, not directly.

20 Q There was this followup communication with Wells
21 Fargo that you know of?

22 A Not from me, but my management staff was still
23 with them at the Wells Fargo, or in Wells Fargo discussing
24 those things with the managers.

25 MR. BEAUVAIS: Okay. Thank you. I have no
26 further questions.

1 THE COURT: Mr. Clymo?

2

3

CROSS EXAMINATION

4

BY MR. CLYMO:

5

Q Daniel Clymo for Becky Johnson. Just so I'm

6

clear, you were training on November 30th and got a call

7

about 4:30 informing you of the situation?

8

A Yes.

9

Q And you arrived at the bank around 6:30 that

10

evening?

11

A Little bit before.

12

Q Was it daylight or night? What was the lighting

13

conditions when you arrived?

14

A It was getting towards dusk. It was beginning to

15

be dark when I remember being there.

16

Q Okay.

17

A When we arrived it was dark.

18

Q When you walked up to the -- walking up to the

19

doorway that exchange you discussed, it was nighttime?

20

A Nighttime, yes. Dark.

21

Q Okay. So you arrived, did you go to 75 River

22

Street or did you go to the Wells Fargo building?

23

A Initially to the Wells Fargo building or parking

24

lot near there.

25

Q That would be as you wind your way down River

26

around the corner from 75 River; correct?

1 A Yes, therer's a parking garage there when went on
2 that side of that building.

3 Q And is that where you had this -- you were party
4 to the bits and pieces a conversation with Wells Fargo
5 representatives?

6 A Yes.

7 Q Who else was there from your department?

8 A The one that I say was actively involved at that
9 point was Lieutenant Colleen McMahon.

10 Q Going back to when you approached 75 River Street,
11 was there any music being played?

12 A There had been bits of music here and there but I
13 don't recall any specific.

14 Q Was it quiet? Was it loud? How would you
15 describe the sound?

16 A Both. At times it was very boisterous, very loud.
17 Other times I could carry on conversation with people at the
18 door and hear everything perfectly.

19 Q Something about a mic check. Was there anybody
20 that you observed or you heard using like loud speaker
21 device or anything of that nature?

22 A No. And mic check from what I've seen in the
23 past, it's just a verbal exchange. One person does it, it
24 just kind of reverberates through the crowd. You don't
25 actually use any microphone or any kind of amplifier; it's
26 just by voice.

1 Q When you got up to the window at 75 River Street
2 you were able to make contact with each of the occupants and
3 you asked them if they were in need of any assistance;
4 correct?

5 A Yes.

6 Q And the people you made eye contact with, none of
7 them were Becky Johnson; correct?

8 A Correct.

9 MR. CLYMO: I have nothing further.

10 THE COURT: Let's take the noon recess. We'll
11 reconvene at 1:30.

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13 (Whereupon, a recess was taken to 1:30 p.m. the same day)

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5 MONDAY, JANUARY 7, 2013; SANTA CRUZ, CALIFORNIA

6 A F T E R N O O N S E S S I O N

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

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9
10 THE COURT: So, Mr. Ruben, we are all here at 1:30
11 ready to go. I lost ten minutes because you were not here.
12 What's up? Why were you late?

13 MR. RUBEN: There was a jury pool, Your Honor, I
14 was unaware of. Your Honor there were no parking spots.

15 THE COURT: You need to allow yourself to get here
16 on time. I don't want to wait. I'm pressed for time today.
17 All right. So let's resume with direct examination.

18 MS. YOUNG: It's cross-examination from
19 Miss Briggs.

20 MS. BRIGGS: Yes. No questions, Your Honor.

21 THE COURT: Miss McCamey?

22 MS. MC CAMEY: Thank you, Your Honor.

23
24 **CROSS EXAMINATION**

25 BY MS. MC CAMEY:

26 Q Good afternoon. I'm Lisa McCamey. I represent

1 Brent Adams?

2 A Good afternoon.

3 Q Now, you indicated I believe on direct that your
4 duties on November 30th, 2011, about 6:30 was to be part of
5 a crowd control detail; is that right?

6 A Yes.

7 Q Had you been to 75 River Street earlier that day?

8 A No.

9 Q Had you in preparation for this crowd control
10 detail spoken to or gotten any intelligence or briefing from
11 any other officers who had been there earlier that day?

12 A Not from anybody specifically who was on scene,
13 no. I did receive some information from the lieutenant.

14 Q Okay. Was it your understanding that other
15 officers had been present earlier in the day?

16 A Yes.

17 Q Was it your understanding that those officers were
18 present when the doors were opened --

19 A Yes.

20 Q -- at River Street? Was it your understanding
21 that people were coming and going all day long from those
22 open doors at River Street?

23 A Not all day long but I know for at least a couple
24 hours before I got there; that's the understanding that I
25 had.

26 Q During the daylight hours; is that correct?

1 A Yes.

2 Q Okay. Your understanding is that the doors were
3 opened sometime during the day?

4 A Yes.

5 Q Okay. And at some point police officers arrived,
6 you did not attempt to keep anybody from going in or out of
7 that building?

8 A I wasn't there; I can't answer to that.

9 Q Well, to your knowledge, was anybody notified that
10 they were trespassing prior to you and your detail arriving?

11 A Not to my knowledge; I don't know.

12 Q And who was it who decided that a crowd control
13 detail would be necessary at that point?

14 A I'm not sure.

15 Q Who told you to do this crowd control detail?

16 A There were two different lieutenants that advised
17 me of the whole thing and asked us to go out there.
18 Lieutenant McMahon and Lieutenant Richard.

19 Q Did they advise you why you needed to go out
20 there?

21 A They said, yes, basically that the bank had been
22 taken over and there were trespassers inside the building.

23 Q The report says it was crowd control. Was it
24 crowd control or trespassers?

25 A It was both. Mainly was the crowd control was the
26 outside issue. And then we were sent in to address the

1 people inside the bank, the separate group.

2 Q So to address the people inside the bank was
3 another option; is what you're saying?

4 A They were simultaneous, yes.

5 Q Okay. Now this crowd control, were you given
6 information as to the size of the crowd at the time you were
7 given this detail?

8 A Yes.

9 Q And what was it?

10 A There was a large crowd. I did hear there were
11 people coming in and going out. They were carrying large
12 items into the bank as as well as buckets of rocks.

13 Q Did you get any information as to when that had
14 occurred?

15 A In the couple hours before I got there.

16 Q Okay. And in a couple hours before you got there,
17 was there any indication that there had been any violent
18 confrontations?

19 A I believe there was one incident, but I don't have
20 any specifics.

21 Q You had no knowledge of anything like that?

22 A I know somebody ran. Somebody was arrested.
23 There was some kind of violent encounter between somebody
24 and police officers.

25 Q So someone ran from the police they were tackled
26 near the post office?

1 A Yes, I believe that's it.

2 Q Other than that, you heard of no other sort of
3 negative or violent interactions that occurred at River
4 Street up to that point?

5 A Correct.

6 Q Okay. Now, whose idea was it the 20 officers
7 would be necessary to complete this detail?

8 A Actually when I looked at the size of the crowd, I
9 asked for 20 additional above the 20 that were being sent
10 over.

11 Q Okay. So there was already, at least says in your
12 report, 15 officers already on scene?

13 A To my estimate, yes. I didn't have specifics.

14 Q Okay. And those were 15 officers who'd been there
15 all day?

16 A I have no idea.

17 Q How did you know there were 15 officers there?

18 A Most of the day shift was there. And I knew there
19 were a couple of detectives in the area. So that was just
20 my estimate from what I heard.

21 Q Through radio traffic you understood they were all
22 on scene at 75 River?

23 A Yes.

24 Q And you decided that you needed 20 more officers
25 to complete this detail?

26 A A minimum, yes.

1 Q And you decided that these officers should be in
2 riot gear; is that correct?

3 A I didn't make that decision, no, but I would have.

4 Q Who made that decision?

5 A I don't recall.

6 Q Okay.

7 A It's pretty standard for any crowd control
8 situation, especially with the protests we were having
9 around the country. That would be the safest way for us to
10 go.

11 Q Notwithstanding any other protests around the
12 country, the protest that you were going to you had no
13 reports of anybody being violent or anything but peaceful;
14 fair to say?

15 A No. We did receive reports that they were
16 carrying buckets and with rocks which could be used as
17 projectiles towards us from the roof. We knew there were
18 people on the roof.

19 Q Did you have any information that anybody had used
20 a projectile at anybody, a police officer or otherwise?

21 A Not yet.

22 Q You just had this generalized fear that you might
23 be attacked?

24 A I would say more justified fear than generalized
25 fear.

26 Q Just based on the fact that you had heard someone

1 might have a rock?

2 A I've been to situations similar to this and I know
3 in dealing with some of the people that I saw in that crowd
4 that violent encounters do occur and that rocks and bottles
5 and things are often used in crowd control situations.

6 Q You actually assessed the crowd before you
7 determined that you needed your riot gear?

8 A It only took about five seconds. I took a quick
9 look and I recognized some of the people. I recognized some
10 of the clothing to be something that would be of great
11 concern to me.

12 Q What was the clothing that was of great concern to
13 you?

14 A Masks, bandanas, covering things to conceal
15 identity.

16 Q And so based on that, you and 20 other officers
17 dressed in riot gear and proceeded to 75 River at nighttime;
18 is that correct?

19 A Yes. Myself and 20 officers arrived at the bank.

20 Q Let's describe this riot gear. You had a helmet
21 with a face mask; is that correct?

22 A Yes.

23 Q And you had a vest; is that correct?

24 A Yes.

25 Q And you had a shield; is that correct?

26 A I don't know if I specifically had a shield. We

1 had shields with us, yes.

2 Q The other officers present, they were carrying
3 shields; is that correct?

4 A Yes.

5 Q As part of the equipment that people carry when
6 they're dressed in riot gear at the police department; is
7 that fair to say?

8 A Yes.

9 Q And a baton?

10 A Yes.

11 Q Many officers actually had their batons out when
12 they were at River Street; is that correct?

13 A Yes.

14 Q Okay. You also carry a duty weapon?

15 A Yes.

16 Q You carry pepper spray?

17 A On occasion. I didn't on this particular day, no.

18 Q Do you know whether or not people had tasers with
19 them?

20 A Yes.

21 Q Now, you indicated previous to this you
22 participated in a meeting with members of Wells Fargo bank;
23 is that right?

24 A Yes.

25 Q Now, were you already in riot gear when you went
26 to this meeting?

1 A No, for the -- I didn't have a helmet or anything,
2 no. I was in a uniform though.

3 Q Were you invited to this meeting by other
4 officers?

5 A There was just a meeting going on in the building
6 when I got there. It wasn't that I was necessarily invited.
7 I just walked in. It wasn't like a formal meeting.

8 Q So you indicated I believe in response to
9 Mr. Hackett's questions you got bits and pieces of the
10 conversations that occurred at Wells Fargo bank. Is that
11 because you weren't there during the entire meeting?

12 A Yes.

13 Q Now, in your report you wrote that you had been
14 told that the building owners and property managers didn't
15 authorize this. Is that an incorrect statement in the
16 police report?

17 A No, I've also been told that.

18 Q You don't put anywhere in your police report here
19 that appears to have been prepared just a few days later
20 that you actually went in and met with these people at Wells
21 Fargo bank; is that correct?

22 A Correct. I didn't specifically go in and meet
23 with them. There were meetings going on in the rooms that I
24 was observing from. So I was privy to some of the
25 information that was being discussed.

26 Q You did not put in your police report that you had

1 any interaction personally with any member of Wells Fargo
2 bank regarding this property; is that fair?

3 A Okay.

4 Q Now, when you arrived on scene at River Street, is
5 there a protocol or a way the police approach a group when
6 you're in riot gear and you have this type of a detail?

7 A It's based upon the situation; there's no set way
8 to approach a group.

9 Q Well --

10 A Basically what we would do is going in and make
11 sure that we put ourselves in between whatever the threat
12 might have been being able to protect ourselves and to allow
13 people to have an avenue of escape if they wanted to leave.

14 Q At this point you weren't aware of any threats.
15 So did you have a plan as to how you were going to approach
16 the bank?

17 A Yes.

18 Q And what was that plan?

19 A The parking lot to the south of it was wide open
20 so we were able to just walk right up to the front.

21 Q Did you walk in a line or how did you walk up to
22 the front?

23 A In kind of a staggered line, yes.

24 Q Okay. Did everyone have their shields in front of
25 them, their batons out?

26 A During the walk we were just walking across the

1 street.

2 Q Okay. And when you walked across the street, was
3 there a decision at some point or even before to break off
4 into separate groups?

5 A Yes.

6 Q Okay. Was there any decision regarding what the
7 15 officers were already on scene were to be doing?

8 A They were to just going to fill in with what we
9 had after they withdrew to put on equipment for themselves.

10 Q Did they come with you at 6:30 or did they come
11 later?

12 A There was already a group there when we got there.

13 Q I guess just to be clear was that group that was
14 already there, were they in protective gear, in riot gear?

15 A They may have had some pieces but, no, they
16 responded just from a patrol perspective. They just had
17 their regular uniforms on.

18 Q When did they leave to go get riot gear on?

19 A Would have been when we got there.

20 Q Do you know how long after that they came back in
21 their riot gear?

22 A No idea.

23 Q Okay. So at some point there was 35 police
24 officers in riot gear out in front of the bank?

25 A Potentially.

26 Q I believe in your report you said that you were

1 outnumbered six to one; is that right?

2 A Yes.

3 Q So it would be about 210 people outside the bank?

4 A I think I included the people inside the bank and
5 this is just a rough estimate as 150.

6 Q You said there was 25 people in the bank?

7 A Yes.

8 Q And that was based on your personal observations?

9 A Yes, just an estimate. I didn't actually count
10 them.

11 Q Fair to say there might have been people in the
12 bank you didn't see; you were just counting people who you
13 saw?

14 A Correct.

15 Q Now, when you approached the bank there was a
16 decision for at least ten officers or more to split off and
17 deal with the group that was out near the sidewalk; is that
18 fair to say?

19 A They were mainly there to prevent them from coming
20 into the bank.

21 Q So basically 10 or more officers in riot gear
22 approached a group of people, had them stay back away from
23 the front of the bank?

24 A I don't know if they necessarily approached but
25 they did form a line in between the group that was going to
26 communicate with the people inside the bank and out on the

1 sidewalk.

2 Q Is it fair to say that prior to 20 to 35 officers
3 showing up at 75 River Street in riot gear this situation
4 was relatively peaceful?

5 A I wasn't there. I don't know.

6 Q Okay. Well, you indicated you had no knowledge
7 that it was anything but peaceful; is that fair to say?

8 MS. YOUNG: Objection, Your Honor, that does
9 misstate the testimony.

10 THE COURT: Sustained.

11 BY MS. MC CAMEY:

12 Q Now, when all of the 20 to 35 officers approached
13 the protestors, the situation changed almost instantly; is
14 that fair to say?

15 A I don't think so. I think that the crowd was
16 already highly charged when we arrived there. We did get a
17 response, yes. But I think the crowd was already at a very
18 high level.

19 Q Maybe is it fair to say that the energy in the
20 crowd increased dramatically when 25 to 35 officers in riot
21 gear showed up?

22 A Could be.

23 Q Okay. And then when you arrived, there was also
24 already a rather large sound system away from the bank; is
25 that correct?

26 A I don't remember.

1 Q You remember hearing loud music being blasted from
2 the sound system?

3 A I remember hearing a lot of loud things, yes.

4 Q Do you remember hearing loud music?

5 A At times I do recall hearing music. I don't
6 remember it being so loud.

7 Q Do you remember hearing people yelling?

8 A Yes.

9 Q Particularly after the police showed up in their
10 riot gear?

11 A I do remember them yelling when we were there,
12 yes.

13 Q Do you remember them chanting?

14 A Yes.

15 Q Do you remember people at least one or two people
16 with bull horns chanting and yelling through a bull horn
17 within the crowd outside of the bank?

18 A Yes.

19 Q So is it fair to say that crowd was relatively
20 loud when you arrived?

21 A Yes.

22 Q Now, in this riot gear that you wear, your helmet,
23 does it contain a radio?

24 A No.

25 Q Where is your radio when you're in riot gear?

26 A My radio is on my hip.

1 Q On your hip?

2 A Correct.

3 Q Do you have anything in your ears? The helmet
4 covers your ears; is that correct?

5 A My ears are exposed but they are covered by a
6 helmet. Helmet is not stuck to my ears. It's not like a
7 motorcycle helmet.

8 Q The helmet covered your ears, a strap that goes
9 under your chin?

10 A Yes.

11 Q And there's a shield?

12 A Yes.

13 Q Okay. Now, when you walked up and approached, you
14 and five other officers, it was at the time that you were
15 approaching in your riot gear, the front door, furniture
16 started being stacked up against it; is that right?

17 A For those doors, yes. I've been told furniture
18 was brought in the second that anyone entered the bank, they
19 started bringing furniture in.

20 Q I don't know -- I don't want to know what you were
21 told. I want to know what you observed. What you observed
22 when you were approaching the front door was it at that
23 point that you saw furniture being stacked?

24 A Yes, at that point when we entered or when we
25 arrived.

26 Q At that point the crowd was facing 10 to 25

1 officers and you and other officers were approaching the
2 front doors of the bank?

3 A Yes.

4 Q And at that point you say there was a desk the
5 size of the desk that the District Attorney's sitting at
6 that was propped up against the door; is that right?

7 A Yes, pretty close.

8 Q And at that point other than 20 or 35 officers
9 approaching the bank in riot gear, had anyone said anything?

10 A Anybody who?

11 Q You, police officers.

12 A I don't know on our approach if anybody said
13 anything.

14 Q Was there any plan to peacefully speak to the
15 people regarding trespassing before approaching the doors in
16 riot gear?

17 A Not prior to approaching, but afterward, yes.

18 Q Was there any plan to maybe hand out flyers before
19 approaching the doors and approaching officers in riot gear?

20 A No.

21 Q Was there any plan to find out if there was a
22 police liaison and talk to that person before approaching
23 the protesters in riot gear?

24 A If there was a liaison from our side, we would
25 have known that.

26 Q I'm talking about the protestors side.

1 A Nobody had approached us that I'm aware of.

2 Q You approached them?

3 A When I approached them, I found that out within a
4 minute.

5 Q Well, I should rephrase that question. Did
6 anybody else from the police department approach the
7 protesters with regarding questions about whether or not
8 people belong to the bank prior to you and your officers
9 showing up in riot gear?

10 A I don't know.

11 Q Now, you said that you walked up and you made some
12 comment like "You've broken into the bank. You have to
13 leave." Or words to that effect?

14 A Yes. Something along those lines.

15 Q Okay. And the desk that you saw being propped up
16 was obviously being propped up by a group of people; is that
17 fair to say?

18 A Yes.

19 Q At the time that this is occurring, there's a lot
20 of yelling, chanting, people on bull horns and a lot of
21 chanting going on; is that fair to say?

22 A Sure.

23 Q And you probably -- since you already were
24 concerned for your safety before you even arrived, are you
25 then more concerned for your safety at this point; is that
26 fair to say?

1 A Yes.

2 Q You're probably not just focussed on the people
3 inside the bank, you're focussed on the whole scene; is that
4 right?

5 A More so what was in the bank and what was on the
6 roof was my concerns because I know I had people behind me
7 watching the crowd. I wasn't as concerned about that.

8 Q You weren't paying attention to that?

9 A Not that I wasn't paying attention. I was more
10 concerned, focussed on the threats that I had directly in
11 front of me as to what was behind me.

12 Q So you were paying attention to anybody who might
13 have been operate roof; is that right?

14 A Yes.

15 Q Did you notice anyone on the roof?

16 A I know there were at least a couple of people on
17 the roof yes.

18 Q You were paying attention to them?

19 A Yes.

20 Q You were paying attention to the people behind you
21 to some degree?

22 A Yes.

23 Q Okay. And it was in this scenario that you say
24 you had a conversation with Mr. Adams; is that correct?

25 A Yes.

26 Q And you said that you could not recall his exact

1 words to you; is that right?

2 A Yes.

3 Q And that's because of everything that was going on
4 including the loud noises; is that right?

5 A Some of what he said could have -- there could
6 have been a problem with what I heard. There are some
7 things that I could clearly hear from him. I'm certain
8 there are certain things that other people in the bank
9 clearly heard from me.

10 Q And your previous interaction with him has to do
11 with trying to work out a way to have a drum circle at the
12 Farmers Market; is that right?

13 A One of many, yes.

14 Q You actually worked with him and mediated with him
15 to make that work out; is that correct?

16 A Yes.

17 Q So he was actually trying to help facilitate the
18 process to make it legal and safe for everybody; is that
19 fair to say?

20 A Yes. He actually made reference to that which is
21 one of those conversations that I heard very well.

22 Q Okay. And during that conversation when he gave
23 reference to that, he asked you whether or not you could
24 mediate this situation; is that right?

25 A He was -- during that time he was walking away
26 from me. So it was back and forth while he was stacking the

1 furniture and things up. And right after he said that, I
2 explained to him I'm interested in doing that but as long as
3 you're throwing furniture at me it did make it difficult to
4 communicate with him.

5 Q Did it occur to you it might be difficult for them
6 to not put furniture up when there are 35 police officers
7 right there approaching them when you offer to go in, have a
8 peaceful conversation with them?

9 A Never had that opportunity. And within seconds of
10 meeting there, it wasn't 35 officers marching on the bank.
11 35 officers had their back to the bank they were monitoring
12 the crowd. There were four officers and myself trying to
13 speak with the people inside.

14 Q But as you said, I believe you testified on direct
15 that this -- everything you're describing happened almost
16 simultaneously; is that right?

17 A A lot of things were happening at the same time.

18 Q Happened very quickly?

19 A Yes.

20 Q Okay. So this conversation that you're referring
21 to and all the chanting and yelling and loud noise, this is
22 all happening within seconds; is that right?

23 A Yes.

24 Q And it's within seconds that you saw the crowd
25 advancing; is that right?

26 A No. That was more minutes before the crowd

1 started advancing. We'd been there for several minutes.

2 Q You'd been there for several minutes when the
3 crowd was advancing?

4 A Yes.

5 Q What was going on for those several minutes? I
6 thought you said it was seconds?

7 A A lot the of it took seconds. A lot of the things
8 that were happening occurred in seconds. Then there was
9 some down time in between those times. And then at the end
10 that's when the crowd started advancing on us. Probably 20
11 minutes total from the time I was there at least 20 minutes.

12 Q So the dispatch log would reflect that it took 20
13 minutes from beginning to end?

14 A Not the whole incident or from when I got there,
15 yes, it should.

16 Q Okay. And so when the crowd started advancing,
17 you made the decision to retreat; is that correct?

18 A I relayed that information to our command post;
19 and, ya, they made the decision to pull us out.

20 Q During this 20 minutes perhaps during some of this
21 down time, was there ever an indication -- was there ever an
22 effort to try and speak to people in a peaceful manner to
23 get the situation to calm down?

24 A That's what I was doing at the door.

25 Q But at the door you were with five people in riot
26 gear and another 20 to 35 other officers on scene; right?

1 A Right. But I do have the past relationship with
2 Brent that I thought I could have that same kind of
3 conversation with him. And the conversation when I was
4 speaking to him was pretty similar to how we're talking
5 right now. That I would like to engage with him. And when
6 he said they had a spokesperson, I asked him to call her so
7 she could communicate with me so I could work something out.

8 Q So your testimony is when this conversation was
9 going on, everything was quiet and peaceful?

10 A No.

11 Q Music stopped?

12 A No. What I'm saying is that at that doorway, it
13 was -- although it was loud behind me, I could hear
14 everything Brent said to me. He could hear me when I did
15 ask if anybody was okay, I got acknowledgment that they
16 heard me. When I said is anybody going to leave willingly?
17 Somebody standing in the middle of the bank said "I'd like
18 to go." I said, "C'mon through." He came over. He jumped
19 on the desk and he left.

20 Q Okay. And during this time period, there's 25
21 people back there stacking up furnish; right?

22 A Not 25 people, no. There were several people
23 standing around. A few people just looked like they didn't
24 know where they were, what they were doing, off to the side
25 that was in the group maybe ten actively involved in that.

26 Q And did you ever -- when you asked them if anybody

1 harmed them, did you ever express to them despite the fact
2 the situation was going on outside, they would be safe if
3 they left?

4 A Ya, that's why one person took me up on it. There
5 were two ladies standing just inside the door to my right.
6 And they looked like they didn't really belong there. And I
7 asked them specifically "You guys okay? You guys want to
8 leave?" And they just kind of stared at me dumbfounded like
9 they couldn't -- they couldn't make up their mind.

10 Q Where were they?

11 A They were standing just inside the door to the
12 right.

13 Q Okay. They were standing just inside the door?

14 A In between.

15 Q You addressed them directly?

16 A Directly.

17 Q You addressed those two people?

18 A Yes.

19 Q Okay. Did you tell everybody else if you come out
20 at this point there was already interactions going on with
21 the crowd and the police; is that right?

22 A Not necessarily. Like I said, we were there for
23 about 20 minutes. So at some point there was that
24 interaction but at that point we kind of abandoned what was
25 going on in the bank. We were worried about our access.

26 Q Isn't it fair to say almost immediately there was

1 negative interaction with the police; that almost
2 immediately there was a few violent scuffles and
3 interactions with the police?

4 A I would say there were those in the crowd who were
5 trying to incite that, yes.

6 Q They were trying to incite that?

7 A Yes.

8 Q Okay. And the police officers with their batons
9 out and approaching them with their shields were just not
10 doing anything?

11 A Pretty much we were just walking in.

12 Q Isn't it fair to say some of these protestors got
13 struck by the police?

14 A We had a few protestors actually throw things at
15 the police and push into the police. They may have received
16 a shove or a push or a strike.

17 Q All right. And during this time when all this is
18 going on, you never -- strike that.

19 At the point where things started really getting
20 up is when you decided to leave; is that right?

21 A When -- ya, when there was communication between
22 the people inside the bank and outside the bank, and they
23 gave instructions to the people outside the bank to start
24 collapsing in on the police so they could secure the doors,
25 ya, that raised my level of fear for everybody involved
26 because I knew that was going to involve a violent

1 confrontation.

2 Q You also said on direct examination there was
3 people climbing into the bank; is that right? While
4 furniture was being stacked?

5 A No.

6 Q There was nobody climbing into the bank?

7 A No. Nobody entered the bank through that opening.

8 Q Now, when you said that Mr. Adams got up and
9 started yelling, was this before or after your conversation
10 with him about trying to mediate the situation?

11 A After.

12 Q Okay. And at that point your testimony was that
13 the 150 to 200 people were 40 to 50 away; is that right?

14 A From the entrance.

15 Q With a line of police between them and the bank?

16 A Yes.

17 Q And the sound system was still on?

18 A I don't recall.

19 Q You don't recall?

20 A I could hear fine. So there may have been noise
21 there, may have been background noise, but I could hear when
22 I was speaking to the officers. I gave them direction. We
23 were all going to leave. They all heard me. They heard the
24 instructions. When I spoke to Gabby she heard my
25 instructions all the same that was going on.

26 Q You spoke to Gabby in the parking lot; is that

1 right?

2 A Correct; that's when it was louder.

3 Q That's when you had retreated from the front door
4 and gone to the parking lot to talk to Gabby; is that right?

5 A We were about 20 feet from the entrance. So we
6 were approximately the same distance away from all the
7 noise.

8 Q But the noise never really calmed down; is that
9 fair to say? No one ever turned off the sound system.

10 A No. As a matter of fact it got louder as we
11 started to pull out. I was still able to speak with Gabby.
12 She could hear me.

13 Q You actually took her aside. This wasn't a
14 situation where you were yelling at somebody in the bank
15 from a position outside the bank?

16 A I don't know. We got to within five to ten feet
17 of each other.

18 Q And she actually wanted to speak to you; is that
19 right?

20 A I don't know.

21 Q You approached her; is that right?

22 A Yes.

23 Q She actually did speak to you; is that right?

24 A Yes.

25 Q Now, when you heard this yelling out into the
26 crowd, were the other riot officers still facing this crowd?

1 A Yes.

2 Q Were the other riot officers still engaged with
3 that crowd?

4 A Depends what you mean by "engaged."

5 Q Were -- they were not engaged with them from the
6 very beginning to try to keep them back?

7 A Most of the time I found they were just standing
8 there. In between there wasn't any interaction going on.
9 When we first arrived, there was some interaction, some
10 initial confrontation, but that kind of subsided, people
11 were back on the sidewalk. There was some shouting going on
12 from them toward the officers. The officers that I can see
13 from where I was just standing in line not engaged with
14 anyone.

15 Q They were facing the people; is that correct?
16 Their job was to interact with those people?

17 A Their job was to protect my back and my officers
18 standing there with me so they didn't come into the bank or
19 collapse on us.

20 Q Okay. And it was -- they were still 40 or 50 feet
21 away when you're saying Mr. Adams yelled something out to
22 them?

23 A Yes.

24 Q And Mr. Adams doesn't have a bull horn; is that
25 right?

26 A Right.

1 Q He wasn't using a sound system?

2 A Right.

3 Q There were other people in the crowd using bull
4 horns; correct?

5 A Yes.

6 Q And those other people were projecting
7 instructions; is that right?

8 A Yes.

9 Q And it was when you were or when Mr. Adams offered
10 to mediate with you that he informed you about Gabriella; is
11 that right?

12 A I think actually right when I got there he said
13 something about Gabriella. I asked him to do that. Shortly
14 after that, he had mentioned he didn't actually offer to do
15 anything. He said something, made reference to the prior
16 comment we were able to work something out. I said I would
17 like to do that now.

18 Q Well, he actually said he would like to do that
19 now; isn't that right? That's when he told you about
20 Gabriella?

21 A I don't remember him ever saying he'd like to do
22 that. He made reference to the past when we had done that.

23 Q Okay. But at some point he offered to give you a
24 name that you had not known before to help facilitate the
25 process of mediating rather than having a violent
26 confrontation; is that right?

1 A At some point he told me to contact Gabby, and I
2 asked him to get in touch with her because I don't know who
3 that is. I never got any response.

4 Q So he gave you information that could help you
5 mediate the situation or end it in a peaceful manner?

6 MS. YOUNG: Objection. Your Honor. That
7 misstates the testimony.

8 THE COURT: Sustained.

9 BY MS. MC CAMEY:

10 Q He gave you information you didn't have before how
11 to end this, how to mediate this?

12 A He gave me a name without any way to contact that
13 person. I don't know if that person exists.

14 Q You found a few minutes later that person did
15 exist; right?

16 A 20 minutes later, I did.

17 Q You spoke to her in fact the situation did calm
18 down; is that right?

19 A Once I was able to find her, she was able to calm
20 the crowd.

21 Q How long did it take you to find her?

22 A It took 20 minutes.

23 Q So you were looking for her during the entire time
24 you were there?

25 A I had no idea who she was. We were looking for
26 her. It was more important for me to continue to try to

1 negotiate and try to --

2 Q When you mentioned only a couple of bits and
3 pieces of statements you got from my client, so are you
4 saying you were standing there 20 minutes talking to them?
5 Your not sure what else was said?

6 A No. I just said there were moments when I was
7 talking to him. There were other times when I was relaying
8 information back to our command post. He was relaying
9 information to the other officers that were on scene. So I
10 was moving back and forth as was Mr. Adams.

11 Q How were you relaying information back to the
12 command post?

13 A With my radio.

14 Q Taking it off your hip and doing it?

15 A I have an extended mic piece that I can use from
16 my right, from in front of me.

17 Q You have it up here on the front of your chest?

18 A Yes.

19 Q And you were using that mic piece to communicate?

20 A Yes.

21 Q And you during this entire 20 minutes were in
22 front of the two doors?

23 A I was probably within about 10, 15 feet of those
24 front doors the entire time except for when I went to the
25 officers to tell them we were going to withdraw. Again I
26 was able to hear my piece on the radio over all of that

1 noise.

2 Q Okay. You're within 10 to 15 feet of the front
3 door the whole time?

4 A Yes.

5 Q Okay. What other officers are present with you in
6 front of that front door?

7 A I can only recall Officer Hatcher and Officer
8 Kieffer was off to the side. And I believe it was Officer
9 Auldridge that was up front with me.

10 Q Did you not organize your group that was going to
11 approach the front?

12 A No. I just pulled the first few people that were
13 next to me. I said all we're going to do is just clear the
14 door so we can have communication and prevent the doors from
15 closing; that was it.

16 Q So when you pulled them in, you said I want to
17 secure the doors and prevent the doors from closing?

18 A Correct. And that was it.

19 Q Now, you indicated before that two women left; is
20 that right?

21 A No. Two women were inside but they did not leave.

22 Q Two people left?

23 A One person left.

24 Q Did you not say two other people left?

25 A No, I didn't.

26 Q And what this one person did that left was he

1 jumped on top of the desk and jumped out?

2 A Yes.

3 Q And at this time you and the other officers in
4 riot gear were trying to remove things from the front door;
5 is that right?

6 A At which time? We were there 20 minutes.

7 Q At the time -- I'm reading from your report -- so
8 maybe you can refresh your recollection. But at the time
9 right after this one person jumped off the desk and left?

10 A Yes. Shortly after that the person jumped, more
11 things were being stacked on top to prevent them from
12 falling on us or falling back in on the people who were
13 underneath them, we tried to remove the top items.

14 Q You were trying to take them out?

15 A To either pull them out or push them back in.

16 Q In an effort to keep them from falling, you were
17 trying to move them?

18 A Yes.

19 Q So you said there was another person standing on
20 top of the barricade; is that right? At the point when they
21 were moving furniture; is that right?

22 A There was one person standing up on top of the
23 desk.

24 Q What were the other 24 people doing?

25 A Any number of things. Like I said before, there
26 were probably about 10 or 12 people that were doing nothing.

1 They were just standing there kind of observing everything.
2 There were about eight that were actively involved. Eight
3 to ten.

4 Q So when you say "standing there," where are you
5 referring to as "there"?

6 A Within 20, 25 feet of the entrance.

7 Q So there's eight people doing that or moving
8 furniture and there's about 12 people standing off to the
9 side?

10 A These are approximates, yes.

11 Q What were the other five people doing?

12 A Like I said, they were approximate. I didn't
13 count every individual person that was in there. I'm not
14 even certain there were 25 people in there.

15 Q And because there was these, you used the term
16 barricades being put up, were you able to see everything
17 that was going on behind the barricade?

18 A Not everything, no.

19 Q Were not able to see who was actually behind
20 there?

21 A Not everyone, no.

22 Q Now, you indicate the -- in the report when the
23 crowd started going forward, you noticed people were
24 starting to cover their faces; is that right?

25 A Yes.

26 Q And you described these people, quote, unquote, as

1 anarchists?

2 A Yes.

3 Q And those were the people that you were concerned
4 might throw projectiles at you?

5 A Those were some of the people I was concerned
6 with, yes.

7 Q And during the interaction, no one threw any rocks
8 at you from the ceiling, or from the roof; is that right?

9 A Not at me.

10 Q No one threw any rocks at anybody?

11 A I don't know.

12 Q Not something that you discussed with your other
13 officers after it occurred?

14 A Not that I know of.

15 Q Was this -- I'm sorry. Ready?

16 THE COURT: Yes. Go ahead.

17 BY MS. MC CAMEY:

18 Q Officer is this the sum total of your interaction
19 in this protest?

20 A Yes.

21 MS. MC CAMEY: Thank you. I have nothing further.

22 THE COURT: Miss Porter.

23 MS. PORTER: Thank you, Your Honor. A couple
24 questions.

25

26

CROSS EXAMINATION

1 BY MS. PORTER:

2 Q In your report you stated you were privy to
3 conversation with representatives of Wells Fargo?

4 A Yes, bits and pieces.

5 Q And during the time that you were privy to these
6 conversations, did you hear any discussion about what types
7 of locks were used on the building?

8 A I'm not sure I understand. You mean the locks
9 that were brought in to --

10 Q I'm sorry. Prior to November 30th when this
11 incident began, did you hear any conversation regarding to
12 prior to that time what type of locks were used on the
13 building?

14 A What kind of security the bank had prior to
15 anything?

16 Q Yes.

17 A No.

18 Q So did you hear any discussion regarding any alarm
19 systems they had to the building prior no November 30th?

20 A No. I was aware they did have the bank lock and
21 there was one of those like realtor boxes that had been on
22 the bank that had been removed; that's all I knew.

23 Q Did you hear any discussion regarding when the
24 last time representatives of the bank had been inside the
25 property prior to November 30th?

26 A No

1 MS. PORTER: Thank you. I have no further
2 questions.

3 THE COURT: Any redirect/.

4 MS. YOUNG: I just want to clarify.

5 **REDIRECT EXAMINATION**

6 BY MS. YOUNG:

7 Q You've been using Wells Fargo interchangeably when
8 you were talking about what you were just talking about
9 cross-examination with Miss Porter, the conversation that
10 you were present for at certain times. You're saying it
11 takes place at Wells Fargo. You don't mean 75 River Street;
12 right?

13 A Right.

14 Q You're talking about the building across the
15 street?

16 A Correct.

17 Q That is a fully functioning, open building; is
18 that right?

19 A Right.

20 Q And that was being used that day for discussions?

21 A Yes.

22 Q Okay. And there was a sort of phrase you used I
23 just wanted to make sure I understood you. At one point you
24 said you were afraid that the protestors were going to
25 collapse on you. What do you mean by that?

26 A I was fearful, given the size of the group and

1 there were several in that group and some of the things that
2 I've seen in past protest actions that I've been involved
3 in, as well as keeping current on things happening
4 everywhere else, with the masks and things being put on,
5 what I believe was a great potential was the crowd, the
6 outside was going to start pushing in, potentially throwing
7 projectiles. If somebody, one of the officers on scene had
8 some hot liquid thrown at him. Not knowing what that is
9 that was a huge concern. I believe that group out there had
10 within it a group of people who were looking for a violent
11 encounter with the police department and they were
12 encouraging the group to basically challenge us and push us
13 back toward that bank.

14 Q When you say collapse on you, does that mean
15 essentially like advance or get into an encounter with you?
16 Is that what that phrase means?

17 A Yes. I mean, physically start pushing us back
18 toward the bank.

19 Q The last thing I want to touch on is only with
20 respect to the defendant Alcantara. This is on direct
21 examination with Mr. Ruben.

22 I believe you said or you had agreed with a
23 phrasing that he had. I want to make sure I understand. It
24 was that you may or may not have heard Mr. Alcantara -- I
25 apologize -- when -- or excuse me. That you said -- forgive
26 me. I got that backwards. He may or may not have heard you

1 when you spoke with him?

2 A When I spoke directly to him about leaving --

3 MR. RUBEN: Your Honor, I'm going to object form
4 of the question.

5 THE COURT: Rephrase the question without reference
6 to what Mr. Ruben asked.

7 BY MS. YOUNG:

8 Q Very simply, how can you be so sure Mr. Alcantara
9 heard you?

10 A He acknowledged me when I spoke to him. He looked
11 directly at me. I spoke to him and he shook his head.

12 Q And shook his head in response to what?

13 A When I said "Are you going to leave?"

14 MS. YOUNG: Thank you.

15 THE COURT: All right. Recross on the subject?

16 MR. RUBEN: I have two follow-up questions
17 regarding Miss McCamey, if I may.

18 THE COURT: Go ahead.

19

20 **RECROSS EXAMINATION**

21 BY MR. RUBEN:

22 Q You mentioned two people directly to the inside to
23 the right?

24 A Yes.

25 Q And so they were kind of filter in or filter out?
26 Or where did they go?

1 A They were there the entire time. When I first
2 walked up, they were really close to the front. They looked
3 like two people who wanted to get out but didn't know what
4 to do. They looked like they wanted to be there but they
5 were starting to get a little bit worried about the outcome.

6 Q You said something to the effect like they didn't
7 like like they totally belonged; right?

8 A Right.

9 Q So when faced with the options, to occupy the bank
10 if you will or the 35 cops in riot gear, they didn't know
11 which way to go?

12 A They looked completely confused.

13 Q Okay. Did they look --

14 A They didn't know.

15 Q I'm being honest here. They look particularly
16 dense in any way?

17 A I don't really know how to answer that.

18 Q Did they look like they were under the influence?

19 A Potentially.

20 Q Potentially. All right. Fair enough. Are you
21 aware of anyone, barring people entry -- beside the police
22 officers -- barring the general public's entry into that
23 bank, were what you considered the occupiers of that bank,
24 were they telling the general public you can't come in?

25 A I don't know.

26 Q So you don't have any information that they were

1 keeping people out at least?

2 A I heard things after-the-fact but I don't know
3 personally.

4 Q Wasn't the idea that they were opening it to the
5 public a formerly closed building?

6 A I heard that after-the-fact as well.

7 Q Okay. And then you guys never actually removed
8 anyone from the building, did you?

9 A Not on that day, no, just the only person that
10 left was asked if he wanted to leave, he took that option.

11 Q Are you aware anyone being removed from the
12 building? I use the word "removed" on purpose.

13 A I don't believe so.

14 MR. RUBEN: Thank you. No further questions.

15 THE COURT: Mr. Hackett, anything further?

16 MR. HACKETT: Nothing further.

17 THE COURT: Mr. Beauvais?

18

19 **RECROSS-EXAMINATION**

20 BY MR. BEAUVAIS:

21 Q You described the meetings that were going on at
22 Wells Fargo across the street. And I think you said
23 something about they were going on in more than one
24 conference room or location within Wells Fargo at 74 River
25 Street; is that right?

26 A Yes.

1 Q Were all of these meetings pertaining to the same
2 subject matter?

3 A I don't know. There were regular operations at
4 that fully functioning operational business going on at the
5 same time we were there. And I was moving throughout the
6 building up and down different floors. So I couldn't tell
7 you.

8 Q Okay. Do you know if any document was generated
9 as a result of that meeting by which Wells Fargo formally
10 authorized the police department to take Law enforcement
11 action for trespassers?

12 A I didn't see it but I heard there was a formal
13 document, a trespass letter.

14 Q Is that right?

15 A From what I understand. I never saw the document.

16 Q Do you know who has possession of document?

17 A No idea.

18 MR. BEAUVAIS: Thank you.

19 THE COURT: Mr. Clymo?

20

21 **RECROSS-EXAMINATION**

22 BY MR. CLYMO:

23 Q Miss Young asked you questions about being
24 collapsed upon by a crowd?

25 A Yes.

26 Q Did people protesting at River Street collapse on

1 your group?

2 A Yes.

3 Q How was that?

4 A It was very slow and deliberate. And again I
5 believe it's kind of like a learned response. If they
6 charge in and it's being videotaped, it's obvious but by
7 doing the baby steps they're basically pushing the issue by
8 moving slowly into our space that we're trying to maintain a
9 safe zone.

10 Q These baby steps you're discussing, how close did
11 they come to you with these baby steps?

12 A I think it got to within about five feet when I
13 made probably my third contact with our command post letting
14 them know it was inevitable we were going to be engaged in a
15 confrontation if we didn't address the situation in a
16 different manner or withdraw.

17 Q Okay. I think Miss McCamey asked you some
18 questions that you indicated you're not sure what happened
19 to other people but nobody threw any rocks or projectiles
20 all you personally; correct?

21 A Correct.

22 Q Now, if I read your report correctly, you're the
23 lead commander in the secondary ground control group that
24 came in?

25 A Not really. I mean, I was given a specific task
26 to lead the group in. The other group had a specific job

1 just to hold that line for us. And my group of four was to
2 just secure those doors in the open position. There was
3 another element to the plan that never happened.

4 Q But in your report you stated that you led the
5 second crowd control group in, we walked directly to the
6 double doors?

7 A Yes, I was in the front so they followed me. I
8 led them.

9 Q So it would be typical training that if one of the
10 other people in your group had projectiles thrown at them,
11 they would report that to you as far as you being in charge
12 of this group?

13 A They may report that to me or back to the command
14 post. I wasn't the overall in charge of this operation.
15 There were other officers already on scene as well.

16 Q Did any of the other officers in your group report
17 to you they had projectiles thrown at them?

18 A One officer did make some reference to liquid
19 being thrown at him.

20 Q Latte coffee?

21 A It may have been.

22 Q Anything in the report about rocks being thrown at
23 them?

24 A No.

25 Q Did you indicate there was another element to the
26 plan that was not implicated or never begun?

1 A Yes.

2 Q What was this un -- what was this unused prong?

3 A I requested mutual aid for everybody's safety.
4 The protestors there as well as the police that were on
5 scene as well as the announcement about the unlawful
6 assembly. That was to happen to address the crowd outside
7 so that we could more effectively deal with the crowd or the
8 group inside. There were two different things. One to
9 address the crowd outside and hopefully get them to disburse
10 so we would have a more effective communication with those
11 who were inside.

12 Q So if I understand correctly, there was a plan to
13 address, to give several warnings to the people behind you
14 of the 150 people but that didn't take place while you were
15 present?

16 A Right. That was in the works. That was occurring
17 behind the scenes, but when we started getting advanced
18 upon, there wouldn't have been time to activate that.

19 Q You didn't make any verbal notice to the large
20 group? You didn't observe any officers make any type of
21 warnings to the large group; is that fair to say?

22 A When we first got back there, the only
23 announcements given to the crowd were to stay back on the
24 sidewalk. It was private property. They needed to be back
25 out on the sidewalk.

26 Q Okay. Going back to my original question about

1 the collapsing and baby steps. During that phase was there
2 any physical altercation between any of the protesters and
3 anybody in your group?

4 A I don't know at that particular time. I do know
5 there were a couple of incidents where people pushed into
6 officers and were pushed back.

7 Q If I understand correctly, that was on your
8 initial approach; correct?

9 A Ya, I believe there may have been other things,
10 but I'm not sure.

11 Q But during this part you didn't observe anyone
12 make physical contact or made any contact with you
13 personally; correct?

14 A Correct.

15 MR. CLYMO: Nothing further.

16 MS. BRIGGS: No questions, Your Honor.

17 MS. MC CAMEY: Nothing.

18 THE COURT: Miss Porter.

19 MS. PORTER: Nothing further.

20 THE COURT: You may step down, be excused, then.
21 Thank you, sir.

22 MS. YOUNG: Your Honor, the next witness is
23 Officer Hedley. And Officer Hedley is for defendants
24 Alcantara, Foster, Ripleyhipps, Norris Kahn. And what I --
25 just to give counsel a heads up for the video clips. The
26 video clips I was going to seek to introduce obviously

1 depending on the Court's determination was for defendant's
2 Norris Kahn, video from camera one. Clip 00077 dot MTS.
3 Beginning at 0103.

4 For defendant Foster, this is all video from
5 camera one. Clip 00066, dot MTS. Beginning at 0100. Clip
6 00067 dot MTS beginning at 0725. Clip 00073 dot MTS
7 beginning at 1206.

8 And Officer Hedley is also the officer who did
9 the most thorough documentation of the post, the damage.
10 And what I plan to do for that was simply literally I have
11 hundreds of photographs. So instead of having him introduce
12 all of those, what I plan to do was simply submit a
13 representative sample. And what that is for everyone on
14 your external hard drive. It's labeled additional photos
15 from 120511. It's 34 photos total. It's just a small
16 amount of what Officer Hedley took but I figured that was
17 the easiest way.

18 THE COURT: Fine.

19 MS. YOUNG: Okay.

20

21 **MICHAEL HEDLEY**

22 called as a witness by and on behalf of
23 the PEOPLE, having been duly sworn, was
24 examined and testified as follows:

25

26 THE COURT: Tell us your first and last name;

1 spell the last name, please

2 THE WITNESS: Michael Hedley, H-E-D-L-E-Y.

3 THE COURT: You can proceed.

4 ///

5 **DIRECT EXAMINATION**

6 BY MS. YOUNG:

7 Q Good afternoon.

8 A Afternoon.

9 Q Who are you employed by?

10 A City of Santa Cruz Police Department.

11 Q What's your job title?

12 A Police officer.

13 Q How long have you been an officer with Santa Cruz

14 PD?

15 A Just short of 18 years.

16 Q What's your current assignment?

17 A Patrol.

18 Q Were you working in that capacity on November

19 30th, 2011?

20 A No, I was a detective at that time.

21 Q Were you dispatched or assigned to go to 75 River

22 Street that day?

23 A Yes.

24 Q And do you remember about what time you arrived?

25 A Just before 4:00 o'clock.

26 Q Did you actually -- I should ask: Were you paired

1 up with anyone that day?

2 A Yes.

3 Q Who was that?

4 A Detective Damon Williams.

5 Q Where were you stationed?

6 A On the river levee across the street from the
7 bank.

8 Q Were on foot or in a vehicle?

9 A In a vehicle.

10 Q Where were you? What were you able to see from
11 that vantage point?

12 A We were directly across from the front of the
13 building at River Street.

14 Q Are you facing the River Street?

15 A No, we were facing southbound with the River
16 Street to our right.

17 Q And was officer -- is it Officer Williams?

18 A Detective.

19 Q Detective. Did he have a video camera with him?

20 A Yes.

21 Q Is he videotaping -- are you in the driver's seat,
22 he in the passenger seat?

23 A I was in the driver's seat, he was in the back
24 seat.

25 Q In the back seat; and is he videotaping the
26 location?

1 A Yes.

2 Q Okay. And did you -- actually tell me what you
3 saw when you arrived.

4 MR. RUBEN: I didn't hear that question.

5 BY MS. YOUNG:

6 Q What did you see when you arrived?

7 A Shortly right after we arrived when the protestors
8 started arriving at the bank, they started surrounding the
9 bank. Saw people going inside and people coming and going
10 from inside the building. And a number of people bringing
11 wood pallets and furniture into the bank building.

12 THE COURT: I'm sorry. What time was this?

13 THE WITNESS: Started at 4:06 we documented.

14 MS. YOUNG: Your Honor, may I have just a moment?

15 THE COURT: Yes.

16 BY MS. YOUNG:

17 Q Do you have your report with you?

18 A Yes, I do.

19 Q For the time of your arrival, would that refresh
20 your recollection to review your report, unless I'm reading
21 military time wrong?

22 A It says 1606.

23 Q Is that four?

24 A Four.

25 Q I'm reading it wrong. Never mind. Thank you.

26 Okay. So you're parked at the levee?

1 A Yes.

2 Q And you said the folks are carrying furniture in,
3 wooden pallets into the building?

4 A Yes, ma'am.

5 Q Do you remember what sort of doors they're
6 entering?

7 A It's the doors that face River Street.

8 Q And how many folks can you estimate are outside
9 the building at that point?

10 A The numbers kept growing. It was right at the
11 start 40 or 50 then grew from there. It's hard to give an
12 accurate count.

13 Q In addition to the folks entering the building,
14 did you see anyone on top of the building?

15 A Yes.

16 Q Pretty quickly after they made entry there were
17 people made access to the roof and some were looking like
18 lookouts and others were working on hanging an occupy sign.

19 Q Were you able to tell how many folks were on the
20 roof?

21 A I wasn't counting, but less than ten.

22 Q Now, during the time that you're in your -- where
23 you're positioned, did you notice any person in particular?

24 A Yes.

25 Q Who was that?

26 A Robert Norris.

1 Q Do you know him from prior contact?

2 A Yes. I've known Robert for about 17 years.

3 MR. BEAUVAIS: How many years?

4 THE WITNESS: About 17.

5 BY MS. YOUNG:

6 Q For the record, do you see that person in court?

7 A I do.

8 Q Could you please state where he's seated, what
9 he's wearing.

10 A Front row bench behind defense counsel,
11 Mr. Alcantara's right wearing a black robe and full gray
12 beard.

13 THE COURT: Record reflect the witness identified
14 Mr. Kahn.

15 BY MS. YOUNG:

16 Q With respect to the Mr. Norris specifically, what
17 did you see him do?

18 A He was coming and going from the bank.

19 Q When you say "coming and going"?

20 A He's going in and come out and kind of freely
21 walking back and forth.

22 Q Are these the same doors that you saw folks
23 bringing the furniture and wooden pallets through?

24 A Yes.

25 Q Did you and Detective Williams have any contact
26 with him?

1 A Yes.

2 Q How did that come about?

3 A Mr. Norris came across the street and struck up a
4 conversation with us.

5 Q And did you -- was there anything in particular
6 that he was warned about?

7 A Yes. Detective Williams let him know that he was
8 trespassing. If he went back into the bank, he could be get
9 in trouble for trespassing.

10 Q Did you continue to remain in that position on the
11 levee after that warning was given?

12 A Yes.

13 Q Did you have the opportunity to see Mr. Norris
14 again?

15 A Yes.

16 Q What was he doing?

17 A He went back across the street and continued to go
18 in and out of the building.

19 Q Were you able to estimate was it once? More than
20 once?

21 A More than once. I didn't count the actual number
22 of times but it was definitely more than once.

23 MS. YOUNG: Your Honor, at this point as I noted
24 before the officer took the stand, I would like to play the
25 the clip that's 0007 dot MTS?

26 THE COURT: You can proceed.

1 BY MS. YOUNG:

2 Q Pause it for one second. I'm not sure if you were
3 able to hear computer speaker but there was a little running
4 commentary how many times he was going in and out.

5 A I'm not able to hear it. Can you hear it from
6 your position?

7 Q Yes but I'm assuming that you're present for it
8 but you're not the actual commentator?

9 A I believe mostly Williams that was doing the
10 commentary.

11 THE COURT: So this is commentary contemporaneous
12 what's being seen by your naked eye?

13 THE WITNESS: Yes.

14 (Video played)

15 BY MS. YOUNG:

16 Q Let me pause for one second. Okay. Now, I'm
17 sorry about that. That was just a short clip. It was
18 really for the commentary that was associated with it. Were
19 you able to hear it that time?

20 A I'd need to be by you.

21 Q Sorry.

22 MR. RUBEN: I'd object. Hearsay. Best evidence.

23 THE COURT: I don't know what the question is.

24 Let's wait for a question before I can determine your
25 objection.

26 MR. RUBEN: Thank you, Judge.

1 BY MS. YOUNG:

2 Q Were you able to hear the commentary when closer
3 to the People's laptop?

4 A Yes.

5 MS. MC CAMEY: I'm going to object. Improper
6 question. Something for the finder of fact. If it's going
7 to refresh his recollection, that's one thing. The finder
8 of fact should be listening to what the commentary is.

9 THE COURT: I want to know what the foundation is.
10 Do you recognize the voice

11 THE WITNESS: Yes.

12 THE COURT: Whose voice was it?

13 THE WITNESS: Detective Damon Williams.

14 MR. RUBEN: I object. Nobody heard that except
15 the DA and the officer.

16 MS. YOUNG: For the record, obviously audio they
17 have.

18 BY MS. YOUNG:

19 Q I'm sorry. And was -- and you were accompanied by
20 Detective Williams that whole time?

21 A Yes.

22 Q And you said that you saw Mr. Norris go in and
23 out. Is this both before and after the trespass warning?

24 A Yes.

25 Q Now, for folks that we have assembled in court
26 today, anyone else in court today that you saw on November

1 30th at the same time, at the time -- let me ask what we're
2 talking about. What evening are we talking about?

3 A At the time I didn't know the other person. I was
4 present when the video was made. And my connection to
5 identifying them knowing that it was them occurred later
6 from watching the video again and again. So I'm not sure
7 how to answer your question because I did witness what was
8 being recorded but I didn't make the connection as to who it
9 was until after-the-fact.

10 Q Sure, because you hadn't had prior contact?

11 A With the other persons.

12 Q The other person. I'll tell you what. For
13 today's purposes are there -- is there anyone in court that
14 you did see on that day? Just for the record, if you want
15 to state where they're seated, what they're wearing.

16 A I saw them on the video. Like I said, I can't
17 tell you that I noticed them, although I was paying
18 attention and watching.

19 MR. RUBEN: Object.

20 MS. YOUNG: Now I understand what you're saying.

21 BY MS. YOUNG:

22 Q When you went back and reviewed the video --

23 A The video is what I was watching that day, yes.

24 Q Okay.

25 A I had information at that point as to who, what
26 their identities were and I can point them out today based

1 on seeing them in the video.

2 Q And that video is happening at the same time that
3 you were making your own personal observations from the same
4 vantage point?

5 A Yes.

6 MR. HACKETT: I'm going to object as vague. We've
7 got 400 hours of video.

8 THE COURT: Have we seen the video clip that
9 you're asking him to determine whether or not there's
10 someone in the court depicted in the video clip we've just
11 seen?

12 MS. YOUNG: There are the three other video clips
13 that I noted: 00066, 00067, 00073 are the video clips for
14 different defendants.

15 THE COURT: All right. Why don't we go ahead and
16 when the appropriate time comes to look at those video clips
17 have the officer identify who it is he believes is present
18 in the courtroom based on those videos.

19 BY MS. YOUNG:

20 Q All right. Let's the --

21 MR. RUBEN: For clarity also are these the same
22 videos that were shot by the Officer Hedley and Williams?
23 The foundation. I mean, who took these videos? What day?

24 MS. YOUNG: I'm sorry. I thought I answered
25 that.

26 THE COURT: He testified that the video clips that

1 are going to be displayed were taken on November 30 by
2 Detective Williams from the back seat of his patrol car.

3 BY MS. YOUNG:

4 Q All right. I'm going to start with 00066.

5 MS. PORTER: Your Honor, I would object. I would
6 request that he be able to make an independent
7 identification without just watching the video at this time.
8 And then determining whether or not someone is in the
9 courtroom.

10 THE COURT: Well, I've got an objection from one
11 of your colleagues that is vague as to whether or not we're
12 in possession now of the video and wanted to see the video
13 clip before the ID was made.

14 So why don't you go ahead and tell me if the
15 video clip that you've looked at identified were taken by
16 Detective Williams on November 30, are their persons in the
17 courtroom depicted that videotape?

18 THE WITNESS: Yes.

19 THE COURT: Go ahead, identify those persons.

20 THE WITNESS: Starting from my left Brent Adams
21 wearing black long T-shirt, black vest and tie going in and
22 out of the bank also carrying trash cans at one point.

23 THE COURT: All right.

24 THE WITNESS: I -- to his left, Mr. Laurendeau, I
25 saw him personally inside the bank, or bank building.

26 MS. BRIGGS: Objection. Vague as to which date.

1 THE WITNESS: December 2nd. To his left, Miss
2 Ripleyhipps. I saw her on the video shot by Detective
3 Williams on November 30th video. She's depicted going in
4 and out of the bank.

5 MR. HACKETT: Objection. Misstates. I've never
6 seen a video --

7 THE COURT: We can go ahead get that on
8 cross-examination.

9 THE WITNESS: And then third row back white shirt
10 black sweater Miss Foster.

11 THE COURT: All right.

12 THE WITNESS: November 30th video. She's seen
13 outside of the River Street building waiving people in and
14 also going in and out of the building.

15 BY MS. YOUNG:

16 Q Okay. That answers much of my questions. With
17 respect to -- I'll just go backwards. With respect to
18 Miss Foster, specifically what did you see her do and when?

19 A On the videotape shot by Detective Williams I can
20 see her standing out in front of the bank beginning of the
21 occupation waiving people to come in and then a little bit
22 later just coming and going in and out of the building.

23 Q When she was waiving people in, where is she
24 standing?

25 A In front of the doors outside the building.

26 MR. HACKETT: Your Honor, I apologize. Who are we

1 talking about?

2 MS. YOUNG: Miss Foster.

3 MR. HACKETT: Okay. Never mind.

4 BY MS. YOUNG:

5 Q And you had noted Miss Ripleyphipps?

6 A Yes.

7 Q What did you see her do?

8 A On the video shot by Detective Williams coming and
9 going from the bank.

10 Q When you say "coming and going," do you mean in
11 and out?

12 A In and out of the building.

13 Q And you noted Mr. Adams?

14 A Yes.

15 Q And what was he doing?

16 A Coming in and out of the building and at one point
17 he's seen carrying some trash cans that appear to have come
18 from the bank

19 MS. MC CAMEY: I object unless we make clear which
20 video we're referring to.

21 THE COURT: Yes. Go ahead point out, describe
22 where and what video these observations are made.

23 THE WITNESS: November 30th video shot by
24 Detective Williams.

25 MS. MC CAMEY: I'm sorry. That didn't help me on
26 November 30th there's about four videos shot. Maybe I can

1 get a number reference?

2 MS. YOUNG: Sure. Your Honor, for the record
3 what I did provide counsel what I did call a shot sheet.
4 Which is essentially each clip, time codes, where each
5 defendant can be found. With respect to Mr. Adams --

6 MS. MC CAMEY: I did get that. My specific
7 question is what this officer's testifying to right that the
8 moment, which videos he's referring.

9 THE COURT: Is there more than one video shot by
10 Detective Williams?

11 MS. MC CAMEY: There's a few.

12 MS. YOUNG: No. Let me just clarify.

13 Q When -- the way that you your videotaping works,
14 are clips generated each time the camera's turned on and
15 off?

16 A Yes.

17 Q You can have ten clips from a one hour time period
18 if you turned that camera on and off ten times?

19 A Yes.

20 Q The clips that you reviewed, are they all from
21 that you and Detective Williams were doing on November 30th?

22 A Yes.

23 Q 4:06 p.m. at the levee?

24 THE COURT: I'm sorry. Were trash cans being
25 carried in by Mr. Adams or carried out by Mr. Adams?

26 THE WITNESS: Both. At first glance coming from

1 the building.

2 BY MS. YOUNG:

3 Q And then taking the cans back in?

4 A I believe so, yes.

5 Q Now, I'm sorry. So you were there on November
6 30th; did you remain in that location with Detective
7 Williams throughout the time, throughout your time there on
8 November 30th?

9 A No. Eventually moved across the street to the
10 same side of the street as the bank.

11 Q You got out of the car and went across?

12 A Yes.

13 Q When was that?

14 A A couple of hours later. It was when the crowd
15 control officers approached the building.

16 Q And what were you doing at that point?

17 A Continuing to just document the actions of the
18 crowd and just general scene, what was occurring there.

19 Q Were you helping in crowd control?

20 A We were plain clothes.

21 Q I'm sorry? You were in plain clothes? Okay. And
22 actually in your -- let me just for the record in your
23 interactions with Mr. Norris, did he know you were police?

24 A Yes.

25 Q How did he know that?

26 A Like I said, I've known Mr. Norris for roughly 17

1 years.

2 Q And did he ask you for your badge number, your
3 name?

4 A He knows my name. I don't recall him having
5 specifically asked me that day.

6 Q And you -- are you still accompanied by Detective
7 Williams when you cross the street?

8 A Yes.

9 Q How long were you across the street?

10 A I don't recall exactly. Half hour. Hour maybe.
11 I'm not sure exactly.

12 Q And was that the end of your -- I guess, your time
13 spent at 75 River Street on November 30th?

14 A After the officers that came in to take control of
15 the front doors, after they retreated back, I went over to a
16 station area with them until we were relieved maybe an hour
17 or so later.

18 Q Were you present at -- were you dispatched there
19 again on Thursday December first?

20 A My report I have documented as December 2nd.

21 MS. YOUNG: Your Honor, may I have one moment?

22 THE COURT: Yes.

23 BY MS. YOUNG:

24 Q Okay. What was your job on December 2nd?

25 A I went to video document Lieutenant Richard's
26 posting no trespassing signs and we took photographs that

1 day as well.

2 Q You are actually the cameraman that day?

3 A Yes.

4 Q And I think within that context it was that you
5 see defendant Laurendeau?

6 A Yes.

7 Q Can you describe that interaction?

8 A He was standing inside the bank staring at us.

9 Q Did you have any contact with him at all?

10 A I did not. I was standing face-to-face with him
11 but we didn't talk.

12 Q Is that Lieutenant Richard's task?

13 A Yes.

14 Q And did you return there on Sunday December 4th?

15 A Yes.

16 Q And what was that -- what were you supposed to do
17 that day?

18 A I was the on-call detective and I was called in to
19 document the damage and process the crime scene.

20 Q So let's get into that documentation process. Did
21 you do that through videotape?

22 A Yes.

23 Q Also through still photography?

24 A Yes.

25 Q Fair to say you took probably hundreds of photos?

26 A Yes.

1 Q Can you -- I know it's very detailed in your
2 report. I'm trying to keep it as pared down as possible.
3 Can you describe first what you noticed, noted outside the
4 building?

5 A There were still a number of wood pallets and
6 two-by-four -- I'm sorry. Plywood pieces out in front of
7 the bank. And in the windows of the bank were numerous
8 signs covering the front windows. Lots of office furniture
9 stacked up in front of the doors to limit access in and out
10 of those doors, the River Street facing doors. There was
11 still some clothing items and backpacks and that sort of
12 thing in the bushes out in front. The sign that was posted
13 in the landscaping advertising the building being available
14 for rent had been "graffitied" over. The word "occupied"
15 added to it. From the outside that's generally the
16 condition of it.

17 Q Now, how did you get inside?

18 A We entered in through the backside, it would be
19 like the Front Street doors. We were given access from
20 security officer that was working for the property
21 management company at that point.

22 Q And was that -- do you know if the other doors
23 were tried or that was just the door you were directed to?

24 A The River Street facing doors were barricaded. We
25 couldn't use those to go in and out.

26 Q Okay. So let's go in, get into what you saw when

1 you were inside. I know there's a lot to describe. Maybe
2 we can just quickly go kind of room by room?

3 THE COURT: Before we get there, help me understand
4 how the River Street doors were barricaded; describe them.

5 THE WITNESS: All the furniture, wood pallets,
6 anything that was available in there to stack up in front.
7 Filing cabinets were pushed in front. You couldn't go in
8 and out of the doors. There was just too many things that
9 needed to be moved out of the way.

10 THE COURT: You described two by fours.

11 THE WITNESS: I'm sorry. I said that mistakenly.
12 I meant plywood.

13 THE COURT: Was there nailing of plywood to the
14 walls or structures?

15 THE WITNESS: No.

16 THE COURT: Go ahead.

17 BY MS. YOUNG:

18 Q Actually on that same note, though, let me ask you
19 about the windows. Could you ever see through them?

20 A Mostly they were covered with signs, protest
21 signs.

22 Q So when -- now you're inside of the building.
23 Maybe you can just give us a summary what you saw when you
24 were in there. I know this is a vague question.

25 A Pretty much there was graffiti on a number of
26 walls. Specifically some graffiti stands out was on the

1 elevator doors and inside the elevator which was pretty
2 graffitied. All of the security cameras inside the bank
3 were either removed or had the wires removed. There were
4 the protest signs hung all over the building and pretty much
5 every room. There were handwritten signs. Things like
6 peace storage. Adult speed dating. Daycare. Basically
7 looked like protestors ideas what those rooms could be used
8 for is how we found every room. A lot of the furniture, the
9 office furniture that had been left behind in the building,
10 was used inside the -- to block the doors.

11 Q Was anything changed?

12 A I believe the front -- yes, there were chains on
13 the front doors on the River Street facing doors.

14 Q The doors you weren't able to get into?

15 A Right.

16 Q I'm sorry. I cut you off.

17 A There were some broken cabinets. We tried to get
18 access to the roof initially and the stair, middle stairs or
19 metal ladder that was hanging. It was kind of broken away
20 from the wall. And for my own sake I didn't feel safe
21 trying to climb it to go up through the roof hatch to get to
22 the roof. Somebody else did eventually to check that later.
23 Lots of garbage strewn about. Food containers. Like
24 buckets of bulk foods they had been using were left behind.

25 Q And not to be gross but what was the condition of
26 those restrooms?

1 A Disgusting. Used but not flushing. There was
2 feces and just left behind in the toilets.

3 Q Now -- and this is with you're documenting with
4 your photographs and video camera?

5 A Yes

6 THE COURT: Before you get into the specifics of
7 photos let's take our afternoon recess. We'll reconvene at
8 3:20. During the break you can show the officer and counsel
9 photos.

10 MS. YOUNG: Sure.

11

12 (Whereupon, a recess was taken.)

13

14 THE COURT: All right. We're back on the record.
15 All the necessary parties are present. You can continue
16 with your direct examination, Miss Young.

17 BY MS. YOUNG:

18 Q All I had at this point was the photos that we
19 discussed. May I approach?

20 THE COURT: Yes.

21 BY MS. YOUNG:

22 Q These are 34 photos total. So that would be
23 People's 3 through 37.

24

25 **(People's Exhibit(s) 3 - 37, Photographs, Marked for ID)**

26

1 MS. YOUNG: I'm not sure if Maida has the stickers
2 filled out yet.

3 MS. MC CAMEY: Useful to mark them before there's
4 testimony about them.

5 MS. YOUNG: Just in the meantime if you can please
6 review? I know you've done it already, but once more.

7 THE COURT: I'm sorry. Before we mark these, I've
8 been able to have another judge take over my 3:30 prelims.
9 We'll go straight through until about 4:15 today. We have
10 one witness left.

11 MS. YOUNG: Depending whether or not we can reach
12 a stipulation on the damage amount; that will pare down one
13 witness. And then I simply had one more. He's going to be
14 very quick.

15 THE COURT: Okay. So if we can finish with
16 testimony today that would be great. Probably need to
17 resume with argument concerning the holding order. We'll
18 have to deal with the sanction issue as well.

19 So I've also had one of the other judges tell me
20 they're able to handle my Tuesday morning prelims so we can
21 get right back together tomorrow morning.

22 MR. HACKETT: Thank you, Your Honor.

23 BY MS. YOUNG:

24 Q Let's start with People's 3 through 14. That way
25 I can finish marking the others.

26 A Okay.

1 Q Could you please take a look at 3 through 14 and
2 tell me whether or not you recognize them.

3 A Yes.

4 Q What are they?

5 A These are photos that I took on my second trip to
6 the 75 River building.

7 Q Now, what do you mean by second time?

8 A I inspected the inside of the building on two
9 different days. These were taken on Monday I believe the
10 fifth of December.

11 Q Now, when you went in on the 4th, was that the day
12 that you video'd the location?

13 A Yes.

14 Q And then you returned, did the still photographs?

15 A I took a series of still photos on the 4th as
16 well. On the fifth we went back with representatives from
17 Wells Fargo and they had marked like different pieces of
18 furniture that did not belong to them. So additional photos
19 were in part to document that as well as we collected some
20 more of the signs that had been left behind.

21 Q Now, in the universal photos that you have before
22 you, obviously only a fraction of what you documented?

23 A Yes.

24 MS. YOUNG: Your Honor, at this point the People
25 would move to admit 3 through 17?

26 THE COURT: 14.

1 MS. YOUNG: 14?

2 THE COURT: Yes. They'll be admitted.

3

4 **(People's Exhibit(s) No. 3 - 14, Photographs, Received in**
5 **evidence.)**

6

7 BY MS. YOUNG:

8 Q Let's discuss those photographs. I don't want to
9 belabor it and go through each one. Let's turn to 15.

10 What's depicted in 15?

11 A I don't have 15.

12 Q I'm sorry.

13 A Four is the wall inside the elevator. The photo
14 of the graffiti that reads "On 11-30 we willfully occupied."

15 Q You have no way of knowing who actually did that?

16 A No.

17 Q Let's move to Exhibit 5. What's depicted in that
18 photograph

19 MR. RUBEN: I'd like to lodge an objection as to
20 Exhibit 4, relevance.

21 THE COURT: Overruled.

22 THE WITNESS: Photograph five depicts additional
23 graffiti on the wall of the elevator.

24 BY MS. YOUNG:

25 Q And is there -- let's move on to outside of the
26 elevator. Are there photographs in that particular batch

1 that depicts graffiti elsewhere within the building?

2 I'm going to come up with a second batch in one
3 moment. Actually I should ask: The graffiti that you saw
4 on that day. Was it limited to the elevator?

5 A No.

6 Q Where else was it?

7 A It was throughout the building we were finding
8 graffiti. There was just a large amount in the elevator.

9 Q Where else did you see it beside the elevator?

10 A On tables. On walls. On doors.

11

12 **(People's Exhibit(s) 15 - 36, Photographs, Marked for ID)**

13

14 BY MS. YOUNG:

15 Q Almost done. I'm going to approach with what's
16 been marked for identification as People's 15 through 36.
17 Can you take a look at 15 through 36, tell us if you
18 recognize those photographs.

19 A Yes.

20 Q And what are they?

21 A Additional photos that I took on December fifth.

22 Q And are those fair and accurate depictions of what
23 you saw?

24 A Yes.

25 MS. YOUNG: Your Honor, the People would move to
26 admit 15 through 36.

1 THE COURT: Yes, they'll be received.

2
3 **(People's Exhibit(s) No. 15 - 36, Description, Received in**
4 **evidence.)**

5 BY MS. YOUNG:

6 Q Now, you had noted that there was furniture within
7 the building that did not belong to the property owners?

8 A Yes.

9 Q Okay. Are there photographs of that within that
10 stack?

11 A Yes.

12 Q What -- for the record, what Exhibit Numbers are
13 those?

14 A 22, 23, 24, 25, 26, 27, 28, that's all.

15 Q Okay. And obviously, I know I've said this, there
16 are literally hundreds of additional photographs that you
17 took that day?

18 A The bulk of the photos were taken on the 4th.

19 Q On December 4th?

20 A Yes.

21 Q Okay. And then December fifth was going back in
22 with the property owners and looking at it?

23 A Yes, taking additional photographs, documenting
24 furniture that didn't belong. We collected all of the
25 protest signs that day.

26 MS. YOUNG: Your Honor, may I have one moment?

1 THE COURT: Yes.

2 BY MS. YOUNG:

3 Q You had also specifically noted video cameras. Do
4 you mean surveillance cameras?

5 A Yes.

6 Q What did you notice about them?

7 A That all of them were either disconnected with the
8 wires pulled off or a couple of them were just completely
9 removed.

10 Q Do you know whether or not those were actually
11 functioning at the time of the --

12 A They were not. Those were left over from when it
13 was vacated.

14 MS. YOUNG: Okay. Thank you.

15 THE COURT: Mr. Ruben?

16 MR. RUBEN: Thank you, Judge.

17

18 **CROSS EXAMINATION**

19 BY MR. RUBEN:

20 Q Officer Hedley, did you see or hear with your own
21 eyes or ears Mr. Alcantara during the events?

22 A I believe he's depicted on -- in the video, but I
23 saw photograph of him inside the bank.

24 Q Okay. So you saw a photograph of him inside the
25 bank; do you remember who took it?

26 A It was one that was posted on Inde media. In the

1 photo itself it looks like there appeared to be a meeting
2 going on with a number of protestors sitting around in a
3 circle in the main lobby part of the bank. He was inside
4 the bank.

5 Q He was inside the bank; there's a picture of
6 people sitting around?

7 A Yes.

8 Q But you didn't actually see that. You saw a photo
9 of that; is that right?

10 A Yes.

11 Q You don't know when the photo was taken?

12 A I can tell it was taken at some point during the
13 occupation between November 30th and December 3rd, but
14 exactly when, no, I do not know.

15 Q Okay. Now, you mentioned the video. Are you
16 talking about the video you and Detective Williams actually
17 shot?

18 A Yes.

19 Q And can you direct us in any way to where we would
20 find Mr. Alcantara in that video or what he was doing? I'm
21 sorry. That was compound. Can you direct us to where he
22 was in there?

23 A I'd have to refer to my report.

24 Q If it will help you remember.

25 A I'm sorry. For Mr. Alcantara, his identification
26 was based on the photograph of Inde media not the video.

1 Q And then let me ask you: You are now generally
2 when you pull up this video in your police car, people are
3 doing something illegal, do they react in some way?

4 A In a marked car? Yes. I was not in a marked car.
5 I was in like a Ford 500.

6 Q Were you in uniform?

7 A No.

8 Q But there were people in uniform in front of the
9 bank; correct?

10 A Yes.

11 Q In fact if you look at that video that we saw just
12 now up here, there's some video shot of the front of the
13 bank; correct?

14 A Yes.

15 Q And directly to the left off out of frame at that
16 moment was actually three police officers; correct?

17 A Exactly how many I don't know but there were
18 officers there.

19 Q Including Officer Forbus I notice; is that right?

20 A I don't recall exactly which officer. I'd have to
21 look at the video. There were officers there.

22 Q Within feet of the bank entrance?

23 A Yes, ma'am.

24 Q Where there's people milling about in front of the
25 bank; correct?

26 A Yes.

1 Q Going in and out; correct?

2 A Yes.

3 Q With the exception of there's some sort of
4 bannerk; correct, on top of the bank; is that right?

5 A Yes.

6 Q With the exception of that, how would it in any
7 way look different than a bank that was open?

8 A Once anybody stepped inside, they could clearly
9 see there were no employees, no lines, no bank business
10 going on. There's no signs outside at the time showing that
11 it's any particular brand of a bank. There's signs actually
12 showing that it's a property being advertised looking for a
13 new tenant. And it's pretty obvious to anybody going by
14 that what was occurring there was a protest and not business
15 as usual at the branch. So that totality of circumstances
16 should tell any reasonable person, especially once they were
17 in a position to see what was inside the bank building, that
18 was not a bank that was open for business.

19 Q I understand. So if I could, Your Honor? The
20 front of the bank; correct?

21 A Yes.

22 Q So what -- in this picture -- how many people do
23 you think are there?

24 A Showing actually in the frame, maybe 20 or so.
25 30.

26 THE COURT: This is a still from the --

1 MR. RUBEN: People's video played earlier for
2 Officer Hedley. I don't know if it was marked into
3 evidence, Your Honor.

4 I'll withdraw the question, Your Honor.

5 Q Were people freely going in and out of the bank?

6 A Yes.

7 Q General members of the public; correct?

8 A Yes.

9 Q Nothing to indicate otherwise. Someone who would
10 walk by saw it, regardless of what they were doing, this was
11 just people, correct? They weren't in uniform, were they?

12 A No.

13 Q They weren't wearing all one color or something?

14 A There's a number of them that had things over
15 their faces. There is a number of them holding signs.
16 There's an occupy banner across the front of the building
17 that was there from very early on. So, no, they weren't
18 wearing a uniform but it was pretty obvious what was
19 occurring was some sort of protest not business as usual.

20 Q Who's engaged in a protest? When's the last --
21 protesters; right? People. Correct?

22 A Yes.

23 Q Members of the general public; right?

24 A Yes.

25 Q Those members of the general public were freely
26 going in and out of that bank; correct?

1 A Yes.

2 Q Throughout the entirety of that video; correct?

3 A Yes.

4 Q You went back and documented graffiti in the
5 building and furniture that hadn't been there before; is
6 that correct?

7 A Yes.

8 Q Those are two things we talked about just most
9 recently; correct?

10 A Yes.

11 Q Of those two things is there any evidence that
12 you're aware of that says Mr. Alcantara -- let me ask you
13 this way: Did you see or hear Mr. Alcantara doing graffiti
14 anywhere in the building?

15 A No.

16 Q Did you see or hear Mr. Alcantara moving furniture
17 in or out of the building?

18 A No.

19 Q Okay. Did you see anybody that you can identify
20 now moving furniture in and out of the building?

21 A No.

22 Q Did you see anybody that you can identify now
23 doing graffiti in the building?

24 A No.

25 MR. RUBEN: Your Honor, I'd renew my objection to
26 exhibits, I believe it's four through the last one entered,

1 relevance as to my client specifically.

2 THE COURT: Overruled.

3 BY MR. RUBEN:

4 Q You mentioned surveillance cameras. I was
5 wondering if we can talk about those some more. The
6 surveillance cameras inside the bank, were they generally
7 all the same?

8 A Yes.

9 Q How were they affixed to the wall assuming they
10 were?

11 A Through screws.

12 Q Okay. But was there anything extraordinary about
13 how they were mounted to the wall?

14 A No.

15 Q You see Mr. Alcantara here sitting behind me, I
16 should say; correct?

17 A Yes.

18 Q What would you estimate his weight at?
19 Mr. Alcantara is standing now for the record.

20 A 180 pounds maybe.

21 Q Okay. So if 180 pound person grabbed on to one of
22 those surveillance cameras and hung by it, would it hold
23 them?

24 A I don't know. I didn't try it.

25 Q Can you make an educated guess based on what you
26 saw there?

1 A I wouldn't think so but I don't know because I
2 didn't try.

3 Q Okay. Understood. So there's basically an arm
4 that comes off the wall; correct?

5 A Uh-huh.

6 Q With a camera on top of it, yes?

7 A Yes.

8 Q Held in by some number of screws?

9 A Yes.

10 Q Approximately three?

11 A I never counted them. I don't know.

12 Q Not like 40?

13 A No.

14 Q Okay. And so some small amount of screws?

15 A Yes.

16 Q And, I mean, to the best of your ability if a 180
17 pound guy grabbed it like this, just hung off of it, it's
18 going to pop off the wall?

19 A Probably.

20 MS. YOUNG: I'm sorry, Your Honor. I just for
21 one moment I misspoke prior to the beginning of the
22 testimony. I'm realizing with my chart I think that I said
23 that Officer Hedley was going to -- had testimony about
24 Mr. Alcantara. I meant Adams. So I'm sorry for any
25 confusion.

26 THE COURT: All right.

1 BY MR. RUBEN:

2 Q But you did as part of your inventory with all
3 these pictures, you spent special attention on the
4 surveillance cameras; correct?

5 A Yes.

6 Q You documented them, took pictures of them, their
7 condition?

8 A Yes.

9 Q They weren't -- and then just for the -- did you
10 see or hear with your own eyes any Mr. Alcantara -- well,
11 actually already answered you didn't see him doing anything.
12 You saw a picture; correct?

13 A Correct.

14 Q You didn't see him do anything. You saw a picture
15 of them?

16 A Correct.

17 THE COURT: Mr. Hackett.

18 MR. HACKETT: Good afternoon, Officer Hedley.

19

20 **CROSS EXAMINATION**

21 BY MR. HACKETT:

22 Q Just sort of a tiny bit of background I want to
23 kind of back up the timeline a little bit.

24 You were assigned to serve as a video team for
25 what you called a planned protest?

26 A Yes.

1 Q Correct? A March?

2 A Yes.

3 Q And at this time on November 30th there was the,
4 for lack of a better phrase, an encampment, was it Harvey
5 West?

6 A No, it was San Lorenzo Park.

7 Q San Lorenzo Park. And there was a planned parade
8 or march or demonstration walk starting there and going
9 downtown; correct?

10 A We knew it was going somewhere. We weren't sure
11 where.

12 Q Okay. So you were made aware of this march and
13 that it was going to happen?

14 A Yes.

15 Q And one of the ways that you were made aware was a
16 flyer; do you recall the flyer?

17 A I was made aware by my lieutenant.

18 Q Okay. So when you went to serve as a video team
19 for this planned march, you were just sort of placing
20 yourself and putting a camera out to watch the march go by
21 to document it?

22 A We were there to document the activities of the
23 group wherever they were going to end up because we didn't
24 know exactly what they had planned.

25 Q Okay.

26 A Just turned out ended up at 75 River; so that's

1 where we filmed.

2 Q Understood. So you talked about Gabriella
3 Ripleyphipps. I represent Miss Ripleyphipps. You talked
4 about her going in and out of the building on that day
5 roughly in this 4:06 time frame on November 30th; do you
6 recall talking about that?

7 A Yes.

8 Q And you don't recall seeing her on that day when
9 you were parked in your car across the street; correct?

10 A Correct.

11 Q You later identified her on the video?

12 A Yes.

13 Q Do you know where on the video you identified her
14 coming and going from inside the building?

15 A No. At the time when I was doing those
16 identifications, I made still shots of any time I found
17 somebody that I recognized. And those still shots were
18 booked as part of the evidence.

19 Q Okay. And at any point did any of those still
20 shots put Miss Ripleyphipps inside the building?

21 A Still shots were generally of the person just
22 coming out. It was any opportunity where it showed their
23 face where I can identify them.

24 Q Not being a wise guy but that's a no? None of
25 those still shots showed Miss Ripleyphipps inside the
26 building?

1 A Correct.

2 Q Okay. And do you happen to know how long 75 River
3 had been out of use, as you said, I think looking for a new
4 tenant?

5 A No.

6 Q Earlier than November 30th?

7 A It was earlier than November 30th; I just don't
8 know how long it was in that condition.

9 Q More than a week prior?

10 A Yes.

11 Q More than a month prior?

12 A Yes, there was a number of months at least.

13 Beyond that I don't recall. I was working as a detective
14 not patrolling the streets during the years prior.

15 Q Okay. And is it safe to say when you first
16 arrived as the video team that you thought the doors to 75
17 River were unlocked?

18 A Yes.

19 Q And --

20 MS. YOUNG: I apologize. When you first arrived
21 what day?

22 THE WITNESS: On November 30th.

23 BY MR. HACKETT:

24 Q And last week the District Attorney talked to you
25 about a number of things that you saw inside the building
26 many of which you took photos of. Do you recall that

1 discussion?

2 A Yes.

3 Q Okay. And at one point you also I think on the
4 north wall of the kitchen saw some guidelines and rules that
5 had been posted?

6 A Yes.

7 Q Do you recall that?

8 A Yes.

9 Q And one of those guidelines and rules was
10 absolutely no vandalism?

11 A Yes.

12 Q One of them was pick up after yourself and others?

13 A Yes.

14 MR. HACKETT: Nothing further, Your Honor.

15 THE COURT: Mr. Beauvais?

16

17 **CROSS EXAMINATION**

18 BY MR. BEAUVAIS:

19 Q Good afternoon, Officer Hedley. I'm David
20 Beauvais. I represent Robert Norris Kahn. You said you got
21 there about 4:06; correct? Is that when you started the
22 video?

23 A When we started the video.

24 Q What time did you actually arrive?

25 A A few minutes earlier.

26 Q When you arrived were there any protestors there?

1 A We arrived and parked about the same time as the
2 group of protestors were arriving. I don't specifically
3 recall beating them there. It seemed to be pretty
4 simultaneous. We went there because we realized that's
5 where they were going.

6 Q How did you realize that's where they were going?

7 A We were following them.

8 Q You were following them?

9 A Yes.

10 Q Did you hear them or hear anybody say that that's
11 where they were going?

12 A No.

13 Q Are you aware of any agreement among any people to
14 go there?

15 A No.

16 Q Were you able to see how the protestors gained
17 entry into River Street?

18 A Insofar as how the door became unlocked, they
19 entered through the front door. It was unlocked and had
20 been unlocked prior to their arrival.

21 Q Okay. So you didn't see how the front door --
22 how entry was gained through the front door; right?

23 A Correct.

24 Q You were sitting in the driver's seat?

25 A Yes.

26 Q And Officer Williams was in the back seat?

1 A Yes.

2 Q How long did this videotape run?

3 A I don't recall.

4 Q Can you give us some estimate? Ten minutes?

5 Hour? Two hours? Three hours?

6 A I think a couple hours.

7 Q You've seen the whole thing; right?

8 A Yes.

9 Q Okay. Was it run continuously from the time that
10 it started until you finished videoing for the day?

11 A No, I believe we stopped it a few different times.
12 It's a digital camera. So stopping it and restarting it
13 creates a new clip. Any time you see a new clip, that's a
14 start and stop.

15 Q How many clips were there made during this video
16 session on November 30th?

17 A I don't recall.

18 Q Was it more than two?

19 A I believe so. I don't recall.

20 Q This started at 4:06 p.m. When did you finish
21 videoing for the day?

22 A I don't know the time we stopped. It was after
23 dark. After the events that stopped it was when the crowd
24 control officers retreated. Once they were safely
25 retreated, the camera was shut off.

26 Q And sometime during that period you moved your

1 vehicle?

2 A Yes.

3 Q I'm sorry. What?

4 A Yes.

5 Q Okay. You moved it to right in front of the bank,
6 right, from where you had been before by the levee?

7 A The movement I recall was only moving it maybe 15,
8 20 feet on the levee itself to change vantage points.

9 Q You only moved it --

10 A When we crossed the street to go video, we were on
11 foot. I believe we'll left our car on the levee at that
12 point.

13 Q Okay. Do you know --

14 A We might have moved it to the staging area but I
15 thought we approached on foot from the levee.

16 Q Do you know about what time it was you exited the
17 vehicle and walked across the street?

18 A It was dark already. Sometime after five. Exact
19 time I don't know.

20 Q Now, you said that you saw Mr. Norris going in and
21 out of the building; right?

22 A Yes.

23 Q And at some point he came to the vehicle and had a
24 conversation; right?

25 A Yes.

26 Q How many times did he go in and out of the

1 building before the conversation?

2 A Listening to the commentary on the video,
3 Detective Williams commented that the time was depicted was
4 approximately the 8th time of going in and out.

5 Q I'm sorry. What?

6 A Eight.

7 Q Eight?

8 A So there was at least eight times by Detective
9 Williams' count.

10 Q Okay.

11 A Prior to the discussion about him trespassing.

12 Q How long would he be inside each of those times?

13 A It varies. Usually a couple minutes in, couple
14 minutes out.

15 Q Did you see him moving any heavy objects in and
16 out of the bank?

17 A No.

18 Q He wasn't moving any furniture or anything?

19 A No.

20 Q Were you aware of anything that he did inside the
21 bank?

22 A No.

23 Q So for instance you're not aware of him committing
24 any act of vandalism inside the bank?

25 A No.

26 Q In fact, do you know what date the vandalism

1 occurred?

2 A No.

3 Q To your knowledge, did any police officer ever go
4 inside the bank from November 30th until December third,
5 during that time period.

6 A November 30th I believe at least at the doorway.
7 But I'm -- beyond November 30th, no, there were none that
8 went in and out.

9 Q Okay. So we don't know when the vandalism
10 occurred; right?

11 A Correct. Well, sometime during the occupation.
12 Other than that, no.

13 Q Okay. We don't know who committed it?

14 A No.

15 Q Did you ever hear anyone admit to committing any
16 vandalism inside the building?

17 A No.

18 Q Now, was the video running when Mr. Norris came to
19 your car?

20 A Yes.

21 Q So that conversation that took place that you've
22 testified would be on video?

23 A Yes.

24 Q Yes?

25 A Yes.

26 Q Have you actually heard that conversation on the

1 video?

2 A Yes, I believe I have.

3 Q Do you know what part of the video the
4 conversation is on?

5 A I believe it was in the first 30 minutes or so.

6 Q Towards the beginning of the video?

7 A Yes.

8 Q At the time that -- and the conversation that took
9 place between Mr. Norris and yourself or Officer Williams?

10 A Mostly Williams.

11 Q Did he talk to both of you or just Williams?

12 A I believe his address was to both of us. Most of
13 the interaction was with Williams.

14 Q Well, you're sitting in the driver's seat; right?

15 A Yes.

16 Q And he is sitting in the back seat. Is he on the
17 -- directly behind the driver's seat or is he on the other
18 side?

19 A Kind of in the middle.

20 Q He's in the middle. Okay. When Mr. Norris comes
21 to the vehicle, did he go to the driver's side of the
22 vehicle and talk to you or does he talk to Williams in the
23 back seat?

24 A Talked from the passenger side of the car.

25 Q He came from the passenger side?

26 A Uh-huh.

1 Q Did Williams, I guess, his window's down then?

2 A Yes.

3 Q Because he was videoing through a window; right?

4 A Yes.

5 Q Do you see on the video that you have Mr. Norris
6 depicted as approaching the vehicle?

7 A I don't recall exactly what's depicted, if he
8 panned to Mr. Norris at the car or if he catches the
9 approach; I don't recall.

10 Q When Mr. Norris arrives at the car, how close to
11 the window is he on the passenger side? In the back, right?

12 A Couple feet.

13 Q Okay. Do you see him depicted in the video that
14 Officer Williams has at that time?

15 A Yes.

16 Q At the time that Mr. Norris is supposedly warned
17 that he could be arrested if he went inside the building, is
18 that the way it was phrased? He might be arrested if he
19 goes inside the building?

20 A Something to that effect, yes.

21 Q He wasn't told that you are going to be arrested
22 if you go inside the building?

23 A No.

24 Q He just is told that there's an abstract future
25 possibility that you might be arrested if you go in the
26 building; right?

1 A Yes.

2 Q At that time you didn't have any instructions to
3 arrest Mr. Norris, did you?

4 A No.

5 Q You didn't have any instructions to arrest anyone
6 else; right?

7 A No.

8 Q Okay. Had the decision been made that you were
9 aware of police were in fact going to follow this up with
10 arrests of the people who went in the building?

11 A At that point we weren't. Williams and I were not
12 privy to what the plan was. We didn't know when the crowd
13 control officers marched up what they were going to do. We
14 were merely told that a protest was going to occur, asked to
15 video document it.

16 Q Okay. So you were actually affirmatively
17 instructed to not make any arrests; right?

18 MS. YOUNG: Objection. Misstates the testimony.

19 THE COURT: Sustained.

20 BY MR. BEAUVAIS:

21 Q Were you instructed not to make any arrests?

22 A No, we were instructed to video document the
23 specifics whether or not to make any arrests weren't
24 addressed.

25 Q Did you understand your position to be at that
26 time that you were simply to record what was happening and

1 not to take any action if you saw a crime committed in your
2 presence?

3 A That's not exactly accurate. If something violent
4 or -- something that was going to put somebody at risk of
5 being hurt, that's a time where we'd be obligated to act.
6 But short of something serious like that, whenever I was
7 assigned to do a surveillance detail, it was our job to
8 focus on doing surveillance, not to get involved in other
9 activities.

10 Q Okay. So during the time, the entire time you
11 were doing this surveillance was almost a couple of hours,
12 you didn't see any violent acts or anything that you thought
13 required you as a police officer to abandon than task and
14 make an arrest; right?

15 A There was one point during it when officers called
16 for help on the Water Street side where we left over there
17 to go offer assistance to officers that were trying to make
18 an arrest. But I did not physically get involved at that
19 point, just a precaution.

20 Q And you've known Mr. Norris for many years?

21 A Yes.

22 Q And do you know him as homeless activist; right?

23 A Yes.

24 Q And you know him has a journalist; right?

25 MS. YOUNG: Objection. Relevance.

26 THE COURT: Sustained.

1 MR. BEAUVAIS: Your Honor, I think it's relevant.
2 It's relevant to bias and also his understanding of what
3 Mr. Norris' purpose would have been on that date.

4 THE COURT: All right.

5 MR. BEAUVAIS: I know the Court has gotten --

6 THE COURT: You can answer. Do you understand him
7 to be a journalist based upon your prior encounters or
8 experience with him?

9 THE WITNESS: I've never considered him to be an
10 actual journalist. I know he has an -- or has had a radio
11 show on a pirate radio station free radio Santa Cruz. I
12 know he produces flyers that are passed out. But as far as
13 whether he has any journalistic credentials, I've never
14 known him to. I've just known him to have the radio show,
15 be a producer of handouts basically.

16 BY MR. BEAUVAIS:

17 Q Regardless of what your perception is as to his
18 effectiveness as a journalist, you knew from one of the
19 things that he does is he walks around with a tape recorder
20 and interviews people and plays them on video; right?

21 A Yes.

22 Q The day of this incident, November 30th, he in
23 fact had a tape recorder in his hand, didn't he?

24 A Yes.

25 Q Did you think based upon your understanding of the
26 way that he gathers news information that on this particular

1 date and at this particular place he was engaged in
2 precisely that activity?

3 THE COURT: Based upon what you observed, do you
4 understand him to be engaged in some news reporting or news
5 gathering activity?

6 THE WITNESS: No. I perceived him to be one of
7 the protestors.

8 BY MR. BEAUVAIS:

9 Q Did he have any signs? Carrying a sign?

10 A No.

11 Q Okay. Was he chanting, yelling? Playing a
12 musical instrument? Was he doing anything other than
13 holding a tape recorder?

14 A Not that I specifically recall other than going in
15 and out of the building.

16 Q You saw him as a protestors because this is the
17 type of politics that you understood him to be interested
18 in; right?

19 A In part, yes.

20 Q Okay. And you also indicated that you read
21 Indymedia; right?

22 A Yes.

23 Q And you read articles by Mr. Norris on Indymedia,
24 haven't you?

25 A Not sure. I know I've seen a number of photos
26 from Mr. Stewart on Indymedia. As far as authors of the

1 articles, I was mostly looking at Indymedia for the
2 photographs. And I was finding articles about the occupy
3 movement and looking at the photographs of it. But not
4 paying much attention to actual authors of those articles.

5 Q Let me ask you this: Did you read any Indymedia
6 articles pertaining to this Santa Cruz eleven case?

7 A No. Shortly after being assigned to this case, I
8 was on my way -- being rotated back to patrol. And I did an
9 initial review of the videos and identified the first group
10 of defendants. And then handed the case off to Detective
11 Gunter. Quite honestly, after that I stopped paying any
12 attention to news regarding this case.

13 Q So your not aware of any articles written by
14 Mr. Norris pertaining to this case?

15 A No, by the time I -- by the time the Santa Cruz
16 eleven issue started coming up, I wasn't paying attention to
17 the case anymore.

18 Q Did you ever listen to the radio station. You
19 ever listen to Mr. Norris' radio program?

20 A I haven't heard Mr. Norris' radio program since
21 probably the late of 90's.

22 Q He was doing it way back in the late 90's?

23 A Yes.

24 Q As far as you know, he's been doing it
25 continuously since then; right?

26 A Well, I know he continues to tape record things.

1 Like I said, I haven't listened to his show since the late
2 90's. Whether or not he continued to broadcast would be an
3 assumption.

4 Q Do you know whether or not Mr. Norris stayed
5 overnight at River Street?

6 A I do not know.

7 Q Okay. Did you see him carrying -- carrying any
8 backpacks, clothing, utensils for cooking, any other objects
9 that you would like to have if you're going to stay
10 someplace overnight that isn't a hotel that has everything?

11 A No.

12 Q Do you know what the grenadine squad is?

13 A No. Grenadine?

14 Q Grenadier?

15 A Grenadier would be an officer from crowd control
16 unit that is trained to deploy tear gas and the rubber
17 projectiles from a tear gas type gun.

18 Q Do you know if anyone was there from that squad?

19 MS. YOUNG: Objection. Relevance.

20 THE COURT: Sustained.

21 BY MR. BEAUVAIS:

22 Q Do you know if any other agencies were involved
23 with the Santa Cruz Police Department such as the Fusion
24 Center or Homeland Security, FBI or Attorney General?

25 A None that I'm aware of. I don't know what the
26 Fusion Center is.

1 Chase building on the corner of Ocean and --

2 A Can't recall whether it was Chase or went to Bank
3 of America, Country Wide building across the street.

4 Q Okay. The group of people did go to a bank on
5 corner of Ocean and River; correct?

6 A Ocean and Water.

7 Q Ocean and Water? Excuse me. Yes.

8 A Initially, yes.

9 Q And how many people were in that group?

10 A I don't recall.

11 Q Ten people or more?

12 A More.

13 Q Did they go down the middle of the street when
14 they made their way down River?

15 A I don't recall.

16 Q Were people holding signs?

17 A Some were.

18 Q Did you videotape any of that part of the march?

19 A I'm not sure.

20 Q Your job was driving while your partner was doing
21 video?

22 A Yes.

23 Q Did you review any videos that your partner made
24 of that part of the march?

25 A Not that I recall. It wasn't relevant to the
26 case.

1 Q Now, were you aware when your coworkers Officer
2 Winston?

3 A Yes.

4 Q Do you know that part of his duties that day was
5 also to follow the march of the protesters?

6 A I don't know what his duties were that day.

7 Q Part of your observation of the march you observed
8 Officer Winston also be following them in his vehicle?

9 A I don't recall witnessing his actions that day. I
10 can't answer that.

11 Q And once the group was at the bank, how long were
12 the protestors at the bank on Water and Ocean? River and
13 Ocean? Water and Ocean. Thank you.

14 A How long were they at Water and Ocean?

15 Q Yes.

16 A Not for very long. I don't believe I even
17 documented it because it ultimately wasn't really relevant.

18 Q Over an hour?

19 A I don't believe that long.

20 Q How long did it take the group to get from the
21 San Lorenzo Park to that bank?

22 A Only one block. So I'm not -- ten minutes maybe.

23 Q Okay. From there did they go back across Water
24 towards River Street the group from Ocean?

25 A Back down Water towards River, ya.

26 Q How large was the group at this point?

1 A I don't recall.

2 Q Had it grown in size when it left San Lorenzo
3 Park? Did it stay the same or decrease?

4 A Probably stayed about the same.

5 Q And down Water Street eventually turned left on to
6 River Street; is that correct?

7 A Yes.

8 Q Now, when the group started turning left on to
9 River Street, where were you and your partner?

10 A We had leap frogged ahead at that point when we
11 realized the direction they were headed, went over the river
12 across the street on the levee, got in position there.

13 Q Was that -- appeared to be when you started
14 watching videos your partner shot during this point?

15 A Yes.

16 MR. CLYMO: May I approach, Your Honor?

17 THE COURT: Yes.

18 BY MR. CLYMO:

19 Q I'm going to show you what's been marked Defense
20 Exhibit D. Let me know if you recognize that.

21

22 **(Defendant's Exhibit D., Photograph, Marked for ID)**

23

24 BY MR. CLYMO:

25 Q Okay. Is that a map or photograph -- pilot type
26 photo -- of the corner of River and Water Street?

1 A Yes.

2 Q On the lower right-hand corner, is that the levee
3 you're talking about where you parked and began videotaping
4 the protest?

5 A Yes.

6 Q Okay. Could you mark with this pen where your car
7 was parked?

8 A This is rough approximation.

9 Q Okay. You put a red pen made a rectangle on the
10 levee. Perhaps if you could put an 'H' for Hedley under
11 where that is.

12 A Okay.

13 Q And if you look on Exhibit D, can you see 75 River
14 Street?

15 A Yes.

16 Q Would that -- that would be the large building in
17 the upper left hand area of the diagram?

18 A Yes. Would you like me to write 75 on top?

19 Q Okay. Part of your main focus is you were focused
20 on these doors that we talked about where later on the --
21 you saw the riot people coming in. Would that be fair to
22 say that this is, if you look at Exhibit D, as from where
23 you're looking there is across River Street there would be a
24 sidewalk then a grassy area then doors would be in that area
25 between the grassy area and edge of the building?

26 A Yes.

1 Q Okay. That's where you when you watched the video
2 in your observation, were you and your partner most focused
3 on?

4 A Yes.

5 Q Perhaps if you can put a 'D' in the area where the
6 doors should be.

7 A I don't believe it's going to show up on here.

8 Q Okay.

9 A I have a Sharpie.

10 Q Okay. Thank you. Now, when you first arrived it
11 was still daylight; correct?

12 A Yes.

13 Q And I think if we had testimony earlier that the
14 riot people came about 6:30, would you be about
15 two-and-a-half hours sound about correct?

16 A I didn't document the time.

17 Q During that time you saw several people coming in
18 the area where you were monitoring; correct?

19 A Yes.

20 Q Did you see families with small children stop by
21 and mill in the grass area?

22 A There were people of all types I imagine. That
23 doesn't sound far fetched to believe that. I can't recall
24 specifically everyone that was there.

25 Q Fair enough.

26 THE COURT: I'm going to have to break for the

1 evening. So it's now 4:15. Are you going to call an
2 additional witness?

3 MS. YOUNG: If we can't reach a stipulation that
4 the damage amount was more than 900 for the felony amount.

5 THE COURT: Then additional time will be meeting
6 with counsel seeing if you can work out a stipulation?

7 MS. YOUNG: The only additional witness was
8 Officer Winston.

9 THE COURT: Officer Winston will be testifying.

10 MS. YOUNG: Yes. It's going to be brief.

11 MR. BEAUVAIS: Your Honor, it's a very long
12 videotape we've been discussing here in this examination.
13 But I would ask that Officer Hedley pinpoint the part of the
14 video where the interaction with Mr. Norris takes place by
15 the patrol car.

16 THE COURT: That could be done by him looking at
17 the video tonight.

18 MS. YOUNG: It's actually on the shot sheet, the
19 log that was given to counsel.

20 THE COURT: You can go ahead, have him testify to
21 that first thing tomorrow morning.

22 MS. YOUNG: Okay. Wait. Did you have something
23 at 9:00 o'clock?

24 THE WITNESS: I probably can't make it here until
25 9:30.

26 THE COURT: We'll start at -- I think we should

1 start at 10:00 o'clock.

2 MS. YOUNG: Ten? Okay.

3 THE COURT: Reconvene at 10:00 o'clock.

4 MR. BEAUVAIS: Your Honor, additionally, we've
5 discovered now through the testimony that Wells Fargo
6 representative signed a document authorizing the police to
7 enforce the trespass laws. That's not been provided in
8 discovery. I'd like to have a copy of it as well.

9 THE COURT: Is there anything in your possession?

10 MS. YOUNG: Not in my possession. I can
11 determine -- I can call the property owners. That's
12 probably the most likely person

13 THE COURT: If you'll seek that out so it could be
14 provided.

15 MR. HACKETT: Your Honor, I have the same or
16 similar request regarding statements Officer Hedley made
17 regarding seeing Miss Ripleyhipps going in and out of the
18 building.

19 THE COURT: What I'm going to do is direct
20 Miss Young and Officer Hedley to refer you this evening to
21 precisely where, where it is on the video that's just been
22 identified by Officer Hedley. So you have precise reference
23 to the minutes in the video. Tomorrow morning, 10 a.m.

24

25

26

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ

DEPARTMENT 6

HON. PAUL P. BURDICK, JUDGE

THE PEOPLE OF THE)
STATE OF CALIFORNIA,)

PLAINTIFF(S),)

VS.)

CASE NO. F22197, F22689,
F22191, F22194, F22196, F22698,
F22198

BRENT ELLIOTT ADAMS)

FRANKLIN CRUZ)

ALCANTARA)

REPORTER'S CERTIFICATE

DESIREE CHRISTINE)

FOSTER)

BECKY ANN JOHNSON)

ROBERT NORRIS KAHN)

CAMERON STEPHENS)

LAURENDEAU)

GABRIELLA CELESTE)

RIPLEYPHIPPS,)

DEFENDANT(S),)

STATE OF CALIFORNIA)
)SS
COUNTY OF SANTA CRUZ)

I, KENNETH G. KNUTH, certified shorthand Reporter of the SUPERIOR Court of the State of California, for the County of Santa Cruz, do hereby certify that the foregoing PAGES 1 through 230, comprise a true and correct transcript of the proceedings held on MONDAY, JANUARY 7, 2013.

Dated this day: 01/09/2013.

KENNETH G. KNUTH, CSR# 3476
OFFICIAL REPORTER