

AFFIDAVIT OF MARLOWE NAVARRO

My name is Marlowe Navarro, and I'm 33 years old. I'm a police officer with the Rowe Police Department, where I've worked for the last eight years. I come from a family of police officers. My father and grandfather were each cops in and around Flint, Michigan, and my aunt is a homicide detective in Seattle. I moved to Oregon to go to college — I went to the University of Oregon, where I majored in history, on a full scholarship — and I've been here ever since. When I graduated from college, I put in an application at the Rowe Police Department, which ended up hiring me. I've had a great career with RPD so far and I hope to continue for as long as they'll have me.

Chalk it up to my family, I suppose, but I've wanted to be a cop ever since I was a little kid. I grew up near Flint and saw firsthand how police officers can make positive differences in their communities. If you were expecting someone like John McClane, you'd be sorely disappointed if you met any of the cops in my family. My grandfather made sure my aunt and father knew, and my father made sure I knew, that a good cop does *not* see the world as irreconcilably divided between law-abiding citizens and hardened criminals. Rather, a good cop sees, understands, and does her best to become an active participant in her community. My grandfather, for example, was on a first-name basis with most of the people he'd run into on his beat every day. Building that sort of trust is an absolutely essential part of the job: as a cop, you'll commonly encounter people who are having the worst day of their lives, and approaching those interactions from a place of empathy, patience, and understanding will go a long way toward resolving an otherwise bad situation. The cops in my family burned those principles into my brain at a young age, and I do my best to live by them whenever I'm in uniform.

Of course, none of that is to say that cops are perfect. Cops are human beings, and, like all human beings, they occasionally lose their cool and make mistakes. There's honor in keeping calm under pressure, but I know from personal experience that it isn't always easy. I made a small but significant mistake toward the end of my first year on the job, when I was responding to a report of a trespasser at Buddie's Burgers. It turned out to be a disgruntled former employee, who had picked the lock to the back door and was trashing the owner's office. My partner and I arrested him for burglary, and as we were leading him out to our squad car, he became verbally abusive. I did my best to ignore him, but when he threatened to sue me for wrongfully arresting him, I lost my composure. (To this day, that thought still annoys me a bit. I mean, we had caught the guy red-handed; what was he thinking?) Anyway, I made sure he bonked his head on our car as we placed him in the backseat. It was nothing serious, of course, but the suspect still filed an excessive force complaint against me. My partner at the time offered to tell the department's investigator that the guy was making it up, but, having come to my senses, I was having

1 none of it. Then as now, when I make a mistake, I own up to it. I was able to resolve things with the
2 suspect by sitting down with him and offering an apology, which (having also come to his senses) the
3 suspect accepted. The whole episode taught me a valuable lesson about conflict resolution, which I carry
4 with me to this day.

5 One of the hardest parts of my job is responding to public demonstrations or protests that present
6 a potential for violence. Of course, I know — and, in case someone forgets, RPD’s policies expressly
7 remind us — that everybody has a constitutional right to speak, associate, assemble, and petition the
8 government. I also know that my fellow police officers and I are never allowed to discriminate against
9 protesters (or, for that matter, anyone at all) based on their viewpoint or the content of their speech. I know
10 that RPD would fire me in an instant if, for example, I asked a group calling for police reform to disperse
11 while letting pro-police demonstrators remain in the same area. And, in those circumstances, RPD would
12 be right to do so. The reason we respond to public demonstrations is to *protect* protesters’ First
13 Amendment rights, and if we’re violating those same rights ourselves, we become part of the problem.

14 That’s not really the hard part, though. The hard part usually lies in distinguishing between
15 peaceful protest and criminal conduct, which, in the dynamic, rapidly evolving context of a protest, is
16 often extremely difficult. Like it or not, it’s common for individuals who are bent on committing crimes
17 to use a crowd of demonstrators as “cover,” since RPD’s policy and practice is to involve itself as little
18 possible in peaceful protests. Unfortunately, I see this sort of thing with my own eyes on a fairly regular
19 basis: someone emerges from a crowd of protesters, throws a punch or breaks a window, and then
20 disappears back into the crowd before we can catch up to them. Typically, all of that can happen in a split
21 second, and it’s often really hard to know when to intervene.

22 Exhibit 2 is a true and correct copy of RPD Directive 0635.10, which is our departmental policy
23 regarding public demonstrations and which was in effect in December 2019 and January 2020. All officers
24 are bound by it, and a violation of the policy can lead to discipline or even termination.

25 I was one of the RPD officers who responded to the protest at the Digby Theater on December 20,
26 2019. The owner of the theater, Camden Buchanan, called the department a day or two beforehand and
27 alerted us that a protest likely would occur that day, when the theater was scheduled to be demolished. I
28 was the officer that fielded the call, actually. Camden pointed me to a number of social media posts
29 suggesting that the protesters would attempt physically to block the construction equipment that would be
30 used in the demolition, so my sergeant assigned me and approximately 20 other RPD officers to monitor
31 the scene. I had been following the news reporting on the theater pretty closely because I *love* the theater
32 itself. In fact, I had attended a concert there just a couple of weeks before the “Can You Dig It?” festival

1 last year when that poor woman was trampled to death. If you ask me, it's a real shame that Camden is
2 tearing the theater down.

3 When we arrived at the theater on the 20th, though, I knew I had to put those feelings aside. My
4 colleagues and I gathered outside the theater at about 0900 hours that morning, an hour before the
5 demolition was scheduled to begin. By about 0915, a number of what we guessed were protesters began
6 arriving and were milling around on the sidewalk. Then, at 1000 hours, when the demolition crew began
7 turning out the construction equipment, the protesters marched into the street, linked arms, and formed a
8 line between the equipment and the theater. It was basically what Camden had warned us about, and while
9 it required a police response — traffic had started to back up behind the protesters — it wasn't anything
10 major. Along with a couple of my colleagues, I approached the line of protestors and planned on asking
11 them to move out of the street. When I got closer, though, I recognized one of the protesters: Danger
12 Smith. I arrested Danger a couple of years ago at a protest in the Topaz neighborhood, and I had seen
13 Danger a couple of other times since then, both at protests and at the Freedom Cup coffeehouse. To be
14 honest, I like Danger — Danger is kind of a '60s radical, and is usually pretty fun to talk to — so, figuring
15 I'd be able to communicate best with a protester I already knew, I decided to start by asking Danger to
16 move out of the street.

17 When I got close to Danger, a person I didn't recognize darted between us. I now know that person
18 to be Jersey Jackson. At first, I was startled, but then I realized that Jersey was asking Danger for what
19 sounded like a journalistic comment. That was fine, but Jersey, Danger, and the other protesters were still
20 blocking traffic. To get Jersey's attention, I put my hand on Jersey's shoulder. I did so gently, in the way
21 you would interact with a friend. In retrospect, that was probably a bad idea, since I didn't know Jersey,
22 but the situation seemed relatively calm, Jersey had practically run me over a moment ago, and I didn't
23 think much of it at the time. At the same time, I said, "Don't make me arrest you, Danger," and winked at
24 Danger. I was kidding, obviously; Danger smiled and seemed to get the joke. I don't remember exactly
25 what I said next, but I reminded Danger that Danger was blocking traffic and asked Danger to move.

26 Those words had barely left my mouth when Jersey spun around and started yelling at me. Again,
27 I don't remember exactly what Jersey said, but it was something about how I had no right to arrest Danger
28 because Danger wasn't doing anything wrong. I tried at first to explain that I wasn't going to arrest Danger
29 unless Danger refused to move, but Jersey wouldn't let me get a word in edgewise. It seemed, then, that I
30 would have to be a little sterner. "Look," I said steadily, "you're blocking traffic, you're blocking these
31 bulldozers, and now you're interfering with my job as a police officer. Clear out, or we're going to have
32 to start making arrests." That seemed to do the trick; Jersey and Danger began walking back toward the
33 sidewalk. A moment later, the bulldozers powered down. The crowd cheered and, a few minutes after that,

1 began to disperse on its own. I remember feeling really good about how we handled ourselves that day.
2 We had dealt with a potentially hazardous situation without interfering with any of the protesters' rights,
3 and, to top it all off, the protest had seemed to work! The Digby would live to see another day.

4 I had forgotten all about that first protest when the Department got another call from Camden in
5 early January. (Again, I fielded that call.) According to Camden, it was basically the same deal as before:
6 the demolition had been rescheduled, social media was buzzing about a protest, and there were rumors
7 that some of the protesters were going physically block the demolition from happening. My sergeant
8 dispatched the same group that had responded to the last protest, along with a few additional officers for
9 backup. We were instructed to put on our RPD protective gear (helmets, protective vests, knee and elbow
10 pads, etc.) to ensure our safety, but that wasn't my decision. Had it been up to me, I would've focused
11 instead to trying to deescalate things. Our protective gear, which can make us look a little ominous, often
12 has the opposite effect.

13 We arrived at the Digby on the morning of the protest to find that a group of demonstrators had
14 positioned themselves against the chain-link fence that surrounded the theater. I found that a bit worrisome
15 — they'd eventually have to move — but, because they weren't doing anything wrong, we let them be for
16 the moment. At 1000 hours, though (when the demolition was scheduled to begin), the demolition crew
17 powered up its equipment, and the protesters by the fence began yelling at them. We responded as we had
18 during the last protest: we approached them and began asking them to move out of the way. This time,
19 though, the entire crowd seemed totally unwilling to budge. They were really getting in our faces, too.
20 One protester who told me her name was "Cari" made an oinking sound at me and asked whether I could
21 sleep at night knowing that I work for "the man." That was ridiculous, of course — I was just as upset
22 about the Digby's demolition as she was — but I didn't respond.

23 After a few minutes, it became clear that the protesters were going nowhere. Some of them, I
24 noticed, had even begun locking themselves to the fence. My fellow officers and I relayed that information
25 to our incident commander, and the "IC" (as we call her) decided to declare an unlawful assembly. She
26 grabbed a megaphone and announced to the line of protesters: "You are trespassing on private property.
27 Disperse now or you will be subject to arrest." Only one or two of them left the fence. Our IC then directed
28 us to move toward them and to begin making arrests. To be honest, I was disappointed that it had come to
29 that, but, as police officers, we don't get to pick and choose which laws to enforce. The protesters *were*
30 trespassing, after all, and we had given them ample opportunity to move away from the Digby.

31 My colleagues and I were walking toward the Digby when I heard someone on my left call out,
32 "Let's barricade the inside! Then they can't knock it down!" I turned and saw someone wearing a bright
33 blue t-shirt with yellow lettering. At that time, I was about 100 feet away from the person, and about 50

1 feet away from the bulldozers that were powering up in the empty lot. Exhibit 4 is a true and accurate
2 representation of everyone's relative location as I remember it at that moment, though not to scale. I
3 couldn't make out the lettering on the person's shirt, and, to be honest, that's not what I was focused on.
4 The person, I saw, had a rock in their right hand, and was standing directly in front of the Digby's front
5 door, which is made of stained glass. A true and correct image of the rock I saw is shown in Exhibit 1.
6 The person was just standing there with the rock, but, in the moment, it seemed clear to me that the person
7 was about to throw the rock at the door. Immediately, I started running toward the person, and as I got
8 closer, I recognized that it was Jersey Jackson. I also saw that Danger Smith was standing right next to
9 Jersey. In the moment, though, I didn't have time to think things through any further: I grabbed Jersey's
10 hand and arrested Jersey. I don't recall whether I said anything to Jersey during the arrest, but it's possible
11 that I did.

12 My prior interaction with Jersey had nothing whatsoever to do with my decision to arrest Jersey. I
13 arrested Jersey solely because I thought Jersey was about to throw a rock through the Digby's window,
14 and not for any other reason. I didn't arrest anyone else that day, even though I could have, because, in
15 my view, that would've run the risk of inflaming things even further. In total, my colleagues and I made
16 only five arrests, at which point the crowd began to disperse. True, a number of the protesters remained
17 in the area after our IC had given the order to clear out, but because they weren't in the way, I decided
18 that any further arrests wouldn't serve any useful purpose. I feel terrible that Jersey thinks I arrested Jersey
19 because of Jersey's earlier comments to me, but that's simply not true. I arrested Jersey for one and only
20 one reason: Jersey was holding a rock and looked like Jersey was about to throw it at the Digby's stained-
21 glass window.

22 I hereby attest to having read the above statement and swear or affirm it to be my own. I also swear
23 or affirm to the truthfulness of its content. Before giving this statement, I was told it should contain all
24 relevant testimony, and I followed those instructions. I also understand that I can and must update this
25 affidavit if anything new occurs to me until the moment before I testify in this case.

26 s/Marlowe Navarro
27 Marlowe Navarro
28 Dated: October 9, 2020.
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30 Subscribed and sworn before me on October 9, 2020:

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32 s/Roberta Bost
33 Roberta Bost
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