

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

* * * * *

UNITED STATES OF AMERICA,) Criminal Action
) No. 22-60
vs.)
) December 20, 2022
VINCENT GILLESPIE,) 9:05 a.m.
) Washington, D.C.
Defendant.)

* * * * *

**TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE BERYL A. HOWELL,
UNITED STATES DISTRICT COURT CHIEF JUDGE**

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Official Court Reporter

Proceedings reported by machine shorthand.
Transcript produced by computer-aided transcription.

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P R O C E E D I N G S

1
2 THE COURT: So, ladies and gentlemen, we have --
3 we are missing one juror, Juror No. 1.

4 Is that right, Ms. Gumiel?

5 THE COURTROOM DEPUTY: Yes, Your Honor.

6 THE COURT: Ms. Gumiel called Juror No. 1's home,
7 Juror No. 1's mother answered and said Juror No. 1 had an
8 emergency of uncertain type or nature, and that Juror No. 1,
9 as a consequence, was not going to make it to court today.

10 Is that correct, Ms. Gumiel?

11 THE COURTROOM DEPUTY: Yes, Your Honor.

12 THE COURT: So I want to ask you how you-all would
13 like to proceed. We have not heard directly from Juror
14 No. 1. Juror No. 1 is not picking up Juror No. 1's phone.

15 Does she have a cell phone?

16 (Whereupon, the Court and staff confer.)

17 THE COURTROOM DEPUTY: Your Honor, I called the
18 number that she gave us to call her in case of -- we needed
19 to reach her. Her mother answered and told me that her
20 daughter had an emergency, and she didn't think she was
21 going to be able to make it to court today. She was going
22 to call, but apparently she didn't call us.

23 THE COURT: Okay. So Juror No. 1 only left the
24 land -- her home number, not a cell phone number?

25 THE COURTROOM DEPUTY: Well, I don't know if

1 that's -- I told them to give me a number where a live
2 person would be answering in case I needed to reach out, and
3 that's the number she gave.

4 Now, I called another number the jury office
5 provided, and nobody answers that phone number.

6 THE COURT: Okay. So how would you all -- did you
7 understand that?

8 Ms. Gumiel speaks very softly.

9 MR. WATKINS: I know.

10 THE COURT: Do you want her to repeat what she
11 just said but speak more loudly?

12 Ms. Gumiel, please speak into the microphone.
13 It's very hard for all of us to hear you.

14 THE COURTROOM DEPUTY: Your Honor, I called Juror
15 No. 1 at the number she provided me yesterday to be reached
16 in case of an emergency, and her mother answered. She said
17 that her daughter had had an emergency, and that she didn't
18 think she was going to make it to court today. That she was
19 going to call us, but I guess she didn't call us.

20 THE COURT: She has not called.

21 THE COURTROOM DEPUTY: Yeah. I also reached out
22 to another number provided by the jury office, and no one
23 answers that number.

24 THE COURT: Thank you.

25 All right. So we have two alternates; this is a

1 short trial. What do the parties propose?

2 Have you conferred with each other about this
3 situation, which I just dumped in your laps?

4 MS. SCHESNOL: We conferred very briefly.

5 THE COURT: Do you want to confer some more?

6 MS. SCHESNOL: I believe the suggestion is to give
7 Juror No. 1 another very short -- five, ten minutes;
8 otherwise, that's why we have alternates.

9 THE COURT: Well, how long would you like to wait?

10 MS. SCHESNOL: I don't like to wait either, and
11 we're -- we want to move this along as well.

12 THE COURT: I mean, if this is -- if we had no
13 indication that the juror had an emergency and was not
14 intending to come to court today, I would wait until 9:30.
15 But I think given the information that we have been provided
16 by the juror's mother, that will be --

17 MS. SCHESNOL: Futile.

18 THE COURT: -- futile.

19 MS. SCHESNOL: It sounds like Juror No. 1 just
20 doesn't want to be here, quite frankly.

21 THE COURT: Or Juror No. 1 had some sort of
22 emergency, you know, of a nature that we don't know. We
23 could have Ms. Gumiel call the mother back and say: Please
24 tell us what the nature of the emergency is.

25 Would you prefer us to do that?

1 MS. SCHESNOL: Your court, your rules, Judge.
2 We're fine with -- I am fine with whatever you decide.

3 THE COURT: That's not helpful to me.

4 MS. SCHESNOL: We're ready to proceed with
5 alternates.

6 THE COURT: Okay. Mr. Watkins?

7 MR. WATKINS: Judge, we are -- likewise. Nobody
8 wants to wait on this trial. It does give me pause that we
9 have not heard directly. I understand it's from his [sic]
10 mother, and it is somewhat detailed about the emergency.

11 But, nevertheless, I am quite sure this Court does
12 what all courts do, if you have an emergency there is a
13 number to call. That's -- my concern is that he has maybe
14 resolved the emergency and is on his way down, and that's
15 why he hasn't called --

16 THE COURT: Isn't Juror No. 1 a woman?

17 THE COURTROOM DEPUTY: Yes.

18 MR. WATKINS: Oh, I'm sorry.

19 THE COURT: You are calling Juror No. 1 a "he,"
20 but I think Juror No. 1 is a woman.

21 THE COURTROOM DEPUTY: It is a woman.

22 MR. WATKINS: I'm sorry, Your Honor. I think you
23 are quite right on that.

24 THE COURT: This is what we're going to do. I am
25 going to have Ms. Gumiel call the number again, see if the

1 mother again picks up. I want more detail about the nature
2 of the emergency. If it's a medical emergency, pain,
3 something, you know, I think then we'll have a little bit of
4 a better record. So we'll just wait here while Ms. Gumiel
5 does her thing.

6 (Whereupon, a recess was taken.)

7 THE COURT: Ms. Gumiel has just gotten off the
8 phone -- for the record's purpose -- with the person
9 answering the phone who identifies herself as Juror No. 1's
10 mother.

11 And what more detail do you have for us,
12 Ms. Gumiel?

13 THE COURTROOM DEPUTY: Your Honor, the mother
14 indicates that her daughter had an asthma attack this
15 morning and called her mother to let her know. That's all
16 she knows. She doesn't know if she's going to the hospital
17 or not.

18 THE COURT: All right. So it is a medical
19 emergency of an asthma attack.

20 So do the parties want to confer?

21 MS. SCHESNOL: I think we conferred by making eye
22 contact. And we seem to be in agreement that we just
23 proceed, we have alternates. Fingers crossed, no one else
24 has an asthma attack.

25 THE COURT: Okay. Ms. Gumiel will contact Juror

1 No. 1 and say she is excused, and we're going to proceed
2 with one of the alternates. So we're just going to tell the
3 jury that there was an emergency that Juror No. 1 had, and
4 so she is no longer able to serve. That's what I intend to
5 tell them.

6 All right. Are we ready to proceed for the
7 government -- well, we haven't called the case for purposes
8 of the record, so let's do that.

9 THE COURTROOM DEPUTY: Matter before the Court,
10 Criminal Case No. 22-60, United States of America versus
11 Vincent Gillespie.

12 Counsel, please come forward and state your names
13 for the record.

14 MS. SCHESNOL: Good morning, Your Honor.
15 Jacqueline Schesnol and Carolina Nevin, AUSAs representing
16 the United States. With us at counsel table, paralegal
17 Shirine Rouhi, and FBI Case Agent Raymond Adams.

18 THE COURT: Thank you.

19 MR. WATKINS: Good morning, Your Honor.
20 Tim Watkins, Federal Public Defender Office, District of
21 Massachusetts, for the defendant, Vincent Gillespie, who is
22 with us here at counsel table. With me is Forrest
23 O'Neill-Greenberg from my office, as well as Aziza Hawthorne
24 from my office.

25 THE COURT: All right. Thank you.

1 And we will now bring the jury in. You can just
2 remove her envelope.

3 (Whereupon, the Court and staff confer.)

4 THE COURT: Could the government have
5 Captain Summers ready? Captain Summers can be on the
6 witness stand so we don't waste time.

7 (Whereupon, the jury returns to the courtroom.)

8 THE COURT: Good morning, ladies and gentlemen of
9 the jury. I hope you had a pleasant evening.

10 Juror No. 1 has had an emergency, so we're going
11 to proceed without Juror No. 1, and I am going to excuse her
12 from the jury. That's why we have two alternates, so that
13 we can proceed expeditiously with the jury that we have.

14 Captain Summers is continuing with her direct
15 examination this morning.

16 Captain Summers, I remind you, you remain under
17 oath.

18 THE WITNESS: Yes, ma'am. Good morning.

19 (TIA SUMMERS, Government witness, previously sworn.)

20 DIRECT EXAMINATION (continued)

21 BY MS. NEVIN:

22 Q. Good morning, Captain.

23 A. Good morning, ma'am.

24 Q. Captain, when we left off yesterday we had just taken a
25 look at Exhibit 402. I am just going to pull it up to

1 remind you.

2 Do you remember 402, Captain?

3 A. Yes.

4 Q. Okay. I am now going to show you 403 for
5 identification.

6 Captain, do you recognize Exhibit 403?

7 A. Yes.

8 Q. Generally, what is it?

9 A. This image is showing police officers in riot gear in
10 between the lower west terrace door and the crowd on the
11 outside.

12 Q. And is this also CCTV footage from the Capitol Police
13 system?

14 A. Yes, ma'am.

15 Q. Is 403 the same as 402, but with a yellow circle around
16 someone?

17 A. Yes.

18 Q. And, Captain, you did not place that circle, correct?

19 A. No, ma'am.

20 Q. Now, aside from that circle, is it an exact recording of
21 the footage that was in 402?

22 A. Yes.

23 MS. NEVIN: Your Honor, I am now offering 403 into
24 evidence.

25 MR. WATKINS: No objection.

1 We would ask her to move the mic just a little
2 closer.

3 THE COURT: Yes, absolutely. Thank you,
4 Mr. Watkins.

5 Hearing no objection, 403 is admitted.

6 Captain Summers, if you could just speak as
7 closely into the microphone as you can.

8 THE WITNESS: Okay. I am trying not to get it
9 too, too close. Is this better? Can everyone hear me?

10 THE COURT: Yes.

11 THE WITNESS: Okay. Thank you.

12 MS. NEVIN: Your Honor, may we publish 403?

13 THE COURT: Yes, you may.

14 (Government's 403, admitted and published.)

15 BY MS. NEVIN:

16 Q. Captain, does this video have sound?

17 A. No.

18 Q. I am going to start playing at 1 minute, 15 seconds,
19 which is time stamp 4:11:38, and play for about a minute and
20 a half.

21 (Whereupon, the video was published.)

22 MS. NEVIN: We're stopping at 2:45, which is time
23 stamped 4:13:08.

24 BY MS. NEVIN:

25 Q. Captain, I am now going to show you 403.1 and 403.2 for

1 identification.

2 Captain, do you recognize these?

3 A. Yes.

4 Q. And are they still images from Exhibit 403?

5 A. Yes.

6 Q. And are they exact depictions of the footage in 403?

7 A. Yes.

8 MS. NEVIN: Your Honor, I am now offering 403.1
9 and 403.2 into evidence.

10 MR. WATKINS: No objection.

11 THE COURT: Hearing no objection, they will both
12 be admitted.

13 MS. NEVIN: May we publish them, Your Honor?

14 THE COURT: Yes, they may be published.

15 (Government's 403.1 and 403.2, admitted and
16 published.)

17 BY MS. NEVIN:

18 Q. Captain, I am going to show you and the jury 403.1 and
19 403.2.

20 Now, Captain, I am going to show you Exhibits 404,
21 405, and 406 for identification.

22 This is 404.

23 This is 405.

24 This is 406.

25 What are these exhibits?

1 A. These are images from one of our dome cameras that is
2 showing the crowd on the west front.

3 Q. And are they different views of approximately the same
4 thing?

5 A. Yes.

6 Q. Now --

7 MS. NEVIN: Can we go back to 404?

8 BY MS. NEVIN:

9 Q. Captain, is 404 CCTV from the Capitol Police?

10 A. Yes.

11 Q. And is it footage from time stamp 4:12:46 to 4:13:00?

12 A. Yes.

13 Q. And then going to 405.

14 Is 405 approximately the same length from
15 approximately the same time?

16 A. Yes.

17 Q. And then 406.

18 Is 406 approximately the same length and
19 approximately the same time stamp as 404?

20 A. Yes.

21 Q. Do these exhibits fairly and accurately depict and
22 actually are exact recordings of CCTV footage from
23 January 6th on that date, on that time?

24 A. Yes.

25 MS. NEVIN: Your Honor, I am now offering 404,

1 405, and 406 into evidence.

2 MR. WATKINS: No objection.

3 THE COURT: Hearing no objection, those will all
4 be admitted.

5 (Government's 404, 405, and 406, admitted.)

6 MS. NEVIN: Your Honor, at this time I am seeking
7 to publish 404 to the jury.

8 THE COURT: It may be published.

9 (Whereupon, the video was published.)

10 THE COURT: Is everything working? This is taking
11 quite some time.

12 MS. SCHESNOL: Slowly but surely.

13 MS. NEVIN: Can we pause it, please.

14 BY MS. NEVIN:

15 Q. Before we continue playing, Captain, can you tell the
16 jury what that structure in the middle of the frame is?

17 A. The structure in the middle of the frame is the media
18 tower.

19 MS. NEVIN: Please play until the end.

20 (Whereupon, the video was published.)

21 BY MS. NEVIN:

22 Q. Captain, I am now showing you 401 for identification.

23 THE COURT: You said 401, correct?

24 MS. NEVIN: Yes, Your Honor.

25 (Whereupon, the video was published.)

1 BY MS. NEVIN:

2 Q. Captain --

3 MS. NEVIN: Can we pause it. Thank you.

4 Q. I'm showing you 401 for identification.

5 Do you recognize this video?

6 A. Yes.

7 Q. And what is it?

8 A. This is a view from one of our cameras that shows the
9 west front, the inaugural stage, and the media tower.

10 Q. And does this video show from time stamp --

11 MS. NEVIN: Can we go to the beginning, please.

12 Q. -- 12:55:14 to 14:59:59?

13 A. Yes.

14 MS. NEVIN: Now, can we play a few seconds for the
15 Captain. Thank you.

16 (Whereupon, the video was published.)

17 BY MS. NEVIN:

18 Q. Now, is this footage moving quickly?

19 A. Yes.

20 Q. Okay. So faster than real time?

21 A. Yes.

22 Q. Aside from that, is it an exact recording from that time
23 period?

24 A. Yes.

25 MS. NEVIN: Your Honor, I am now offering 401 into

1 evidence.

2 MR. WATKINS: Objection. Relevance.

3 THE COURT: Overruled. It may be admitted.

4 (Government's 401, admitted.)

5 MS. NEVIN: May we publish 401?

6 THE COURT: Yes, you may.

7 MS. NEVIN: This is a three-minute video, which we
8 will play in its entirety for the jury.

9 (Whereupon, the video was published.)

10 BY MS. NEVIN:

11 Q. Captain, were you working on January 6, 2021?

12 A. Yes.

13 Q. How does it make you feel taking a look at Exhibit 401?

14 A. It is still very hard to watch. It's very hard to
15 watch.

16 THE WITNESS: My apologies.

17 It's still very hard to watch the footage.

18 MR. WATKINS: Objection.

19 THE WITNESS: I'm sorry.

20 THE COURT: Overruled.

21 THE WITNESS: Okay. I am ready.

22 BY MS. NEVIN:

23 Q. I'm showing you Exhibit 203 for identification.

24 Do you recognize this?

25 A. Yes.

1 Q. What is it?

2 A. It's a depiction -- overhead view of the Capitol
3 Building.

4 Q. Is it a fair and accurate representation of what the
5 Capitol and grounds looked like on January 6 of 2021?

6 A. Yes.

7 MS. NEVIN: Your Honor, I am now offering 203 into
8 evidence.

9 MR. WATKINS: No objection.

10 THE COURT: Hearing no objection, it will be
11 admitted.

12 MS. NEVIN: May we publish, Your Honor?

13 THE COURT: And it may be published.

14 (Government's 203, admitted and published.)

15 BY MS. NEVIN:

16 Q. Captain, would you please mark for the jury where the
17 Senate Chamber is on this exhibit.

18 A. (Witness complies.)

19 MS. NEVIN: Let the record reflect that the
20 witness has indicated the top building on this exhibit.

21 THE COURT: The record will so reflect.

22 BY MS. NEVIN:

23 Q. And, Captain, where is the House of Representatives?

24 A. (Indicating.)

25 MS. NEVIN: Let the record reflect that the

1 witness has indicated the building on the bottom of this
2 exhibit.

3 THE COURT: Let the record so reflect.

4 BY MS. NEVIN:

5 Q. And can you please indicate the lower west
6 terrace/inauguration stage.

7 A. (Witness complies.)

8 MS. NEVIN: Let the record reflect that the
9 witness has indicated a white structure directly to the left
10 of the words "United States Capitol" on this exhibit.

11 THE COURT: Let the record so reflect.

12 BY MS. NEVIN:

13 Q. Captain, what was scheduled to be happening at the
14 Capitol on January 6th?

15 A. On January 6th was -- the schedule for January 6th was
16 the certifications of the electoral votes for the President
17 of the United States election.

18 Q. And what did the U.S. Capitol Police do to prepare for
19 that day?

20 A. We brought in additional personnel. We set up
21 perimeters with bike racks, snow fencing, as well as
22 prepared our civil disturbance unit personnel.

23 Q. And what's the role of the civil disturbance personnel?

24 A. Those are the folks that we call out whenever we have
25 demonstrations or protests that get out of hand.

1 Q. And were there designated areas where demonstrations
2 were allowed that day?

3 A. Yes. Outside of the perimeter.

4 Q. And when you reference the "perimeter," what are you
5 talking about?

6 A. Any of the areas that were blocked off with bike rack or
7 snow fencing or officers that were strategically placed.

8 Q. Were demonstrations allowed inside the Capitol Building?

9 A. No.

10 Q. What about on the lower west terrace of the Capitol
11 Building?

12 A. No.

13 Q. Was the building itself open to the public on that day?

14 A. No.

15 Q. Why not?

16 A. Not only did we have COVID measures in place, but,
17 again, the electoral votes were being counted that day.

18 Q. Captain, I'm showing you Exhibit 204 for identification.

19 Do you recognize this?

20 A. Yes.

21 Q. What is it?

22 A. It's a diagram of the perimeter the Capitol Police had
23 in place that day.

24 Q. Is it a fair and accurate representation of the
25 perimeter as it existed on January 6th?

1 A. Yes.

2 MS. NEVIN: Your Honor, I am now offering 204 into
3 evidence.

4 MR. WATKINS: No objection.

5 THE COURT: No objection. It may be admitted.

6 MS. NEVIN: May we publish, Your Honor?

7 THE COURT: And it may be published.

8 (Government's 204, admitted and published.)

9 BY MS. NEVIN:

10 Q. Captain, can you tell the jury what does this red line
11 indicate on 204?

12 A. This is our perimeter that was in place. We use --
13 again, we use bike racks, snow fencing, and strategically
14 placed officers to indicate where those boundaries are.

15 Q. What was the perimeter on the north?

16 A. The perimeter up on the north was Constitution Avenue.

17 Q. And on the east?

18 A. On the east, it was on the -- what we call the CVC deck,
19 or east deck.

20 Q. Captain, when you say "CVC," what are you referring to?

21 A. I am sorry. The Capitol's Visitor Center.

22 Q. What was the perimeter on the south?

23 A. On the south side was Independence Avenue.

24 Q. And on the west?

25 A. And on the west was First Street.

1 THE COURT: You used the term "snow fencing."

2 THE WITNESS: Yes, ma'am.

3 THE COURT: I think we all know what a bike rack
4 looks like. But what is snow fencing?

5 THE WITNESS: Snow fencing is a plastic mesh -- it
6 comes in a roll, and it's made of green plastic mesh. And
7 we roll it out to simulate -- well, not "simulate," but to
8 make a boundary, and it's connected -- it's held up with
9 metal stakes.

10 THE COURT: Okay.

11 BY MS. NEVIN:

12 Q. Captain, I'm showing you Exhibit 205 for identification.

13 Do you recognize this?

14 A. Yes.

15 Q. And what is it?

16 A. That is snow fencing on the First Street side with the
17 "Area Closed" sign attached.

18 Q. And is this a fair and accurate representation -- what
19 day was this?

20 A. January 6th.

21 Q. Is this a fair and accurate representation of a view of
22 the Capitol grounds on January 6th?

23 A. Yes.

24 MS. NEVIN: Your Honor, I am now offering 205 into
25 evidence.

1 THE COURT: Any objection?

2 MR. WATKINS: No objection.

3 THE COURT: Hearing no objection, it is admitted.

4 And it may be published.

5 (Government's 205, admitted and published.)

6 BY MS. NEVIN:

7 Q. Captain, can you indicate to the jury some of the snow
8 fencing that you testified about?

9 A. (Witness complies.)

10 MS. NEVIN: May the record reflect that the
11 witness has indicated, in the middle of the image,
12 crisscross fencing.

13 THE COURT: The record will so reflect.

14 BY MS. NEVIN:

15 Q. Captain, I am showing you 207 for identification.

16 Do you recognize 207?

17 A. Yes.

18 Q. What is it?

19 A. This is showing demonstrators pushing against the snow
20 fencing and bike racks; there are officers on the other side
21 trying to push back.

22 Q. And what date was this?

23 A. January 6th.

24 MS. NEVIN: Your Honor, I am now offering 207 into
25 evidence.

1 MR. WATKINS: Can we put a little more information
2 about where on the grounds that was?

3 BY MS. NEVIN:

4 Q. Captain, where -- approximately where on the grounds is
5 Exhibit 207?

6 A. We're on the west front.

7 This looks like -- it's a little -- it looks like
8 the Maryland Avenue walkway.

9 MR. WATKINS: Objection. Relevance.

10 THE COURT: Overruled. It will be admitted.

11 MS. NEVIN: May we publish, Your Honor?

12 THE COURT: You may publish.

13 (Government's 207, admitted and published.)

14 BY MS. NEVIN:

15 Q. Captain, are there signs on the fencing -- or a sign on
16 the fencing in 207?

17 A. Yes.

18 Q. And what does that say?

19 A. "Area Closed."

20 MS. NEVIN: Your Honor, may I approach the witness
21 with 218 for identification?

22 THE COURT: Yes, you may.

23 BY MS. NEVIN:

24 Q. Captain, I'm showing you Exhibit 218 for identification.

25 Do you recognize this?

1 A. Yes.

2 Q. What is it?

3 A. One of the Area Closed signs that Capitol Police uses
4 when we close off areas.

5 Q. And is it the same as the kind of sign that we see in
6 207 and was used on the Capitol perimeter on January 6th?

7 A. Yes.

8 Q. Is it the same size?

9 A. Yes.

10 MS. NEVIN: Your Honor, I am now offering 218 into
11 evidence.

12 MR. WATKINS: No objection.

13 THE COURT: Hearing no objection, 218 will be
14 admitted.

15 MS. NEVIN: May I publish it to the jury?

16 THE COURT: Yes, you may.

17 (Government's 218, admitted and published.)

18 BY MS. NEVIN:

19 Q. Captain, I'm showing you 208 for identification.

20 Do you recognize this?

21 A. Yes.

22 Q. What is it?

23 A. This is a view of the west front and the perimeters that
24 were in place.

25 Q. And is this -- what day was this taken?

1 A. January 6th.

2 Q. Is it a fair and accurate depiction of what the west
3 front of the Capitol looked like on January 6th?

4 A. Yes.

5 MS. NEVIN: Your Honor, I am now offering 208 into
6 evidence.

7 MR. WATKINS: No objection.

8 THE COURT: Hearing no objection, 208 will be
9 admitted.

10 MS. NEVIN: May we publish?

11 THE COURT: And, yes, it may be published.

12 (Government's 208, admitted and published.)

13 BY MS. NEVIN:

14 Q. Captain, what do we see on the very bottom of 208?

15 A. Snow fencing.

16 Q. Now, I am showing you 202 for identification.

17 Do you recognize this?

18 A. Yes.

19 Q. And what is it?

20 A. Snow fencing, bike rack with Area Closed signs on one of
21 the walkways.

22 Q. On one of the walkways to what?

23 A. We call -- it's a walkway that goes from the west front
24 to the east front.

25 Q. And was this on January 6th?

1 A. Yes.

2 Q. And is it a fair and accurate representation of what
3 that walkway looked like on that day?

4 A. Yes.

5 MS. NEVIN: Your Honor, I am now offering 202 into
6 evidence.

7 MR. WATKINS: Objection. Relevance.

8 THE COURT: Over objection it will be admitted.

9 MS. NEVIN: May we publish, Your Honor?

10 THE COURT: Yes, you may publish.

11 (Government's 202, admitted and published.)

12 THE COURT: Can you tell from what time of day
13 this was taken? It's certainly daylight, but...

14 THE WITNESS: No, ma'am.

15 THE COURT: Was it before or after all of the
16 people went to the Capitol?

17 THE WITNESS: This would be -- this would be
18 before.

19 BY MS. NEVIN:

20 Q. Captain, going back to the communications section on
21 January 6th, approximately what time did you arrive to work
22 that day?

23 A. 0600 hours, which is 6 a.m.

24 Q. And what were your expectations for that day?

25 A. Come to work, watch the electoral vote take place, and

1 go home at 2 when I got off.

2 Q. And did the day go as planned?

3 A. No.

4 Q. What was your first indication that the day was not
5 going as planned?

6 A. In the communications dispatch area we have -- we have
7 views of the closed-circuit cameras as well, and we are
8 monitoring all of the major news networks on television.
9 And we started watching the speech that the President was
10 giving, and then we could see the views of the people
11 starting to gather on the west side.

12 Q. And were you watching that in real time?

13 A. Yes.

14 THE COURT: Are you having difficulty hearing?

15 (No audible response.)

16 THE COURT: No? Okay. All right.

17 Go ahead.

18 BY MS. NEVIN:

19 Q. Captain, the CCTV cameras that you previously testified
20 about, were they working on January 6th of 2021?

21 A. Yes.

22 Q. And how do you know that?

23 A. I was watching them in real time.

24 Q. And does the footage bear a time and date stamp?

25 A. Yes.

1 Q. And on January 6th, was that time and date stamp
2 correct?

3 A. Yes.

4 Q. Now, while you were watching the cameras, could you hear
5 what was going on inside the Capitol and around the grounds?

6 A. Yes.

7 Q. How, if the CCTV does not have audio?

8 A. Well, I was in the dispatch area, so I could hear all of
9 the radio transmissions that were going on at the time.

10 Q. And does every Capitol Police officer have a radio?

11 A. Yes.

12 Q. Captain, I am showing you Exhibit 901 for
13 identification, which is a 16-minute video.

14 Have you watched this video before?

15 A. Yes.

16 Q. And is it a compilation of U.S. Capitol Police
17 surveillance videos from January 6th?

18 A. Yes.

19 Q. And does it use the CCTV footage that you described
20 earlier?

21 A. Yes.

22 Q. And have you personally been in every area depicted in
23 this video?

24 A. Yes.

25 Q. And can we hear people talking in this video when you

1 reviewed it?

2 A. I believe we could hear radio transmissions.

3 Q. Is this video a fair and accurate representation of
4 events at the Capitol on January 6, 2021?

5 A. Yes.

6 MS. NEVIN: Your Honor, we're now moving to admit
7 Exhibit 901 into evidence.

8 MR. WATKINS: Objection. Relevance, 403.

9 THE COURT: Over objection it will be admitted.
10 (Government's 901, admitted.)

11 MS. NEVIN: Your Honor, may we publish 901?

12 THE COURT: Yes.

13 BY MS. NEVIN:

14 Q. Captain, we're going to start playing, and then pause at
15 13 seconds.

16 (Whereupon, the video was published.)

17 MS. NEVIN: We're pausing at 13 seconds, time
18 stamped 12:51:01.

19 BY MS. NEVIN:

20 Q. What location are we looking at here?

21 A. The Pennsylvania Avenue walkway, First Street,
22 Peace Circle area on the west front.

23 Q. And what do we see at the very bottom of the frame?

24 A. Bike fencing that's around the statue at Peace Circle.

25 Q. And then, Captain, I'm going to indicate one of these

1 white squares that we see in the frame.

2 What are those white squares?

3 A. Area Closed signs.

4 MS. NEVIN: We can keep playing until 45 seconds.

5 (Whereupon, the video was published.)

6 MS. NEVIN: We're pausing here at time stamp
7 12:57:20.

8 BY MS. NEVIN:

9 Q. What are we looking at here?

10 A. We are looking at the first portion of our perimeter
11 that was breached; protesters coming up the
12 Pennsylvania Avenue walkway, as well as walking through the
13 west front grassy area.

14 MS. NEVIN: We're going to keep playing until
15 1:09.

16 THE COURT: And would you pause just for a second
17 so we're fully oriented.

18 And that building in the upper right-hand corner,
19 is that the courthouse we're sitting in right now?

20 THE WITNESS: Yes.

21 (Whereupon, the video was published.)

22 MS. NEVIN: Let's stop here at time stamp
23 12:58:35, and 1:07 on the player.

24 BY MS. NEVIN:

25 Q. Captain, what are we looking at here?

1 A. The west front. Protesters are now on the lower west
2 terrace.

3 MS. NEVIN: We're going to keep playing.

4 (Whereupon, the video was published.)

5 BY MS. NEVIN:

6 Q. Captain, we're stopping at 1:44, time stamp 2:09:48.

7 What are we looking at here?

8 A. We're looking at officers, as well as protesters, on the
9 stairs leading up to the upper west terrace.

10 MS. NEVIN: Keep playing, please.

11 (Whereupon, the video was published.)

12 MS. NEVIN: We're stopping at 2:08, time stamp
13 2:11:50.

14 BY MS. NEVIN:

15 Q. What are we looking at here?

16 A. Protesters on the upper west terrace.

17 Q. Captain, in the bottom of the frame we see these three
18 arches I am going to just indicate around the exhibit.

19 What are those?

20 A. We have two windows on either side, and the center is
21 the Senate wing door.

22 Q. Is the Senate wing door an entrance that is open to the
23 public?

24 A. No.

25 Q. Even in non-COVID times, would it have been open to the

1 public?

2 A. It would not.

3 MS. NEVIN: Continue playing, please.

4 (Whereupon, the video was published.)

5 MS. NEVIN: Now, we're stopping at 2:55, time
6 stamp 2:12:14.

7 BY MS. NEVIN:

8 Q. What are we looking at here, Captain?

9 A. We're on the Senate wing, first floor of the Capitol.
10 There are protesters outside of the Senate wing door.

11 Q. Is this essentially the interior view of those three
12 arches we just saw?

13 A. Yes.

14 Q. And, again, is this entrance open to the public?

15 A. No.

16 MS. NEVIN: Continue playing, please.

17 (Whereupon, the video was published.)

18 MS. NEVIN: I am going to briefly pause. We're at
19 3:54, time stamp 2:13:13.

20 BY MS. NEVIN:

21 Q. What just happened, Captain?

22 A. The protesters have now breached the building by
23 breaking the windows.

24 MS. NEVIN: Continue playing, please.

25 (Whereupon, the video was published.)

1 MS. NEVIN: Pausing at 4:46, time stamp 2:15:23.

2 BY MS. NEVIN:

3 Q. What area of the Capitol are we looking at here?

4 A. This is right outside of the --

5 MR. WATKINS: Your Honor, note my continuing
6 relevance and 402 [sic] objections.

7 THE COURT: That objection has already been
8 overruled. Please, no more interruptions.

9 BY MS. NEVIN:

10 Q. Captain, what location in the Capitol are we looking at
11 here?

12 A. This is the second floor of the Senate wing, right
13 outside the Senate Chamber.

14 Q. Where is this in relation to the Senate wing door that
15 we just saw?

16 A. It's down the hall, right above.

17 MS. NEVIN: Continue playing, please.

18 (Whereupon, the video was published.)

19 MS. NEVIN: I am going to briefly pause here. I
20 am at 5:11, time stamp 2:15:47.

21 BY MS. NEVIN:

22 Q. Captain, the people on the left -- I am going to
23 indicate -- the left-hand part of the screen wearing police
24 uniforms, what -- do you know what police force these
25 officers belong to?

1 A. Capitol Police.

2 MS. NEVIN: Thank you.

3 Continue playing, please.

4 (Whereupon, the video was published.)

5 MS. NEVIN: Pausing at 6:02, time stamp 2:25:23.

6 BY MS. NEVIN:

7 Q. Captain, what area of the Capitol are we looking at
8 here?

9 A. This is the Crypt, which is on the first floor at the
10 center of the building.

11 Q. Where is this in relation to the hallway that we just
12 saw?

13 A. One floor below.

14 MS. NEVIN: Continue playing, please.

15 (Whereupon, the video was published.)

16 THE COURT: We're pausing at 6:41, time stamp
17 2:26:12.

18 BY MS. NEVIN:

19 Q. What are we looking at here?

20 A. This is the second floor, right outside of the Rotunda.

21 Q. And this door that we see in this frame, is this a
22 public access door?

23 A. No.

24 Q. Even in non-COVID times, is it a public access door?

25 A. No.

1 MS. NEVIN: Continue playing, please.

2 (Whereupon, the video was published.)

3 MS. NEVIN: We're pausing at 7:15, time stamp
4 2:26:12.

5 BY MS. NEVIN:

6 Q. What location in the Capitol is this?

7 A. This is the first floor, right outside of the Crypt.

8 Q. Is the Crypt underneath the dome?

9 A. Yes, directly.

10 MS. NEVIN: Continue playing, please.

11 (Whereupon, the video was published.)

12 MS. NEVIN: We're stopping at 7:50, time stamp
13 2:28:38.

14 BY MS. NEVIN:

15 Q. What location is this?

16 A. This is now on the House side of the building, first
17 floor.

18 Q. And based on the other exhibits we have seen, is it
19 correct to say that the House and the Senate are on opposite
20 sides of the Capitol?

21 A. Yes.

22 MS. NEVIN: Continue playing, please.

23 (Whereupon, the video was published.)

24 MS. NEVIN: We're stopping at 8:15, time stamp
25 2:29:13.

1 BY MS. NEVIN:

2 Q. What location is this?

3 A. This is the Capitol Visitor Center.

4 Q. And was the Capitol Visitor Center open on January 6th?

5 A. No.

6 MS. NEVIN: Continue playing, please.

7 (Whereupon, the video was published.)

8 MS. NEVIN: I am going to pause briefly here.

9 BY MS. NEVIN:

10 Q. Captain, that door that we're seeing at this portion in
11 the video, what is it for normally?

12 A. That's one of the roll down fire doors used to separate
13 the new CVC from the Capitol Building.

14 MS. NEVIN: Continue playing, please.

15 (Whereupon, the video was published.)

16 MS. NEVIN: Pausing at 9:11, time stamp 2:33:09.

17 BY MS. NEVIN:

18 Q. What are we looking at here?

19 A. This is the inaugural stage; and we're looking at MPD
20 officers, Capitol Police officers, and demonstrators.

21 Q. And, Captain, what is "MPD"?

22 A. I'm sorry. Metropolitan Police Department, D.C. police.

23 Q. Why was the Metropolitan Police there?

24 A. They came to back us up.

25 MS. NEVIN: Continue playing, please.

1 (Whereupon, the video was published.)

2 MS. NEVIN: Pausing at 9:39, time stamp 2:36:02.

3 BY MS. NEVIN:

4 Q. What location is this?

5 A. This is the second floor on the House side of the
6 Capitol, right outside of the House Chambers.

7 MS. NEVIN: Continue playing, please.

8 (Whereupon, the video was published.)

9 MS. NEVIN: Pausing at 10:07, time stamp 2:36:48.

10 BY MS. NEVIN:

11 Q. What are -- what are we looking at here?

12 A. Second floor Rotunda doors, outside of the Rotunda.

13 Excuse me.

14 Q. I'm sorry. Captain, could you repeat that?

15 A. Yes. I'm sorry.

16 Second floor, Rotunda doors.

17 Q. And are these doors open to the public?

18 A. No.

19 MS. NEVIN: Continue playing, please.

20 (Whereupon, the video was published.)

21 MS. NEVIN: We're stopping at 10:31, time stamp
22 2:42:09.

23 BY MS. NEVIN:

24 Q. What area of the Capitol is pictured here?

25 A. First floor, House side.

1 Q. And the door underneath the exit sign that I am
2 indicating here, is that a public access door?

3 A. No.

4 Q. And then the door in the center of the frame that I am
5 indicating here, what is that?

6 A. The entrance to the House Parliamentarian's Office.

7 Q. And is that a public area?

8 A. No.

9 MS. NEVIN: Continue playing, please.

10 (Whereupon, the video was published.)

11 MS. NEVIN: We are stopping at 11 minutes, time
12 stamp 2:48:12.

13 BY MS. NEVIN:

14 Q. Where are we here, Captain?

15 A. First floor, Senate side, at the Senate wing door.

16 Q. Same door that we saw earlier in this video?

17 A. Yes.

18 MS. NEVIN: Continue playing, please.

19 (Whereupon, the video was published.)

20 MS. NEVIN: Stopping at 11:50, time stamp 3:00:02.

21 BY MS. NEVIN:

22 Q. What location are we looking at here?

23 A. The lower west terrace door, which is on the west side.

24 Q. And is the lower west terrace door also known as "the
25 tunnel"?

1 A. Yes.

2 Q. Is this a public entrance?

3 A. No.

4 Q. And, Captain, what -- what is behind all of these people
5 that I am indicating here (indicating) that we see in the
6 foreground?

7 A. The entrance to the basement level of the Capitol.

8 MS. NEVIN: Continue playing, please.

9 (Whereupon, the video was published.)

10 MS. NEVIN: Pausing at 12:21, time stamp 3:01:47.

11 BY MS. NEVIN:

12 Q. What are we looking at here?

13 A. This is the second floor on the Senate side. Those
14 doors lead to the Senate Lobby, which is connected to the
15 Senate Chamber.

16 Q. And are there offices beyond that door?

17 A. One office, yes.

18 Q. What is that one office?

19 A. The Vice President's Ceremonial Office.

20 Q. And was the Vice President scheduled to be there that
21 day?

22 A. Yes.

23 MS. NEVIN: Continue playing, please.

24 (Whereupon, the video was published.)

25 MS. NEVIN: I am going to pause here briefly.

1 BY MS. NEVIN:

2 Q. Captain, there is something transparent in the center of
3 the frame that I am going to circle. (Indicating).

4 What is that?

5 A. Capitol Police riot shield.

6 Q. What is a Capitol Police riot shield?

7 A. Our Civil Disturbance Unit personnel would use that to
8 protect themselves from objects being thrown at them.

9 Q. And were the -- was the Capitol Police Civil Disturbance
10 Unit using them on January 6th?

11 A. Yes.

12 MS. NEVIN: Continue playing, please.

13 (Whereupon, the video was published.)

14 MS. NEVIN: Stopping at 13:52, time stamp 3:28:02.

15 BY MS. NEVIN:

16 Q. Captain, what are we looking at here?

17 A. This is the second floor outside of the Rotunda --
18 Rotunda door. And we're looking at a breach of the Rotunda
19 door.

20 Q. And did we see a view of this door in an area previously
21 in this exhibit?

22 A. Yes.

23 MS. NEVIN: Continue playing, please.

24 (Whereupon, the video was published.)

25 MS. NEVIN: Pausing at 15:18, time stamp 4:30:08.

1 BY MS. NEVIN:

2 Q. What location are we looking at here?

3 A. Upper west terrace.

4 Q. And who are the people that we see in these fluorescent
5 yellow/green jackets that I am circling?

6 A. Those are Metropolitan Police Officers.

7 Q. Now, at this time, we're at time stamp 4:30:08. How
8 would you characterize the number of police officers who
9 were present on Capitol grounds at that time versus three
10 hours earlier?

11 A. By then, we were getting more reinforcements.

12 Q. And when you say "reinforcements," where were those
13 coming from?

14 A. We received calls from agencies all over the National
15 Capitol Region, as far as New Jersey as well, that wanted to
16 respond to come and help.

17 MS. NEVIN: Continue playing, please.

18 (Whereupon, the video was published.)

19 BY MS. NEVIN:

20 Q. And in those final frames of the video, what were the
21 officers doing?

22 A. The officers were removing the protesters from the upper
23 west terrace. They were trying to move the crowds.

24 Q. Captain, I'm going to show you Exhibit 601 for
25 identification.

1 MS. NEVIN: I apologize, Your Honor.

2 BY MS. NEVIN:

3 Q. Captain, we are showing you Exhibit 601, and the time
4 stamp is -- we're about 16 seconds into this video.

5 Have you seen this video before testifying here
6 today?

7 A. I am unsure. I don't think I have.

8 Q. Do you recognize where this location is?

9 A. Yes. This is the west front.

10 Q. And the west front of what?

11 A. Of the Capitol.

12 Q. And do you recognize what day this video was filmed?

13 A. Yes. January 6th.

14 Q. I am now going to show you Exhibit 602 for
15 identification.

16 Do you recognize where -- 602 is a video.

17 Do you recognize where this was filmed?

18 A. Yes.

19 Q. And where was it filmed?

20 A. This is the lower west terrace door, or the tunnel.

21 Q. And on what date?

22 A. January 6th.

23 Q. I am showing you 604 for identification.

24 Do you recognize where 604 was taken?

25 A. Yes.

1 Q. Where was it taken?

2 A. This is a view of the lower west terrace door.

3 Q. And on what date?

4 A. January 6th.

5 Q. I am now showing you Exhibit 605.

6 Do you recognize where the video in 605 was
7 filmed?

8 A. Yes. This is the west front of the Capitol.

9 Q. And on what date?

10 A. January 6th.

11 Q. I am showing you 606 for identification.

12 Do you recognize where 606 was taken?

13 A. Yes.

14 Q. Where?

15 A. This is on the west side again. This is the scaffolding
16 on the inaugural stage.

17 Q. And on what date?

18 A. January 6th.

19 Q. Finally, I am showing you 610 for identification.

20 Do you recognize where this was taken?

21 A. Yes.

22 Q. Where?

23 A. West side of the Capitol, at the entrance of the lower
24 west terrace door.

25 Q. On what date?

1 A. January 6th.

2 Q. Captain, can you describe what was happening at the
3 communications section on January 6th after the initial
4 breach?

5 A. We were running three channels that day for the event.
6 It was -- I would say a good description was chaos.

7 The officers and other dispatchers that were on
8 the radio were trying to relay the information that was
9 coming in from the officers in the field.

10 We had multiple emergency identifiers going off
11 for officers that were out in the field, and we were trying
12 to address those as they were coming in.

13 We were getting multiple duress alarms in the
14 Capitol Building; and we were trying to address those, as
15 well as numerous phone calls coming in on our 9-1-1 line,
16 and our information line -- all simultaneously.

17 Q. What is an emergency identifier?

18 A. On an officer's radio there is an orange button. If
19 they are in an emergency and unable to transmit, they can
20 press that button. Once they press that button,
21 communications get an audible tone with their name and their
22 badge number so that we know that they have an emergency and
23 we can dispatch personnel out immediately to get them aid.

24 Q. You've also testified about duress alarms within the
25 Capitol. What are those?

1 A. In the offices, everyone -- in the offices at the front
2 desk and also the member's desk, there is a pull alarm that
3 goes -- that's underneath their desk. If they're
4 experiencing an emergency, they can reach under their desk,
5 pull that alarm; it will send a signal to communications,
6 and we can dispatch an officer to that location.

7 Q. Captain, you testified that the Metropolitan Police
8 responded, correct?

9 A. Yes.

10 Q. Did you request assistance from other agencies?

11 A. Yes.

12 Q. And were you personally making those requests?

13 A. Yes.

14 Q. And did other law enforcement agencies indeed respond?

15 A. Yes.

16 Q. Now, as you were in the communications section on
17 January 6th, how did you feel seeing what was happening at
18 the Capitol that day?

19 A. A lot of disbelief, worry.

20 My husband is a Capitol Police Officer assigned to
21 the Capitol Building, so I was naturally worried about where
22 he was and what was going on because I was watching what was
23 on the cameras. Concern for the people that I work with.

24 I spend a lot more time with my fellow officers
25 than I do with my family; so I have some really good

1 relationships with a lot of the officers that I work with on
2 a day-to-day basis, so I was worried about their welfare;
3 worried about the welfare of my dispatchers. They did a
4 phenomenal job that day, but I could see the stress on their
5 faces, the worry on their faces because they wanted to do
6 more than sit behind a radio. They responded to help their
7 fellow officers, but they knew they had a job to do that
8 day.

9 I -- I called every available dispatcher, security
10 control operator that wasn't on duty that day to have them
11 come in, respond, to give reinforcements to the
12 communications section because we were just so overwhelmed
13 with the -- the amount of phone calls that we were getting
14 was -- I have never seen anything like it, and I just didn't
15 have enough personnel to even just take phone calls. So I
16 had to get as many people in as I could to help with that.

17 MS. NEVIN: One moment, Your Honor.

18 No further questions, Your Honor.

19 MR. WATKINS: May I have just a moment,
20 Your Honor, to set up?

21 THE COURT: Of course.

22 While Mr. Watkins is setting up, why don't we
23 all -- we can all stand up. I believe in, like, stretching
24 a little bit after sitting for an hour.

25 Let us know when you're ready, Mr. Watkins.

1 Ready?

2 MR. WATKINS: May I proceed?

3 THE COURT: Yes, you may.

4 CROSS-EXAMINATION

5 BY MR. WATKINS:

6 Q. Good morning, Captain Summers.

7 A. Good morning, sir.

8 Q. Are you acquainted with Vincent Gillespie at all?

9 A. No, sir.

10 Q. Have you ever met him?

11 A. No, sir.

12 Q. Other than where the prosecutors asked you to identify
13 people in the circle, or a person in the circle -- you don't
14 know him to talk to, right?

15 A. No.

16 THE COURT: Mr. Watkins, I'm sorry to interrupt.

17 Could you just lift your microphone. You are
18 tall, okay, so that we can hear you clearly.

19 MR. WATKINS: Nobody has accused me of being soft
20 spoken before. I will speak up.

21 BY MR. WATKINS:

22 Q. We saw a -- the lengthy video there that covers more
23 than three hours, the compilation video, that's Exhibit 201?

24 A. Yes.

25 Q. And that video included several areas and several

1 different times of day, right?

2 A. Yes.

3 Q. That was at the east side and the west side, we saw
4 portions of the south side on Independence Avenue, right?

5 A. Yes.

6 Q. And, again, all during different times of day, starting
7 just after noon and going right up to 4:30 or so; is that
8 correct?

9 A. Yes, sir.

10 Q. You are not -- you have no knowledge of when Vincent
11 Gillespie arrived on the grounds?

12 A. No, sir.

13 Q. Other than the videos that the government asked you to
14 identify at the lower west -- lower west terrace tunnel, you
15 have no idea where on the grounds Mr. Gillespie was?

16 A. No, sir.

17 Q. Mr. Gillespie doesn't appear in any of the portions of
18 that video from the Rotunda or the Crypt?

19 You have not seen any of those?

20 A. Not that I have seen, sir.

21 Q. And, certainly, you weren't looking for Mr. Gillespie
22 while you were doing all of those things on January 6th,
23 correct?

24 A. Yes, sir.

25 MR. WATKINS: Let me bring up what's already been

1 admitted, Exhibit 209.

2 One moment.

3 THE COURT: 209 has not been admitted.

4 MR. WATKINS: I'm sorry?

5 THE COURT: 209, it has not been admitted.

6 BY MR. WATKINS:

7 Q. What we saw -- disregard Exhibit 209.

8 We saw a map of the Capitol grounds with the
9 perimeter marked out, correct?

10 Do you recall that?

11 A. Yes.

12 Q. And it showed several different entrances to the Capitol
13 grounds, right?

14 A. I'm sorry?

15 Q. Several different ways to enter into the Capitol grounds
16 from around the perimeter of the Capitol, right?

17 A. Yes, sir.

18 Q. One can enter from the Independence Avenue side, right?

19 A. They could, sir.

20 Q. And that -- that's a public walkway that is generally
21 open to the -- open right now, right?

22 A. Yes.

23 Q. Also, the Peace Circle entrance we talked about, that is
24 also open to the public, generally, right?

25 A. Yes.

1 Q. Same thing on the east side, the plaza there. That's
2 open to the public?

3 A. A portion, yes.

4 Q. And there are several different ways to access the
5 Capitol grounds in ordinary times; is that true?

6 A. Yes.

7 Q. Now, you were monitoring in real time everything that
8 was going on that day with the 1500 different views that you
9 had?

10 A. We have a certain amount of some of those -- yeah, 1500
11 cameras. Yes.

12 Q. But it's -- you do have several -- all kinds of
13 different views of all different places on the Capitol
14 grounds, right?

15 A. Yes.

16 Q. Not all 1500, but you are able to access those?

17 A. Yes. Correct.

18 Q. And so in real time you could see as those breaches
19 developed into floods of people coming in, right?

20 A. Yes.

21 Q. And you could see where people initially started hopping
22 over barriers but, eventually, the barriers just
23 disappeared, right?

24 A. Yes.

25 Q. And once those barriers disappeared, it was really

1 possible to go in and out without hindrance there?

2 A. Yes.

3 Q. And these would be the snow fences and the bicycle
4 racks, right?

5 A. Correct.

6 Q. Both of those had the -- the keep out signs that we have
7 seen, the Area Closed signs, right?

8 A. Yes, sir.

9 Q. So when the barriers went down and the snow fencing went
10 down, those signs went down at the same time?

11 A. Some of those, yes.

12 Q. So I want to put on the screen for you, for
13 identification, Exhibit 1102A.

14 THE COURT: And that's using the government
15 exhibit number?

16 MR. WATKINS: I'm sorry, Your Honor?

17 THE COURT: Is that using a government exhibit
18 number or --

19 MR. WATKINS: No. This is a defense exhibit.
20 It's for identification only at this point.

21 BY MR. WATKINS:

22 Q. Can you see that up on the screen?

23 A. Yes, sir.

24 Q. Do you know what that depicts?

25 A. Yes. We're looking --

1 Q. What --

2 A. Yes.

3 Q. And what -- it depicts the camera that's at the
4 Peace Circle, right?

5 A. Yes.

6 Q. And this is a camera that's showing on up to the Capitol
7 area, correct?

8 A. Yes.

9 Q. Up here, (indicating), you can kind of see that's where
10 the scaffolding is, but it's not completely clear, right?

11 A. Yes.

12 Q. These were -- some of these barriers, here, that you
13 have talked about -- the bike racks?

14 A. Yes, sir.

15 Q. No snow fencing here, right?

16 A. Not that I can see. It's kind of hard to see.

17 Q. Yeah. But the bike racks are protecting the
18 Peace Circle -- the statue at the Peace Circle, right?

19 A. Yes.

20 Q. And then there are these bike racks here, bike racks
21 here (indicating), right?

22 A. Yes.

23 THE COURT: Mr. Watkins --

24 BY MR. WATKINS:

25 Q. Just behind these bike racks --

1 THE COURT: Mr. Watkins --

2 MR. WATKINS: I'm sorry.

3 THE COURT: Do you want to admit this? Because
4 we're -- you are describing it, and I think we're all --

5 MR. WATKINS: I'm so sorry. Yes. My apologies,
6 Your Honor.

7 THE COURT: The jurors might follow you better if
8 we could actually see it.

9 BY MR. WATKINS:

10 Q. Is this a fair and accurate representation of what the
11 camera is showing from the Peace Circle?

12 A. Yes, sir.

13 Q. And do you recognize this to be January 6th at about
14 12:20 p.m.?

15 A. I am not sure about the time, but I can definitely tell
16 you it was January 6th.

17 Q. And this was before the breaches and the flood of people
18 coming in, right?

19 A. Yes.

20 MR. WATKINS: Your Honor, may I publish this?

21 THE COURT: Well, do you want to admit it first?

22 MR. WATKINS: I'd move to admit it.

23 THE COURT: All right. Any objection?

24 MS. NEVIN: No objection, Your Honor.

25 Your Honor, may I provide the witness with some

1 water?

2 THE COURT: Yes, of course.

3 MS. NEVIN: May I approach?

4 THE COURT: Yes.

5 THE WITNESS: Thank you.

6 THE COURT: And hearing no objection, Defense
7 Exhibit 1102A will be admitted.

8 MR. WATKINS: Correct.

9 THE COURT: And it may be published.

10 And now we can all follow along.

11 MR. WATKINS: Thank you, Your Honor.

12 (Defense 1102A, admitted and published.)

13 BY MR. WATKINS:

14 Q. So I want to go through -- again, we see the bicycle
15 racks that you have talked about --

16 A. Yes.

17 Q. -- with the Area Closed sign, right?

18 A. Yes.

19 Q. And there are different levels of these backgrounds;
20 there are some right at the circle, and there are some just
21 before the stairs up here, right?

22 A. Yes.

23 Q. And once again, to repeat, this area here -- I will just
24 circle it -- that area there (indicating) is where the
25 scaffolding was, where the bleachers were going to be,

1 right?

2 A. Yes.

3 Q. And in back of us here -- in back of this camera would
4 be Pennsylvania Avenue coming into the Peace Circle?

5 A. Yes.

6 MR. WATKINS: I want to put up for identification
7 Exhibit 1102B.

8 BY MR. WATKINS:

9 Q. Captain Summers, do you see what's going on -- do you
10 see the view that's depicted in 1102B?

11 A. Yes.

12 Q. Is that -- is it correct to say that this is the same
13 view that we just saw in the last exhibit?

14 A. Yes.

15 Q. Do you also recognize that to be from January 6th?

16 A. Yes.

17 Q. And do you recognize it to be January 6th at around
18 3:15 p.m., after the breaches have occurred?

19 A. I do not know the exact time, but I can tell you that it
20 was January 6th after the breaches occurred.

21 MR. WATKINS: Your Honor, I would move to admit
22 1102B.

23 MS. NEVIN: No objection, Your Honor.

24 THE COURT: Hearing no objection, 1102B will be
25 admitted and may be published.

1 (Defense 1102B, admitted and published.)

2 BY MR. WATKINS:

3 Q. As I'm playing 1102B, you see protesters moving freely
4 over these stairs and towards the Capitol Building itself,
5 right?

6 A. Yes.

7 Q. Also going onto the lawn, as you've described before?

8 A. Yes.

9 Q. And in this depiction here, there is no indication of
10 bike racks or snow fences or Area Closed signs?

11 A. This is -- the video is kind of grainy, so I do not see
12 anything.

13 Q. Right.

14 Finally, I will put up on the screen for
15 identification Exhibit 1101.

16 Do you see that on the screen?

17 A. Yes.

18 Q. Do you recognize that as one of the camera angles that
19 the Capitol has closed-circuit television for?

20 A. Yes. It's one of our dome cameras.

21 Q. I'm sorry?

22 A. It's one of our dome cameras.

23 Q. Yes. And this dome camera is facing towards the west?

24 A. Yes.

25 Q. And that would be towards both Pennsylvania Avenue and

1 Independence Avenue?

2 A. On the right side of the screen is Pennsylvania Avenue,
3 on the left side of the screen is Maryland Avenue. If you
4 go beyond the panels on either side, then you would have
5 Independence on one side and Constitution on the other.

6 Q. And you've seen that this video is speeded up?

7 A. It's not moving at the moment.

8 Q. When I was playing it before, did you see that it was
9 speeded up?

10 A. Yes.

11 Q. Other than it being speeded up, is that a fair and
12 accurate copy of what was seen on January 6th?

13 A. Yes.

14 MR. WATKINS: I'd move to admit Exhibit 1101.

15 THE COURT: Any objection?

16 MS. NEVIN: No objection.

17 THE COURT: Hearing no objection, 1101 will be
18 admitted and may be published.

19 MR. WATKINS: Thank you, Your Honor.

20 (Defense 1101, admitted and published.)

21 BY MR. WATKINS:

22 Q. So as we're playing through it, someone is zooming out
23 to show the larger view?

24 A. Yes.

25 Q. And this is the area towards the Peace Circle here

1 (indicating); is that correct?

2 A. Yes.

3 Q. And we can see that people are going in and out of that
4 entrance unhindered?

5 A. Yes.

6 Q. There are no bike racks or snow fences there?

7 A. It's hard to tell from this video. It's very grainy.

8 Q. Do you -- but you do not see people climbing over
9 anything to get out?

10 A. It's hard to see. I don't see that, but it's hard to
11 see.

12 Q. Do you see any Area Closed signs there?

13 A. No.

14 MR. WATKINS: That's all I have, Your Honor.

15 Thank you.

16 THE COURT: Any redirect?

17 REDIRECT EXAMINATION

18 BY MS. NEVIN:

19 Q. Captain, I'm going to show you Exhibit 204, which is in
20 evidence.

21 THE COURT: It may be published.

22 (Whereupon, the exhibit was published.)

23 BY MS. NEVIN:

24 Q. Captain, this red line that we see here, is any --
25 what's inside this red shape (indicating)?

1 A. The immediate Capitol square.

2 Q. And you previously testified that the red line is a
3 restricted perimeter, correct?

4 A. Yes.

5 Q. So is anything inside the red line -- or were members of
6 the public allowed inside on January 6th?

7 A. No.

8 Q. So you testified on direct about a number of entrances
9 that we saw to the Capitol Building, correct?

10 A. Yes.

11 Q. Were all of those entrances that we saw within this
12 restricted perimeter that we see in 204?

13 A. Yes.

14 Q. And on January 6th, were they public access points?

15 A. No.

16 Q. Now, Captain, after the Capitol was cleared on
17 January 6th -- the Capitol and the grounds were cleared on
18 January 6th, where were the bike racks?

19 A. Everywhere.

20 Q. And where were the Area Closed signs?

21 A. Everywhere.

22 Q. Fair to say they didn't just disappear?

23 A. No. They were on the ground, they were torn. They were
24 just discarded.

25 Q. And, Captain, you previously testified regarding a

1 number of measures that marked this restricted perimeter.
2 Was one of those measures actual Capitol Police officers
3 manning the grounds?

4 A. Yes.

5 MS. NEVIN: No further questions, Your Honor.

6 THE COURT: All right. Captain, you are excused.

7 THE WITNESS: Thank you, ma'am.

8 THE COURT: Thank you.

9 All right. I think, since we're in between
10 witnesses, this is a good time for our ten-minute break.

11 Do not talk about the case among yourselves or
12 with anybody else. We'll be back in ten minutes.

13 (Whereupon, a recess was taken.)

14 THE COURT: Okay. Are we ready to bring the jury
15 in?

16 MS. SCHESNOL: Yes.

17 (Whereupon, the jury returns to the courtroom.)

18 THE COURT: Is the government ready to call its
19 next witness?

20 MS. NEVIN: Yes, Your Honor. The government calls
21 Officer Mustafa Ak.

22 THE COURT: Officer, please step forward to the
23 witness stand.

24 (MUSTAFA AK, Government witness, sworn.)

25 THE COURT: Good morning, Officer.

1 THE WITNESS: Good morning.

2 THE COURT: And while you are testifying, you may
3 remove your mask so we can hear you better. Just keep that
4 microphone as close to you as possible, perfect. Thank you.

5 Please proceed.

6 DIRECT EXAMINATION

7 BY MS. NEVIN:

8 Q. Good morning, Officer.

9 A. Good morning.

10 Q. Please state your name.

11 A. Officer Mustafa Ak.

12 Q. Where do you work?

13 A. Metropolitan Police Department, Washington, D.C.

14 Q. Is the Metropolitan Police Department also known as
15 "MPD"?

16 A. Yes.

17 Q. How long have you worked at MPD?

18 A. About four years.

19 Q. What are your duties and responsibilities as an officer?

20 A. Patrol officer, I respond to calls that come in.

21 Q. When you say "calls that come in," do you mean 9-1-1
22 calls?

23 A. Yes.

24 Q. Before you worked at MPD, where did you work?

25 A. I worked as a correctional officer in Nevada.

1 Q. Were you working on January 6, 2021?

2 A. Yes.

3 Q. What was your assignment that day?

4 A. I was assigned to CDU, Civil Disturbance Unit 12. We
5 were working in regards to a protest.

6 Q. And what are the general duties and responsibilities of
7 the Civil Disturbance Unit?

8 A. Well, my platoon, we were the hard-gear platoon. We
9 had, like, additional gear that we wore that had protections
10 around the shoulders, knee pads, arms, and then like water
11 repellent, fireproof-like suit. And we were usually
12 deployed when a protest turned into a riot and got out of
13 control.

14 Q. And this gear that you just described, is that different
15 than what you normally wear on patrol?

16 A. Yes.

17 Q. What do you normally wear on patrol?

18 A. I would regularly -- usually wear blue pants,
19 long-sleeved shirt, duty belt, and my MPD-issued vest.

20 Q. Aside from the vest, is that essentially what you are
21 wearing right now?

22 A. Yes.

23 Q. Now, around -- did there come a time on January 6th that
24 you responded to the U.S. Capitol?

25 A. Yes.

1 Q. Around what time was that?

2 A. I don't know the exact time, but it was close to in the
3 afternoon or before afternoon; close to that time.

4 Q. Now, had you ever responded to the Capitol before in
5 your capacity as an MPD officer?

6 A. I don't remember ever going to the Capitol.

7 Q. When you arrived on scene, were you assisting U.S.
8 Capitol Police?

9 A. Yes.

10 Q. Now, can you describe to the jury the location that you
11 were when you first got on scene?

12 A. When we first got to the scene we came through the side.
13 I don't know the location name, but we ended up in front of
14 where -- what I am seeing in the screen.

15 MS. NEVIN: I am showing you Exhibit 401, which is
16 already in evidence.

17 Your Honor, may we publish this to the jury?

18 THE COURT: Yes, you may.

19 (Whereupon, the video was published.)

20 BY MS. NEVIN:

21 Q. Okay. So we're just looking at the very first frame of
22 this exhibit.

23 And can -- and where did you initially respond
24 when you first got on scene?

25 A. We were at the lower area of the Capitol, the west

1 terrace.

2 Q. Officer, if you touch the screen, you can actually draw.

3 A. Okay. Well, I believe we were around this bottom area,
4 (indicating).

5 MS. NEVIN: All right. Let the record reflect the
6 witness has indicated a portion in the center of the
7 exhibit, around this plaza, and surrounding what has been
8 previously described as a tower in the middle.

9 THE COURT: Let the record so reflect.

10 BY MS. NEVIN:

11 Q. Now, Officer, when you responded that day -- when you
12 first got there, is Frame 1 of this exhibit, 401, what it
13 actually looked like?

14 A. Can you repeat that question?

15 Q. Sure. Let me ask -- let me ask it in a better way.

16 When you initially responded to the location that
17 we see in the first frame of 401, were there people there?

18 A. Yes.

19 Q. Describe the people that you were seeing.

20 A. Well, there were a lot of MPD officers and U.S. Capitol
21 officers when we arrived there, and then there was a very,
22 very large crowd of people.

23 Q. And now, Officer, in this exhibit we see a line of
24 bike-rack fencing, correct? In the center?

25 A. Where exactly are you --

1 Q. I am just going to circle for you -- what is this? And
2 what is this (indicating)?

3 A. It's like some type of a fencing.

4 Q. Some type of fencing?

5 A. Yes.

6 Q. Okay. Now, was this the condition of the fencing when
7 you arrived on scene?

8 A. I don't remember.

9 Q. All right. I am now going to move forward in this
10 exhibit to 52 seconds, which is time stamp 1:30:00.

11 Now, what are we looking at here, Officer?

12 A. This is -- we can see that the officers have formed a
13 line and are trying to hold the protesters away from the
14 Capitol.

15 Q. Okay. And were -- when you say "the officers," were you
16 one of those officers?

17 A. Yes.

18 Q. Okay. And when you arrived, do you remember seeing that
19 fencing that we saw earlier in the exhibit?

20 A. Yes. I saw the fencing in front of me. So when I
21 arrived -- I believe it was around this time of the camera
22 footage when I arrived.

23 Q. And why do you think that this is around the time that
24 you arrived?

25 A. Looking at the line of the officers, that's when I

1 believe -- that's what I remember from that time. When I
2 arrived there was some kind of a line like that, and the
3 bike fences were in front of me.

4 Q. Okay. When you are talking about a "line," can you just
5 indicate on this exhibit what line you are talking about?

6 A. Okay (indicating).

7 MS. NEVIN: Okay. Let the record reflect that the
8 witness has drawn a line through the center of the exhibit
9 that follows a line of people, dressed mostly in dark
10 colors, and then, on the left part of the exhibit, some of
11 those people are wearing fluorescent jackets.

12 THE COURT: Let the record so reflect.

13 BY MS. NEVIN:

14 Q. Okay. That line that you just drew, who is making up
15 that line?

16 A. MPD officers and U.S. Capitol officers.

17 Q. Okay. And what was the role of the line at that time?

18 A. To keep the protesters away from the Capitol.

19 Q. And were you and your fellow officers able to do that
20 for a while?

21 A. We were able to hold it for a while, but not too long.

22 Q. And why not?

23 A. Because the protesters got violent, and then it turned
24 into a riot.

25 Q. Officer, I am going to move in this exhibit to 2:14,

1 which is time stamped on the bottom right 14:25:00. I am
2 going to play this for just about a minute -- sorry -- five
3 seconds.

4 (Whereupon, the video was published.)

5 MS. NEVIN: All right. We are stopping at 2:23,
6 time stamp 14:31:19.

7 BY MS. NEVIN:

8 Q. Okay. So what happened here in regards to the police
9 line that you had just described?

10 A. The police line had broke.

11 Q. And why did the police line break?

12 A. Because the protesters got violent and they were pushing
13 towards the Capitol, and we couldn't hold the line.

14 Q. And can you compare the number of officers to the number
15 of rioters?

16 A. We were way outnumbered. I don't know how many officers
17 responded, but we were outnumbered by a lot.

18 Q. When this line broke, where did you go, Officer?

19 A. I had retreated to another level of the Capitol.

20 Q. And how -- and when you say "another level of the
21 Capitol," what level is that?

22 A. So there are stairs that come out through here
23 (indicating) from the bottom -- bottom of the Capitol; and
24 what I did was I came up the stairs to this level
25 (indicating).

1 MS. NEVIN: All right. Let the record reflect
2 that the witness has indicated an area that is directly to
3 the left of what we see jetting out, and indicated that that
4 is a stairwell on this exhibit.

5 THE COURT: Let the record so reflect.

6 BY MS. NEVIN:

7 Q. Okay. So when you went up those stairs, where were you?

8 A. I was in this general area.

9 MS. NEVIN: Okay. Let the record reflect that the
10 witness has indicated this white platform that we see in the
11 foreground of the exhibit.

12 THE COURT: And let the record so reflect.

13 BY MS. NEVIN:

14 Q. And when you first came up these stairs, were there
15 rioters on that area?

16 A. Yes, there were.

17 Q. Were they allowed to be in that area?

18 A. No.

19 Q. All right. So what did you do?

20 A. After we got back to that level, the rioters had come up
21 also; so we were forced to retreat into the west terrace.

22 The tunnel area is what we call it.

23 Q. Officer, can we see the tunnel in this exhibit?

24 A. I don't see it.

25 Q. Where would it be in relation to what we're seeing in

1 this exhibit?

2 A. I believe it should be around this area (indicating),
3 but more towards -- it's out of the frame of the camera.

4 MS. NEVIN: Okay. Let the record reflect that the
5 witness has indicated towards the bottom and center of this
6 exhibit.

7 THE COURT: Let the record so reflect.

8 MS. NEVIN: Okay. We are now going to play
9 Exhibit 401 for about 40 seconds.

10 (Whereupon, the video was published.)

11 MS. NEVIN: Thank you.

12 BY MS. NEVIN:

13 Q. Now, at the end of this exhibit the time stamp is
14 14:59:28. So around 14:59, where did you go, Officer?

15 A. Into the tunnel area.

16 Q. Okay. Now, directing your attention to 4 p.m. -- about
17 an hour after this that we just saw on 401, where were you?

18 A. In the tunnel.

19 Q. So can you describe for the jury what was happening for
20 that approximate one-hour period inside the tunnel?

21 A. The tunnel is -- from what I thought of the Capitol,
22 that was the only entrance to the Capitol. I haven't been
23 to the Capitol. I haven't toured the Capitol, so I
24 didn't -- I thought that was the only entrance.

25 THE COURT: And could you -- could you speak up

1 into the microphone.

2 THE WITNESS: Okay. Sorry.

3 THE COURT: Thank you.

4 THE WITNESS: So I thought the tunnel was the only
5 entrance into the Capitol. So we were over there, and the
6 rioters at this time were at the entrance into that tunnel
7 trying to gain entry in there. So we were in the tunnel
8 trying to hold it down, but -- that's basically it.

9 BY MS. NEVIN:

10 Q. And when you say that you were trying to "hold it down,"
11 what were you and your fellow officers physically doing?

12 A. We were physically fighting in that tunnel with whatever
13 we had; hands, batons, shields. Same with the rioters; they
14 were hitting officers, punching officers, kicking officers.
15 They were throwing unknown liquids, spraying us with bear
16 mace and fire extinguishers, and all types of stuff.

17 Q. Officer, what is bear mace?

18 A. I believe it's a spray to keep the bears away.

19 Q. A bear, like an animal?

20 A. Yes.

21 Q. As part of your gear that you described to the jury,
22 were you wearing any type of mask?

23 A. So I found a mask at the Capitol. So once we first got
24 there -- I haven't got my mask. I thought I wasn't going to
25 use it, so I left it in the van. Once we got to the

1 Capitol, I was sprayed by pepper spray. So I retreated
2 back, washed my face, and then I found a -- a gas mask
3 laying around. I washed it, rinsed it out with water; and
4 then I put that on for the rest of the day.

5 Q. Who sprayed you?

6 A. I don't know. The rioters.

7 Q. And can you describe the effects of being sprayed with
8 bear spray?

9 A. It's painful.

10 Q. Painful where?

11 A. Eyes.

12 THE COURT: Officer, here is a tissue.

13 (Whereupon, Court and staff confer.)

14 THE WITNESS: I'm sorry.

15 BY MS. NEVIN:

16 Q. Now, even if you're wearing a mask, is it painful?

17 A. Yes.

18 Q. Where in your body?

19 A. Anywhere it touches the skin, basically, it burns.

20 Q. And what do you have to do to get it off?

21 A. We have to basically rinse it, and then just wait for
22 it -- for it to go away. I mean, it's just a burning pain.

23 Q. Now, you testified about rioters throwing liquids on you
24 and your fellow officers, did you know what those liquids
25 were?

1 A. No.

2 Q. Were the rioters using anything else against you and
3 your fellow officers?

4 A. Wooden objects, metal pieces, any -- shields. Anything
5 they could get ahold of.

6 Q. And when you say "shields," what are those shields?

7 A. Well, they basically took some of the MPD shields that
8 we had to protect ourselves from anything coming towards us.
9 So they took some of Capitol shields or MPD shields.

10 Q. Now, do you remember, were the rioters saying anything
11 to you and your fellow officers?

12 A. They were chanting a lot of different stuff, but I
13 remember them chanting "Stop the Steal."

14 Q. Now, while you were inside the tunnel, where in the
15 tunnel were you?

16 A. I was mostly -- there was a small ledge on the side of
17 the tunnel, and I was on that ledge.

18 Q. Officer, I am just going to ask you to tilt the
19 microphone towards you a little bit more. Thank you.

20 Do you know what that ledge was for normally?

21 A. I don't.

22 Q. All right. And while you were on that ledge, what were
23 you doing?

24 A. I was spraying the rioters with pepper spray.

25 Q. And what is pepper spray?

1 A. It's, basically, pepper spray that burns the eyes and
2 the facial area.

3 Q. And is that an MPD nonlethal tool?

4 A. Yes.

5 Q. So is that part of your equipment?

6 A. Yes.

7 Q. And aside from January 6th, had you ever used pepper
8 spray before in the field?

9 A. No.

10 Q. Were you trained on how to use it?

11 A. Yes.

12 Q. Was it working?

13 A. Somewhat.

14 Q. Now, what was the noise level like?

15 A. It was very loud.

16 Q. What were you hearing?

17 A. Sounds of alarms -- different alarms going on in the
18 building, that's basically -- there was a lot of stuff going
19 on.

20 Q. Now, on that day, January 6th, were you wearing a body
21 camera?

22 A. Yes.

23 Q. What is a body camera?

24 A. Well, it's a device that is issued by MPD that we wear
25 on our uniform and it records whenever we activate it.

1 Q. And where on your uniform is it attached?

2 A. It was attached on my -- the center part of my vest.

3 Q. And you stated that it records?

4 A. Yes.

5 Q. Does it record both audio and video?

6 A. Yes.

7 Q. Does it take a while for the audio to kick in?

8 A. Yes. There is a -- once you activate the body camera by
9 pressing it twice, it will record from then on. However, it
10 will have a two-minute buffer period that also record --
11 will have whatever you were doing two minutes prior to that,
12 and that will only be visual and no audio.

13 Q. And is the recording stored or saved in any way?

14 A. Yes.

15 Q. And what do you have to do to save the recording?

16 A. Well, I would have to tag it with the report numbers for
17 that day, the location. That's basically it.

18 Q. Do you have to physically dock it to get the footage to
19 upload?

20 A. Yes.

21 Q. And would that happen at your precinct?

22 A. Yes.

23 Q. Now, does the recording have a time and date stamp?

24 A. Yes.

25 Q. Is it correct?

1 A. Yes.

2 Q. How do you know?

3 A. Because I was there, and it records real -- according to
4 real time and date.

5 Q. Officer, I'm showing you Exhibit 701 for identification.

6 Do you recognize this?

7 A. Yes.

8 Q. What is it?

9 A. This is a clip from my body cam footage of inside the
10 tunnel of the Capitol.

11 Q. And have you reviewed it before testifying here today?

12 A. Yes.

13 Q. Does this clip show January 6th from approximately
14 4:03 p.m. to 4:18 p.m.?

15 A. Yes.

16 Q. And does it bear a time and date stamp, like you just
17 testified about?

18 A. Yes.

19 Q. And is that time and date stamp accurate?

20 A. Yes.

21 Q. And is this a fair and accurate recording of the events
22 you just testified about?

23 A. Yes.

24 MS. NEVIN: Your Honor, we are now offering
25 Exhibit 701 into evidence.

1 MS. O'NEILL-GREENBERG: No objection.

2 THE COURT: Hearing no objection, 701 will be
3 admitted and may be published.

4 (Government's 701, admitted and published.)

5 BY MS. NEVIN:

6 Q. Now, Officer, I am going to show you a series of photos.
7 I am going to show you 701.1, 701.2, 701.3, 701.4, 701.5,
8 701.6, 701.7, 701.8, 701.9, 701.10, 701.11, and 701.12.

9 Now, what are these 12 exhibits?

10 A. They appear to be screenshots of -- from my body cam
11 footage.

12 Q. Have they been altered in any way?

13 A. I don't see that. I only see the government exhibit
14 sticker on it, that's about the only thing that's on it.

15 Q. And aside from that, any changes from what we saw in
16 Exhibit 701, which is your actual body cam footage?

17 A. No other changes.

18 MS. NEVIN: Your Honor, we are now offering 701.1
19 through 12 into evidence.

20 MS. O'NEILL-GREENBERG: No objection.

21 THE COURT: Hearing no objection, they will all be
22 admitted and may be published.

23 (Government's 701.1 through 701.12, admitted.)

24 BY MS. NEVIN:

25 Q. Officer, I am showing you 702 for identification.

1 Now, what is 702?

2 A. It is a clip from my body cam footage. However, there
3 is a circular thing in the video clip.

4 Q. I'm sorry. Say that one more time.

5 A. I am saying it is a clip from my body cam footage.

6 Q. And has it been altered in any way?

7 A. Yes.

8 Q. How so?

9 A. There is that -- a circular thing in the screen.

10 Q. Now, aside from that circle, is 702 the exact same as
11 701, which is your body-worn camera?

12 A. Yes.

13 Q. And you did not place that yellow circle, correct?

14 A. Correct.

15 MS. NEVIN: Your Honor --

16 BY MS. NEVIN:

17 Q. And, Officer, have you reviewed 702 before testifying
18 here today?

19 A. Yes.

20 MS. NEVIN: Your Honor, we are now offering 702
21 into evidence.

22 MS. O'NEILL-GREENBERG: No objection.

23 THE COURT: Hearing no objection, it will be
24 admitted.

25 MS. NEVIN: May we publish 702?

1 THE COURT: Yes.

2 (Government's 702, admitted.)

3 MS. NEVIN: All right. We are going to watch
4 about 5 minutes, starting at the very beginning, which is
5 time stamp -- which is time stamp 16:10:23.

6 Play, please.

7 (Whereupon, the video was published.)

8 MS. NEVIN: Stopping at -- actually, can we go
9 back just a couple of seconds to about six seconds.

10 BY MS. NEVIN:

11 Q. Now, what do we see in your left hand in the left-hand
12 part of the frame?

13 A. That's me holding a -- one of our pepper spray agents.

14 MS. NEVIN: Continue playing, please.

15 (Whereupon, the video was published.)

16 MS. NEVIN: We are stopping at about 26 seconds,
17 time stamped 16:10:50.

18 BY MS. NEVIN:

19 Q. Now, I am going to circle some transparent things in the
20 middle of the frame.

21 What are these?

22 A. Those are the police shields.

23 Q. And how big are these police shields?

24 A. They're pretty big, about -- I would say about this,
25 (indicating).

1 Q. Are they -- how tall are they when you put them against
2 your body?

3 A. They're pretty tall, close to my shoulder. About
4 five -- four and a half, five feet maybe.

5 Q. And what are they made out of, Officer?

6 A. I believe they're made out of plastic.

7 Q. And did you see people in the crowd who weren't police
8 officers with those shields?

9 A. Yes.

10 Q. What were they doing with them?

11 A. They were using them against us.

12 Q. How so?

13 A. Well, they were blocking us, hitting us with the
14 shields; protecting themselves with our shields.

15 MS. NEVIN: Continue playing, please.

16 (Whereupon, the video was published.)

17 MS. NEVIN: We're pausing at 4:07, time stamp
18 16:14:31.

19 BY MS. NEVIN:

20 Q. What just happened, Officer, with respect to your actual
21 body camera?

22 A. Well, at this second I was sprayed with some kind of --
23 what I believe was bear mace.

24 MS. NEVIN: Continue playing, please.

25 (Whereupon, the video was published.)

1 MS. NEVIN: Pausing here.

2 Can you go back just a couple of seconds?

3 Stop here, please. We're at 4:57, which is time
4 stamped 16:15:21.

5 BY MS. NEVIN:

6 Q. Officer, what are these doors that we see in the
7 left-hand frame?

8 A. I believe that's the doors into the Capitol.

9 Q. Did you go through those doors at points during the day?

10 A. Yes.

11 Q. And why?

12 A. Well, I would get tired up there on the ledge. And then
13 sometimes I would take a break, go to the back so that I
14 could rinse off whenever I would get sprayed, and just to
15 take a break basically.

16 Q. Officer, throughout this footage we were hearing a
17 siren. Where was that coming from?

18 A. I am not sure where it was coming from, but I believe it
19 was coming from the Capitol.

20 Q. Now, what we just watched was about five minutes. How
21 did those five minutes compare to the entire time that you
22 were in the tunnel?

23 A. This was only a small portion of the clip, all of what
24 we experienced for hours that day.

25 Q. Officer, I am now going to show you a series of photos;

1 702.1, 702.2, 702.3, 702.4, 702.5, 702.6, 702.7, 702.8,
2 702.9, and 702.10.

3 What are these ten images?

4 A. It looks like they're screenshots from my body cam
5 footage with the circle attached to them.

6 Q. And, again, you didn't place that circle?

7 A. That's correct.

8 Q. And so are they exact still shots from the footage in
9 702, which we just watched?

10 A. Yes.

11 MS. NEVIN: Your Honor, we are now offering
12 Exhibits 702.1 through 702.10 into evidence.

13 MS. O'NEILL-GREENBERG: No objection.

14 THE COURT: Hearing no objection, those will be
15 admitted.

16 (Government's 702.1 through 702.10, admitted.)

17 BY MS. NEVIN:

18 Q. Officer, I am now showing you Exhibit 703 for
19 identification. What is 703?

20 A. This looks like a body cam footage of another officer
21 from that day.

22 Q. And have you reviewed this footage before testifying
23 here today?

24 A. Yes.

25 Q. And when you say it was from that day, what day is that?

1 A. January 6th.

2 Q. And what location?

3 A. It looks like the entrance of the tunnel of the Capitol.

4 Q. And were you present?

5 A. Yes.

6 Q. And is 703 a fair and accurate recording of the events
7 you just testified about?

8 A. Yes.

9 MS. NEVIN: Your Honor, we are now offering 703
10 into evidence.

11 MS. O'NEILL-GREENBERG: No objection.

12 THE COURT: Hearing no objection, 703 will be
13 admitted.

14 MS. NEVIN: May we publish 703, Your Honor?

15 THE COURT: And it may be published.

16 (Government's 703, admitted and published.)

17 BY MS. NEVIN:

18 Q. I am going to show you the first frame of 703, which is
19 time stamped 16:11:59.

20 Now, what is this location that we're looking at?

21 A. In the tunnel of the Capitol.

22 MS. NEVIN: Can we just play it for like about
23 10 seconds, please.

24 (Whereupon, the video was published.)

25 MS. NEVIN: Thank you. We're stopping at time

1 stamp 16:12:10, and 11 seconds in.

2 BY MS. NEVIN:

3 Q. And were you present during what's playing in 703?

4 A. Yes.

5 Q. Now, I am showing you 704 for identification.

6 Do you recognize this location in 704?

7 A. Yes.

8 Q. And what is it?

9 A. It looks like a body cam footage of another officer on
10 January 6th at the Capitol.

11 Q. And have you reviewed this footage before testifying
12 here today?

13 A. Yes.

14 Q. And is it a fair and accurate recording of the events
15 you just testified about?

16 A. Yes.

17 MS. NEVIN: All right. Your Honor, we are now
18 offering 704 into evidence.

19 MS. O'NEILL-GREENBERG: No objection.

20 THE COURT: Hearing no objection, it will be
21 admitted. It may be published.

22 (Government's 704, admitted.)

23 MS. NEVIN: I am going to show you -- we're going
24 to go to about 2 minutes, which is time stamped 6:11:04, and
25 I'll play it for just a couple of seconds.

1 (Whereupon, the video was published.)

2 MS. NEVIN: Thank you.

3 We're stopping at 2:08, which is time stamped
4 16:11:11.

5 BY MS. NEVIN:

6 Q. Now, Officer, the vantage point for 704, fair to say
7 it's a little bit lower than your vantage point?

8 A. Yes.

9 Q. And why is that?

10 A. It looks like the officer is on the -- basically, on the
11 ground in this footage; whereas I was on the ledge, and I
12 had a top view of what was going on.

13 Q. I am now showing you 704.1 for identification.

14 Is this a still shot from the body cam in 704?

15 A. Yes.

16 Q. Has it been altered in any way?

17 A. No.

18 MS. NEVIN: Your Honor, we are now offering 704.1
19 into evidence.

20 MS. O'NEILL-GREENBERG: No objection.

21 THE COURT: Hearing no objection, it will be
22 admitted. It may be published.

23 (Government's 704.1, admitted and published.)

24 BY MS. NEVIN:

25 Q. What are we looking at in 704.1?

1 A. It looks like it's a screenshot from another officer's
2 body cam that's showing a partial of my body where I was
3 standing at.

4 Q. And so what part of your body can we see here?

5 A. Basically the legs.

6 Q. Can you circle yourself in this exhibit, please?

7 A. (Witness complies.)

8 MS. NEVIN: Let the record reflect that the
9 witness has circled the legs that we see in the center of
10 this exhibit.

11 THE COURT: Let the record so reflect.

12 BY MS. NEVIN:

13 Q. I am showing you 402.1, which is in evidence.

14 What are we looking at here, Officer?

15 A. This looks like camera footage that's inside the tunnel
16 facing the entrance.

17 Q. So it looks like there is something on the camera lens,
18 correct?

19 A. Correct.

20 Q. Do you know what that is?

21 A. I do not.

22 Q. I am now showing you Exhibit 611 for identification.

23 Do you recognize this photo?

24 A. Yes.

25 Q. How do you recognize it?

1 A. I took that picture of myself that day.

2 Q. And where did you take it?

3 A. In the bathroom.

4 Q. And was that the bathroom that you just described to us
5 a minute ago?

6 A. Yes.

7 Q. Does this exhibit fairly and accurately depict what you
8 looked like on January 6, 2021, during the events that you
9 have testified about?

10 A. Yes.

11 MS. NEVIN: Your Honor, I am now offering 611 into
12 evidence.

13 MS. O'NEILL-GREENBERG: No objection.

14 THE COURT: Hearing no objection, it will be
15 admitted.

16 MS. NEVIN: May we publish 611, Your Honor?

17 THE COURT: Yes, you may.

18 (Government's 611, admitted and published.)

19 BY MS. NEVIN:

20 Q. Officer, can you describe to the jury what's on your
21 uniform right now?

22 A. Well, there is a fire extinguisher on my shoulders --
23 that white powdery stuff was when we got sprayed by the fire
24 extinguisher in the tunnel. And then I have a paper towel
25 around my neck --

1 Q. Why do you have a paper towel around your neck?

2 A. To ease the pain.

3 Q. The pain from what?

4 A. Bear mace.

5 Q. Now, did there come a point where you actually left the
6 tunnel that day?

7 A. Yes.

8 Q. And how were you able to leave the tunnel?

9 A. I believe that we had some outside police agencies come
10 and help us out. When they came in, we were able to clear
11 that top level of the Capitol by the entrance into the
12 Capitol. They were able to clear it out. And once they
13 cleared it out, we were actually able to take a break and
14 leave.

15 Q. Officer, you testified a bit about the effects of the
16 bear mace. Did you have any other physical effects from
17 being in the tunnel on January 6th?

18 A. Yes. I mean, I was very tired, sore. I had back pain
19 from wearing that uniform for long hours.

20 Q. Officer, did your experience in the tunnel on
21 January 6th affect you in emotional ways at all?

22 A. Yes.

23 Q. What were you thinking about when you were in that
24 tunnel?

25 MS. O'NEILL-GREENBERG: Objection. Relevance.

1 THE COURT: Overruled.

2 THE WITNESS: Very scared, worried.

3 MS. NEVIN: No further questions, Your Honor.

4 MS. O'NEILL-GREENBERG: May I inquire?

5 THE COURT: Yes, you may. Please proceed.

6 CROSS-EXAMINATION

7 BY MS. O'NEILL-GREENBERG:

8 Q. Good afternoon, Officer.

9 A. Good afternoon.

10 Q. I know you testified on your direct that you were in the
11 tunnel for a few hours; is that right?

12 A. It was some long hours.

13 Q. And do you recall that some of those people -- some of
14 the protesters in the tunnel had -- were wearing different
15 kinds of gear on their body, right?

16 A. Yes.

17 Q. Some had -- I'll call it tactical military-style gear on
18 them, right?

19 A. Well, I haven't testified about that, but there were
20 some rioters that were wearing those kinds of gears.

21 Q. Okay. I'm just asking you what you remember seeing when
22 you were in the tunnel.

23 A. Correct.

24 Q. Do you recall seeing some protestors that had bike
25 helmets or makeshift helmets on?

1 A. Yes.

2 Q. Some were wearing just tactical -- or I will call it
3 tactical or military-style vests?

4 A. Yes.

5 Q. Some were wearing goggles or eye protection; is that
6 right?

7 A. Correct.

8 Q. Some of them had ski masks on, right?

9 A. Correct.

10 Q. Or some of them had bandanas or things wrapped around
11 their face; is that right?

12 A. Yes.

13 Q. And your -- now, your body-worn camera footage that we
14 just watched from when you were in the tunnel, the one that
15 had the yellow circle -- that's the same video, right, the
16 one with the yellow circle and the one without?

17 A. Yes.

18 Q. And the individual that was in that yellow circle wasn't
19 wearing any tactical gear, right?

20 A. Not that I know of.

21 Q. Okay. They weren't wearing any sunglasses or goggles?

22 A. I didn't see.

23 Q. They weren't wearing any body armor?

24 A. I didn't see it.

25 Q. And the body-worn camera that you had on your vest, you

1 had it in the center; is that right?

2 A. Yes.

3 Q. Is that something you wore every day?

4 A. Yes.

5 Q. And it was something that -- when you were on duty, it
6 was always on; is that right?

7 A. Yes.

8 Q. And it was something that was important for officers to
9 always have on; is that correct?

10 A. Yes.

11 Q. There are probably -- there's a lot of rules and
12 regulations about turning it on; is that right?

13 A. Yes.

14 Q. And then downloading it every day; is that right?

15 A. We don't downloading it.

16 Q. Docking it you said?

17 A. Yes, we dock it.

18 Q. You have to dock it every day?

19 A. Yes.

20 Q. So that then it can be uploaded or downloaded; is that
21 right?

22 A. Correct.

23 Q. Because documenting what the body-worn camera captures
24 is important, right?

25 A. Yes.

1 Q. Okay. The videos you were shown of the west terrace --
2 so the videos you were shown of the terrace earlier in the
3 day, do you remember those?

4 A. Yes.

5 Q. So before you went into the tunnel, correct?

6 A. Yes.

7 Q. That was from around 2:30 to 4; is that correct?

8 A. I don't know the exact times. But it -- it could have
9 been around those times.

10 Q. Okay. You said it was the afternoon; is that right?

11 A. It was in the -- I don't know the exact time we got
12 there, but it was between noon -- or in the afternoon; close
13 to those times, around those.

14 Q. Okay. And all of those individuals that were in that --
15 those videos, all of the protesters, you didn't interview
16 any of those people that day, right?

17 A. No.

18 Q. You don't know any of those people?

19 A. I don't.

20 Q. You don't know if those people know each other, correct?

21 A. I don't.

22 Q. Okay. You didn't do any investigation in this case at
23 all; is that right?

24 A. Correct.

25 Q. And the same for the individuals that were in the

1 tunnel, you never interviewed any of those people?

2 A. That's correct.

3 Q. You don't know if they know each other?

4 A. I don't.

5 Q. You have never spoken to any of them?

6 A. No.

7 Q. Okay. And you have watched your body-worn camera a few
8 times, fair to say, right?

9 A. Yes.

10 Q. Okay. Your actual memory from the incident -- you don't
11 remember individuals, specific people, in the tunnel, right?

12 A. I don't.

13 Q. When you watch your body-worn camera video with the
14 individual who had the yellow circle around him, you didn't
15 specifically recognize that person, correct?

16 A. Correct.

17 Q. And you don't know Mr. Gillespie; is that right?

18 A. I don't know him.

19 Q. You have never spoken to him; is that correct?

20 A. Never.

21 Q. You have never met him before?

22 A. No.

23 MS. O'NEILL-GREENBERG: Thank you.

24 No further questions.

25 THE COURT: Any redirect?

1 MS. NEVIN: No, Your Honor.

2 THE COURT: Officer Ak, you are excused.

3 And who is the government's next witness.

4 MS. SCHESNOL: Sergeant Paul Riley.

5 THE COURT: Ladies and gentlemen, the witnesses
6 sit in a room down the hall, it takes some time to collect
7 them. We have to be patient while they're traversing the
8 halls to get here. Again, feel free to stand up and stretch
9 so you can be fresh for the next witness.

10 Officer, please step forward to the witness stand.

11 (PAUL RILEY, Government witness, sworn.)

12 THE COURT: Good afternoon.

13 THE WITNESS: Good afternoon, ma'am.

14 THE COURT: Is it sergeant or officer?

15 THE WITNESS: Sergeant Paul Riley.

16 THE COURT: Sergeant, you can remove your mask
17 while you are testifying. And just make sure that
18 microphone is pulled up as close as possible -- perfect --
19 so we can hear you. Thank you.

20 Please proceed.

21 MS. SCHESNOL: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MS. SCHESNOL:

24 Q. Please state your name, spelling your name for the
25 record.

1 A. My name is Paul Riley. R-I-L-E-Y is my last name; Paul
2 is my first.

3 Q. Where do you currently work?

4 A. I currently work for MPD at the academy, in the use of
5 force section of the gym.

6 Q. "MPD," is it fair to say that's shorthand for --

7 A. Metropolitan Police Department. D.C. police.

8 Q. What's your rank?

9 A. Sergeant.

10 Q. How long have you been with MPD?

11 A. Twenty-eight years.

12 Q. How long have you been a sergeant?

13 A. Twenty-five.

14 Q. Prior to joining MPD, what did you do?

15 A. I was a college student, and I was also in the
16 United States Marine Reserves.

17 Q. With MPD, can you please describe what section or
18 position you were in on January 6, 2021.

19 A. The CDU, or the Civil Disturbance Unit, is a
20 department-wide activation or a department-wide secondary
21 job. I was deployed to the CDU detail as a sergeant under
22 the SOD guidance of the Special Operations Division.

23 Q. So we had a lot of acronyms.

24 "SOD" is?

25 A. Special Operations Division.

1 Q. And "CDU"?

2 A. CDU, Civil Disturbance Unit.

3 Q. Can you describe, very briefly, what some of your duties
4 and responsibilities were back on January 6, 2021, just in
5 that -- in that position.

6 A. Sure. So we need to facilitate large amounts of police
7 officers to go from one location to another, so we'll call
8 those "platoons"; they have a lieutenant, and four
9 sergeants.

10 As an SOD member -- detailed SOD member, I helped
11 facilitate the bosses or the lieutenants and captains in SOD
12 getting those people situated, set up, for whatever current
13 need is -- is directed at the time.

14 Q. On January 6, 2021, did you respond to the United States
15 Capitol Building?

16 A. Yes, ma'am. I did.

17 Q. Is the United States Capitol Building part of your
18 typical jurisdiction?

19 A. No, ma'am. That's a federal facility, that's not part
20 of our jurisdiction.

21 Q. So how did it come about that you ended up at the
22 United States Capitol on January 6, 2021?

23 A. So events that take place on the mall or in and around
24 the city -- usually the people need to traverse that city
25 from the Metro or streets, or pedestrians; however, other

1 agencies have responsibility for their own jurisdictions.
2 There was a distress call in which MPD members were needed
3 to assist, and I responded to that distress call.

4 Q. Do you recall approximately what time you ended up on
5 the United States Capitol grounds?

6 A. It was sometime after one o'clock.

7 MS. SCHESNOL: Can we please go to Exhibit 705.

8 BY MS. SCHESNOL:

9 Q. Are you familiar with Exhibit 705?

10 A. I am going to put my glasses on.

11 Q. Sure.

12 A. Yes, ma'am.

13 Q. Have you seen Exhibit 705 prior to today?

14 A. Yes, ma'am.

15 Q. What is it?

16 A. It's -- looks like footage of the Capitol grounds,
17 possibly from an individual, or body-worn camera.

18 Q. And is it possible that individual is you?

19 A. Yes, ma'am. This looks like the way I arrived and
20 approached at the Capitol that day.

21 Q. Does the body-worn camera have a date and time stamp?

22 A. Yes, ma'am.

23 Q. And what is that?

24 A. January 6, 2021, 1300 hours, 22 minutes, 27 seconds.

25 Q. For those of us not in the military, can you translate

1 what 1300 hours would be?

2 A. That would be one o'clock in the afternoon.

3 Q. And is Exhibit 705 a fair and accurate depiction of your
4 body-worn camera on January 6, 2021?

5 A. Yes, ma'am.

6 MS. SCHESNOL: Your Honor, the government moves
7 for the admission of Exhibit 705.

8 MR. WATKINS: Objection. Relevance, and form.

9 THE COURT: Overruled. Over objection, this will
10 be admitted.

11 MS. SCHESNOL: And may we publish?

12 THE COURT: Yes.

13 (Government's 705, admitted and published.)

14 MS. SCHESNOL: Please press play.

15 BY MS. SCHESNOL:

16 Q. Can you just describe for us what -- what is happening
17 here? What you are doing?

18 A. So the distress call that I mentioned earlier was
19 broadcast over MPD's air, which would be a radio that we
20 would be listening to. I was closer towards the White
21 House, on 14th Street.

22 When I heard that radio transmission, I responded
23 in my police vehicle. I got as close to the Capitol as I
24 could, which was on the south side, west -- looking at the
25 west side of the Capitol.

1 I got out of my vehicle, and responded up towards
2 the Capitol in the area in which the assistance was
3 requested and needed.

4 That is me traversing the barricades, and
5 responding to the location in which I can be of most
6 assistance -- or assist the command or the officers on the
7 scene.

8 Q. And so what are you doing to assist at the Capitol at
9 this time?

10 A. So it could be anything from actually standing on line,
11 if that's what is needed, and fill a gap until other
12 officers get there.

13 As a sergeant, one of my duties would be to make
14 sure and organize the officers that would be delegated, or
15 to ask sergeants and lieutenants and help facilitate the
16 communications in order to provide a safe environment in
17 which to -- make a police line and so we could assist the
18 crowd, in either stopping the crowd or moving them from one
19 area to another.

20 (Whereupon, the video was published.)

21 BY MS. SCHESNOL:

22 Q. So we heard from an earlier witness about how body-worn
23 camera -- sometimes there is a delay in the audio.

24 Can you just describe that for us, again, since
25 the audio just kicked in?

1 A. Yes, ma'am. So the body-worn camera, when it's on it is
2 recording. However, when you activate it, it starts the
3 visual -- correction, it starts the audio which puts the
4 sound on it, and it has a two-minute buffer. So it
5 starts -- the view is from two minutes prior, and then the
6 sound starts when you activate your camera.

7 You would activate your camera as a police officer
8 when you believe that there might be some sort of police
9 activity in which your -- your actions might be later needed
10 in court or in a report.

11 Q. So you don't leave your body-worn camera on, like, the
12 whole time you are on duty?

13 A. So you would turn it on, and then you would activate it
14 when you arrive on a scene that would need, you know, police
15 documentation.

16 Q. So there is a difference between turning it on and
17 activating it?

18 A. Yes, ma'am.

19 And once you heard the sound -- so it was
20 activated, that's why the sound -- that's why it was quiet
21 prior to; and then it was -- the sound was on, so that means
22 it was activated by the individual, or me.

23 Q. Again, you being that individual?

24 A. Yes.

25 MS. SCHESNOL: Can we please press play again.

1 (Whereupon, the video was published.)

2 MS. SCHESNOL: Can we pause it there.

3 So we're pausing the video here at 1 minute and 57
4 seconds into the video, which is 13:24:22.

5 BY MS. SCHESNOL:

6 Q. And can you just sort of set the scene for us and what
7 is happening here?

8 A. There is a large amount of people in front of the
9 Capitol. They are armed with various different weapons,
10 such as the man right there with a stick. They are agitated
11 and verbally aggressive; and they are poised for a problem
12 and a confrontation with the police.

13 So we have had numerous instances over the radio.
14 And this is my personal location in front of this group here
15 where -- where we're trying to make a police line and keep
16 them behind the barricades, which are bike fencing or bike
17 racks, depending on how you want to say that.

18 Q. And how did that work, keeping people behind the bike
19 racks?

20 A. It did not work very well at all.

21 MS. SCHESNOL: Can you please press play again.

22 (Whereupon, the video was published.)

23 MS. SCHESNOL: Pause please.

24 We've paused here, at 2 minutes and 43 seconds.

25 BY MS. SCHESNOL:

1 Q. The people who are not law enforcement, do they have a
2 right to be where they are at this point?

3 A. So I -- I don't believe so. At this point, the police
4 are trying -- they have given verbal commands, as well as
5 soft-hand control methods in order to direct them to leave
6 the area in which they are occupying. They have already
7 occupied the large tower-like structure, and we have -- are
8 trying to maintain control and re-establish a police line
9 off of that area; and that's where the officers are trying
10 to move forward. The nonlaw enforcement are not complying
11 with verbal or soft-hand control directions.

12 Q. And so far in the video, what we have watched so far, it
13 appears that there have been some members of law enforcement
14 in the video. Have you seen that?

15 A. There are other law enforcement officers in the video,
16 that's correct.

17 Q. And did you recognize from which agencies those law
18 enforcement officers might have been from?

19 A. Yes, ma'am. There was a combination. It's Capitol
20 Police, and also some officers I work with at the D.C.
21 police.

22 Q. And so MPD -- you said you responded to a distress call;
23 is that correct?

24 A. Yes, ma'am.

25 Q. And would the same be true for other MPD officers?

1 A. Yes, ma'am.

2 Q. So is it fair to say that MPD was assisting Capitol
3 Police on January 6th?

4 A. Yes, ma'am.

5 MS. SCHESNOL: Can you press play again.

6 (Whereupon, the video was published.)

7 MS. SCHESNOL: Press pause.

8 We've paused the video at 4 minutes and

9 20 seconds, which is time stamped 1:26:45.

10 BY MS. SCHESNOL:

11 Q. Can you describe some of the things we have seen since
12 we last paused the video until we paused it now?

13 A. So I think there's a -- an altercation between a few of
14 the protestors and the police that got a little violent.
15 There's OC spray being dispersed, I think, on both sides. I
16 do believe that they have used their sticks and poles to
17 assault the officers, to include myself. And so that's
18 starting to be the beginning of a major altercation between
19 us and the protesters that day.

20 Q. Did you recognize any of the law enforcement officers in
21 the video that we have played?

22 A. Due to their gear -- if they said who they were, I would
23 recognize them. I think the one where we're paused now is
24 an MPD Captain. If that's Captain Harrington, I do
25 recognize him right now. I do -- I know that Jimmy

1 Christman [sic] is in the video, he's a Domestic Security
2 Officer, SOD officer. So, yes, I do recognize familiar
3 people inside the law enforcement.

4 MS. SCHESNOL: Please press play again.

5 (Whereupon, the video was published.)

6 MS. SCHESNOL: Press pause.

7 We have paused here, at 5 minutes and 8 seconds,
8 which is 13:27:32.

9 BY MS. SCHESNOL:

10 Q. Why are you being offered water at this point?

11 A. I believe that that first or second altercation, not
12 only being struck several times, I think I -- I was sprayed,
13 pointblank, with OC or bear spray, and I think that it's
14 turning my face red or bright red. And they -- the officers
15 are observing that, and it looks like I need help with some
16 decon. I don't have any water with me, so they're offering
17 assistance.

18 Q. What do you mean by "decon"?

19 A. It's an irritant, so hopefully the water can lessen the
20 effects or get rid of the contaminant out of my eyes so I
21 can return back to the line.

22 Q. Is it fair to say that "decon" might be short for
23 decontamination?

24 A. Decontamination. Yes, ma'am.

25 MS. SCHESNOL: Please press play again.

1 (Whereupon, the video was published.)

2 THE COURT: We have paused the video at 5 minutes
3 and 41 seconds, or 13:28:05.

4 BY MS. SCHESNOL:

5 Q. What has happened here with your body-worn camera?

6 A. So wherever I am towards the back of the skirmishes -- I
7 am noticing a skirmish where they're coming through the
8 line, so I try to get up to the front in order to head that
9 off or at least slow it down.

10 At that time, my body-worn camera is either
11 knocked, ripped, or taken off of my person, and it's no
12 longer going to be attached.

13 Q. And when you say taken off your person, that sort of
14 sounds like cop speak for it was no longer on your chest?

15 A. It was no longer -- at some point it's going to be
16 dislodged from my uniform and is going to go away from me,
17 yes, ma'am.

18 MS. SCHESNOL: Can we press play again.

19 (Whereupon, the video was published.)

20 MS. SCHESNOL: Please press pause.

21 Can you back up just a couple of seconds?

22 Thank you.

23 (Whereupon, the video was published.)

24 MS. SCHESNOL: Can you pause right there.

25 So we have paused the video at 5 minutes and

1 56 seconds, or 13:28:20.

2 BY MS. SCHESNOL:

3 Q. What do we see here?

4 A. We see my attempt to get that camera back into my
5 possession. It's fallen in between a crowd of officers and
6 a crowd of protesters, and it's not in a good spot.

7 Q. So is it fair to say that's, basically, you crouching
8 down over your body-worn camera?

9 A. That's me looking at my own body-worn camera because
10 it's on the ground. Yes, ma'am.

11 Q. And your giant hand in the forefront?

12 A. And my hand going to grab that camera as quickly as I
13 can.

14 Q. Why were you trying to get it as quickly as you could?

15 A. It's just in a bad spot. I don't want to lose it, and
16 it's not in a good spot. It's too close to the protesters.
17 If I don't get it now, I might not see it again ever.

18 MS. SCHESNOL: Please press play.

19 (Whereupon, the video was published.)

20 MS. SCHESNOL: So we have paused at 6 minutes and
21 25 seconds, or 13:28:50.

22 BY MS. SCHESNOL:

23 Q. Where is your body-worn camera now?

24 A. I am not going to attempt to put it back on my chest. I
25 think I held it in my hand and put it in my pocket to secure

1 it.

2 Q. Why did you not want to put it back on your chest?

3 A. The way that they affixed at the time -- the other piece
4 wasn't there, so I didn't want to keep messing with it. I
5 was dealing with a threat directly -- directly to the front,
6 in front of me, so I put it in my pocket and secured it, and
7 maybe I could readjust it later.

8 Q. What do you mean there was another piece that wasn't
9 affixed?

10 A. So the body-worn camera affixes to your -- the front of
11 your uniform. And on the back plate is a magnet, and it had
12 been -- it had been broken or broken apart, so I did not
13 have the whole thing to put back together again. So I
14 secured it in my pocket.

15 Q. Did your body-worn camera remain activated for the
16 remainder of the afternoon on January 6, 2021?

17 A. I believe so, yes.

18 Q. And prior to today, did you have the opportunity to sort
19 of skim through the several hours of your body-worn
20 camera --

21 A. Yes.

22 Q. -- that was activated throughout the afternoon?

23 A. Yes, ma'am.

24 Q. Essentially, what, if anything, was captured on your
25 body-worn camera, basically from this point forward, at

1 1:28 p.m., through the rest of the afternoon?

2 A. The camera was on visually inside my pocket, but the
3 audio was still working and capturing all of the mayhem and
4 noises from the outside.

5 MS. SCHESNOL: If we can please pull up
6 Exhibit 401.

7 BY MS. SCHESNOL:

8 Q. 401 has already been admitted. We have already had a
9 couple of witnesses testify about it, so I don't want to
10 spend too long with it. I do want to pull it up because I
11 believe it's relevant to some of your testimony.

12 MS. SCHESNOL: Can you press play, please.

13 (Whereupon, the video was published.)

14 BY MS. SCHESNOL:

15 Q. And we'll just talk while this is running. Okay?

16 A. Yes, ma'am.

17 Q. So have you seen Exhibit 401 prior to today?

18 A. Yes, ma'am. I have.

19 Q. And can you describe, from your experience on January 6,
20 2021, what we are watching in Exhibit 401?

21 A. So you're observing the people headed toward the Capitol
22 and responding as a protest to the actual time and place of
23 their protest, which is the U.S. Capitol. They have cut
24 through whatever police lines, signs, and bike racks that
25 were already placed, snow fencing, whatever was available at

1 the Capitol.

2 At this point, Capitol says they need assistance,
3 and then it is -- it is relayed to MPD. MPD asked for their
4 manpower to respond. And at that point we try to establish
5 CDU, civil disturbance, a police line to keep the crowd from
6 accessing that area of the Capitol.

7 Q. And being that you have watched Exhibit 401 before, have
8 you been able to identify yourself in this video?

9 A. Yes, ma'am.

10 Q. And throughout the video, can you describe what happens
11 with that police line, people compromising the police line,
12 and whether or not you are ever able to re-establish it, and
13 for how long?

14 A. So I am wearing a yellow jacket similar to the one I am
15 wearing today. I am back and forth in the background in the
16 yellow jacket. We are trying to establish a police line.

17 At some point, either their protective gear they
18 are wearing is making our efforts ineffective, so crowd
19 disbursement and verbal are not working. They are
20 determined to come through the police line and -- at which
21 time we have to re-establish our plans to try to make that
22 not possible. So by adding people or using pepper spray or
23 using force, we are trying to establish and hold the police
24 line; and we are very ineffective in that.

25 Q. At some point is the police line essentially compromised

1 altogether?

2 A. Yes, ma'am. It is compromised altogether numerous
3 times.

4 Q. Does there come a point where you are not able to
5 re-establish the line?

6 A. Where we were just in that video, we reestablished it
7 numerous times and it failed numerous times, to the point
8 where it came to a complete failure right there at that last
9 couple of minutes -- at which time we relocated to an
10 alternative location.

11 Q. Where was the alternative location that you relocated
12 to?

13 A. So that -- that answer is complicated. My particular
14 location was inside the tunnel. The other officers went to
15 different various places. But the majority of the people I
16 was near or around, we went to the tunnel.

17 Q. Okay. So let's talk about where you went on that
18 day and --

19 THE COURT: Would this be a good time to stop for
20 lunch, before you get to the tunnel?

21 MS. SCHESNOL: Sure.

22 THE COURT: So, ladies and gentlemen, do not talk
23 about the case among yourselves or with anybody else. Enjoy
24 your lunch. If you can, be back by 1:30 so we can resume.

25 (Whereupon, the jury was excused.)

1 THE COURT: All right. We'll see you in one hour.

2 (Whereupon, a luncheon recess was taken.)

3 THE COURT: Are we ready to bring the jury in?

4 MS. SCHESNOL: Yes, Your Honor.

5 THE COURT: Sergeant Riley, you may have a seat.

6 (Whereupon, the jury returns to the courtroom.)

7 THE COURT: All right. Ms. Schesnol, do you want
8 to resume?

9 MS. SCHESNOL: Thank you, Your Honor.

10 BY MS. SCHESNOL:

11 Q. Sergeant Riley, you are still under oath. You can take
12 your mask off to testify.

13 Before we broke for lunch you were -- I believe
14 you were just saying that you and other officers were
15 relocating from your position on the west plaza, I guess, to
16 higher ground; is that accurate?

17 A. Yes, ma'am.

18 Q. So can you describe where -- where you went when you
19 relocated from the images we saw in Exhibit 401?

20 A. So the location that I responded to was what I call the
21 "tunnel," which would be west -- from the west terrace into
22 the tunnel, which was the doorway straight to our six
23 o'clock, our rear.

24 Q. Okay. And --

25 A. Up the steps, onto another terrace, straight into the

1 tunnel.

2 MS. SCHESNOL: Okay. May we pull up
3 Exhibit 211.2, which is already admitted.

4 And because it's already admitted, may we publish
5 that to the jury?

6 THE COURT: Yes, you may.

7 MS. SCHESNOL: Thank you.

8 (Whereupon, the exhibit was published.)

9 BY MS. SCHESNOL:

10 Q. So looking at Exhibit 211.2, which is in front of you,
11 can you please describe --

12 MR. WATKINS: Judge, I see a couple of hands up in
13 the jury.

14 THE COURT: Did you publish it?

15 Oh, is your -- you're not -- it's not working?

16 THE JUROR: If he can get closer to the mic.

17 THE WITNESS: She said: I can't hear the witness.

18 THE COURT: Oh, you can't hear him.

19 THE WITNESS: Can she hear me now? Is this
20 better?

21 THE COURT: Yes. Move your microphone even
22 closer.

23 THE WITNESS: I'll sit right here.

24 BY MS. SCHESNOL:

25 Q. You are not normally accused of being a low talker, are

1 you?

2 A. I am not accused of being a low talker.

3 Q. Let's make sure that you do not earn that reputation
4 today.

5 A. Yes, ma'am.

6 Q. Okay. So in Exhibit 211.2, can you please show the jury
7 where you were when you relocated to the tunnel area?

8 A. Yes, ma'am.

9 Within the red circle, there is a smaller red
10 circle. I believe that is the tunnel where we responded to
11 and relocated.

12 Q. And when you were in the tunnel looking out -- so not
13 behind you, but out -- what were you facing?

14 A. So a sea of people, or what view am I looking at in the
15 big picture?

16 Q. How about both?

17 A. So I am looking at double doors. I'm looking at an
18 edifice or a structure that's open, and then there's doors.
19 I am looking out onto an area which is full of people.

20 Q. And which direction would you be facing?

21 A. I would be facing west.

22 Q. And to orient the jury, what -- what could you see
23 down -- as you looked west?

24 A. So directly in front is that tower that I mentioned
25 earlier of the scaffolding that's set up for the

1 inauguration; however, the Washington Monument would be
2 directly behind that.

3 Q. Thank you.

4 Approximately, if you remember, about what time
5 did you go up to that lower west terrace tunnel area?

6 A. I would have to look at the video or the notes. It
7 would be when that crowd broke the lines and we relocated.

8 MS. SCHESNOL: Can we pull up Exhibit 706, please.

9 BY MS. SCHESNOL:

10 Q. So playing just for you, not for the jury, do you
11 recognize what Exhibit 706 is?

12 A. Yes, ma'am.

13 Q. What -- can you describe what this is, what 706 is?

14 A. So the video that I am watching, it looks like officers
15 have gotten the word that we are going to relocate and
16 re-establish a line, and it looks like -- at the Capitol or
17 inside the Capitol; and they are pulling us back. So
18 whoever is still left out on the tunnel [sic] -- we are
19 being redirected into the tunnel.

20 Q. Have you watched Exhibit 706 prior to today?

21 A. I believe so.

22 Q. And do you recall seeing yourself in this video?

23 A. I believe so, yes.

24 Q. Is this a fair and accurate depiction of what was going
25 on -- well, what's the time on this body-worn camera?

1 A. The time on this -- the screen is 1440, which would be
2 2:40 p.m. on January 6th.

3 Q. Is this a fair and accurate depiction of what was
4 happening on the lower west terrace and near the tunnel at
5 2:40?

6 A. Yes, ma'am.

7 MS. SCHESNOL: Your Honor, the government moves
8 for the admission of Exhibit 706.

9 MR. WATKINS: Objection. Relevance, 403, and
10 personal knowledge.

11 I don't know whether he said --

12 THE COURT: Okay. Let's -- let's hear what you're
13 saying.

14 (A bench conference was held as follows:)

15 THE COURT: Okay. And you think it's not relevant
16 because you think no context is relevant here except for
17 where your client is actually seen on videotape. You think
18 it's 403 because -- for the same reason? And you think --
19 you are also claiming lack of authentication because no
20 personal knowledge, is that -- do I understand that
21 correctly?

22 MR. WATKINS: As I understood her question to the
23 witness is -- is that you -- are you on that video? And he
24 says -- I think he was very equivocal about it, and that's
25 why I don't think there is a personal knowledge aspect to

1 it.

2 THE COURT: Okay. So let me take that -- let me
3 take that one by one.

4 For your objections on relevance and 403, because
5 you think no context in the middle of a riot is relevant to
6 your client -- for all of the reasons I have already
7 articulated, definitely overruled.

8 With respect to personal knowledge, he did say he
9 didn't know whether this was the videotape he was on or not.
10 So do you want to show him that part to refresh his
11 recollection so we can get a clear statement as to the fact
12 that this was the videotape he watched?

13 MS. SCHESNOL: I will do that, Your Honor.

14 THE COURT: Thank you.

15 (Whereupon, the bench conference concludes.)

16 MS. SCHESNOL: Exhibit 706 is, I believe, about a
17 45-second video. If we can play the whole thing for
18 Sergeant Riley; it is 45 seconds.

19 BY MS. SCHESNOL:

20 Q. Now that you have seen Exhibit 706 in its entirety, do
21 you see yourself in this video?

22 A. Yes, ma'am.

23 Q. Is this a fair and accurate depiction of the events in
24 the lower west terrace and into the tunnel at approximately
25 2:40, on January 6, 2021?

1 A. Yes, ma'am.

2 MS. SCHESNOL: Your Honor, the government moves
3 for the admission of Government Exhibit 706.

4 THE COURT: Do you still object on authentication
5 grounds?

6 MR. WATKINS: I'm sorry?

7 THE COURT: Do you still object personal knowledge
8 and authentication grounds?

9 MR. WATKINS: No. Relevance, and 403.

10 THE COURT: Okay. Objection on the other grounds
11 overruled; and it will be admitted.

12 MS. SCHESNOL: Thank you.

13 May we publish Exhibit 706?

14 THE COURT: And you may publish it.

15 MS. SCHESNOL: So please play again from the
16 beginning for the jury.

17 (Government's 706, admitted and published.)

18 MS. SCHESNOL: Can you pause right there.

19 BY MS. SCHESNOL:

20 Q. What is this clear, plasticky thing we're looking at at
21 11 seconds into Exhibit 706?

22 A. So that is -- that is a shield that looks like it's
23 issued to the United States Capitol.

24 Q. And what is the archway sort of in the center of this --
25 where we have paused at?

1 A. That's the -- that's the tunnel.

2 MS. SCHESNOL: Please press play.

3 (Whereupon, the video was published.)

4 MS. SCHESNOL: Please pause.

5 Can we go back like a half a second or so.

6 (Whereupon, the video was published.)

7 BY MS. SCHESNOL:

8 Q. Okay. So what we're -- because body cam is affixed to
9 someone, is it fair to say it's -- the camera moves when the
10 person moves; is that fair to say?

11 A. Yes, ma'am.

12 Q. Okay. And did you see yourself in this video?

13 A. Yes, I do.

14 Q. And can you still sort of see yourself where we have
15 paused it here at -- I can't see how many seconds -- 21
16 seconds?

17 A. Yes, ma'am.

18 Q. Can you -- if you actually touch your screen, you can
19 actually mark on the screen where you are.

20 A. I did.

21 Q. Can you mark a circle?

22 A. Yeah. The yellow jacket. Kind of here, with the --
23 that area up in there (indicating).

24 MS. SCHESNOL: Your Honor, may the record reflect
25 that the witness has placed a blue circle of sorts on the

1 right side of the screen.

2 THE COURT: Let the record so reflect.

3 MS. SCHESNOL: Thank you. Thank you, Your Honor.

4 BY MS. SCHESNOL:

5 Q. And this -- the jacket that you are wearing on
6 January 6, 2021, in this video, is that the same or similar
7 to the jacket that you are wearing today in Court?

8 A. Yes, ma'am. It is a similar jacket.

9 Q. And is this standard uniform?

10 A. The purpose of the yellow jacket is for reflective or
11 identifying purposes. So, yes, it's -- can be standard,
12 yes, ma'am.

13 MS. SCHESNOL: Can we press play again.

14 (Whereupon, the video was published.)

15 MS. SCHESNOL: Please pause here.

16 We have paused the video at 42 seconds.

17 BY MS. SCHESNOL:

18 Q. Do you see yourself at the 42-second mark of
19 Exhibit 706?

20 A. Yes, ma'am, I do.

21 Q. Can you circle yourself, touching the screen.

22 A. All right. Circle rules (witness complies).

23 MS. SCHESNOL: Your Honor, may the record reflect
24 that the witness has circled himself in, generally, the
25 middle of the screen.

1 THE COURT: Yes. Let the record so reflect.

2 MS. SCHESNOL: Thank you.

3 BY MS. SCHESNOL:

4 Q. And so we have already talked about the jacket you were
5 wearing on January 6th. Your hairdo looks a little
6 different.

7 A. Yes, ma'am.

8 Q. What's going on with the long hair, you hippie?

9 A. So there was a COVID thing, and there was a barber shop
10 issue, so I -- we didn't have grooming standards strictly
11 enforced. So I have very lax grooming standards, hence the
12 long hair, and the sunglasses to keep said long hair in
13 place if possible.

14 Q. Do you have said sunglasses on your head right now?

15 A. Yes, ma'am, and also hair product.

16 Q. What is happening in this video with the team of MPD
17 officers?

18 We're at 2:40 p.m. and 45 seconds.

19 What are you all doing, and why?

20 A. So we have tried to reassemble the people that we have
21 and try to get an assessment of the threat level. The
22 threat level assessment is pretty obvious. The key here is
23 how are we going to respond to that? And we have different
24 people from different units and agencies. So we figured
25 that this place would be a good place to assemble and get a

1 plan together.

2 The officers that are hurt or contaminated will be
3 dealt with accordingly, and then will regroup and establish
4 a police line or a police plan of action.

5 Q. Inside the -- so this tunnel comes from outside. Where
6 does it go to?

7 A. So at the time I don't have any idea. We have to figure
8 all that out. So we're trying to figure that out.

9 So as I come into the tunnel, at this point the
10 safety of the officers is paramount. And like I said, to
11 regroup and establish a police line and maintain our police
12 thumbprint, we have to figure something out; so this is
13 where we're going to do it.

14 Q. Did it lead to an indoor area, another outdoor area?

15 A. So eventually I am going to find out that it Ts at the
16 end. One direction, right, goes to a bathroom and something
17 else down that way, and the other way goes left somewhere; I
18 never went back that further.

19 I stayed mainly in the tunnel between -- what
20 we're looking at there is the doorway and maybe 20 yards, 10
21 yards behind that opening.

22 Q. Is it fair to say that it actually goes inside the
23 Capitol Building itself?

24 A. Yes, ma'am. It's fair to say that it does go into the
25 Capitol Building.

1 Q. And in the video that we have watched, 706, did you
2 recognize any other members of MPD?

3 We can go back about 10 or 15 seconds, if that
4 would be helpful.

5 A. So I recognize -- I recognize other members of MPD going
6 into that tunnel as well. Yes, ma'am.

7 MS. SCHESNOL: Can we go back about 15 seconds?

8 (Whereupon, the video was published.)

9 BY MS. SCHESNOL:

10 Q. Do you recognize any people on the video?

11 A. I believe that's Commander Kyle in the hat with the soft
12 cover and the trench coat/raincoat.

13 Q. Can you circle Commander --

14 A. Am I circling -- yes, ma'am.

15 Q. And who is Commander Kyle?

16 A. He is a commander of one of the specialized units in the
17 department.

18 MS. SCHESNOL: Your Honor, may the record reflect
19 the witness has placed a blue circle just to the left of
20 center on the screen.

21 THE COURT: Let the record so reflect.

22 MS. SCHESNOL: Thank you.

23 If we could then pull up Exhibit 707, please.

24 BY MS. SCHESNOL:

25 Q. I am going to have you watch part of this before we seek

1 to admit it. While you are watching it, we'll chat a bit.

2 Have you seen Exhibit 707 prior to today?

3 A. Yes, ma'am.

4 Q. And can you describe what Exhibit 707 is?

5 A. It's the video that is documenting the fact that we're
6 coming in from the terrace onto the -- into the tunnel and
7 then going back inside for decontamination, regrouping, and
8 restaging.

9 Q. Have you seen yourself in Exhibit 707 thus far?

10 A. I believe so, yes, ma'am. While I was describing the
11 scene, I think I did. Yes, ma'am.

12 MS. SCHESNOL: We can go back a little bit.

13 THE WITNESS: So, yes, ma'am. Right there
14 (indicating).

15 BY MS. SCHESNOL:

16 Q. Okay. And as this video played, because we haven't
17 admitted it yet, does this appear to be body-worn camera?

18 A. Yes, but not mine.

19 Q. But you're captured in this video; is that fair?

20 A. Yes, ma'am. I am captured in this video.

21 Q. And what time, approximately, is this body-worn camera
22 taken?

23 A. 1440 police time; 2:40 p.m.

24 Q. Is Exhibit 707 a fair and accurate depiction of what was
25 happening at the United States Capitol on January 6, 2021,

1 at approximately 2:40 in the afternoon?

2 A. Yes, ma'am.

3 Q. And you know that because you're actually -- you were
4 there at the time?

5 A. That's correct. Yes, ma'am.

6 MS. SCHESNOL: Your Honor, the government moves
7 for the admission of Exhibit 707.

8 MR. WATKINS: Objection. Relevance, form, 403.

9 THE COURT: Objection overruled. It is admitted.

10 MS. SCHESNOL: And may we publish?

11 THE COURT: Yes.

12 MS. SCHESNOL: Will you please play it again from
13 the beginning for the jury.

14 (Government's 707, admitted and published.)

15 MS. SCHESNOL: We've paused the video at
16 10 seconds.

17 BY MS. SCHESNOL:

18 Q. Can you just describe what we're seeing here, in terms
19 of sort of the architecture and doors, things like that?

20 A. Yes, ma'am.

21 So upon entering the tunnel, there are two sets of
22 double doors; they're brass or metal, in color, with glass
23 panes. They're pretty heavy-duty doors. There is the one
24 set that's in the center of the screen; to the right is the
25 opening in the tunnel; and, to the left, you can barely see

1 the opening of the secondary double doors, the corner -- top
2 corner of it is in the left-hand part of the screen.

3 Q. Do you see any signage about what will happen if the
4 doors remain open?

5 A. Yes, ma'am. I do.

6 Q. Can you tell us about that?

7 A. The doors, when properly closed and secured, will sound
8 an alarm if they are opened -- unauthorized opening of the
9 door.

10 Q. Do you recall hearing any alarm when you were in the
11 lower west terrace tunnel in the afternoon of January 6?

12 A. Yes, ma'am. I couldn't get the noise of that alarm out
13 of my head for a long time. It was extremely loud and
14 annoying, and was relentless.

15 Q. And when you say you couldn't get it out of your head
16 for a long time, do you mean even after you left the Capitol
17 that day?

18 A. Yes. It was -- it was just a constant reminder.

19 MS. SCHESNOL: Please press play again.

20 (Whereupon, the video was published.)

21 MS. SCHESNOL: Please pause.

22 BY MS. SCHESNOL:

23 Q. Do you recognize -- we've paused here, at 14 seconds.

24 Do you recognize the individual in the white shirt
25 that we see?

1 A. I do.

2 Q. Who is that?

3 A. That looks at the time -- he is now a commander. His
4 rank in this picture is Lieutenant Jason Bagshaw of Special
5 Operations Division.

6 Q. And we see other MPD officers; is that correct?

7 A. That is correct.

8 Q. Can you describe to us why some officers are in white
9 shirts and ties and some are in yellow jackets and some
10 people are in other gear altogether?

11 A. Yes, ma'am. The general purpose would be for
12 identification purposes. Each platoon has different jobs
13 and designations and gear that is supplied or equipped.

14 The white shirt is a command official or someone
15 that is in charge, usually the rank of lieutenant and above.

16 The person in the dark blue has a certain job and
17 designation; I am not sure what their actual job is in
18 particular.

19 However, regardless of their rank, all three of
20 these uniforms would be appropriate at the time. The yellow
21 jacket is for rain, reflective, cold, et cetera.

22 MS. SCHESNOL: Please press play again.

23 (Whereupon, the video was published.)

24 MS. SCHESNOL: We paused at 36 seconds into
25 Exhibit 707.

1 BY MS. SCHESNOL:

2 Q. Do you see yourself in this video?

3 A. Yes, ma'am. I do.

4 Q. Where are you?

5 A. (Indicating).

6 MS. SCHESNOL: Your Honor, may the record reflect
7 that Sergeant Riley has circled himself in blue on the lower
8 half of the screen in the center.

9 THE COURT: Let the record so reflect.

10 MS. SCHESNOL: Thank you, Your Honor.

11 Please press play again.

12 (Whereupon, the video was published.)

13 MS. SCHESNOL: Please pause.

14 Actually, go forward a little bit.

15 (Whereupon, the video was published.)

16 MS. SCHESNOL: Please pause.

17 BY MS. SCHESNOL:

18 Q. Do we see Commander Kyle in this -- in this frame? We
19 have paused at 48 seconds.

20 A. Yes, ma'am. I do.

21 Q. And which officer is that -- or which commander is that?

22 A. (Indicating.)

23 Q. Is it the individual with his back to the camera or the
24 one behind him?

25 A. So I believe the one that you can see the shiny -- on

1 his hat is a Capitol Police Officer. He was at the door.

2 I believe the one I circled with -- the main
3 person in the frame, with his back towards the camera, is
4 Commander Kyle.

5 MS. SCHESNOL: Your Honor, may the record reflect
6 the witness has identified Commander Kyle with the blue
7 circle on the lower left-hand side of the screen.

8 THE COURT: Yes. Let the record so reflect.

9 MS. SCHESNOL: Thank you.

10 Please press play again.

11 (Whereupon, the video was published.)

12 MS. SCHESNOL: Please pause.

13 BY MS. SCHESNOL:

14 Q. Sergeant, we've paused at one minute.

15 Could you hear someone saying something about
16 needing a line?

17 A. I could hear that, yes, ma'am.

18 Q. Can you explain to the jury what that means?

19 A. So, as I was explaining earlier, we were trying to
20 regroup and establish a police line. So we're trying to
21 hold the best we can with what we have, and at this point
22 we're going to hold the line at those doors.

23 So I am asking -- or somebody is asking for people
24 to go ahead and step up and make a police line, shoulder to
25 shoulder, back to front, whatever we need to do to establish

1 a police line.

2 Q. Can you describe the number of law enforcement officers
3 in relation to the number of nonlaw enforcement individuals?

4 A. So if you are asking the question as to how many
5 protesters and how many -- how many people are involved
6 outside that are not part of MPD or U.S. Capitol, it's
7 significantly -- we're outnumbered probably 30 to 1, 40 to
8 one.

9 Q. When you go to other -- when you work other protests,
10 what are the sort of physical conditions or are they
11 different than they were here at the Capitol in the lower
12 west terrace tunnel? And, if so, how?

13 A. So they're very different.

14 The -- we're a city agency that responds all over
15 our city. This is a closed, contained environment, and we
16 have little experience with holding a building during a
17 siege.

18 MS. SCHESNOL: Please press play again.

19 (Whereupon, the video was published.)

20 MS. SCHESNOL: Please pause.

21 We have paused at 1 minute and 15 seconds.

22 BY MS. SCHESNOL:

23 Q. Can you please describe what we have seen since the last
24 pause until this point?

25 A. So the goal here is to establish a police line and we're

1 going to try to get people up front and do -- and be in the
2 way of something that's very bad; and we're just going to
3 try to rally the troops and go for it.

4 Q. Do we see you as the primary individual where we have
5 paused it here, at 1 minute and 15 seconds?

6 A. Yes. I would probably be the person doing that. That's
7 me, yes.

8 Q. "Probably," or that is you?

9 A. That is me.

10 Q. And could you hear yourself saying anything before we
11 paused the video?

12 A. I was offering some words of encouragement to go up
13 there and get on the front line; that is correct.

14 Q. What were you saying?

15 A. Let's go. Let's get up there MPD.

16 Q. And what was -- why were you saying that? What was your
17 point?

18 A. Well, we had to motivate because we were facing a very
19 large crowd of people, and it's not looking very good, so...

20 Q. What do you mean: It's not looking good?

21 A. Well, we're outnumbered 30 to 1, and it's not looking
22 good. The potential for us to not be successful is high.

23 Q. What do you mean by "not be successful"?

24 A. So they are going to take the Capitol.

25 Q. And by "they," who do you mean?

1 A. The people outside.

2 MS. SCHESNOL: Please press play again.

3 (Whereupon, the video was published.)

4 MS. SCHESNOL: Please pause.

5 BY MS. SCHESNOL:

6 Q. Just before we paused it here, at 1 minute and 23
7 seconds, could you hear someone saying something?

8 A. Yes, I could. But I -- you would have to -- I wasn't
9 paying attention.

10 MS. SCHESNOL: Can we go back about 10 seconds and
11 press play again.

12 (Whereupon, the video was published.)

13 MS. SCHESNOL: Please pause.

14 BY MS. SCHESNOL:

15 Q. Could you hear someone saying something?

16 A. I can. I can't make it out right at this time.

17 Q. Okay. Do you recall watching this video before we were
18 in court today --

19 A. Yes, ma'am.

20 Q. -- on a previous occasion?

21 A. Yes, ma'am.

22 Q. And did -- in refreshing your recollection, did
23 Commander Kyle say something?

24 A. Yes, ma'am.

25 Q. Okay. And do you recall what Commander Kyle said?

1 A. We're not -- something to the effect that we're not
2 going to lose the Capitol today.

3 Q. And what, if any, effect did that have on you?

4 A. A tremendous effect.

5 Q. Can you describe --

6 A. Well, I am the sergeant. It's my job to help him
7 fulfill that order. So I will -- I will man that door and
8 try to stop the onslaught of people trying to get into that
9 door.

10 MS. SCHESNOL: Please press play again.

11 (Whereupon, the video was published.)

12 MS. SCHESNOL: Please pause.

13 We have paused the video at 1 minute and
14 33 seconds.

15 BY MS. SCHESNOL:

16 Q. Again, the individual we see in this -- here, at 1
17 minute and 33 seconds, this is you, correct?

18 A. Yes, ma'am.

19 Q. And while you are standing in this place in the video,
20 what are you seeing?

21 A. That's probably the worst environment imaginable, and I
22 am going to have to turn around and tell people we have to
23 stop that.

24 Q. And what -- what can you see that -- what can you see
25 out those doors or windows that have you describing it as

1 the worst situation?

2 A. Thousands of people trying to get into that door.

3 MS. SCHESNOL: Please press play.

4 (Whereupon, the video was published.)

5 MS. SCHESNOL: Can you pause here.

6 BY MS. SCHESNOL:

7 Q. Can you describe for us here your physical condition at
8 this point in the video?

9 We have paused at 1 minute and 48 seconds.

10 A. I am not doing so good. I've got little bumps and
11 bruises, some strikes to the head. I have a lot of exposure
12 to bear spray, OC spray. Just a general long day in
13 general.

14 Q. And it's only 2:42, correct?

15 A. That's correct.

16 Q. And when you say you had exposure to some kind of bear
17 spray, OC spray -- besides from your own memory of what
18 happened that day, can you -- how do you know that just from
19 looking at this video?

20 A. I look like crap. I mean, it's -- we're saturated.
21 We're soaked in it. My face and eyes are red and burning.
22 The -- I think I am all snotted out at this point; I don't
23 think there is any snot left. But it's just -- it's all
24 over us. The environment is not conducive to getting fresh
25 air, and we are basically in a -- in a not-so-good position.

1 Q. Does fresh air -- is fresh air generally helpful when
2 you have been sprayed with some kind of chemical?

3 A. Fresh air and time, yes, ma'am.

4 Q. And do you have fresh air here at 2:42?

5 A. We have no fresh air, and we have no time.

6 MS. SCHESNOL: Please press play again.

7 (Whereupon, the video was published.)

8 BY MS. SCHESNOL:

9 Q. Approximately how long, if you recall, from the point we
10 watched in this video, approximately 2:40 in the afternoon
11 on January 6th, were you and your team, for lack of a better
12 word, of MPD officers in and around that lower west terrace
13 tunnel area?

14 A. We were there for a couple of hours.

15 Q. Can you describe the crowd of nonlaw enforcement
16 officers, how they -- what the interaction was between law
17 enforcement and the mob of people over those couple of
18 hours?

19 A. So they were combative, aggressive, determined. They
20 wanted access. They wanted to go through us, not around us.

21 Q. What do you mean by that: Through you, not around you?

22 A. So there were plenty of other places to go. They
23 decided that they wanted to go through that line at that
24 location, through that barricade, through that fence,
25 through that officer, up those particular steps, and into

1 that particular entranceway.

2 That was not the only entranceway into the
3 Capitol. They were determined to go directly through that,
4 and they were using almost any means necessary to get
5 through that --

6 MR. WATKINS: Objection.

7 THE WITNESS: -- and we were -- we were in the
8 way --

9 THE COURT: Overruled.

10 THE WITNESS: -- we were in the way of that, and
11 they continued their assault with numerous weapons.

12 BY MS. SCHESNOL:

13 Q. What kind of weapons?

14 A. Anything imaginable. Anything that was available,
15 hammers, sticks, box, bottles. Our own equipment. Loose
16 tools, anything they brought with them. Any -- any
17 projectiles that they could get their hands on; any fencing
18 that was broken; any signage; any, in particular,
19 broomsticks; flagpoles; hockey sticks; any broken MPD sticks
20 they would break in half. Anything that they could assault
21 and battle their way through that location, that's what they
22 attempted to do.

23 Q. When you said your law enforcement equipment, did that
24 include riot shields?

25 A. At some point they were -- they obtained riot shields

1 from officers or somehow -- somehow, and they used them
2 against us; that's correct.

3 MS. SCHESNOL: If we could please pull up
4 video 404, which has already been admitted.

5 Exhibit 404 has already been admitted, so if we
6 can just talk as we play this.

7 And the time stamp on this is 4:12 p.m., and
8 some -- and some change.

9 So if you could just go ahead and play this.

10 (Whereupon, the video was published.)

11 BY MS. SCHESNOL:

12 Q. Sergeant Riley, is this the crowd that you saw out on
13 the west front of the Capitol at approximately 4:12 p.m. on
14 January 6th?

15 A. Yes, ma'am.

16 MS. SCHESNOL: And we can stop the video.

17 Can we please pull up Exhibit 403, which has
18 already been admitted.

19 If we could, Exhibit 403 is a video that's about
20 16 and a half minutes. This has already been admitted, and
21 it's established that this is a Capitol camera.

22 Can we go about two minutes -- or about a minute
23 and a half into this video, please.

24 (Whereupon, the video was published.)

25 BY MS. SCHESNOL:

1 Q. You mentioned -- we've paused here, at 1 minute and
2 30 seconds -- that some police riot shields had been used.

3 Do you see that, any police riot shields, at 1
4 minute and 30 seconds?

5 A. I do. There is one in the air in the center of the
6 screen.

7 MS. SCHESNOL: Please press play.

8 (Whereupon, the video was published.)

9 MS. SCHESNOL: Please pause.

10 We have paused it at 1 minute and 33 seconds.

11 BY MS. SCHESNOL:

12 Q. On this video -- again, which has already been
13 admitted -- there is an individual circled in yellow.

14 Do you see that?

15 A. Yes, ma'am.

16 Q. Do you know who that person is?

17 A. I do.

18 Q. Okay. Prior -- on January 6th, 2021, did you know who
19 that person was?

20 A. No, ma'am.

21 Q. Okay. Is that person with law enforcement?

22 A. No, ma'am.

23 Q. Okay. Can you describe maybe just generally -- not by
24 name, but just who that person is?

25 A. He is a person -- it looks like he is holding a shield,

1 attempting to gain access to the tunnel and assaulting
2 officers.

3 MS. SCHESNOL: Please press play.

4 (Whereupon, the video was published.)

5 BY MS. SCHESNOL:

6 Q. Does the individual circled in yellow have permission to
7 be in this location?

8 A. No, ma'am. He has failed to comply with all lawful,
9 verbal commands.

10 MS. SCHESNOL: Please pause.

11 BY MS. SCHESNOL:

12 Q. We just saw about a second ago, before we paused it at
13 about 1 minute and 55 seconds --

14 MS. SCHESNOL: If you could even just go back by
15 one or two seconds.

16 BY MS. SCHESNOL:

17 Q. Do you see the person in yellow, at 1 minute, 54
18 seconds, with his hands on the police riot shield?

19 A. Yes, ma'am.

20 Q. Did he have permission to have that shield?

21 A. No, ma'am.

22 MS. SCHESNOL: Please press play.

23 And before you do -- I'm sorry.

24 BY MS. SCHESNOL:

25 Q. Can you see, even from this angle, the -- all of the mob

1 of people outside the tunnel?

2 A. Yes, ma'am. I do.

3 MS. SCHESNOL: Please press play.

4 (Whereupon, the video was published.)

5 BY MS. SCHESNOL:

6 Q. Do you see the individual circled in yellow with his
7 hands still on the police riot shield?

8 A. Yes, ma'am. I do.

9 MS. SCHESNOL: Can you press pause?

10 BY MS. SCHESNOL:

11 Q. What are some of the other -- what are the rioters, in
12 general, what is -- what are they doing?

13 A. So they're hampering law enforcement's ability to
14 protect themselves. They're ramming us with the shields,
15 they're spraying. They're hitting -- from behind their
16 shields they're hitting the officers. They're not allowing
17 us to stand or establish a police line. They're
18 consistently assaulting, ramming, jamming, hitting,
19 throwing, and otherwise assaulting the police officers.

20 Q. Are they impeding law enforcement from doing their job?

21 A. Absolutely. In their attempt to get inside, yes, they
22 are.

23 Q. What was law enforcement's job on January 6th at 4:12
24 p.m.?

25 A. To establish a police line and stop them from gaining

1 access to the United States Capitol.

2 MS. SCHESNOL: Please press play again.

3 (Whereupon, the video was published.)

4 BY MS. SCHESNOL:

5 Q. If you can follow the person circled in yellow and just
6 describe what you see.

7 A. So he was originally on the -- to the right of my screen
8 and moved eventually left. He regained control of the
9 shield numerous times and attacked police officers numerous
10 times. He failed to disperse; he wouldn't leave.

11 All efforts to use pepper spray, pushing, and
12 shoving failed to deter him, disorient him, or have him
13 disperse; and he continued his assault and his attack on the
14 police officers in an attempt to get into the United States
15 Capitol. I just happened to be the one in front of him that
16 wasn't going to -- attempt to let him do that.

17 So he is attempting to encourage and also give
18 commands to his other fellow --

19 MR. WATKINS: Objection.

20 THE WITNESS: Am I still talking about the video?

21 THE COURT: Do you have an objection?

22 MR. WATKINS: The objection was there was no
23 question there.

24 I did not hear a question and, also, the
25 characterizations.

1 THE COURT: I think the question was for him to
2 describe what he was seeing and what he recalled from the
3 time.

4 Do you want -- is what you're asking, Mr. Watkins,
5 is for Ms. Schesnol to stop the tape and ask questions and
6 say, "What did you just see?" -- every three seconds?

7 MR. WATKINS: I am asking for questions rather
8 than a narration here, yes.

9 THE COURT: Overruled.

10 MS. SCHESNOL: Please press play.

11 (Whereupon, the video was published.)

12 THE WITNESS: So he has moved directly, I believe,
13 to the area in front of me. I think I am in -- within that
14 circle with my back towards the camera. He is facing inside
15 the building, I am facing out.

16 BY MS. SCHESNOL:

17 Q. Does it appear he is yelling at this point?

18 A. He is yelling and screaming, whether it's profanity -- I
19 don't recall exactly what he was yelling.

20 MS. SCHESNOL: And then, if we can fast forward
21 just by about a minute, please.

22 Keep going, please. Okay.

23 (Whereupon, the video was published.)

24 MS. SCHESNOL: Okay. Please pause.

25 We're at 6 minutes and 24 seconds into

1 Exhibit 403.

2 BY MS. SCHESNOL:

3 Q. Can you still make out the individual circled in yellow?

4 A. Yes, ma'am.

5 Q. And in what direction does that person appear to have
6 moved from where we last saw him?

7 A. Towards the interior of the Capitol or into the tunnel,
8 or directly at the police officers.

9 MS. SCHESNOL: Please -- you can skip ahead again
10 by just -- yeah, driving the cursor about another minute or
11 two.

12 (Whereupon, the video was published.)

13 MS. SCHESNOL: Please pause here. We're at
14 7 minutes and 4 seconds.

15 BY MS. SCHESNOL:

16 Q. Can you still see the individual sort of just to the --
17 the left of that yellow circle?

18 A. Yes, ma'am.

19 Q. And where is he now in relation to the --

20 A. Moving forward, closer to the interior of the tunnel.

21 MS. SCHESNOL: Okay. Can you drag the cursor,
22 again, about another minute or so.

23 (Whereupon, the video was published.)

24 MS. SCHESNOL: Please -- okay. You can pause
25 right there.

1 We're now at 9 minutes and 17 seconds.

2 BY MS. SCHESNOL:

3 Q. Do you still see the individual circled in yellow?

4 A. Yes, ma'am. I do.

5 Q. Okay. And, again, is he getting closer to the Capitol
6 or further?

7 A. No. He's making headway towards the Capitol through
8 the -- through the line or into the line.

9 MS. SCHESNOL: You can drag the cursor again by
10 about another minute or so.

11 Keep going, please.

12 (Whereupon, the video was published.)

13 MS. SCHESNOL: We're at 8 minutes and 9 seconds.

14 BY MS. SCHESNOL:

15 Q. Do you see the individual circled in yellow?

16 A. Yes, ma'am. I do.

17 Q. And is he still in the proximity close to the doors?

18 A. He has advanced towards the Capitol, into the police
19 line.

20 THE COURT: So maybe -- to ask the obvious. So
21 the police line that had been at the mouth of the tunnel,
22 you had been retreating?

23 THE WITNESS: At the front of -- well, we were
24 pushed back. I don't think we were doing it on -- we were
25 not making a conscious effort to step back; we were being

1 pushed back.

2 THE COURT: I see. Okay.

3 BY MS. SCHESNOL:

4 Q. And how was it that you were being pushed back?

5 A. So the number of people that we can get across is not
6 that many. They had -- I believe that they used numerous
7 people, individuals, to push the officers back, and we had
8 to regroup.

9 So if we only have three or four officers across
10 the line, we had to -- basically, had to stack in between
11 that and work out a way. The only problem with that is the
12 officers in the front are getting crushed and are getting
13 hurt, and that's not necessarily the best tactic either.

14 So we're trying to do numerous things in order to
15 keep the onslaught from hurting the officers because just
16 holding the officer up in front of you to deflect the attack
17 is not necessarily that good of an idea for the officer. So
18 we were trying to figure stuff out, so we're get pushed back
19 as a result of that.

20 Q. And does that have anything to do with the size of the
21 crowd?

22 A. The numbers in the crowd, the size. The fact that they
23 have air that we do not. The fact that they are -- can
24 rotate their people in and out, which is -- there are just
25 so many of them that -- as soon as one of them gets tired or

1 MS. SCHESNOL: You can keep going, please.

2 (Whereupon, the video was published.)

3 MS. SCHESNOL: You can pause it here, at 10
4 minutes and 37 seconds.

5 BY MS. SCHESNOL:

6 Q. Does it appear that law enforcement is able to move --
7 start to move the crowd back a little bit?

8 A. Yes, ma'am.

9 So originally we -- well, original to this video,
10 we were being pushed back, and we were able to regroup. We
11 have -- numerous officers are now in the screen, and we are
12 making our way back to the original spot.

13 Q. Do you mean closer to the threshold of the tunnel?

14 A. Back towards the threshold, or the opening.

15 MS. SCHESNOL: Can you please continue to drag the
16 cursor forward a little bit.

17 (Whereupon, the video was published.)

18 MS. SCHESNOL: Okay. Please pause it here. We're
19 at 10 minutes and 55 seconds.

20 BY MS. SCHESNOL:

21 Q. Do you see the individual in the yellow circle again?

22 A. Yes, I do.

23 Q. And does it appear that law enforcement is sort of
24 retaking the line and able to push people back out of the
25 tunnel?

1 A. Yes, ma'am.

2 MS. SCHESNOL: Okay. Can you please press play on
3 the video, at 10 minutes and 55 seconds.

4 (Whereupon, the video was published.)

5 BY MS. SCHESNOL:

6 Q. What does it appear the individual circled in yellow is
7 doing?

8 A. I'm sorry?

9 Q. What does it appear the person in -- circled in yellow
10 is doing?

11 A. He is trying to forge his way back. The -- most of the
12 protesters are trying to push their way, still, towards the
13 interior of the Capitol. We are establishing a police line.
14 And we have -- we are now establishing a tactic where we are
15 now pushing back and getting most of them out.

16 He is out -- he is refusing to go and is offering
17 quite a bit of resistance. He has the assistance of
18 numerous people in the tunnel, to include the person in the
19 red that's pushing backwards. They're all pushing forwards
20 towards the police line, using each other as leverage, using
21 the walls as leverage, holding onto police officers and
22 pulling the police officers out, whatever they can do to
23 establish and gain access into that Capitol through that
24 tunnel.

25 Q. The video time stamp from the CCTV is now approximately

1 4:22 in the afternoon; is that right?

2 A. Yes, ma'am.

3 Q. So the individual circled in yellow has been on screen
4 for -- within this video, in some way or another, for at
5 least about ten minutes; is that right?

6 A. Yes, ma'am.

7 Q. And you and the other MPD officers have been in this
8 tunnel since approximately 2:40; is that right?

9 A. Yes, ma'am.

10 Q. It looks like there might also be some members of
11 United States Capitol Police; is that correct?

12 A. Yes, ma'am. They have the writing on the back of their
13 helmet.

14 Q. How was organizing these various MPD and Capitol Police
15 officers -- how was that accomplished on January 6th?

16 A. Okay. To the -- how was it organized that day?

17 Q. Right.

18 A. So everything was on a -- in a modified example. So we
19 have a foundation or instruction, and very basics. However,
20 the mitigating circumstances, the exigent circumstances, the
21 level of intensity of the attack called for means that were
22 not necessarily trained. So we had to figure out all kinds
23 of alternative methods in order to maintain that line. So
24 communications with radio wasn't possible.

25 Q. Why not?

1 A. The -- why was it impossible on the radio?

2 Q. Yes.

3 A. Too many people, only one zone. We call a station a
4 zone. So, therefore, we were -- all of those people can't
5 talk and tell us about their individual plights. So I am --
6 verbal and hand signals. So there is a lot of yelling and
7 explaining and modifying, and communicating that way.

8 A lot of hands on with the other officers, letting
9 them know where to move, when to be substituted in or out
10 and, basically, directing them to establish a line from the
11 rear, from the left, or from the right. Verbal
12 communications was one of those methods.

13 Q. And in this video, in 403, there is no audio. Can you
14 describe how it was in reality trying to communicate
15 verbally with other officers?

16 A. So the crowd noise is very loud. It was -- it was not
17 impossible, but it was next to impossible because the --
18 between the gear, the crowd noise -- no one knew what
19 anybody else was saying unless you were right next to them.

20 Q. The fact that there were various law enforcement
21 agencies involved -- did that change or impact how people
22 organized or disorganized, as the case may be?

23 A. Yes, ma'am.

24 So the fact that there's two agencies contributes
25 significantly to the communication gap. The fact that we're

1 all from different units contributes to the communication
2 gap insomuch as we don't know who we're talking to as people
3 names or their numbers because we've all mishmashed in
4 together. However, that -- they have a basic foundation,
5 and even that was temporarily disbanded.

6 MS. SCHESNOL: If we can just fast forward by
7 dragging the cursor, again, by about another minute or so.

8 (Whereupon, the video was published.)

9 MS. SCHESNOL: You can pause there.

10 So we're now at approximately 2 minutes and 24
11 seconds into the video.

12 BY MS. SCHESNOL:

13 Q. Does it appear that the law enforcement have been able
14 to sort of gain control of the tunnel?

15 A. At this time, it looks like law enforcement has
16 established an effective police line at this moment.

17 Q. And maybe saying "gain control" was overly optimistic?

18 A. I would say so.

19 Q. Okay. So how would you describe it?

20 A. That was overly optimistic.

21 I believe that right now we have a plan in place.
22 And these -- maybe 25 officers are going to hold for the
23 moment that they have control. So the contributing factors
24 would be the environment that they're in, the intensity of
25 the attack, or the effectiveness of the chemical or the

1 sprays that are coming in at them. So they will be there as
2 long as they can until they're injured or otherwise
3 incapacitated.

4 Q. Throughout the afternoon in the lower west terrace
5 tunnel, did it sort of ebb and flow the degree of,
6 quote-unquote, control that law enforcement had of the
7 tunnel?

8 A. Yes, ma'am.

9 MS. SCHESNOL: If we can pull up Exhibit 702,
10 please, which has also already been admitted.

11 (Whereupon, the video was published.)

12 BY MS. SCHESNOL:

13 Q. Are you familiar with what Exhibit 702 is?

14 A. Yes, ma'am.

15 Q. What is that? What is Exhibit 702?

16 A. This video right here?

17 Q. Yes.

18 A. Is a video from the tunnel on the Capitol on
19 January 6th.

20 Q. And does this appear to be taken from someone's
21 body-worn camera?

22 A. Yes, ma'am.

23 It looks like it's a body-worn camera video
24 attached to an officer that seems to be on an elevated
25 position, on a ledge, inside the tunnel.

1 MS. SCHESNOL: Can we go to about a minute and a
2 half into the video, please.

3 And please press play.

4 (Whereupon, the video was published.)

5 MS. SCHESNOL: Please pause.

6 BY MS. SCHESNOL:

7 Q. Do you see the individual, fuzzy as it may be, circled
8 in yellow?

9 A. Yes, ma'am.

10 Q. And we're at 1 minute and 34 seconds into the video.

11 What time of day is this?

12 A. Four o'clock in the afternoon. 4:11 -- on my screen it
13 has 1611, so military time. Then, that would be four
14 o'clock in the afternoon.

15 Q. Okay. 4:11 p.m.?

16 A. Yes, ma'am.

17 Q. And 58 seconds?

18 A. And 58 seconds.

19 Q. So almost 4:12?

20 A. Yes, ma'am. Almost 4:12.

21 MS. SCHESNOL: Okay. Please press play.

22 (Whereupon, the video was published.)

23 MS. SCHESNOL: Please pause.

24 BY MS. SCHESNOL:

25 Q. We're paused at 1 minute and 52 seconds.

1 MS. SCHESNOL: Can you go back about two seconds,
2 please.

3 BY MS. SCHESNOL:

4 Q. And the individual circled in yellow, at 1 minute and
5 50 seconds, what does he appear to have in his hands?

6 A. It looks like the shield.

7 MS. SCHESNOL: Please press play.

8 (Whereupon, the video was published.)

9 MS. SCHESNOL: Please pause.

10 BY MS. SCHESNOL:

11 Q. Do you see yourself in this video, Sergeant Riley?

12 A. Yes, ma'am. I do.

13 Q. Can you circle yourself in blue?

14 A. (Witness complies.)

15 MS. SCHESNOL: Your Honor, may the record reflect
16 Sergeant Riley has placed a blue circle around himself to
17 the center left of the screen.

18 THE COURT: Let the record so reflect.

19 MS. SCHESNOL: Thank you.

20 BY MS. SCHESNOL:

21 Q. And at 4:12 and 19 seconds, can you describe what is --
22 what is happening at this time in the tunnel?

23 A. Yes. So it looks like we have a bit of a break between
24 the two groups, and we have gone into almost a
25 stick-to-stick fighting stance. The shields have been

1 ripped away or otherwise ineffective.

2 The intended use was to protect us from the
3 barrage of incoming projectiles; they are now being used
4 against us. And they were ripped away from officers, almost
5 like battering rams. And so now they have landed on the
6 ground and have become, you know, detrimental or an
7 impediment to the officer's ability to stand the line.

8 So now we're just being pummeled and -- and
9 targeted in our fixed position from a force outside that has
10 access to numerous projectiles, sticks, and weapons that are
11 longer in length than ours; and they're making contact with
12 the individual officers up in the front.

13 So, almost as a survival tactic, the officers move
14 back a little bit so they don't get crushed because it's
15 getting painful now, even on top of the helmets.

16 Q. Based on the action of the various individuals that are
17 part of the -- the nonlaw enforcement members of the crowd,
18 including the individual circled in yellow, are law
19 enforcement being -- what's the effect on law enforcement's
20 ability to guard the Capitol?

21 A. So we're having a difficult time. So the efforts of the
22 crowd are making the position untenable, meaning the
23 officers are holding a line that's becoming harder and
24 harder to hold.

25 MS. SCHESNOL: Please press play.

1 (Whereupon, the video was published.)

2 MS. SCHESNOL: Please pause.

3 And we have paused at 2 minutes and 20 seconds.

4 BY MS. SCHESNOL:

5 Q. Did you see the individual who was in the yellow circle
6 from the last time we paused it until now, what his actions
7 were?

8 A. Yes, ma'am.

9 Q. And what was he doing?

10 A. Aggressively assaulting and beating police officers with
11 whatever equipment was at his disposal, to include shields
12 and sticks.

13 MS. SCHESNOL: Please press play again.

14 (Whereupon, the video was published.)

15 MS. SCHESNOL: Please pause.

16 Can you forward frame by frame using the "E"
17 function.

18 So we have paused at 2 minutes and 23 seconds into
19 the video, or 14:12:47.

20 If that's not possible, we can play it, and then
21 we can go back and talk about it. I will ask you to pause
22 it several times.

23 (Whereupon, the video was published.)

24 MS. SCHESNOL: Please press pause.

25 Can you go back one second, if possible. It's

1 very hard to stop it at the precise moment.

2 (Whereupon, the video was published.)

3 MS. SCHESNOL: Pause right there. Perfect.

4 2 minutes and 26 seconds, or 14:12:50.

5 BY MS. SCHESNOL:

6 Q. Can you describe what we see on our screen here?

7 A. Yes, ma'am. So he is -- his tactic at this point is to
8 grab my sleeve, my arm, and pull me out into the crowd after
9 his attempts at bludgeoning us with the shields and sticks,
10 his body, his flailing fists against all parts of us were
11 unsuccessful. They're now going to try to pull police
12 officers out into the crowd one by one.

13 Q. So when we say "he," are we talking about the
14 individual --

15 A. The individual in the yellow circle.

16 Q. Okay. And you see your own body in the yellow circle
17 now as well?

18 A. I do. I see my -- yes. I see my whole person in the
19 yellow circle.

20 Q. Do you see your arm specifically?

21 A. Yes, ma'am.

22 Q. Which arm, left or right?

23 A. I believe it's my left arm.

24 Q. Okay. Do you see any insignia on your jacket?

25 A. I do. I see the MPD patch and a bit of my sergeant

1 stripe.

2 Q. Do you have that patch on your arm right now?

3 A. No. There is a -- this is a new jacket.

4 Q. But is there a patch on your jacket?

5 A. There is a patch on the jacket. It doesn't have -- it
6 does not have the sergeant stripe. That one does, in the
7 picture.

8 Q. Does the person who has grabbed you by the arm have your
9 permission to grab you by the arm?

10 A. Absolutely not.

11 Q. What, if any, concerns do you have at this point in time
12 that you are grabbed by the arm?

13 A. Not good. That is not a good place that I want to be.
14 I do not want to be pulled into that crowd. I do not want
15 any part of going there by myself; and it looks like this is
16 going to happen, and it's going to happen very, very soon.
17 So I am going to do everything in my power to not let that
18 happen, but the possibility of that is high at this point.
19 So I am thinking in my head that -- you know, there is quite
20 a bit of fear.

21 Q. Fear of what?

22 A. Fear of them killing us.

23 Q. Did you think that could happen if you got pulled into
24 the crowd?

25 A. Mostly for my troops. But, at this point, now it's

1 about me. And, yes, I thought they were going to kill us.

2 Q. By "they," do you mean the person who had you by the
3 arm?

4 A. Him particularly -- this individual, at this exact time,
5 this was -- this was above and beyond anything I have ever
6 experienced before, yes.

7 Q. This is above and beyond anything you have ever --

8 A. Any other physical assault that I have ever been a part
9 of yet.

10 Q. In 28 years as a police officer?

11 A. In my entire life.

12 Q. Including in the Marines?

13 A. Including in the Marine Corps.

14 MS. SCHESNOL: Can we please pull up still 702.1.
15 And we will go through the stills that have already been
16 admitted into evidence.

17 BY MS. SCHESNOL:

18 Q. Exhibit 702.1, which is 4:12:15, do you see an
19 individual circled in yellow?

20 A. Yes, ma'am.

21 Q. And what, if anything, does he appear to be holding?

22 A. The shield.

23 Q. Is that police gear, the shield?

24 A. Police issued.

25 MS. SCHESNOL: Can we go to 702.2, please.

1 Q. And in 702.2, what do we see here?

2 A. We see him in the middle of the yellow circle holding a
3 police shield, advancing towards the police.

4 Q. Do you see yourself in this?

5 A. I do. Over to the left of the yellow circle, in the
6 yellow jacket.

7 Q. Can you circle yourself in blue?

8 A. I can. (Witness complies.)

9 Q. And the time is 4:12 and 20 seconds; is that correct?

10 A. Yes, ma'am.

11 MS. SCHESNOL: Your Honor, may the record reflect
12 the sergeant has circled himself in blue to the center left
13 of the screen.

14 THE COURT: Let the record so reflect.

15 MS. SCHESNOL: Thank you.

16 Can we go to 702.3, please.

17 BY MS. SCHESNOL:

18 Q. And what do we see in 702.3, which is now the picture at
19 the top of the screen, if you know?

20 A. Looking -- I don't -- I can't make it out.

21 Q. Okay. Is an individual circled in yellow?

22 A. Yes.

23 Q. Is there some kind of writing?

24 A. Insignia -- okay. I'm -- now, it's -- I'm focusing in
25 on it.

1 Yes. The circle has some sort of writing on the
2 back. That's his back. Yes, I see that.

3 MS. SCHESNOL: Can we go to 702.4, please.

4 BY MS. SCHESNOL:

5 Q. 702.4, which is at 4:12 and 50 seconds -- what is
6 happening in 702.4?

7 A. He looks like he is grabbing, pushing, shoving. If that
8 piece there is a shield or is that him just grabbing my
9 sleeve -- I can't tell. It looks like my sleeve.

10 MS. SCHESNOL: Can we go to 702.5, please.

11 THE WITNESS: Yes. So that's my arm, and his
12 hands grasping my arm and pulling me into the crowd -- or
13 attempting to pull me into the crowd.

14 BY MS. SCHESNOL:

15 Q. How many hands does that individual have on you?

16 A. How many?

17 Q. Yes.

18 A. Could you repeat the question, please?

19 Q. How many hands does -- the individual who is grabbing
20 you, how many hands does he have on you?

21 A. He has both hands. He has two hands, both of his hands,
22 in a firm grip around the lower portion of my arm.

23 MS. SCHESNOL: Can you go to 702.6, please.

24 BY MS. SCHESNOL:

25 Q. 702.6, which is at 4:12:52, what is depicted in this

1 exhibit?

2 A. It looks like he is taking sort of a combat stance,
3 crouching down and using leverage and all of his might to
4 pull me in the direction I do not want to go.

5 Q. And how can you tell that that's you?

6 A. The yellow jacket with the patch that's connected to the
7 long hair and the sunglasses and the beard.

8 MS. SCHESNOL: Can you go to 702.7, please.

9 BY MS. SCHESNOL:

10 Q. What do we see in 702.7?

11 A. So he still has a firm hand on me, taking away the
12 ability to defend myself from numerous strikes from the guy
13 and the crutch.

14 MS. SCHESNOL: And we are now at -- this still
15 frame was taken from 4:12, and 55 seconds.

16 Can we go to 702.8, please.

17 BY MS. SCHESNOL:

18 Q. Are you depicted in 702.8?

19 A. It's possible, but I don't -- I am not seeing it. I
20 don't know.

21 Q. The individual that we have been talking about, that's
22 circled in yellow --

23 A. Yes. Am I depicted in this, or is he?

24 Q. No. We'll move on from this exhibit.

25 Just, generally, the person we have been talking

1 about being circled in yellow, is that someone who -- on
2 January 6th, did you know that person's name?

3 A. No, ma'am.

4 Q. Did you interview that person on January 6th?

5 A. No, ma'am. I did not.

6 Q. Have you met with that person?

7 Do you know anything about that person other than
8 what you have seen in these exhibits?

9 A. I know nothing of that individual.

10 Q. Do you recall approximately what time you left the
11 Capitol on January 6, 2021?

12 A. It was significantly later, like close to midnight.
13 Maybe after 11.

14 Q. What, if any, injuries did you have as a result of your
15 time at the Capitol on January 6th?

16 A. So I would say complete saturation from the bear spray
17 and then the fire extinguishers. The bumps and bruises, and
18 the blunt -- the blunt force of the objects -- and the
19 objects that were striking us, sticks and poles, hammers and
20 rocks.

21 I would say that crutch did some damage. I was a
22 little lumped up and swollen. My hands were extremely
23 swollen. I had a large contusion on my head; and my hair
24 was all matted with blood and sweat, and a lot of OC spray;
25 and just overall soreness, back, feet. Pretty painful.

1 Q. You mentioned you left the Capitol very late, possibly
2 around midnight, on January 6th?

3 A. Yes, ma'am.

4 Q. What did you do on January 7th?

5 A. The next day?

6 Q. Yes.

7 A. I went back to work.

8 Q. What time?

9 A. 6, 6:30.

10 Q. A.m. or p.m.?

11 A. A.m., 6:30.

12 MS. SCHESNOL: May I have a moment, Your Honor?

13 THE COURT: Yes.

14 MS. SCHESNOL: No more questions at this time.

15 THE COURT: Cross?

16 MR. WATKINS: Yes, Your Honor. It will take me a
17 moment to set up here.

18 THE COURT: Perfect. That's fine. We can all get
19 up, stand up, while you are getting set up.

20 Mr. Watkins, just let us know when you're ready to
21 proceed.

22 MR. WATKINS: May I, Your Honor?

23 THE COURT: Of course.

24 CROSS-EXAMINATION

25 BY MR. WATKINS:

1 Q. Good afternoon, Sergeant.

2 A. Good afternoon, sir.

3 Q. I think what you told us is that you were at the area of
4 the White House on the afternoon of January 6th?

5 A. I started out in the area on 14th Street and
6 Pennsylvania Avenue.

7 Q. So were you at the rally or at the area of the rally?

8 A. Yes, sir.

9 Q. And then, that's when you heard the call and
10 self-deployed over to the Capitol?

11 A. Yes, sir.

12 Q. To do that, you had to go down to Independence Avenue
13 and come up that way to the Capitol?

14 A. Yes.

15 Q. And that's because Constitution Avenue was blocked off
16 that day?

17 A. I have a police car, sir.

18 Q. I'm sorry?

19 A. I have a police car. I don't know what you mean by
20 "blocked off."

21 Q. But you went down Independence Avenue, and got up that
22 way?

23 A. Yes, sir.

24 Q. We -- the videos begin at about -- at 1:22 in the
25 afternoon?

1 A. Yes, sir.

2 Q. And that was Exhibit 705, where you're walking up
3 through the lawn?

4 A. Yes, sir.

5 Q. Did you go up to that lower west terrace plaza where you
6 stopped for a while and talked to some of your colleagues
7 there?

8 A. Yes, sir.

9 Q. The man you identified later being up in the lower west
10 terrace tunnel, he is not down there on that lower west
11 plaza, right, at 1:22?

12 A. I don't understand the question.

13 Q. You identified a moment ago the man that pulled on your
14 arm, right, in the tunnel video?

15 A. Yes.

16 Q. You didn't see him when you first walked up there as
17 part of the crowd there, right?

18 A. As part of the 30,000 people, I didn't see anybody in
19 that 30,000 people.

20 Q. And that was at 1:22. So about -- and the videos we saw
21 in the tunnel were from four o'clock, right -- around four
22 o'clock?

23 A. Yes, sir.

24 Q. So that's about 2 hours and 20 minutes before the time
25 in the video that we saw in the tunnel that you were down in

1 that lower west terrace plaza, right?

2 A. Yes, sir.

3 Q. And then, in the next set of videos at Exhibits 706 and
4 707, those are from about 2:40, we saw -- 2:40 in the
5 afternoon?

6 A. Yes, sir.

7 Q. And that's about an hour and 20 minutes yet until the
8 other videos we see in the lower west terrace tunnel with
9 the man on your arm, right?

10 A. I am not sure I get your math. Are you telling me or
11 are you asking me to be accountable for the time frame?
12 Because I'm -- I have lost you on your time frame.

13 Q. 2:40, right --

14 A. 2:40 p.m.

15 Q. -- when you identified those videos as starting, where
16 you are in the lower west terrace tunnel; at 2:42, you walk
17 in. Do you recall testifying there --

18 A. Yes, sir.

19 Q. And, then, you also testified to us about events that
20 happened at four o'clock, right?

21 A. Yes, sir.

22 Q. How long is it between 2:40 and four o'clock? Is it an
23 hour and 40 minutes?

24 A. Between 2:40 and 4?

25 Q. Yes.

1 A. And it's -- you are asking me if it's how long?

2 Q. I'm sorry. You are right. An hour and 20 minutes; is
3 that right?

4 A. Yes. If we're going to say it's an hour and 20, then I
5 would say yes.

6 Q. Nowhere during that time did you see Vincent Gillespie,
7 or the man who was pulling on your arm, right, during that
8 period of time?

9 A. I can't say that for sure. I don't remember seeing him
10 in there, no.

11 Q. It certainly wasn't the person -- you did see the people
12 that were banging on the glass and shattered the glass,
13 right?

14 A. Yes.

15 Q. That wasn't Mr. Gillespie, right?

16 A. I don't know.

17 Q. You are assigned to the Specialized Training Branch,
18 Defensive Tactics and Tactical Training Center?

19 A. I am assigned to the Metropolitan Police Academy. I am
20 in Defensive Tactics and Physicals Skills. There is a
21 Tactical Training Center, that's another unit. I am not in
22 that unit.

23 Q. So you're Defensive Tactics Center, right?

24 A. Yes, sir. Yes, sir.

25 Q. And you have had training in defensive tactics?

1 A. Yes, sir.

2 Q. Substantial training in defensive tactics?

3 A. Yes, sir.

4 Q. Years-long training in defensive tactics?

5 A. Yes, sir.

6 Q. You keep up to date on defensive tactics?

7 A. Yes, sir.

8 Q. And how long have you -- you train others in defensive
9 tactics?

10 A. Yes, sir.

11 Q. How long have you been training others in defensive
12 tactics?

13 A. So I was a training sergeant at the academy for 20 years
14 at the range. The last two and a half years I have been
15 with the Defensive Tactics Unit. So all of it would be
16 defensive tactics, yes, sir.

17 Q. And are you -- there are certifications and there are
18 courses that you finish as part of the defensive tactics?

19 A. Yes, sir.

20 Q. You have done several of those, right?

21 A. Yes, sir.

22 Q. And those are courses designed for all kinds of
23 situations, right --

24 A. Yes, sir.

25 Q. -- that you might encounter as a police officer?

1 A. Yes, sir.

2 Q. Hence the word "defensive," right? You are protecting
3 yourself, right?

4 A. Yes, sir.

5 Q. So you have learned about body mechanics, for example,
6 how to keep somebody from doing harm to you, right?

7 A. Yes, sir.

8 Q. In all kinds of different situations, right?

9 A. Yes, sir.

10 Q. Also, people with weapons; how to defend yourself in
11 situations with weapons as well, right?

12 A. No, sir.

13 Q. It's just physical defensive tactics?

14 A. Physical defensive tactics.

15 Q. You were talking about -- we were talking about
16 defensive tactics, right?

17 A. Yes, sir.

18 Q. Are you -- and I asked you about weapons, defending
19 oneself against weapons, that's not something you teach?

20 A. No, sir.

21 Q. These are physical -- the training you have learned and
22 the training you teach is about one-on-one physical contact
23 with individuals?

24 A. That would be more accurate.

25 Q. And you are very proficient at it, very good at it,

1 that's why you train?

2 A. I am a sergeant in charge of the unit, so I would say
3 yes.

4 Q. You are also assigned to the Civil Disturbance Unit,
5 right?

6 A. As we all are, yes, sir.

7 Q. When you say "we all," is that every person in the
8 police department?

9 A. For the most part, that would be accurate.

10 Q. Everybody is part of the Civil Disturbance Unit?

11 A. For the most part, yes, sir.

12 Q. And when you say "for the most part," are there people
13 that are not?

14 A. So the organization for the Civil Disturbance Unit is in
15 a platoon status. So every single officer goes through
16 basic and is part of the Civil Disturbance Unit and would be
17 in the unit eventually. If there's only a fixed amount, say
18 1200 officers and we have 3600 officers, you would move out
19 of the actual assignment but you would still be part of the
20 civil disturbance, and you could be put in at any time that
21 the department dictated.

22 Q. You are a leader of the Civil Disturbance Unit as
23 sergeant?

24 A. I would say I am a sergeant in the Civil Disturbance
25 Unit, yes. Yes, sir.

1 Q. And you have substantial experience in civil disturbance
2 deployments?

3 A. Yes, sir.

4 Q. There are -- there is special equipment for civil
5 disturbance units?

6 A. Yes, sir.

7 Q. And that includes the jacket that you are -- well,
8 that's the standard jacket, right, that you are wearing?

9 A. That jacket can be worn by any member of the department,
10 in any other --

11 Q. But there is also additional equipment that you use when
12 you are called on to act in a civil disturbance milieu,
13 right?

14 A. It is possible, yes, sir.

15 Q. On that day, for example, you had also a tactical vest
16 underneath the jacket?

17 A. No, sir.

18 Q. You did have a heavy sweatshirt underneath the jacket?

19 A. I had warm clothing.

20 Q. And you also had a helmet that we see in the video?

21 A. Yes, sir.

22 Q. And there is a special kind of baton that you use as
23 part of the Civil Disturbance Unit as well?

24 A. Yes, sir. There is a CDU-issued baton, that is correct.

25 Q. It's called a CDU baton?

1 A. Civil -- yes, sir.

2 Q. And that's heavier than an ordinary baton; is that
3 right?

4 A. Not necessarily heavier, just a different -- different
5 piece of equipment for a different assignment.

6 Q. But that's something that you also had with you on that
7 day because you were asking -- acting in the Civil
8 Disturbance Unit?

9 A. That's correct.

10 Q. What other equipment are you assigned when you're
11 working in your Civil Disturbance Unit capacity?

12 A. So an officer could have everything from a helmet to
13 shoulder pads, shin guards, an additional protective vest,
14 gas masks --

15 Q. Did you have shoulder pads that day?

16 A. I did not, no.

17 Q. Knee pads that day?

18 A. No.

19 Q. But you had your jacket on, you had your helmet
20 available, and you had the baton with you?

21 A. Yes, sir.

22 Q. The Metropolitan Police Department has fitness
23 requirements for its officers?

24 A. In the beginning, yes, sir.

25 Q. I'm sorry?

1 A. In the beginning, yes, sir.

2 Q. But no longer? Are you saying they do not now?

3 A. So we do go to the clinic every two years for a biannual
4 physical. Is that what you are asking?

5 Q. I am asking do you keep yourself fit?

6 A. Me personally, or the department?

7 Q. Yes. You personally.

8 A. Yes.

9 Q. Do you work out?

10 A. No.

11 Q. I am going to put up on the screen an excerpt from
12 Exhibit 702, which you just talked about a moment ago, and I
13 am going to start it first. I am going to see if we can --

14 (Whereupon, the video was published.)

15 BY MR. WATKINS:

16 Q. I want to go back and go through this frame by frame, as
17 Ms. Schesnol did.

18 I think you testified that this is you here
19 (indicating) with the yellow sleeve?

20 A. Yes, sir.

21 THE COURT: And, Mr. Watkins, for the purposes of
22 the record, could you just clarify precisely what time you
23 are at so that anybody reading the record can figure out
24 what you are looking at.

25 MR. WATKINS: This is Exhibit 702, and the time

1 stamp appearing on it is 4:12:44.

2 BY MR. WATKINS:

3 Q. In this particular frame, you have the Civil Disturbance
4 Unit baton in your hand?

5 A. Yes, sir.

6 Q. And you are using it?

7 A. Yes, sir.

8 Q. You are -- you are making contact with protesters? Yes?

9 A. Are you asking me if I made contact with protesters?

10 Q. Yes.

11 A. Yes, sir.

12 Q. You have it here in this particular frame up in the air?

13 A. Yes, sir.

14 Q. The officers around you also had batons that were on
15 that front line; is that true?

16 A. That is correct.

17 Q. They may not have been the Civil Disorder Unit [sic]
18 batons, but they had their own batons?

19 A. There are different -- yes, sir.

20 Q. We have talked about protesters using weapons on you and
21 other members of the police department, correct?

22 A. Yes, sir.

23 Q. Looking through this video, is there ever a point at
24 which Mr. Gillespie is using a weapon on you?

25 A. Yes, sir.

1 Q. When is he using a weapon on you?

2 A. I believe he is grabbing my arm with his hands, and he
3 is pulling me into the crowd.

4 Q. I asked specifically about weapons.

5 A. At that time, I don't know if he's hit me with a shield
6 numerous times. And as he's holding me, the weapon -- there
7 is a crutch that's being used to strike me. So he's
8 facilitating the use of force against me, that is correct.

9 Q. Just so I understand your testimony. After looking at
10 the video, you understand Mr. Gillespie to be using a shield
11 or facilitating someone else?

12 A. I think he is using the shield against us, yes.

13 Q. I am talking about specifically when he's grabbing your
14 arm with two hands, is he using a shield?

15 A. Not when he has my hand, no.

16 Q. Before that, there is a point of time where you told
17 us -- and you've shown us on the video that he is on the
18 right side of you -- of the tunnel, going into other
19 officers with a shield, right? But that's not you?

20 A. Yes.

21 Q. That wasn't you that he was going into with a shield?

22 A. He was going into the police line. So he is going into
23 the police line.

24 Q. I am asking about you personally.

25 A. Where was I in the police line?

1 Q. You have looked at the video, sir.

2 A. So wherever --

3 Q. You have this here in front of you.

4 A. So I have to ask -- could you say the question again?

5 Q. I am asking as to you. Did Mr. Gillespie use a weapon
6 on you while he was grabbing you with two hands?

7 A. No.

8 Q. Did you see Mr. Gillespie use bear spray on you?

9 A. I did not.

10 Q. You talked about other -- some of the other things that
11 were thrown at you. Did Mr. Gillespie have a hammer?

12 A. I don't know.

13 Q. Did he use a hammer on you?

14 A. I don't know.

15 Q. Did you watch the video and see any kind of hammer
16 there?

17 A. I did not.

18 Q. What about a stick or a rock?

19 In the video, did you see Mr. Gillespie with a
20 stick or a rock?

21 A. No.

22 Q. Hockey stick? Did you see Mr. Gillespie as he was
23 pulling with two hands with a hockey stick?

24 A. No, I did not.

25 Q. You have spoken before about sledgehammers being used.

1 Did you see Mr. Gillespie with a sledgehammer?

2 A. I did not.

3 (Whereupon, the video was published.)

4 BY MR. WATKINS:

5 Q. The man that pulled on your arm, Mr. Gillespie, did he
6 have a helmet on?

7 A. No. A hat -- or some sort of hoodie hat, or something
8 perhaps. I didn't see a helmet.

9 Q. That was a soft hat. I think you've described it as a
10 toboggan hat previously, right?

11 A. That wasn't me.

12 Q. But he has a knit hat on, right?

13 A. If you say so. I don't know what kind of hat it was,
14 sir.

15 Q. But did you see a hard shell helmet anywhere on him?

16 A. No, sir.

17 Q. You did see other protesters that did have hard shell
18 hats on, helmets on, right?

19 A. Yes, sir.

20 Q. You saw other protesters with goggles on them, right?

21 A. Yes, sir.

22 Q. Mr. Gillespie, in the video -- no goggles, right?

23 A. No, sir.

24 Q. No face shield hanging off his face to protect him,
25 right?

1 A. No, sir.

2 Q. In the video, as we can see in this frame, he has a
3 sweatshirt on.

4 Is that what you see in this video frame?

5 A. Yes, sir.

6 Q. And you have described the hat. He has got a hat on as
7 well?

8 A. Yes, sir.

9 Q. Did you see any other protective gear in this frame or
10 in this video that you have looked at?

11 A. I don't see any protective gear, no.

12 Q. From your memory -- from looking at this video, do you
13 see any indication that Mr. Gillespie is coordinating with
14 others to -- as he's pulling your arm?

15 A. Simultaneously as he's pulling my arm, did I see him
16 coordinating? I saw him coordinating before. I didn't see
17 him at the same time he's pulling my arm.

18 Q. Right here (indicating) he is in front of you, and there
19 is no one around him. Is that true?

20 A. There is no one around him, meaning, there are police
21 officers around him.

22 Q. There are no nonpolice officers around him?

23 A. That's correct.

24 Q. He is not communicating with anybody?

25 A. In this still frame, I don't know if he's talking or

1 not.

2 (Whereupon, the video was published.)

3 BY MR. WATKINS:

4 Q. Mr. Gillespie has hold of your arm for approximately
5 six seconds; is that accurate?

6 A. I wasn't paying attention to the time.

7 Were you telling me it was six seconds?

8 I thought it was -- it felt longer. So if I -- if
9 you are going to tell me it's six seconds, I can say, yes,
10 sir; but it felt like an eternity.

11 So I will watch the tape and I will testify to six
12 seconds, if that's what it is.

13 Q. You have seen this portion of the video many, many times
14 at this point; is that correct?

15 A. Not "many." I have seen it a few times.

16 Q. You have gone over it with the U.S. Attorney?

17 A. At least once.

18 Q. And you stopped it very much like we're stopping it here
19 and as she did during your testimony, right?

20 A. Yes.

21 Q. So I want to play this whole thing for you, and then you
22 can tell me whether it's six seconds that Mr. Gillespie has
23 your jacket?

24 A. Yes, sir.

25 (Whereupon, the video was published.)

1 THE WITNESS: It ended at 16:12:56.

2 What time did it start, that he had my hand? It
3 went very quickly.

4 (Whereupon, the video was published.)

5 THE WITNESS: If he has my hand --

6 BY MR. WATKINS:

7 Q. It's now that Mr. Gillespie is grabbing your jacket; is
8 that accurate?

9 A. It looks like seven seconds.

10 Q. I'm sorry?

11 A. 16:12:49.

12 Q. Yes.

13 A. To 16:12:56. So that would be a little different than
14 six. Not much, but different.

15 (Whereupon, the video was published.)

16 BY MR. WATKINS:

17 Q. Seven seconds.

18 Is that accurate, that he grabbed your jacket for
19 seven seconds?

20 A. It looks accurate.

21 Q. He did not strike you in that video, right?

22 A. While he's holding my arm? But he was striking the
23 whole time. So I would say, yes, he was striking me.

24 Q. He's pulling your jacket with two hands is what you told
25 us.

1 A. Yeah. After he came into the police line.

2 Q. I am talking about when he's grabbing your jacket there
3 with two hands.

4 A. Yes, sir. He is not striking me. He has a hold of my
5 jacket for seven seconds.

6 Q. Right.

7 I am going to go now to an excerpt from
8 Exhibit 403. This starts at 4:23 and 24 seconds.

9 (Whereupon, the video was published.)

10 BY MR. WATKINS:

11 Q. Ms. Schesnol played that for you already.

12 Do you recall that?

13 A. Are you asking if I have seen this?

14 Q. Yes.

15 A. Yes, sir, I have.

16 Q. Now, do you see individuals from the Metropolitan Police
17 Department with helmets coming out?

18 A. I see them moving forward, yes, sir.

19 Q. And did you see as members of the Metropolitan Police
20 Department hit Mr. Gillespie?

21 (Whereupon, the video was published.)

22 BY MR. WATKINS:

23 Q. Did you see that?

24 A. No, sir.

25 (Whereupon, the video was published.)

1 THE WITNESS: Am I watching -- when he grabs the
2 stick? What am I testifying -- what's the question?

3 BY MR. WATKINS:

4 Q. I am asking about what happens when a unit of the
5 Metropolitan Police Department comes from the rear, behind
6 us, to walk out.

7 You see them there?

8 A. Are they in the circle or outside the circle, sir?

9 Q. Outside the circle, coming in. This helmet here
10 (indicating).

11 THE COURT: Mr. Watkins, let me -- I have no idea
12 what you were asking, so I didn't know whether the witness
13 understood you. But why don't you either do a still
14 frame or...

15 MR. WATKINS: I'm sorry?

16 THE COURT: Do a still -- pause it, and ask. I
17 don't know what you are asking myself.

18 MR. WATKINS: I am going through one frame at a
19 time here, Your Honor. Bear with me.

20 (Whereupon, the video was published.)

21 BY MR. WATKINS:

22 Q. So that is your unit there (indicating), members of the
23 Metropolitan Police Department; is that true?

24 A. Yes, sir. Yes, sir.

25 (Whereupon, the video was published.)

1 BY MR. WATKINS:

2 Q. And you see Mr. Gillespie in the yellow frame?

3 A. Yes, sir.

4 He has a hold of the officer's stick, I think.

5 Q. I'm sorry?

6 A. It looks like he has a hold of the officer's stick.

7 Is that what you are asking me, if he's pushing
8 and fighting with the officer right there?

9 Q. I am asking you if a member of the Metropolitan Police
10 Department assaulted him as they were coming out.

11 A. I would say that the officer used defensive tactics from
12 him assaulting them. And they're pushing -- he's pushing
13 in, they're pushing out. He's failing to comply, and he's
14 grabbing their nightstick or -- correction -- their CDU
15 stick. And he's failing to comply, and he's trying to hurt
16 the officers. That's what it looks like to me.

17 (Whereupon, the video was published.)

18 BY MR. WATKINS:

19 Q. And shortly after this, Mr. Gillespie is pushed out of
20 the tunnel; is that right?

21 A. Is he pushed out of the tunnel now, is that what you are
22 asking? Is he out of the tunnel now?

23 Q. You have watched the entire video to the end --

24 A. Yes. I'm looking at him right now. He is at the edge
25 of the tunnel, yes.

1 Q. You mentioned you don't know Vincent Gillespie, right?

2 A. I do not know him.

3 Q. You don't know that he's in his 60s?

4 A. I do not know anything about him, sir.

5 MR. WATKINS: That's all I have, Your Honor.

6 THE COURT: Any redirect?

7 MS. SCHESNOL: I will be brief, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. SCHESNOL:

10 Q. Sergeant Riley, did you see the man we have now -- we
11 have now been calling Mr. Gillespie charging the police line
12 with a police riot shield in these various exhibits?

13 A. Yes, ma'am.

14 Q. And would you consider a police riot shield potentially
15 a weapon?

16 A. Yes, ma'am.

17 Q. What about hands, can someone's hands be a weapon?

18 A. Yes, ma'am.

19 Q. You were asked about if you have been trained in
20 defensive tactics for, quote, all kinds of situations.

21 Do you remember that question?

22 A. Yes, ma'am.

23 Q. Have you -- were you ever trained for the type of
24 situation that happened at the Capitol on January 6th?

25 A. No, ma'am.

1 Q. Was what happened at the Capitol on January 6th ever
2 even contemplated in the training you have had?

3 A. No, ma'am.

4 Q. You were asked questions about Mr. Gillespie being hit
5 by law enforcement. Can you describe the use of force that
6 law enforcement used and -- can you describe the level of
7 the use of force that law enforcement used on who we have
8 now called Mr. Gillespie?

9 A. So, yes, ma'am. From mere presence to verbal commands
10 to soft hand to hard-hand control, to the minimum amount of
11 force necessary to effect the arrest or stop the assault.

12 Q. And was deadly or lethal force used in regards to
13 Mr. Gillespie?

14 A. No, ma'am.

15 Q. Based on what was going on in the lower west terrace
16 tunnel at 4:12 p.m. on January 6th, under MPD standards
17 would lethal force have been justified?

18 MR. WATKINS: Objection.

19 THE WITNESS: Probably.

20 THE COURT: Overruled.

21 BY MS. SCHESNOL:

22 Q. In cross-examination, it was characterized that
23 Mr. Gillespie had his hands on your jacket.

24 Do you recall that?

25 A. Yes, ma'am.

1 Q. Was Mr. Gillespie's hands on your jacket alone or any --
2 or was there a body part of yours in the jacket?

3 A. So inside my jacket was my arm. He had my arm in my
4 jacket, that is correct.

5 Q. Do you recall Commander Kyle saying: We are not losing
6 the U.S. Capitol today, when you testified on direct?

7 A. Yes, ma'am.

8 Q. And did MPD keep the Capitol from being lost on
9 January 6, 2021?

10 A. I believe so. In my heart of hearts, I believe we did.

11 MS. SCHESNOL: Thank you.

12 No other questions.

13 THE COURT: Okay. Sergeant Riley, you are
14 excused.

15 Why don't we take our break a little bit --
16 15 minutes earlier, between witnesses. We'll take a
17 ten-minute break, ladies and gentlemen.

18 (Whereupon, a recess was taken.)

19 THE COURT: Who is your next witness going to be?

20 MS. NEVIN: Inspector Lanelle Hawa.

21 THE COURT: Okay. Let's bring the jury in.

22 And could you make sure the witness is --

23 MS. NEVIN: She's right outside the door, Judge.

24 THE COURT: Perfect.

25 MS. NEVIN: Your Honor, may she take the stand?

1 THE COURT: Yes. Oh, sorry. I didn't see you
2 there. Go ahead.

3 (Whereupon, the jury returns to the courtroom.)

4 THE COURT: And could the government state the
5 name of your next witness?

6 MS. NEVIN: Your Honor, the government calls
7 Inspector Lanelle Hawa.

8 THE COURT: Okay. Thank you.

9 Ms. Gumiel, could you administer the oath?

10 (LANELLE HAWA, Government witness, sworn.)

11 THE COURT: Good afternoon.

12 THE WITNESS: Good afternoon.

13 THE COURT: Please proceed.

14 MS. NEVIN: Your Honor, may the witness remove her
15 mask?

16 THE WITNESS: Yes.

17 DIRECT EXAMINATION

18 BY MS. NEVIN:

19 Q. Good afternoon, Inspector.

20 A. Good afternoon.

21 Q. Please state your name your name for the record.

22 A. Lanelle Hawa.

23 Q. Where are you employed?

24 A. United States Secret Service.

25 Q. How long have you worked for the United States Secret

1 Service?

2 A. Approximately 24 years.

3 Q. And what department within the Secret Service do you
4 work in?

5 A. The -- in the inspection division.

6 Q. And so what's your title?

7 A. Inspector.

8 Q. And how big have you been in the inspection division?

9 A. Approximately, a year and a half.

10 Q. Prior to that, what division were you assigned to?

11 A. The liaison division.

12 Q. And how long were you in the liaison division?

13 A. A little over a year, I believe.

14 Q. What does the liaison division do?

15 A. In the liaison division we are tasked -- specifically, I
16 was assigned to the U.S. Capitol. And we were tasked
17 with -- basically, when our protectees arrived at the
18 Capitol -- and by "protectee," I mean individuals who we are
19 tasked to protect -- we would just facilitate visits at the
20 Capitol, and just facilitate their movements around the
21 Capitol in making sure they got from point A to point B and
22 facilitate their access onto the grounds.

23 Q. Generally, what's the mission of the Secret Service as
24 it relates to protectees?

25 A. As it relates to protectees, we're basically charged

1 with protecting some of our nation's highest leaders.

2 Q. And is there a law that requires that, do you know?

3 A. 181 -- U.S. 18 -- sorry. 18 U.S. 3056.

4 Q. In general, how does the Secret Service carry out that
5 mission of protecting our nation's leaders?

6 A. How do we carry it out?

7 Q. Yes.

8 A. I mean, there's many ways that we carry out protecting
9 our -- those assigned to -- those that we're assigned to
10 protect.

11 Q. Can you tell the jury just some examples of who receives
12 Secret Service protection?

13 A. The President, the Vice President, their family members,
14 and foreign heads of state.

15 Q. And as a member of the liaison division, prior to
16 January 6th, 2021, had you ever coordinated visits by the
17 Vice President to the Capitol Building?

18 A. Yes.

19 Q. Approximately how many times?

20 A. I would say a handful. Maybe ten.

21 Q. Now, directing your attention to January 6 of 2021, were
22 you working that day?

23 A. Yes.

24 Q. And what was your specific assignment on that day?

25 A. I was assigned to Vice President Pence.

1 Q. What was Vice President Pence scheduled to do that day?

2 A. He was coming to the Capitol to participate in the
3 certification of the Electoral College votes.

4 Q. Where specifically in the Capitol was that set to
5 happen?

6 A. In the House Chamber.

7 Q. And what was his role in that proceeding?

8 A. He was leading the Senate over from the Senate side of
9 the Capitol.

10 Q. Now, prior to January 6th, what, if anything, did you do
11 to prepare for the Vice President's visit to the Capitol?

12 A. I coordinated with the Capitol Police and the House and
13 Senate Sergeant at Arms, as well as Secret Service, and some
14 of the Vice President's staff.

15 Q. Inspector, I am showing you what's been marked 301 for
16 identification.

17 Is that showing up on your screen, Inspector?

18 A. No, ma'am.

19 Q. Now?

20 A. Yes.

21 Q. Okay. Do you recognize Exhibit 301?

22 A. Yes.

23 Q. What is it?

24 A. That is the email which would have served as the cover
25 sheet, if you will, to other attachments that would be what

1 we would refer to as the "Head of State notification" in
2 which I would have notified, again, the Senate Sergeant at
3 Arms, the House Sergeant at Arms, U.S. Capitol Police
4 counterparts, and Secret Service of the visit of
5 Vice President Pence, as well as Mrs. Pence and their
6 daughter, Charlotte, to the U.S. Capitol on January 6th.

7 And just, again, attached to this would have been
8 an itinerary and some other pertinent information regarding
9 that visit.

10 Q. And did you yourself send this email?

11 A. I did.

12 Q. And is it an exact copy of the email that you sent?

13 A. Yes, it is.

14 Q. And does it have some redactions?

15 A. Yes, it does.

16 MS. NEVIN: Your Honor, we are now offering
17 Exhibit 301 into evidence.

18 MS. HAWTHORNE: No objection.

19 THE COURT: Hearing no objection, Government
20 Exhibit 301 will be admitted.

21 MS. NEVIN: May we publish it?

22 THE COURT: And it may be published.

23 (Government's 301, admitted and published.)

24 BY MS. NEVIN:

25 Q. Inspector, what day did you send this email?

1 A. I sent that on January 5th, 2021.

2 Q. And was there an attachment to this email?

3 A. Yes.

4 Q. I am now showing you what has been marked 302 for
5 identification.

6 Do you recognize 302?

7 A. Yes.

8 Q. And what is it?

9 A. That is the Head of State worksheet that I referenced.
10 Again, it just gives basic -- additional information, the
11 date, the visitor. It will give some motorcade information,
12 as well as an itinerary, and then some personnel who are
13 involved in the visit.

14 Q. And was this the attachment to the email in 301?

15 A. Yes.

16 Q. And has it been -- have some portions been redacted?

17 A. Yes, ma'am.

18 Q. Aside from that, is it a fair and accurate
19 representation of the attachment that you -- of the email
20 that you sent on January 5th?

21 A. Yes.

22 MS. NEVIN: Your Honor, we are now offering
23 Exhibit 302 into evidence.

24 MS. HAWTHORNE: No objection.

25 THE COURT: Hearing no objection, it will be

1 admitted.

2 MS. NEVIN: May we publish it, Your Honor?

3 THE COURT: And it may be published.

4 (Government's 302, admitted and published.)

5 BY MS. NEVIN:

6 Q. Inspector, who were, again, the protectees who were
7 scheduled to visit the Capitol that day?

8 A. Vice President Pence, Mrs. Pence, and their daughter,
9 Charlotte.

10 Q. And then, at the bottom of Exhibit 302, we see a section
11 called "Itinerary"; is that correct?

12 A. Yes.

13 Q. And is that a regular portion of the Head of State
14 worksheet that you would send?

15 A. Yes, ma'am.

16 Q. And what was the scheduled itinerary for the protectees
17 on that date?

18 A. So we anticipated a 12:30 p.m. arrival of the motorcade,
19 and the motorcade was to arrive at the Senate carriage. And
20 then, from there, the protectees -- it was anticipated that
21 they would move to what we refer to as "S214," which is the
22 Vice President's Ceremonial Office. They would move on foot
23 versus an elevator or other means.

24 And then, from there, the Vice President would go
25 over to -- would move over to the House -- chamber of the

1 House Floor, and then back over to the Senate Chamber. And
2 we have "TBD" because our understanding was there would be
3 some back and forth between the House Chamber and the Senate
4 Chamber throughout the evening. It was an unknown exactly
5 how that would be occurring that evening; it was based on
6 how those events would take place.

7 Q. Now, in your experience as a member of the liaison
8 division coordinating with the U.S. Capitol Police, what
9 would happen after you sent an email like in Exhibits 301
10 and 302?

11 A. It just -- it goes over to the Capitol Police, what we
12 refer to as their "special events." It's received over
13 there, and then they would make notifications to their
14 personnel. And they basically assign officers who would
15 then be assigned to me on that day to coordinate. And then
16 they would make notifications, post them, and then officers
17 could know what their duties are on that day. And the gates
18 would be notified to know that the motorcade was coming
19 through that checkpoint, and there would be coordination
20 with the motorcade and other personnel to know that this
21 event was taking place that day.

22 Q. As part of that, would the Capitol Police usually set up
23 some type of restricted area?

24 A. Yes. It would be -- there would be some coordination
25 on -- on their complex.

1 Q. And when you say "coordination," do you mean that other
2 law enforcement agencies would coordinate with the
3 U.S. Capitol Police? What do you mean by that?

4 A. There would be coordination amongst themselves. The
5 Capitol Police would coordinate with Capitol Police on the
6 grounds.

7 Q. And what was the U.S. Capitol Police tasked with doing
8 on that day; what was your understanding?

9 A. Again, some of them -- some of the Capitol Police
10 officers were assigned to assist me that day. Some were
11 assigned specifically to our route that we would be taking.
12 Some were assigned to assist with the motorcade.

13 I understand that there was a perimeter
14 established that day. So they were obviously -- those who
15 were assigned to the perimeter were made aware that this
16 motorcade would be coming in, so those notifications were
17 likely made. Again, Capitol Police would probably have to
18 answer to that, as far as the specific notifications they
19 made.

20 Q. And was one of the reasons for the perimeter because the
21 Vice President would be there that day?

22 A. Yes.

23 Q. And -- I'm sorry. Let me rephrase the question.

24 Was one of the reasons for this perimeter because
25 the Vice President and other protectees would be there that

1 day?

2 A. Yes.

3 Q. And was part of that perimeter made up of hard barriers?

4 A. Yes.

5 MS. NEVIN: I am now going to show you what's in
6 evidence as Government Exhibit 204.

7 Your Honor, may we publish to the jury.

8 THE COURT: Yes, you may.

9 (Whereupon, the exhibit was published.)

10 BY MS. NEVIN:

11 Q. Inspector, are you familiar with this image?

12 A. Yes.

13 Q. And what is it?

14 A. That is the hard barrier that was set up on January 6th,
15 2021, at the Capitol complex.

16 Q. Inspector, around what time did you first see the
17 Vice President and his wife and daughter on January 6 of
18 2021?

19 A. It was right around 12:30 p.m.

20 Q. And where, generally, was that?

21 A. I saw them as they arrived at the Senate carriage.

22 MS. NEVIN: I am now showing you Government's
23 Exhibit 206.2, which is already in evidence.

24 Your Honor, may we publish this to the jury?

25 THE COURT: It may be published.

1 (Whereupon, the exhibit was published.)

2 BY MS. NEVIN:

3 Q. Inspector, can you just show the jury, generally, where
4 the motorcade came?

5 A. Sure. So the motorcade would have come in right in --
6 sorry. It would have come in --

7 MS. NEVIN: I can clear it.

8 THE WITNESS: They would have come in under the
9 carriage, here (indicating).

10 MS. NEVIN: Let the record reflect that the
11 witness has indicated a path from the northeast plaza to the
12 carriage door.

13 THE COURT: Let the record so reflect.

14 BY MS. NEVIN:

15 Q. Now, after dropping off the Vice President and his wife
16 and daughter, was there ever a point that the motorcade had
17 to move?

18 A. Yes.

19 Q. And why was that?

20 A. So -- well, the motorcade moves -- once they drop off
21 our protectees, the motorcade will stage on the plaza. But
22 then the motorcade did have to move off of the plaza due to
23 unauthorized personnel that was breaching the plaza.

24 Q. Inspector, I am showing you Exhibit 304 for
25 identification.

1 Do you recognize this exhibit?

2 A. Yes.

3 Q. And now what are we looking at here?

4 A. So this is the plaza on the east side and the
5 vehicles -- the Suburban GC and the police vehicles are the
6 Vice President's motorcade.

7 Q. Does this show the east front of the Capitol from
8 approximately 1:56 to 2:01 p.m., which is about a
9 five-minute period?

10 A. It appears to be, yes.

11 Q. And is it an exact recording?

12 A. Yes.

13 MS. NEVIN: Your Honor, we are now offering
14 Exhibit 304 into evidence.

15 MS. HAWTHORNE: No objection.

16 THE COURT: Hearing no objection, 304 maybe
17 admitted.

18 MS. NEVIN: May we publish it, Your Honor?

19 THE COURT: And it may be published.

20 (Government's 304, admitted and published.)

21 BY MS. NEVIN:

22 Q. We're going to start at the time -- I'm sorry --
23 2 minutes and 40 seconds, and we'll just pause there for a
24 moment.

25 Inspector, you were testifying about some --

1 Inspector, will you please indicate on this exhibit where
2 the actual motorcade is.

3 A. Sure. (Witness complies.)

4 MS. NEVIN: Let the record reflect that the
5 witness has circled a fleet of vehicles that's in the center
6 of this exhibit.

7 THE COURT: Let the record so reflect.

8 MS. NEVIN: We are going to play it just for about
9 a minute.

10 (Whereupon, an exhibit was published.)

11 MS. NEVIN: Okay. We're going to stop. We're at
12 3 minutes 27 seconds, and time stamp 1:59:27.

13 BY MS. NEVIN:

14 Q. Inspector, going back to when you met the Vice President
15 at the Capitol, where did you go with him?

16 A. When I first met the Vice President at the Capitol,
17 again, I met him at the -- the Senate carriage, and then we
18 walked upstairs to the second floor to his ceremonial
19 office.

20 Q. And around what time was that?

21 A. Right at about 12:30 p.m.

22 Q. After he was in his office, what was his next location?

23 A. From his office, he then went into the Senate Chamber.

24 Q. And why was he going into the Senate Chamber?

25 A. He met with the Senators.

1 Q. And after he met with the Senators, where did he go?

2 A. From there we went to -- across the Capitol, over to the
3 House Chamber.

4 Q. And how did you get to the House Chamber?

5 A. It was a direct path, straight across the, Capitol,
6 through the Rotunda, Statuary Hall. Just -- like I said, a
7 direct path, straight across the second floor.

8 Q. Did there come a time that the Vice President left the
9 House Chamber?

10 A. Yes.

11 Q. And why was that?

12 A. My understanding is there was an objection to one of the
13 votes, I believe for the State of Arizona. And then, at
14 that point, they stop what they are doing, and then they
15 convene -- the Senators gather, and the House of
16 Representatives gather.

17 Q. And around what time was that?

18 A. I want to say it was approximately 1:15.

19 Q. At that time, were you aware of anything happening
20 outside on Capitol grounds?

21 A. Yes. About that time, we were getting word that there
22 was an issue about a breach of some sort on the west side;
23 and I got more information as we made our way back over to
24 the Senate side.

25 Q. And what did you and the other members of the Secret

1 Service do in response to that information?

2 A. So when we got back over to the Senate side and the
3 Vice President had gone into the Senate Chamber is when I
4 had gotten information regarding what was going on in the
5 plaza and that there had been a breach on the west side
6 regarding individuals that had breached some of the fencing,
7 some of the hard barriers, some of the snow fencing, and had
8 made their way up onto the -- what we refer to as the
9 inaugural stage or the inaugural platform that was being
10 built in preparation for the upcoming inauguration. And
11 then, eventually, we had gotten some information that there
12 had been a breach on the House side as well.

13 Q. And while you were receiving that information, where was
14 the Vice President?

15 A. There was times when he was in the Senate Chamber, and
16 then there was a point where his detail had moved him into
17 his ceremonial office.

18 Q. Now, where were you at this point, Inspector?

19 A. I was -- there was times where I was out in the main
20 hallway, outside of the chamber, and then there were times
21 where I was in the lobby area outside of his ceremonial
22 office.

23 Q. Inspector, I'm showing you Exhibit 303 for
24 identification.

25 Have you seen Exhibit 303 before?

1 A. Yes.

2 Q. And what is it?

3 A. This is the lobby area outside of the Vice President's
4 office.

5 Q. And how close or far is this from the Senate Chamber?

6 A. There is a -- there is a hallway separating his office
7 from the Senate Chamber.

8 And if -- and if I can correct myself, I was on
9 the second floor. And there were times that I also was on
10 the first floor, and then I had run a route to another
11 location that we had taken the Vice President.

12 Q. Is this video taken at approximately 2:25 p.m. on
13 January 6, 2021?

14 A. Yes.

15 Q. And is it an exact recording from that time?

16 A. Yes.

17 MS. NEVIN: Your Honor, we are now offering
18 Exhibit 303 into evidence.

19 MS. HAWTHORNE: No objection.

20 THE COURT: Hearing no objection, it will be
21 admitted and may be published.

22 (Government's Exhibit 303, admitted.)

23 MS. NEVIN: Inspector, we're going to play this,
24 and pause it at around eight seconds.

25 (Whereupon, the video was published.)

1 BY MS. NEVIN:

2 Q. Stopping at around eight seconds, do you see the Vice
3 President here?

4 A. Yes.

5 Q. Could you circle him, please.

6 A. Yes. (Witness complies.)

7 MS. NEVIN: Let the record reflect that the
8 witness has circled the man in the foreground, with his back
9 to us, with white hair.

10 THE COURT: Let the record so reflect.

11 MS. NEVIN: We're now going to play until the end.

12 (Whereupon, the video was published.)

13 BY MS. NEVIN:

14 Q. Generally, where did the Vice President go after we saw
15 him in that video?

16 A. So we had moved the Vice President -- we stayed within
17 the Capitol grounds, and we just moved him to a secure
18 location that was away from the Senate Chamber, away from
19 the House Chamber, and away from where any of the security
20 breaches were that -- where the unauthorized personnel were
21 coming into the Capitol complex.

22 Q. Approximately, how long was he in that secure location?

23 A. We were there for approximately five hours.

24 Q. And were his wife and daughter there, too?

25 A. Yes.

1 Q. Do you know what was happening with the Electoral
2 College certification during that time?

3 A. Yes. My understanding was they had to halt it because
4 they had moved the Senators, basically, and the
5 Representatives out -- you know, dispersed them while they
6 were attempting to clear the unauthorized individuals from
7 the complex.

8 Q. Was the Vice President eventually able to return to the
9 Senate Chamber?

10 A. Yes.

11 Q. Approximately what time?

12 A. I want to say it was approximately 8:00 p.m. by the time
13 we got back up to his ceremonial office, and maybe between 8
14 and 9:00 p.m. when they reconvened.

15 Q. So from, approximately, 2:25, which was the time on
16 Exhibit 303, until 8 or 9 p.m., where was the
17 Vice President, generally?

18 A. Sorry. Ask the question again.

19 Q. Sure. From 2:25 until 8 or 9 p.m., where was he,
20 generally?

21 A. He was in our secure location in a lower level.

22 Q. Inspector, you previously testified that the mission of
23 the Secret Service generally was to protect our nation's
24 leaders at the highest levels, correct?

25 A. Correct.

1 Q. Was that mission impacted by the events of January 6,
2 2021?

3 A. It was challenged that day, yes.

4 Q. And how so?

5 A. We had a challenge with our -- to our security -- the
6 security that day of -- at our site.

7 Q. I'm sorry. I did not hear the last thing you had said.

8 A. I said at a site that we had established.

9 Q. Did you have to move the protectees in a way that you
10 wouldn't have otherwise?

11 A. Yes.

12 Q. And did you have to move them in a way that was not
13 envisioned in your itinerary?

14 A. Yes.

15 Q. Did the Secret Service have to deploy any additional
16 assets?

17 A. Yes.

18 Q. And did the Secret Service have to change or curtail
19 their own movements on January 6th?

20 A. Yes.

21 MS. NEVIN: Your Honor, I have no further
22 questions.

23 MS. HAWTHORNE: May I inquire?

24 THE COURT: Yes, Ms. Hawthorne. Please proceed.

25 CROSS-EXAMINATION

1 BY MS. HAWTHORNE:

2 Q. Ms. Hawa, I would like to speak to you about your job.

3 On January 6, 2021, you were working in your
4 official capacity as a United States Secret Service Special
5 Agent, right?

6 A. Yes, ma'am.

7 Q. The overarching goal of your mission on January 6th was
8 to ensure that no one touched or hurt the Vice President?

9 A. Correct.

10 Q. And the Vice President at that time was Mike Pence?

11 A. Yes.

12 Q. Sometime after the certification started, you indicated
13 on direct that he was moved back to the Senate side of the
14 Capitol, right?

15 A. Correct.

16 Q. And it was because of the objection from Arizona that he
17 was moved back to the Senate side of the Capitol, correct?

18 A. Correct.

19 Q. Once Mike Pence returned to the Senate side, that's
20 around the time where you heard communications that
21 concerned you?

22 A. Yes.

23 Q. You heard there was a breach on the west side of the
24 Capitol?

25 A. Yes.

1 Q. You heard there was a confrontation of sorts on the
2 inaugural platform?

3 A. Yes, and the west side.

4 Q. What was that?

5 A. I said, yes, and the west side.

6 Q. Okay. You were with Mike Pence and his team at the time
7 you got these communications?

8 A. Yes.

9 Q. Mike Pence was never touched by protesters that day,
10 right?

11 A. No.

12 Q. He was never hurt by protesters that day?

13 A. No, he was not.

14 Q. He never came into physical contact with any protesters
15 at all, right?

16 A. No, ma'am.

17 Q. And neither did his family?

18 A. They did not.

19 Q. Now let's speak a little bit more about the places
20 Mike Pence was moved to on January 6th.

21 After the objections to the votes from Arizona,
22 that's when Mike Pence returned to the Senate side, and that
23 was around 1:15 p.m.?

24 A. Correct.

25 Q. Okay. And after returning to the Senate side, he went

1 to his office?

2 A. Say that again.

3 Q. So after the objection and he went to the Senate
4 Chamber -- after that, he went to his ceremonial office, I
5 think you said, on direct?

6 A. Correct.

7 THE COURT: Inspector Hawa, could you keep the
8 mic -- you are moving away from the microphone. Stay in
9 front of it.

10 BY MS. HAWTHORNE:

11 Q. Then, around 2:25 p.m. is when he left his office?

12 A. Correct.

13 Q. He was relocated to a secure location?

14 A. Correct.

15 Q. And that secure location was not known to the public at
16 the time?

17 A. Correct.

18 Q. Mike Pence remained in that secure location until around
19 8:00 p.m. that evening?

20 A. Correct.

21 Q. During the hours between 1:15 p.m. and around 9 p.m.,
22 the electoral certification was paused?

23 A. Can you repeat that?

24 Q. Yes.

25 During the hours between 1:15 p.m. and around

1 8 p.m., the electoral certification was paused?

2 A. Correct.

3 Q. On direct you were asked some questions about the
4 restricted perimeter placed around the Capitol on
5 January 6th; let's speak more about that.

6 It was Capitol Police that set up the perimeter,
7 correct?

8 A. Correct.

9 Q. Not Secret Service?

10 A. It's done in conjunction with us, so we kind of adopt a
11 plan that they have.

12 Q. Okay. You weren't involved in physically setting up
13 that perimeter, were you?

14 A. No.

15 Q. Okay. And from the time the Vice President entered the
16 Capitol with you, around 12:30, until around 9 p.m. when he
17 returned to the Senate Chamber, you never left the Capitol,
18 right?

19 A. Correct.

20 Q. Throughout the whole time you stayed inside?

21 A. Correct.

22 Q. Now I would like to go back and speak a little bit more
23 about Mike Pence's office more specifically.

24 When he was Vice President, he had a designated
25 office inside the Capitol complex, right?

1 A. Yes.

2 Q. He was -- his office was on the Senate side of the
3 complex?

4 A. Yes.

5 Q. He had an office there since he became Vice President in
6 January of 2017, right?

7 A. That's my understanding.

8 Q. As Vice President, he was also President of the Senate?

9 A. Yes. That's my understanding.

10 Q. And as far as you know, he used that office for official
11 business?

12 A. Yes. That's my understanding.

13 Q. He did not share the office with anyone else?

14 A. I wouldn't know the answer to that. I mean, my
15 understanding is no, it's his office.

16 Q. Okay. So, as far as you know, he didn't share the
17 office with anyone else?

18 A. Correct.

19 Q. That office was only for him, as far as you know?

20 A. I wouldn't know one way or the other, to be honest.

21 Q. Okay. Now I'd like to speak to you a bit more about
22 your job as the government believes it relates to
23 Mr. Gillespie.

24 You have never met Mr. Gillespie before, have you?

25 A. No.

1 Q. You have never spoken to him?

2 A. No.

3 Q. You did not see him on January 6, 2021?

4 A. No. Not that I recall.

5 Q. Okay. And prior to this case, you didn't even know he
6 was in D.C. on January 6, 2021?

7 A. No, ma'am.

8 MS. HAWTHORNE: Thank you.

9 Nothing further.

10 THE COURT: Any redirect?

11 MS. NEVIN: No, Your Honor.

12 THE COURT: Inspector, you are excused.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: Who is the government's next witness?

15 MS. SCHESNOL: Mark Gazelle.

16 THE COURT: Officer, please step forward.

17 (MARK GAZELLE, Government witness, sworn.)

18 THE COURT: Good afternoon.

19 You may remove your mask when you are testifying.

20 THE WITNESS: Thank you.

21 MS. SCHESNOL: May I proceed, Your Honor?

22 THE COURT: Yes, you may.

23 MS. SCHESNOL: Thank you.

24 DIRECT EXAMINATION

25 BY MS. SCHESNOL:

1 Q. Please state your name.

2 A. Mark Gazelle.

3 Q. How do you spell your last name for the record?

4 A. G-A-Z-E-L-L-E.

5 Q. Are you employed?

6 A. I am.

7 Q. How so?

8 A. With the United States Capitol Police.

9 Q. How long have you been with the United States Capitol
10 Police?

11 A. Coming up, 32 years.

12 Q. What is your title or position with the United States
13 Capitol Police?

14 A. Police officer.

15 Q. Are you assigned to a particular section?

16 A. Yes. The Senate Chamber section.

17 Q. And what exactly does the mean to be a police officer --
18 a United States Capitol Police officer with the Senate
19 Chamber?

20 A. Our -- as an officer for the Senate Chamber section, our
21 main duty is the protection of the Senate, and its
22 occupants.

23 Q. Protection of the Senate, and what?

24 A. And its occupants. The Chamber, the Senators, and the
25 staff.

1 Q. Can you just make sure the mic is right in front of you
2 so we can hear every word you have to say.

3 How long have you been assigned to the Senate
4 Chamber section of the Capitol?

5 A. Twenty-seven years.

6 Q. And being that you are assigned to the Senate Chamber
7 section, where does that mean you are physically located as
8 a normal duty station?

9 A. A lot of times on the Senate Floor or the doors that
10 post -- that surround the Chamber itself.

11 Q. Having been a United States Capitol Police officer
12 almost 32 years, are you familiar with the United States
13 Capitol Building?

14 A. I am.

15 Q. Where is it located?

16 A. On 1 First Street, Southeast, Washington, D.C.

17 Q. Is the building secured?

18 A. Yes, it is.

19 Q. Can you tell us how -- how that is done, and what the
20 hours it is secured?

21 A. That is the main mission of my department, is to protect
22 the building 24 hours a day, seven days a week, every day of
23 the year.

24 Q. And how is that protection of the Capitol accomplished?

25 A. We have a force with over 2000 whose duty assignments

1 are posted around the Capitol complex; that not just
2 includes the building itself, but all of the congressional
3 office buildings that connect to it.

4 Q. Are there security barriers around the United States
5 Capitol?

6 A. Yes. Throughout the complex.

7 Q. Can you describe what some of those security barriers
8 are?

9 A. We have what are called delta barriers, which --
10 barriers along the avenues around the Capitol and its
11 buildings. And then we have doors that are secured through
12 magnetic locks throughout the complex.

13 Q. Is protecting the United States Capitol a federal
14 function?

15 A. Yes, it is.

16 Q. On January 6, 2021, did members of the Metropolitan
17 Police Department assist in that function?

18 A. They did.

19 Q. The size of the United States Capitol Building itself,
20 approximately how many rooms does it consist of?

21 A. Around a little over 500.

22 MS. SCHESNOL: May I have a moment, Your Honor?

23 BY MS. SCHESNOL:

24 Q. Can you generally describe what the east side of the
25 Capitol looks like, what it's made up of?

1 A. The east side of the Capitol is the plaza side where the
2 vehicles and motorcades can access the building from the
3 ground level. It's designed, like I said, for passage of
4 vehicles and members to park their vehicles for votes,
5 coming into the -- the leadership offices are in the Capitol
6 Building, so they also wind up parking in that area.

7 Q. Is the visitor center on the east side of the Capitol?

8 A. Yes, it is.

9 Q. What about the west front of the Capitol, can you
10 generally describe what that looks like?

11 A. That is a grassy area that's on the west side of the
12 building; and it faces towards what we call the Mall, which
13 is where all the monuments are located, on the west side of
14 the Capitol Building.

15 Q. The National Mall?

16 A. The National Mall, yes.

17 Q. Not a shopping mall?

18 A. No.

19 Q. On January 6th was there -- did the west front look
20 different than it normally does -- it looked different on
21 January 6th than it normally does, January 6, 2021?

22 A. Well, we did have a barrier set up around the whole
23 complex of the Capitol Building itself.

24 Q. Why was that barrier set up?

25 A. To keep people out. We had a Joint Session that day, so

1 it was designed to keep the Capitol west front and east
2 front clear of individuals.

3 Q. And before we talk in detail about the Joint Session,
4 was there any other physical difference closer to the
5 Capitol Building itself on the west side, in terms of in
6 preparation for the inauguration?

7 A. There were like street closures and, like I said,
8 barriers further down along the route.

9 Q. And was there -- in preparation for the inauguration,
10 was there some special construction going on?

11 A. Yes. The inaugural stand was being built.

12 Q. The inaugural what?

13 A. The inaugural stand --

14 Q. Stand.

15 A. -- was being built, and the different various structures
16 that go along with it. And that was all closed in, too, for
17 the construction of the inaugural stand.

18 Q. And what kind of -- you said there were different
19 structures that go along with the inaugural stand, what were
20 some of those structures?

21 A. One is a tower they built for the media because they
22 built a tower to put up all the cameras, and they can
23 broadcast the live -- broadcast the inauguration live. And
24 then there is all -- trailers and other areas that they use
25 for protection and putting people, the guests of the

1 members -- anybody in attendance, they have little areas to
2 put them until they take the stand.

3 Q. Were there scaffolding and, sort of, bleacher seating
4 set up for the inauguration?

5 A. Yes. Yes, there was.

6 Q. And was that all on the west front as well?

7 A. That's correct.

8 Q. On January 6, 2021, were the Capitol Police engaged in
9 their official duties?

10 A. They were.

11 MS. SCHESNOL: Your Honor, the parties have
12 reached a stipulation, Stipulation 1003. Because we have
13 reached it and signed it, I would ask that we admit and
14 publish it to the jury, as I read it to them, if that would
15 be permitted.

16 THE COURT: Any objection?

17 MS. O'NEILL-GREENBERG: No objection, Your Honor.

18 THE COURT: Okay. Stipulation 103 will be
19 admitted and may be published so the jury can read along.

20 MS. SCHESNOL: And I will read it in part, that
21 the parties, the United States and Vincent Gillespie, with
22 his attorney, titled: Officers from the United States
23 Capitol Police and Metropolitan Police Department, on
24 January 6, 2021, officers from the United States Capitol
25 Police, USCP, on the United States Capitol grounds and in

1 the United States Capitol Building were engaged in their
2 official duties as officers or employees of the
3 United States or any agency in any branch of the United
4 States government, as those terms are used in Title 18,
5 United States Code Section 1114.

6 On January 6, 2021, officers from the Washington,
7 D.C. Metropolitan Police Department, MPD, on the
8 United States Capitol grounds, and in the United States
9 Capitol Building, were assisting officers from the USCP who
10 were engaged in their official duties as officers or
11 employees of the United States or of any agency in any
12 branch of the United States government, as those terms are
13 used in Title 18, United States Code Section 1114.

14 So to orient the jury we have some large posters,
15 which are Exhibits 213, 214, and 216.

16 With Your Honor's permission, may I grab those and
17 approach the witness with those?

18 THE COURT: Yes, you may.

19 MS. SCHESNOL: Thank you.

20 And I might need the lapel mic for this portion.

21 BY MS. SCHESNOL:

22 Q. Officer Gazelle, do you see what's been marked as
23 Exhibit 213 in front of you?

24 A. I do.

25 Q. And what is Exhibit 213?

1 A. It is a map of the first floor of the United States
2 Capitol.

3 Q. Is this an accurate depiction of the first floor of the
4 United States Capitol?

5 A. Yes, it is.

6 MS. SCHESNOL: Your Honor, the government moves
7 for the admission and publication of Exhibit 213.

8 MS. O'NEILL-GREENBERG: No objection.

9 THE COURT: Hearing no objection, it will be
10 admitted.

11 (Government's 213, admitted and published.)

12 BY MS. SCHESNOL:

13 Q. Showing you what's been marked as Exhibit 214, do you
14 know what Exhibit 214 is?

15 A. Yes.

16 Q. What is Exhibit 214?

17 A. It is a map of the second floor of the United States
18 Capitol.

19 Q. Is Exhibit 214 a fair and accurate depiction of the
20 second floor of the Capitol?

21 A. It is.

22 MS. SCHESNOL: Your Honor, the government moves
23 for the admission and publication of Exhibit 214.

24 MS. O'NEILL-GREENBERG: No objection.

25 THE COURT: Hearing no objection, it will be

1 admitted and may be published.

2 (Government's 214, admitted and published.)

3 BY MS. SCHESNOL:

4 Q. Okay. And last but not least, Exhibit 216.

5 Do you know what Exhibit 216 is?

6 A. Yes.

7 Q. What is Exhibit 216?

8 A. That is the basement level of the United States Capitol.

9 Q. And is this map, Exhibit 216, a fair and accurate
10 depiction?

11 A. Yes, it is.

12 MS. SCHESNOL: Your Honor, the government moves
13 for the admission and publication of Exhibit 216.

14 MS. O'NEILL-GREENBERG: No objection.

15 THE COURT: Hearing no objection, it will be
16 admitted and may be published.

17 (Government's 216, admitted and published.)

18 MS. SCHESNOL: Did we ever get the hand-held mic?

19 THE COURT: No.

20 MS. SCHESNOL: We did not. Okay.

21 We are going to grab you your own lapel mic so you
22 and I can talk about these various exhibits.

23 THE WITNESS: Can you hear me?

24 THE COURT: Yes.

25 BY MS. SCHESNOL:

1 Q. Okay. Let's start at the basement level map, 216.

2 Can you please use the pointer to show what is
3 considered the west side of the Capitol?

4 A. This, right here (indicating).

5 MS. SCHESNOL: So this is a problem though because
6 the jury can see it but Your Honor can't.

7 THE COURT: Why don't you use this easel, set it
8 up at the corner.

9 Counsel, feel free to sit on the bench or sit at
10 the chairs at the end of the table. You can sit there so
11 you can see.

12 Mr. Gillespie, please sit down on the bench, or...

13 MS. SCHESNOL: Can Your Honor see the map?

14 THE COURT: I can.

15 Can all the jurors see it?

16 You are going to have to turn it to the left.

17 MS. SCHESNOL: Can Your Honor still see it?

18 THE COURT: I will move over here.

19 MS. SCHESNOL: Thank you for your accommodation.

20 BY MS. SCHESNOL:

21 Q. Can you please point to the west side of the Capitol on
22 this map?

23 A. This, right here (indicating), is the west side of the
24 U.S. Capitol.

25 Q. Would that be the area that actually says "west front"?

1 A. Yes.

2 MS. SCHESNOL: Your Honor, may the record reflect
3 that the witness has pointed to the top middle section of
4 the map?

5 THE COURT: Yes. Let the record so reflect.

6 Can the jurors see it in the back? Can you see?

7 Okay. You can tilt it more to the right so the
8 jurors can see that.

9 BY MS. SCHESNOL:

10 Q. And which side of this map is the Senate side of the
11 Capitol?

12 A. This, right here (indicating), is the Senate side of the
13 U.S. Capitol.

14 MS. SCHESNOL: And may the record reflect that the
15 witness has pointed to the right side of the exhibit?

16 THE COURT: Let the record so reflect.

17 MS. SCHESNOL: Thank you.

18 BY MS. SCHESNOL:

19 Q. And what about the House side?

20 A. The House side is right here (indicating), which is
21 considered the south side of the Capitol.

22 MS. SCHESNOL: Your Honor, may the record reflect
23 the witness has pointed to the left side of the map.

24 THE COURT: Let the record so reflect.

25 BY MS. SCHESNOL:

1 Q. Is there an entrance, exit, doorway to get in and out of
2 the Capitol Building on the west side at this basement
3 level?

4 A. There is.

5 Q. What is that? Can you describe that?

6 A. It's called the lower west terrace door, and it's right
7 in this area -- right here (indicating), in the center
8 portion of the west side of the Capitol Building.

9 MS. SCHESNOL: Your Honor, may the record reflect
10 the witness has pointed to the upper part of the map in the
11 center.

12 THE COURT: Let the record so reflect.

13 BY MS. SCHESNOL:

14 Q. Talking about this lower west terrace doorway, is that a
15 daily point of ingress and egress into the Capitol Building
16 by staff members?

17 A. No, it is not.

18 Q. Okay. Thank you.

19 And if someone were to get into the Capitol from
20 those lower west terrace doors, what, if any, part of the
21 Capitol would that individual have access to?

22 A. Well, this level right here (indicating) -- once you
23 come in those doors, it gives you access to both the south
24 and north side.

25 So if you come in the west side of the stairs

1 right here (indicating), it puts you in this hallway. If
2 you either go north or south in these hallways, it takes you
3 to critical areas that lead you to the train system of the
4 U.S. Capitol and the doorways that lead -- or stairwells
5 that lead to the tunnels that lead to the other buildings
6 throughout the Capitol complex.

7 Q. Would it also lead to stairways that lead to other
8 levels within the Capitol Building?

9 A. Yes. There is a main route that goes straight up to the
10 Crypt. And from the Crypt, those stairs would go straight
11 up to the Rotunda, which puts you on the level with the
12 chambers.

13 Q. Okay. Well, since you mentioned the "Crypt," let's go
14 to the map with the first floor, which is Exhibit 213.

15 Do we see the Crypt on this exhibit?

16 A. Yes, we do.

17 Q. Can you please point out where it is?

18 A. It's this area right here (indicating), in the center of
19 the building.

20 Q. That's marked "Crypt"?

21 A. Yes.

22 MS. SCHESNOL: Your Honor, may the record reflect
23 the witness has pointed to the center of the exhibit that
24 literally says the word "Crypt" on it.

25 THE COURT: Let the record so reflect.

1 BY MS. SCHESNOL:

2 Q. What exactly is the Crypt, briefly?

3 A. The Crypt is a big round room that -- its original
4 intent was to house former Presidents -- but they didn't
5 follow through -- when they passed away. But now it's just
6 a big circular area where they have museum artifacts in the
7 building.

8 It's also the exact center of Washington, D.C., so
9 all four quadrants meet right there; you have your
10 southwest, northwest, southeast, and northwest [sic]
11 sections of the city all meet right there, at the center of
12 the Capitol Building.

13 Q. Is the Crypt -- I believe we have established the Crypt
14 is on the first floor, correct?

15 A. Yes.

16 Q. What is above the Crypt on the second floor?

17 A. That would be the Rotunda.

18 Q. Okay. So now we're looking at Exhibit 214, which is the
19 second floor map.

20 Can you please point out where the Rotunda is on
21 Exhibit 214?

22 A. It's right here (indicating), also right in the middle
23 of the building.

24 Q. Okay. The Rotunda, how would you describe that sort of
25 geographically within the building of the Capitol?

1 A. It's the exact center of the Capitol Building.

2 Q. What's above the Rotunda?

3 A. It's just a giant dome-spaced area. There is nothing
4 above it, other than the Statue of Freedom.

5 Q. The Statue of Freedom that sits atop the dome?

6 A. Correct.

7 Q. On the outside?

8 A. Correct.

9 Q. I will have you take your seat just for a minute. But
10 we're going to have you step down -- make sure the two mics
11 don't interfere with each other, okay? And I will do the
12 same.

13 Was the Capitol Building open to visitors on
14 January 6, 2021?

15 A. It was not.

16 Q. Why not?

17 A. Well, we were closed due to COVID restrictions, first of
18 all. And, two, we also had a joint meeting that day, so we
19 put extra security measures in place for that.

20 Q. So let's talk about the COVID restrictions really
21 quickly.

22 So if I wanted -- if I was interested in history,
23 and I wanted to come tour the Capitol on January 5th, 2021,
24 or January 1st, 2021, would I have been able to do that as
25 just a normal tourist?

1 A. No. We were still under the COVID restrictions which
2 did not allow any tours of any kind.

3 Q. If the building had not been closed due to COVID
4 restrictions and not closed because of the Joint Session and
5 someone wanted to come in and take a tour, how would they
6 accomplish that?

7 A. You would either arrive at the Capitol Visitor Center or
8 you would write to your members and get -- sometimes the
9 members would do a special tour; otherwise, you apply
10 through the Capitol guide service to get a tour of the
11 building.

12 Q. And you mentioned if I didn't go through a member and I
13 went through the Capitol Visitor Center, where is the
14 Capitol Visitor Center?

15 A. That's on the east front of the building.

16 Q. What, if any, security measures would I have to go
17 through if I were to enter or if anyone were to enter
18 through the Capitol Visitor Center?

19 A. You come in and you have to submit through a screening
20 process of a metal detector, an X-ray of your items and
21 belongings. And then we have an analyzer that detects for
22 bomb detection material, so we will swab down certain items
23 and check that and analyze it; and you would go through all
24 that process before you would be allowed to get a tour.

25 Q. It's December 20th today; it's a chilly day out. If I

1 wasn't here and I wanted to tour the Capitol, I showed up at
2 the Visitor Center -- and I had my hot cocoa with me because
3 it's very cold out and maybe some kind of snack, a granola
4 bar or something -- would I be able to bring those things
5 with me into the Capitol?

6 A. No. Food and drinks are not permitted in the building.

7 Q. If I did go through a member to tour the Capitol
8 Building, if it weren't closed, or if I had a friend who
9 could give me a special behind-the-scenes tour of the
10 building, what, if any, security measures would I go
11 through?

12 A. You would still come into the building before you got to
13 the member's office, be screened before you got to the
14 member's office and, from there, you would hook up with
15 their staff. But it would still be a staff led tour -- or
16 the member themselves, if they're willing to do that.

17 Q. And would I still have to go through a magnetometer and
18 an X-ray?

19 A. Yes, you would.

20 Q. You have been a Capitol police officer almost 32 years.
21 If I came to visit you at the Capitol, would I have to go
22 through that type of screening?

23 A. I would still have to put you through that screening,
24 yes.

25 Q. What about staff members who work at the Capitol

1 Building? What, if any, screening do they go through?

2 A. They also -- every day they come in they have to show
3 their staff ID. There are certain doors that are staff
4 only, so they don't come in the general public door; but
5 they're still treated the same. Once they come in, they are
6 afforded these quicker doors; but they still go through
7 X-rays, magnetometers.

8 Q. Do staffers use the door at the basement level that are
9 the lower west terrace tunnel doors that you have shown us
10 on Exhibit 216?

11 Do staff members use those doors to enter and exit
12 the Capitol Building?

13 A. They do not.

14 Q. If I were allowed on a public tour that I got in through
15 the visitor center, would I be able to go in and out of the
16 lower west terrace doors?

17 A. No, you would not.

18 Q. Is the lower west terrace tunnel part of the public
19 tour?

20 A. It is not.

21 Q. If an unauthorized person got through the lower west
22 terrace tunnel doors, would you consider that a security
23 breach?

24 A. Yes.

25 Q. What if dozens of people flooded through the lower west

1 terrace doors, what kind of security breach would you
2 consider that?

3 A. Dozens, pretty bad. I mean, catastrophic.

4 Q. Working at the Capitol nearly 32 years, how many
5 different administrations -- presidential administrations
6 have you seen come and go?

7 A. I have been there through five -- or six different
8 presidents now.

9 Q. Are six different presidents considered six different
10 administrations or more than six?

11 A. Actually, more than six. Each time they're reelected,
12 it's a new administration; so, technically, eight.

13 Q. During your nearly 32 years at the Capitol, have there
14 been multiple inaugurations?

15 A. Yes.

16 Q. How many, if any, have you participated in?

17 A. I have participated in eight myself.

18 Q. And Electoral College certifications, have you
19 participated in any of those processes?

20 A. Five of them.

21 Q. Now, you mentioned that the Capitol was closed to
22 visitors on January 6, 2021, one reason was the pandemic.
23 And then you had also begun to mention the Joint Sessions,
24 and I cut you off. So let's turn back to the Joint Session.

25 So can you please describe why the Capitol was

1 closed for this Joint Session of Congress?

2 A. Well, the main reason was just to keep the security at a
3 higher level. Both houses were to meet and do -- and count
4 the electoral ballots so, therefore, it brought forth higher
5 security measures.

6 Q. And was an actual physical perimeter set up around the
7 grounds of the United States Capitol Building and grounds as
8 part of the security measures?

9 A. There was.

10 MS. SCHESNOL: Can we pull up Exhibit 204, please.

11 204, which has already been admitted, can we
12 publish that for the jury?

13 THE COURT: Yes. It may be published.

14 (Whereupon, the exhibit was published.)

15 BY MS. SCHESNOL:

16 Q. Is Exhibit 204, with an outline in red, does that depict
17 the perimeter that was set up that you have described?

18 A. It does.

19 Q. Now, you mentioned this Joint Session for a counting of
20 electoral votes, what is that?

21 A. That is, after the election process -- after everybody
22 votes, that's a process that Congress has to move forward on
23 to elect our President of the United States.

24 Q. These Electoral College votes, where do they come from?

25 A. Each state.

1 Q. Each state.

2 And then what happens with those -- can we call
3 them -- is "ballots" a correct term?

4 A. Yes.

5 Q. And what happens with these ballots that come from each
6 state?

7 A. They are brought to the Senate for safekeeping until the
8 actual day of the counting.

9 Q. And what is the actual day of the counting?

10 A. That is always January 6th.

11 Q. Says who?

12 A. That is according to the U.S. Constitution.

13 Q. So let's turn to January 6, 2021.

14 Were you working on that day?

15 A. I was.

16 Q. About what time, if you recall, did you get to the
17 Capitol on January 6, 2021?

18 A. Around 8:30 in the morning.

19 Q. How many houses of Congress are there in the
20 United States Capitol?

21 A. There are two.

22 Q. What are those two houses?

23 A. The United States House of Representatives and the
24 United States Senate.

25 Q. What is the title or position of the person in charge of

1 the House of Representatives?

2 A. That would be the Speaker of the House.

3 Q. Who held that position on January 6, 2021?

4 A. Nancy Pelosi.

5 Q. What is the title or position of the person who is in
6 charge or sets the agenda for the Senate?

7 A. They're referred to as the majority leader.

8 Q. Who was that on January 6, 2021?

9 A. Mitch McConnell.

10 Q. And under the United States Constitution, who formally
11 presides over the United States Senate?

12 A. The Vice President of the United States.

13 Q. So is the Vice President of the United States also the
14 President of the Senate?

15 A. That is correct.

16 Q. Does the Vice President of the United States/President
17 of the Senate have office space in the United States Capitol
18 Building?

19 A. They do.

20 Q. And whereabouts is that?

21 A. They're -- the office is located behind the chamber of
22 the U.S. Senate.

23 Q. What floor is the Senate Chamber on?

24 A. The second floor.

25 Q. So is that depicted in the map that we have displayed?

1 A. Yes, it is.

2 Q. Who was the Vice President of the United States on
3 January 6, 2021?

4 A. Mike Pence.

5 Q. And have you observed the President of the Senate, the
6 Vice President of the United States, presiding over Senate
7 before?

8 A. Yes, I have.

9 Q. More than once?

10 A. On several different occasions.

11 Q. When the Vice President of the United States comes to
12 the Capitol, are extra security measures put in place?

13 A. Yes.

14 Q. Can you describe what those extra security measures are?

15 A. Well, first of all, he is accompanied by his own
16 security team of the United States Secret Service. And then
17 we put extra teams around the areas which -- from the time
18 he departs his motorcade until he comes in the building, and
19 from the time he leaves the building until he goes back to
20 his motorcade, we have extra officers along the route.

21 Q. Do Capitol Police officers work in unison to protect the
22 Vice President or any foreign dignitary that shows up?

23 A. Yes.

24 Q. And Capitol Police works in unison with what other group
25 to protect those people?

1 A. The Secret Service, State Department. There's a host of
2 agencies who are in charge of a secretary or a dignitary of
3 some sort. When they come in, they must meet with our
4 officials, set it up, the arrival, and we will work together
5 with those agencies.

6 Q. Do members of the Secret Service actually have office
7 space at the United States Capitol Building?

8 A. They do.

9 Q. And why do they have office space there?

10 A. They had to set up a liaison office back in -- I guess
11 it was the late '90s, when they -- we had the first
12 impeachment or impeachment trial for one of the presidents.
13 So we had to come together on terms of how to work together
14 by protecting the staff and the people on trial.

15 Q. So is it just easier to give Secret Service an office at
16 the Capitol?

17 A. Well, they come up here to learn how we handle our
18 situation and not -- it's not their job to take over
19 security. It's still our building, our measures, our way to
20 do things so, that way, their agents and our agents don't
21 collide in their duties.

22 MS. SCHESNOL: So I would like to begin talking
23 about the Electoral College certification process itself.

24 Your Honor, the parties have reached a
25 stipulation, which is Exhibit 1004. Being that we have

1 reached this stipulation, I would ask that it be admitted
2 and published for the jury.

3 THE COURT: Any objection?

4 MS. O'NEILL-GREENBERG: No objection.

5 THE COURT: It will be admitted and may be
6 published.

7 (Government's 1004, admitted and published.)

8 MS. SCHESNOL: If I may read it to the jury?

9 THE COURT: Please proceed.

10 MS. SCHESNOL: Thank you.

11 Electoral College certification. The United
12 States of America, by and through its attorney, United
13 States Attorney for the District of Columbia, and defendant
14 Vincent Gillespie, with the concurrence of his attorney,
15 agree and stipulate to the following:

16 One, there are two Houses of Congress: The Senate
17 and the House of Representatives. The two Houses of
18 Congress have separate chambers; the Senate meets in the
19 Senate Chamber, and the House of Representatives meets in
20 the House Chamber.

21 The House of Representatives is led by the Speaker
22 of the House, who is elected by the members, and exercises
23 administrative oversight over the House. On January 6,
24 2021, Nancy Pelosi was serving as Speaker of the House.

25 The Senate is led by the Majority Leader. The

1 Majority Leader is selected by the party that holds the
2 majority of seats in the Senate, and manages the agenda and
3 day-to-day operations of the Senate. On January 6, 2021,
4 Senator Mitch McConnell was the majority leader.

5 The President of the Senate, distinct from the
6 Majority Leader, is the Vice President of the United States.
7 On January 6, 2021, the President of the Senate was Mike
8 Pence.

9 In accordance with the Twelfth Amendment to the
10 United States Constitution, the United States Code, and
11 Senate Concurrent Resolution I, on January 6, 2021, at
12 1:00 p.m., a Joint Session of Congress was convened to
13 fulfill its constitutional and statutory responsibilities to
14 count the Electoral College votes and declare who had
15 received the most votes for President of the United States
16 in the 2020 election, which had taken place on November 3rd,
17 2022 [sic].

18 The Electoral College votes were cast on ballots
19 which, under law, are referred to as Certificates of the
20 Vote.

21 On January 6, 2021, at approximately 12:56 p.m.,
22 the members of the Senate proceeded from the Senate Chamber
23 to the House Chamber with the Certificates of the Vote, to
24 convene the Joint Session of Congress.

25 As the procession entered the House Chamber,

1 Senate staffers proceeded down the aisles of the House
2 Chamber carrying ballot boxes, the ceremonial boxes that
3 contained the Certificates of the Vote.

4 After the Senators and their staff and the ballot
5 boxes arrived in the House Chamber, the Joint Session was
6 gavelled in, and Congress began discussing each State's
7 Electoral College vote.

8 According to law, specifically Title III,
9 Section 15 of the United States Code, an event of an
10 objection to the state certification that is joined by both
11 a member of the House and a U.S. Senator, the two houses
12 return to their respective chambers to debate and vote on
13 the objection. The debate can last no more than two hours.

14 On January 6, 2021, after an objection, the
15 Senators and their staff returned to the Senate Chamber to
16 debate and vote on the objection, bringing with them the
17 Certificates of the Vote.

18 After returning to the Senate Chamber, the Senate
19 staff learned that protestors had breached the Capitol
20 Building. The President of the Senate, Vice President Mike
21 Pence, was at the presiding officer's chair. At
22 approximately 2:12 p.m., the Vice President was escorted
23 from the Senate Chamber by the Secret Service.

24 After the Vice President's evacuation, the
25 president pro tempore, Senator Chuck Grassley, was escorted

1 to the presiding officer's chair and gavelled the
2 proceedings into recess.

3 Capitol Police officers locked the doors to the
4 Senate galleries and some of the external doors on the
5 chamber floor.

6 At approximately 2:15 p.m., Speaker Nancy Pelosi,
7 who was presiding over the House of Representatives, was
8 evacuated from the House Chamber. At approximately
9 2:18 p.m., Representative McGovern, who had become the
10 presiding officer in the Speaker's absence, declared the
11 House would stand in recess. The House resumed briefly at
12 approximately 2:26 p.m., and again recessed at 2:29 p.m.

13 The House and Senate resumed meeting at
14 approximately 8:06 p.m. and 9:02 p.m., respectively.

15 Congress's Joint Session continued until
16 approximately 3:44 a.m. on January 7, 2021, when it
17 completed the certification of the Electoral College vote.

18 Your Honor, the government has Exhibits 101
19 through 111. We have conferred with the defense who has no
20 objection to the admission of those exhibits, specifically
21 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, and 111.

22 Since there is no objection, may we admit them and
23 then publish them individually?

24 THE COURT: Is that correct?

25 MS. O'NEILL-GREENBERG: That is correct. There is

1 no objection.

2 THE COURT: Okay. If there is no objection, you
3 can admit all of those that you have just listed.

4 MS. SCHESNOL: Thank you.

5 (Government's Exhibits 101, 102, 103, 104, 105,
6 106, 107, 108, 109, 110, 111, admitted.)

7 MS. SCHESNOL: Would you please pull up
8 Exhibit 101?

9 (Whereupon, the exhibit was published.)

10 MS. SCHESNOL: Your Honor, it's five minutes to 5.
11 I am happy to keep going, if you would like, or if you would
12 like us to break at that point --

13 THE COURT: Okay. Before we get into all
14 of the -- before we get into all of the documents, you're
15 going to have a statutory and constitutional lesson first
16 thing in the morning, so have some coffee tomorrow.

17 I am going to excuse you now, and I would like to
18 resume as punctually as we can. Thank you, all, for being
19 here punctually this morning at 9 a.m. I hope you liked the
20 coffee and snacks from the cafeteria this morning. So,
21 again, come in, bring your newspaper and enjoy the treats
22 before we have the trial day again.

23 You are excused. I remind you not to talk about
24 the case with anyone or even among yourselves. Do not
25 listen to the news.

1 Okay. Thank you. You are all excused.

2 MS. SCHESNOL: Thank you, Your Honor.

3 (Whereupon, the jury was excused.)

4 MS. SCHESNOL: Thank you, Your Honor. That seemed
5 like the natural breaking point.

6 THE COURT: That's fine. So I don't know how much
7 longer Officer Gazelle is going to be on the stand, but then
8 you're down to two more witnesses.

9 So what are you anticipating in terms of
10 government's case-in-chief closing?

11 MS. SCHESNOL: Your Honor, after Officer Gazelle,
12 the government intends to put on Special Agent Ray Adams.
13 We believe we can admit the remainder of our exhibits
14 with Agent Adams and, therefore, will not need the Safeway
15 witness; and we can rest after Agent Adams testifies. I
16 believe that would be by lunchtime tomorrow.

17 THE COURT: And for the defense case, you will
18 make your decision tomorrow?

19 MR. WATKINS: Yes. It's quite likely that
20 Mr. Gillespie will testify.

21 THE COURT: All right. So I might be charging the
22 jury tomorrow afternoon.

23 MS. SCHESNOL: It's conceivable.

24 THE COURT: It is.

25 All right. So what I am going to do then is I am

1 going to have emailed to you, by my law clerk tonight, what
2 I call a circulation draft of the verdict form I would like
3 to use. It's a little bit different than the verdict form
4 than the parties have suggested.

5 I am also going to send you what I call the
6 circulation draft of the final jury instructions, with some
7 yellow highlights in it because all of the evidence isn't in
8 yet. I am not sure what we're going to do.

9 I would anticipate having the charging conference
10 perhaps tomorrow at lunch, so you should look at it tonight
11 to be prepared.

12 Ms. Schesnol, you have been through a conference
13 before -- Officer Gazelle, you don't have to listen to this
14 if you don't want -- you are excused -- unless you're
15 interested. Welcome back to my courtroom, by the way.

16 But the way I like to do my charging conference is
17 I just go through the circulation draft page by page and see
18 if there any objections on any page, and if there are I try
19 and resolve them right then and there. So that's how I like
20 to do it.

21 So the charging conference doesn't mean you are
22 going to miss lunch but, you know, depending on how long the
23 charging conference is -- so if we're getting to that point
24 tomorrow, I might let the jury have sort of a little bit
25 longer lunch, an hour and 20 minutes or so.

1 Anyway, does that sound like a plan?

2 MS. SCHESNOL: Very good plan, Your Honor.

3 THE COURT: All right. Good. Just expect to get
4 the documents referenced later.

5 MS. SCHESNOL: Thank you.

6 THE CLERK: All rise.

7 THE COURTROOM DEPUTY: All rise.

8 (Whereupon, the trial adjourns for the day.)

9 * * * * *

10 **CERTIFICATE**

11
12 I, ELIZABETH SAINT-LOTH, RPR, FCRR, do hereby
13 certify that the foregoing constitutes a true and accurate
14 transcript of my stenographic notes, and is a full, true,
15 and complete transcript of the proceedings to the best of my
16 ability.

17 This certificate shall be considered null and void
18 if the transcript is disassembled and/or photocopied in any
19 manner by any party without authorization of the signatory
20 below.

21 Dated this 26th day of February, 2023.

22 /s/ Elizabeth Saint-Loth, RPR, FCRR
23 Official Court Reporter

24

25

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