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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

ROWE DIVISION

JERSEY JACKSON, an individual,  
  
Plaintiff,

v.

MARLOWE NAVARRO, in Navarro's  
official capacity as an officer of the Rowe  
Police Department,  
  
Defendant.

Case No. 3:20-cv-00101-CC

**COMPLAINT**

42 U.S.C. § 1983

JURY TRIAL DEMANDED

**I. INTRODUCTION**

1. Plaintiff Jersey Jackson ("Jackson") brings this action against Marlowe Navarro ("Navarro") for violating Jackson's clearly established constitutional rights. On January 15, 2020, Navarro, an officer of the Rowe Police Department ("RPD"), wrongfully arrested Jackson during a demonstration in downtown Rowe. Navarro did so in violation of Jackson's Fourth Amendment rights and in retaliation for Jackson's protected exercise of Jackson's First Amendment rights. Jackson seeks compensatory damages, punitive damages, and other relief.

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## II. JURISDICTION AND VENUE

2. This Court has jurisdiction over Jackson’s claims by virtue of 28 U.S.C. §§ 1331 and 1343, *i.e.*, because this case involves a violation of Jackson’s federal civil and constitutional rights.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, *i.e.*, because the events giving rise to Jackson’s claims against Navarro occurred in the judicial district in which this Court is situated.

## III. PARTIES

4. Jackson is an individual who resides in Rowe, Oregon.

5. Navarro is an individual employed as a police officer by RPD and a resident of Rowe, Oregon. At all material times herein, Navarro was acting within the course and scope of Navarro’s employment with RPD.

## IV. FACTS

6. Jackson is a journalist employed by *The Rowegonian*.

7. On December 20, 2019, Jackson attended a public demonstration at the Digby Theater in downtown Rowe. The demonstration concerned the Rowe City Council’s decision authorizing the theater owner to demolish the building, which is an historic landmark. Jackson attended the demonstration because Jackson had recently written a story about the theater’s demolition and was continuing to report on the matter.

8. At the demonstration, Jackson approached a protester named “Danger” Smith, who appeared willing to provide a quote to Jackson about the reasons for the demonstration.

9. Navarro was on duty for RPD at the demonstration. A few seconds after Jackson began speaking with Smith, Navarro approached them and threatened to arrest Smith.

10. As far as Jackson was aware, Smith was doing nothing illegal. Jackson said as much to Navarro, in response to which Navarro became angry. Navarro turned toward Jackson and yelled: “You’re blocking traffic, you’re blocking these bulldozers, and now you’re interfering with my job as police officer!” Navarro then threatened to arrest Jackson as well. Like Smith, Jackson was doing nothing illegal.

11. A few moments later, word came down that the Rowe City Council had decided to postpone its authorization of the demolition; due to Jackson’s reporting, the City had decided to investigate a number of irregularities in the inspection that had led it to authorize the theater owner’s plans.

12. Several weeks later, the Rowe City Council issued another decision criticizing the original inspection but reaffirming its approval of the demolition.

13. The City’s decision sparked another public demonstration, which occurred outside the Digby Theater on January 15, 2020. Again, because Jackson was continuing to report for *The Rowegonian* on the matter, Jackson attended the demonstration. Jackson wore a bright blue t-shirt with the word “Press” emblazoned in yellow on both the front and back.

14. Smith was again participating in the demonstration. Shortly after the demonstration began, Jackson heard Smith yell: “Let’s barricade ourselves in! They can’t knock it down if we’re inside!” Smith then grabbed a rock from the ground and started to move toward the Digby’s front door, which is made of stained glass. It looked to Jackson like Danger was going to smash the window. Jackson ran over to Smith, yelled “Stop!” and grabbed the rock out of Smith hand. At no point during the January 15th demonstration did Jackson do anything illegal.

15. A moment after Jackson grabbed the rock from Smith, Navarro tackled Jackson and arrested Jackson. Navarro knew that Jackson was doing nothing wrong, but Navarro arrested Jackson anyway. As Navarro tackled Jackson, Navarro said: “You again, huh? And I expect you’ll say you were doing nothing illegal either?”

16. Jackson was released within a few hours. The Chinook County District Attorney’s Office charged Jackson with disorderly conduct but dropped the charges shortly afterward.

## **V. CLAIM FOR RELIEF**

### **42 U.S.C. § 1983—Retaliatory Arrest in Violation of First Amendment**

17. Jackson incorporates and realleges each of the preceding paragraphs as if fully set forth herein.

18. As described above, Jackson engaged in protected speech, both when Jackson challenged Navarro’s threat to arrest Smith and otherwise.

19. Navarro later took action against Jackson by arresting Jackson.

20. As evidenced in part by Navarro’s comments to Jackson during the arrest, Jackson’s protected speech was a substantial or motivating factor in Navarro’s decision to arrest Jackson.

21. Navarro arrested Jackson without probable cause. Navarro also declined to arrest other similarly situated individuals who were not engaged in the same sort of protected speech, even though Navarro had ample opportunity to do so.

22. Navarro was acting under color of law when Navarro arrested Jackson.

23. As a result of the above, Jackson is entitled to an award of economic, noneconomic, and punitive damages against Navarro in amounts to be determined at trial.

24. Pursuant to 42 U.S.C. § 1988, Jackson is entitled to recover the attorneys’ fees and costs that Jackson incurs in bringing this action.

## **VI. PRAYER FOR RELIEF**

WHEREFORE, Jackson prays for relief as follows:

a) An award of economic, non-economic, and punitive damages against Navarro in amounts to be determined at trial;

- b) An award of the reasonable attorneys' fees and costs that Jackson incurs in bringing this action;  
and  
c) Such other relief as may be just and proper.

DATED: August 24, 2020.

CARLYLE, POLLARD & SCHMIDT LLP

*s/Shannon Schmidt*

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Attorneys for Defendant

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

ROWE DIVISION

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**ANSWER**

**ANSWER**

Defendant Marlowe Navarro ("Navarro") responds to Plaintiff Jersey Jackson's ("Jackson") complaint as follows:

1. In response to paragraphs 2 and 3, Navarro admits that jurisdiction and venue are proper in this Court.

2. Navarro admits paragraphs 4-8, 11-13, 16, 18-19, and 22.

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3. Except as expressly admitted herein, Navarro denies each of the allegations in the complaint.

WHEREFORE, Navarro prays that Jackson's complaint be dismissed, that judgment be entered in Navarro's favor, and that the Court enter an order awarding Navarro the costs and disbursements that Navarro incurs in defending this action, in addition to any other relief as may be justified.

DATED: September 14, 2020.

Respectfully submitted,

s/Corrina M. Ruberosa  
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Telephone: (541) 871-7000

Attorneys for Defendant

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**STIPULATIONS**

Plaintiff Jersey Jackson ("Jackson") and Defendant Marlowe Navarro ("Navarro") hereby stipulate and agree to, and respectfully request that the Court enter and order reflecting, the following:

1. The Rowe Police Department had the lawful authority to order the dispersal of the individuals at the Digby Theater on January 15, 2020, and to arrest those individuals who refused to disperse following two (2) clear verbal warnings.

2. The parties each have conducted reasonable searches and, save for Exhibit 3, have located no pertinent audio or video of the events that occurred at the Digby Theater on December 20th, 2019 and January 15, 2020.

3. Navarro is not entitled to qualified immunity on any of Jackson's claims.

4. During testimony, no witness will be entitled to assert any right against self-incrimination, whether arising under the Fifth Amendment to the United States Constitution, Article I, Section 1, Clause 12 of the Oregon Constitution, or otherwise.

5. The first phase of the trial shall deal with Navarro's potential liability only. If necessary, a determination as to damages and any other relief to which Jackson may be entitled will be made in a separate proceeding.

6. All exhibits included in the following case materials are authentic. All signatures on witness affidavits and other documents are authentic.

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**FINAL JURY INSTRUCTIONS**

The Court will now submit the case to the jury; you need to decide, based on the law and the evidence presented to you at trial, whether the plaintiff has prevailed in proving the plaintiff's claims against each defendant.

**PREPONDERANCE OF THE EVIDENCE**

The Plaintiff must prove all of the Plaintiff's claims by a "preponderance of the evidence." That means that the Plaintiff must persuade you by evidence that makes you believe that Plaintiff's claims are more likely true than not true. After weighing all of the evidence, if you cannot decide that something is more likely true than not true, you must conclude that the plaintiff did not prove it. You should consider all of the evidence in making that determination, no matter who produced it.

**RETALIATORY ARREST IN VIOLATION OF FIRST AMENDMENT**

Under the First Amendment, a citizen has the right to free expression. In order to prove the defendant deprived the plaintiff of this First Amendment right, the plaintiff must prove the following elements by a preponderance of the evidence: (1) the plaintiff engaged in speech protected under the First Amendment; (2) the defendant took action against the plaintiff; and (3) the plaintiff's protected speech was a substantial or motivating factor for the defendant's action. A substantial or motivating factor is a significant factor.

In this case, the plaintiff contends that the unlawful action taken against the plaintiff by the defendant was an arrest. Accordingly, the plaintiff must also prove (4) that the arrest occurred without probable cause, or that other similarly situated individuals who were not engaged in the same sort of protected speech were not arrested.

**EVALUATING WITNESS TESTIMONY**



The term “witness” includes every person who has testified under oath in this case. Every witness has taken an oath to tell the truth. In evaluating each witness’s testimony, however, you may consider such things as:

- (1) The manner in which the witness testifies;
- (2) The nature or quality of the witness’s testimony;
- (3) Evidence that contradicts the testimony of the witness;
- (4) Evidence concerning the bias, motives, or interest of the witness; and
- (5) Evidence concerning the character of the witness for truthfulness.

### **INFERENCES**

In deciding this case you may draw inferences and reach conclusions from the evidence, if your inferences and conclusions are reasonable and are based on your common sense and experience.

### **DIRECT OR CIRCUMSTANTIAL EVIDENCE**

There are two types of evidence. One is direct evidence — such as the testimony of an eyewitness. The other is circumstantial evidence — a chain of circumstances pointing to the existence or nonexistence of a certain fact. You may base your verdict on direct evidence or on circumstantial evidence, or on both.

### **WITNESS FALSE IN PART**

A witness who lies under oath in some part of his or her testimony is likely to lie in other parts of his or her testimony. Therefore, if you find that a witness has lied in some part of his or her testimony, then you may distrust the rest of that witness’s testimony.

Sometimes witnesses who are not lying may give incorrect testimony. They may forget matters or may contradict themselves. Also, different witnesses may observe or remember an event differently. You have the sole responsibility to determine what testimony, or portions of testimony, you will or will not rely on in reaching your verdict.

## AFFIDAVIT OF JERSEY JACKSON

Jersey Jackson, here, coming to you live from Rowe, Oregon! Before we get into the meat of my story, let's start with some background. I'm 31 years old, and I was born right here in Rowe. I've lived here all my life. I went to college at Rowe State University, where I earned a B.A. in journalism in 2012. I've worked as a reporter for *The Rowegonian* for the last year and a half or so.

I've been obsessed with journalism for basically my whole adult life. During my freshman year of high school, I read *All the President's Men*, which totally mesmerized me. (The movie was almost as good, although I couldn't quite get past the terrible '70s fashion...) Isn't it incredible to think that a reporter can change the course of history with nothing more than a pen, paper, and a dogged commitment to uncovering the truth? Right then and there, I decided to follow Woodward and Bernstein's example. I would become a professional muckraker, exposing corruption and injustice wherever I found it.

My first few years in journalism were pretty lean; for a reporter, at least, journalism isn't exactly what I'd call a "lucrative" business. To me, though, that didn't matter. I loved what I did, and, most of the time, I felt like I was really making a difference. I started my career at *What's Up Rowe?* — a weekly publication that, in fairness, you might call a "rag" — writing about whatever scandals I happened to dig up. My biggest stories during that time included an exposé on how a group of students at Burrough High School drugged their rival school's star basketball player before a big tournament; an investigation into recurring thefts from the till at Buddie's Burgers, one of Rowe's most popular fast-food joints; and a three-part story about an environmental conflict between a sustainable fishing business and a community association out in rural Cascade County.

One of the most important lessons I learned during my time at *What's Up Rowe* was that good journalism requires a journalist to push boundaries — and that it's sometimes hard to tell where to draw the line between what's appropriate and what's not. When I began my investigation into the scandal at Burrough High School, I felt at first like I was getting nowhere. A source had assured me that I was onto something, though, and a stakeout, I thought, would give me the best chance of catching the culprits in the act. The scandal had to do with basketball, so I figured the best place to watch for trouble would be the Burrough High School gym. I wasn't authorized to be in the gym, but I didn't let that stop me. One night, I used a nail file to pick the gym's lock and let myself in. I didn't see any illicit activities, but, unfortunately for me, I crossed paths with a security guard, who called the police. The Rowe Police Department arrested me that night, and it was the scariest night of my life. I was handcuffed, jammed into the back of a squad car, and hauled off to Rowe PD's headquarters, where I spent the night alone in a jail cell. Suffice to say I *never* want to go through that sort of thing again.

1 It took until the morning for me to convince the detective that I had come to the gym in my capacity  
2 as a journalist, and that I was only there to record video evidence of what I expected to be a major scandal.  
3 As she pointed out, though, that didn't change the fact that what I had done was illegal. The detective also  
4 noted that the nail file I had used to break the gym's lock was arguably a "burglary tool." I thought that  
5 was a little ridiculous, but, eventually, I realized they had the goods on me. In exchange for a promise that  
6 I wouldn't receive any jail time, I agreed in 2015 to plead guilty to a single count of burglary in the first  
7 degree. I was glad to put the whole thing behind me. None of that is to say I won't continue to push the  
8 journalistic envelope, but since then I've been a lot more careful when I do.

9 I was excited beyond words when *The Rowegonian* agreed to hire me in early 2019. Obviously,  
10 *The Rowegonian* is Rowe's flagship newspaper. It's been around for about a century, and it's broken all  
11 of Rowe's biggest stories during that time. I mean, what journalist wouldn't want to work there? I had  
12 submitted three or four prior applications to *The Rowegonian* over the years, and, each time, they told me  
13 to check back when I had more experience. Finally, in early 2019, they decided to "take a chance" on me,  
14 to use my editor's exact words. I knew this was my opportunity to prove myself and I wasn't going to let  
15 my editor down.

16 For the rest of 2019, things were pretty slow, and I was getting more and more worried. What  
17 would Jessica Gallagher (my editor) think if I couldn't dig up something juicy by the end of the year?  
18 Fortunately, in December 2019, I caught a break. My friend and fellow journalist Jett Jones gave me a  
19 scoop about the fate of the Digby Theater, which just a few months earlier had been the scene of an  
20 unspeakable tragedy. There had been an explosion, Jett reminded me, and a young music fan had been  
21 trampled to death in the ensuing stampede. Following the explosion, the Digby's owner, Camden  
22 Buchanan, had decided to demolish the theater and replace it with a newer, shinier building. There was  
23 just one problem: the Digby had been listed in the National Register of Historic Places since 1991. For  
24 that reason, Jett explained, Oregon law required Rowe's City Council to determine that the Digby was  
25 structurally unsound before it could approve of Camden's plan. It had done so a few days ago, Jett told  
26 me, based on a report presented by a building inspector named Ari Frankel. There was something fishy  
27 about Ari's report, and Jett suggested I should follow up on it. (Jett didn't want to touch the story herself  
28 — something about being "too close to the action," as she put it — so she gave me the lead instead.)

29 I dug in immediately. And, after what seemed like an endless review of old newspaper clippings,  
30 public records, and court filings, I finally figured it out: Ari was a *de facto* employee of Camden, and had  
31 been for some time. In other words, Ari stood to gain financially from a decision by the City Council in  
32 Camden's favor. Moreover, neither Ari nor anyone else had revealed that fact to the City Council, to  
33 whom Ari had testified in no uncertain terms that the inspection had been done "independently." *The*

1 *Rowegonian* published a short piece by me outlining those revelations on December 18, 2019, two days  
2 before the Digby's demolition was scheduled to take place.

3 I'm proud to say that my story caused an uproar over Camden's tactics. Camden and Are hadn't  
4 exactly lied to the City Council, but they hadn't been entirely truthful, either. On December 19th, dozens  
5 of social media posts were tagging my story and calling for a protest the next day. People were really  
6 worked up, it seemed! If I was going to continue my coverage, I would have to attend the protest in person.

7 I arrived at the Digby at about 9:30 a.m. (30 minutes or so before demolition was scheduled to  
8 begin) on December 20th. When I got there, things were peaceful but tense. The Rowe Police Department  
9 had apparently been tracking the social media firestorm over my story, and, like me, they seemed to be  
10 anticipating trouble. A row of about a dozen police officers had positioned themselves just outside the  
11 chain-link fence that surrounded the Digby. About the same number of protesters were milling around in  
12 a group about 30 or 40 feet in front of the line of police; some were holding large signs that read "Save  
13 the Digby!" A couple of bulldozers and some other heavy construction equipment were parked in an empty  
14 lot across the street.

15 When 10:00 a.m. rolled around, several construction workers appeared in the lot and began  
16 powering up the construction equipment. That seemed to set the protesters off. In what seemed like an  
17 instant, they linked arms and formed a line between the Digby and the construction equipment. They  
18 began chanting: "Don't Demolish the Digby!" This, I knew, was my chance to develop another story. I  
19 approached the line of protesters, hoping for a quote. Most of them, unfortunately, seemed to ignore me.

20 As I got toward the end of the line, though, one protester beckoned for me to come nearer. That  
21 protester was "Danger" Smith, whom I know as a barista at Rowe's "Freedom Cup" coffee shop (which I  
22 visit regularly). Smith began speaking into my phone, but before I could make out what Smith was saying,  
23 I felt a hand slam down on my shoulder. I heard a stern voice from behind me. "Don't make me arrest  
24 you, Danger," the voice said. "Just clear out of the street right now and we won't have a problem." As  
25 soon as I heard the voice, I spun around to find myself staring at a police officer whom I now recognize  
26 as Marlowe Navarro. I was shocked! Neither Smith nor I were doing anything wrong, but Officer Navarro  
27 was right in Danger's face. "Officer," I asked, "what in the world are you doing? That person isn't doing  
28 anything illegal at all! You can't arrest this person!" In an attempt to try to cool things down, I tried to  
29 position myself between Officer Navarro and Danger, but Officer Navarro spun around and started yelling  
30 at me. "You're blocking traffic, you're blocking these bulldozers, and now you're interfering with my job  
31 as a police officer," Officer Navarro yelled at me. "Clear out now before I arrest you!"

32 I backed away, startled. I definitely didn't want a repeat of my experience in the Burrough High  
33 School gym. Fortunately, after a moment, the construction equipment powered down, in response to which

1 the crowd went totally wild. They seemed to think that their protest had singlehandedly turned away the  
2 bulldozers. Later that day, though, I read in *The Rowegonian* that Rowe’s City Council had — in response  
3 to my story — ordered another inspection of the Digby before its demolition. I was elated! Never before  
4 had any of my journalism produced such an important and tangible impact.

5 My elation, it turned out, was short-lived. As I read later in *The Rowegonian*, the second inspection  
6 heavily criticized Frankel’s work, but it came to the same conclusion: the Digby was structurally unsound.  
7 The City reaffirmed its approval of Camden’s plan, this time in a way that seemed more unimpeachable.  
8 The Digby’s demolition was rescheduled for January 15, 2020. As soon as the news broke of the City  
9 Council’s decision, Digby’s fans on social media became just as agitated as they had been before. I knew  
10 there would be another protest on the day of the demolition, and, again, I knew I had to be there.

11 I arrived at the Digby on January 15th at around 9:45 a.m., about fifteen minutes before the  
12 bulldozers were scheduled to move in. Unlike the last protest, things were anything but calm. A group of  
13 about 30 or 35 protesters — more than last time, but not many more — had already linked arms and were  
14 leaning with their backs against the fence surrounding the Digby. This time, none were holding signs or  
15 chanting. Instead, they were screaming, yelling, and (in some cases) cursing at a line of police officers  
16 that had formed in front of them. It was hard to say how many police officers were there, but there were  
17 definitely more of them than last time. Plus, unlike last time, the police officers were decked out in what  
18 looked like riot gear.

19 At 10:00 a.m., the bulldozers powered up. At the same time, the police moved closer to the  
20 protesters and began talking to them; I was far enough away at that point that I couldn’t hear exactly what  
21 they were saying, but it didn’t look friendly. A moment later, I saw a police officer by the bulldozers say,  
22 with a megaphone: “You are trespassing on private property. Disperse now or you will be subject to  
23 arrest!” That prompted a yell from the protesters, only two or three of whom dispersed. The police then  
24 moved closer and began arresting the protesters who remained on the fence.

25 At that point, I had to make a journalistic decision. On one hand, I knew that I’d risk getting caught  
26 up in the bedlam if I moved toward the protesters. On the other hand, though, I believed that I had a right  
27 to be there (*i.e.*, on the sidewalk near the Digby) and to report on what I saw, which, by that point, I was  
28 sure would be a major story. It also should have been easy for the police to distinguish me from the  
29 protesters themselves: I was wearing a bright blue t-shirt with the word “Press” emblazoned in yellow on  
30 both the front and back. My story wouldn’t be complete without a comment from one of the protesters —  
31 I needed to hear directly from them about why they were there — so I steeled myself and began walking  
32 toward the fence.

1 As I approached the protesters, I saw a familiar face: Danger Smith. Danger seemed to be backing  
2 away from the line of protesters, and it soon became clear why. I heard Danger yell through the crowd:  
3 “Let’s barricade ourselves in! They can’t knock it down if we’re inside!” What I saw next horrified me.  
4 Danger picked up a rock from the ground and turned toward the Digby’s immense front door, which is  
5 made of vintage stained glass. It looked to me like Danger was going to throw the rock over the fence and  
6 smash the window, so I ran over to Danger — I was yelling “Stop!” as I ran — and grabbed the rock out  
7 of Danger’s hand. A true and correct image of that rock is shown in Exhibit 1. I was facing the Digby’s  
8 front door, but I was turned very slightly to the left, such that the door was slightly to my right. I recall  
9 that I had the rock in my right hand as I was talking to Danger.

10 I started saying something to Danger (I don’t remember what), but a second or two later, someone  
11 grabbed me from behind and forced me to the ground. I heard a familiar voice: “You again, huh? And I  
12 expect you’ll say you were doing nothing illegal either?” It was Officer Navarro, who arrested me and  
13 hauled me off to Rowe Police’s headquarters. I was released within a couple of hours, and the Chinook  
14 County District Attorney ultimately charged me with disorderly conduct. I couldn’t believe it: I had done  
15 *nothing* wrong, nor was there any conceivable reason for Officer Navarro to suspect as much. The charges  
16 were dropped a week or so afterward, which should tell you something about how absurd they were.

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

21 s/Jersey Jackson  
22 Jersey Jackson  
23 Dated: October 9, 2020.  
24

25 Subscribed and sworn before me on October 9, 2020:  
26

27 s/Roberta Bost  
28 Roberta Bost  
29

## AFFIDAVIT OF DANGER SMITH

Okay, here I am! My name's Danger Smith, and I'm 52 years old. I work at a groovy little coffee house called "Freedom Cup" on Unity Street in Southeast Rowe. I've been there about ten years, give or take, and it's totally far out.

Of course, nobody goes to Freedom Cup for the coffee, which, to be honest, tastes a little like diluted diesel fuel. Instead, it's our clientele that makes us so psychedelic. Every day, we serve writers, journalists, activists, and deep thinkers of just about every variety imaginable. It's a great vibe, you know? Some people congregate in groups on our old, worn-out couches and hatch plans to change the world; others just plant themselves alone at tables or on one of our bean-bag chairs and lose themselves in writing projects. There's been a rumor going around for years, actually, that Ken Kesey wrote part of *One Flew Over the Cuckoo's Nest* in our back corner. I'm pretty sure it isn't true, but it's a neat thought, isn't it?

Anyway, Jersey Jackson asked me to testify on Jersey's behalf, which I'm glad to do. Jersey is one of my regulars at Freedom Cup, actually. For a couple of years, Jersey has been dropping by every once in a while in the afternoons for a mug or two while Jersey writes. I've always gotten the sense that Jersey wants to be a bigger, more famous journalist than Jersey currently is. Why? Well, I can't point to anything specific, I guess, but Jersey often just seems sort of frustrated. One time about a year or two ago, on a day when Jersey seemed especially sullen, I asked Jersey, "Hey, what's up with the frown?" Jersey told me that Jersey was tired of working at a "rag." "I'm ready for the big-time," Jersey sighed, "and I really need a big scoop to get me there." I don't know that I'd consider Jersey a "friend," technically, but I like Jersey personally and hope that Jersey gets justice in this case.

It was Jersey, actually, who first told me about the shenanigans with the Digby's demolition. One day back in December, Jersey bolted into Freedom Cup and was so excited that Jersey could barely get the words of Jersey's order out. "Whoa! Slow down, there," I said, "what gives?" "It's the Digby!" Jersey blurted out. "You know the plan to demolish it?" I didn't, but the thought of such a beautiful, historic building being turned into rubble made me furious. "Well," Jersey said, "the inspection that's allowing that to happen is bogus. The inspector is a friend of the owner!" Jersey kept blabbing about something to do with the City Council, but that was all I needed to hear. For as long as I can remember, whenever I've seen an injustice in the world, I've protested it — publicly and usually very loudly. And this, I knew, would be a huge injustice. I had only ever been to the Digby to see the Grateful Dead a few times in the '80s, but I know that the theater has an even broader and more important place in Rowe's civic history and culture. "Well, what are we waiting for?" I asked Jersey. "Let's head down there and give the theater owner a piece of our minds!" Jersey told me that there was talk on social media of an organized protest

1 that would occur the next day, on December 20th. I cancelled my morning shift at Freedom Cup and made  
2 plans to be there.

3 I got to the Digby a few minutes before 10:00 a.m., which, Jersey told me, was when the protest  
4 was scheduled to begin. I saw a line of police by the chain-link fence that surrounded the Digby; I didn't  
5 count them, but there must have been forty or fifty of them in all. A couple of dozen feet in front of them,  
6 a group of about the same number of protesters was huddled and, I presumed, getting ready to begin  
7 demonstrating. I walked over to the group, introduced myself, and asked what we'd all be chanting when  
8 the protest started. Apparently, they had already landed on "Don't Demolish the Digby!" That, I thought,  
9 was nicely alliterative but a little boring. I wanted to show the theater owner and the public that we meant  
10 *business*, you know?

11 Anyway, at 10:00 a.m., the bulldozers that were parked in a lot next to the theater revved up, and  
12 the protest began. The other protesters and I linked arms, formed a line between the bulldozers and the  
13 Digby, and began chanting. A minute or two later, I saw Jersey making Jersey's way down the line of  
14 protesters and toward me. Jersey seemed to be asking the protesters questions. Jersey caught my eye, and  
15 I beckoned Jersey with a nod and a smile. Jersey walked right up to me and asked, "So, Danger, care to  
16 provide a quote for my biggest story yet?" "Sure," I began, "Rowe's fat cats want to tear down an  
17 irreplaceable piece of our —" At that moment, though, a face appeared behind Jersey that I recognized  
18 and know well: Marlowe Navarro.

19 I've been arrested probably a half-dozen times over the years at protests — that sort of thing comes  
20 with the territory, I suppose — and, most recently, it was Officer Navarro who arrested me. The arrest  
21 happened back in 2017, during a protest outside a State Senator's office in Rowe's über-trendy "Topaz"  
22 neighborhood. To be honest with you, I can't remember what we were protesting, exactly, but I *do*  
23 remember that at one point a couple of us decided to lay down side-by-side in the street and block traffic.  
24 Somebody called the cops, and Officer Navarro was one of the officers who responded. When we refused  
25 to move, Officer Navarro arrested me. "C'mon," I complained as Officer Navarro was handcuffing me,  
26 "why do you have to be such a buzzkill?" I thought that might annoy Officer Navarro, but Officer Navarro  
27 was actually very nice about the whole thing, and chuckled when I said the word "buzzkill." I remember  
28 Officer Navarro telling me politely that Officer Navarro actually agreed with the protesters. "But what  
29 you're doing just isn't safe," Officer Navarro told me, "and it's my job to make sure that you and your  
30 friends can protest without someone getting hurt."

31 That wasn't the Officer Navarro that I saw behind Jersey, though. This time, Officer Navarro  
32 looked annoyed. Officer Navarro slapped Officer Navarro's hand down on Jersey's shoulder, and, looking  
33 at me, said, "I hope I don't have to arrest you again, Danger. Just get out of the way and we won't have a



1 problem.” At that point, Jersey spun around and got right in Officer Navarro’s face. “What in the world  
2 are you doing!” screamed Jersey, who then was about an inch away from Officer Navarro’s nose. “Danger  
3 isn’t doing anything illegal! Just go away!” Officer Navarro seemed taken aback at first, but then Officer  
4 Navarro collected themselves and responded: “Look, you’re blocking traffic, you’re blocking these  
5 bulldozers, and now you’re interfering with my job as a police officer. Clear out now before I arrest you!”  
6 Officer Navarro seemed really irritated, but Officer Navarro didn’t raise Officer Navarro’s voice. A  
7 moment or two after that, the bulldozers powered down, in response to which the other protesters and I let  
8 out a wild cheer. Our protest had saved the Digby! At that point, both Officer Navarro and Jersey walked  
9 away, and that was the end of the whole thing.

10 Or so I thought. In early January 2020, I read on social media that the Digby’s owner was trying  
11 again to demolish it, and that the City Council had okayed it. That made me furious! Fortunately, I also  
12 learned via social media that another protest had been scheduled for January 15, 2020 in front of the  
13 Digby, the day when the demolition was supposed to take place. Obviously, I had to be there. It seemed  
14 like it’d just be a repeat of the last one, hopefully with the same result.

15 Was I ever wrong! When I arrived at the Digby on the 15th, things were already tenser than they  
16 had been the last time. I got there at about 9:30 a.m., at which point a dozen or so protesters had positioned  
17 themselves in a line against the chain-link fence surrounding the Digby. Naturally, I joined them. In  
18 retrospect, I can’t say I’m proud of this, but, following the other protesters’ lead, I started taunting the  
19 police officers. We were telling them — sometimes in language that I probably shouldn’t repeat in court  
20 — to go home, to stop working for Rowe’s fat cats, things like that. The officers didn’t respond to us; in  
21 fact, they didn’t even really seem to notice us. The officers were wearing riot gear that obscured their  
22 faces, and I was too far away to see their badges or name-patches, but (because Officer Navarro arrested  
23 Jersey a few minutes later) I assume that Officer Navarro was among them.

24 At about 10:00 a.m., a police officer by the bulldozers in the lot next to the Digby picked up a  
25 megaphone and announced to the crowd of protesters: “You are trespassing on private property. Disperse  
26 now or you will be subject to arrest!” A few of us, including me, laughed; we knew the drill, and we  
27 weren’t going anywhere until we were sure the Digby was safe. A few seconds after that, the bulldozers  
28 powered up, and the officers approached us and began telling us that we had to leave or that we’d be  
29 arrested. A few of the protesters loudly refused to leave, and the police began arresting them. The other  
30 protesters seemed to be committed to keeping things peaceful, and nobody resisted arrest. Like I said, we  
31 knew the drill.

32 A minute or two later, I noticed Jersey, who was wearing a bright blue t-shirt with the word “Press”  
33 printed in yellow on the front and back. Jersey was dodging between the protesters and the police with

Jersey's phone in Jersey's hand. (I assumed that, like last time, Jersey was trying to get a quote.) None of the police officers there seemed to care about or even notice Jersey, who seemed to be trying really hard to stay out of their way. As Jersey was approaching my spot on the line, though, I noticed a familiar face. Officer Navarro was walking briskly from the lot with the bulldozers toward Jersey. Officer Navarro wasn't running, but Officer Navarro also wasn't taking Officer Navarro's time. Jersey's back was to Officer Navarro, so I don't know for sure whether Officer Navarro recognized Jersey. Also, because Jersey was no more than 30 or 40 feet away from me, it's possible that Officer Navarro was really headed toward me, but I just can't be sure. Exhibit 4 is a true and accurate representation of Officer Navarro's location before Officer Navarro started heading toward me and Jersey. At the same time, three or four other protesters who had been on the line with us apparently had decided that an arrest wasn't worth it and started walking away from the theater. Officer Navarro walked right by them without saying a word.

At the same time, it was beginning to dawn on me that our protest in its current state wasn't going to save the Digby. I decided that we had no choice but to up the ante. In hindsight, this was a *really* dumb idea, but I thought we'd stand a better chance of deterring the bulldozers if there were real, live human beings inside the theater, and I yelled as much to the crowd. (That sort of thing worked for the Free Speech Movement at Berkeley the '60s, after all, right?) I knew I'd have to find a way to get inside the theater, though, so I picked up a rock and turned toward the Digby's front door, which is made of stained glass. Better to break a window, I thought at the time, than to destroy the entire building.

As I was turning, I felt a hand on my wrist. It was Jersey. "Danger, stop!" Jersey pleaded, and grabbed the rock out of my hand. I turned back toward Jersey, such that I was facing away from the theater and Jersey was facing toward it. I remember the next part clearly. "Danger," Jersey began to say, "I'm sorry, but breaking into the theater is a terrible —" Then, all of a sudden, Officer Navarro appeared behind Jersey, grabbed Jersey's hand, and forced Jersey to the ground. Jersey let out a surprised yell but didn't resist. "You again, huh?" said Officer Navarro when Jersey was on the ground. "I expect you'll say you were doing nothing illegal?" By that time, most of the protesters had moved away from the Digby's fence, but three or four of us remained. Officer Navarro had startled me, though, and I decided that it was probably time for me to leave. I walked away, and neither Officer Navarro nor any other officer tried to stop me. I was never arrested and never charged with any crime arising out of my attendance at the day's protest.

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

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*s/Down with the system!*  
Danger Smith  
Dated: October 9, 2020.

Subscribed and sworn before me on October 9, 2020:

*s/Roberta Bost*  
Roberta Bost

## AFFIDAVIT OF TRINI REDBIRD

Hello! My name is Trini Redbird. I'm 44 years old, and I'm from Cascade County, Oregon. I've got what I consider to be the coolest job in the entire world: I'm a medical doctor and scientist specializing in audiology. I earned my bachelor's degree in physics from the Oregon State University. After that, I attended Stanford Medical School, which I earned an MD and a PhD in audiology and hearing sciences. After I completed graduate school, I accepted a position on the faculty at the Rowe College of Health & Medical Sciences, where I've been a professor and researcher ever since. I regularly publish scholarly work in audiology-related medical journals, and I routinely speak at well-known medical conferences on similar topics. I've also testified as an expert in about a half-dozen civil trials over the course of my career, in each case as an expert witness for the defense in cases alleging medical malpractice. I've never testified in a civil rights case, but I'm looking forward to doing so. Who knows, maybe it'll lead to more opportunities for me to testify in other similar cases?

As a branch of medicine and science, audiology is about much more than just making sure folks can hear the TV from across the room. It's an incredibly rich field that focuses broadly on hearing, balance, and a range of related disorders. It's as much about physics (*i.e.*, what happens to sound when it's entering the human ear) as it is about psychology and neuroscience (*i.e.*, what happens to sound after it's entered the ear). Especially given the latter features of the discipline, it's an inherently inexact science. That, however, is part of what makes the field so exciting: practically every day, it seems, we're discovering new and exciting things about how humans capture and process the sounds around them.

Jersey Jackson's lawyers asked me to provide expert testimony in support of Jersey's claims against Officer Marlowe Navarro, which I'm glad to do; from what I've read about this case in the news, it sounds like Jersey was pretty badly mistreated. Jersey's lawyers asked me to evaluate whether an average human being in Officer Navarro's physical position would be able to hear the statement that Danger Smith made just before Jersey's arrest about entering the Digby Theater. I based my analysis the description given by Officer Navarro in Officer Navarro's affidavit of Officer Navarro's position relative to various other individuals and objects at the protest that occurred at the Digby on January 15, 2020, as well as the other statements in that affidavit and the additional observations outlined further below. The principles and methods that I applied are reliable and well-accepted in the field of audiology, and I applied each of them reliably in this case.

In a case like this, the best place to start is with the sources of the relevant sounds themselves. Here, Officer Navarro has testified that Officer Navarro was standing 50 feet away from a couple of bulldozers when Officer Navarro supposedly heard Danger's comment. The two most relevant sounds,

1 then, are the sound of the bulldozers — which almost certainly would’ve been the loudest noise around  
2 Officer Navarro at that time — and the sound of Danger’s comment itself. I wasn’t able to locate any  
3 recordings of that moment in the protest that were relevant and sufficiently reliable, but, fortunately, each  
4 type of sounds has a fairly consistent decibel level. (A decibel, by the way, is the standard unit we use to  
5 measure a sound’s loudness.) If you’re standing, say, six feet away from a bulldozer, the sound of its  
6 engine will range from 100 to 120 decibels. For purposes of my analysis, then, I assumed a decibel level  
7 for the bulldozer of 110. Danger’s voice is a little harder to pinpoint, but, in general, the sound of a human  
8 yell will range from 70 to 90 decibels. (Again, that’s assuming you’re about six feet away.) For purposes  
9 of my analysis, I assumed a decibel level for Danger’s yell of 80 decibels. Those estimates are well-  
10 grounded in the relevant scientific literature, which is actually quite voluminous; audiologists have been  
11 measuring the intensity of those sorts of common sounds for quite literally decades.

12 That’s just the starting point, though. When it comes to sound, distance is key, because the volume  
13 of a sound decreases the farther away you get from it. In normal circumstances, a sound’s intensity will  
14 decrease by about six decibels every time you double the distance from its source. That principle (which  
15 is based on a well-established principle of physics called the “inverse square law”) allows us to  
16 approximate the relative intensities of the sounds of the bulldozers and Danger’s comment from Officer  
17 Navarro’s perspective. Officer Navarro, we know, was about 50 feet away from the bulldozer. If at six  
18 feet the bulldozer’s sound was 110 decibels, at 12 feet it’d have been approximately 104 decibels; at 24  
19 feet, approximately 98 decibels; and at 48 feet, approximately 92 decibels. Officer Navarro also testified  
20 that Officer Navarro was about 100 feet away from Danger at the time Officer Navarro heard the comment.  
21 By comparison, then, if the sound of Danger’s yell at six feet was 80 decibels, at 12 feet it’d have been  
22 approximately 74 decibels; at 24 feet, approximately 68 decibels; at 48 feet, approximately 62 decibels;  
23 and at 96 feet, approximately 56 decibels.

24 One key thing to know about the decibel system is that it’s logarithmic. In other words, the  
25 difference between sounds of 30 and 40 decibels is *not* the same as the difference between sounds of 40  
26 and 50 decibels; in real terms, the latter difference is much greater. That in mind, it’s important for me to  
27 put the numbers I’ve just given you in context. The quietest sound that the human ear is able to detect is  
28 usually somewhere around 20 decibels. (Think of autumn leaves rustling in the wind...) The loudest sound  
29 that a human brain is meaningfully able to process is somewhere around 120 or 130 decibels, at which  
30 point you’re risking permanent damage to your hearing. (Imagine you’re standing on a runway while a jet  
31 takes off...) What’s in between? Well, a whisper is usually about 30 or 40 decibels, and most people’s  
32 normal speaking voices are somewhere in the neighborhood of 50 or 60 decibels. At around 80 decibels,

1 you get to about the level of a bustling city street, a busy playground, or perhaps even something like a  
2 subway station at rush hour. At 100 or 110 decibels, you're at about the level of a jackhammer.

3 Of course, it bears emphasizing that all of those examples are approximations. It's equally  
4 important to note that the specific circumstances in which a sound occurs can have a major impact on how  
5 easy it is to hear. If you're driving in a car or meeting a client in a small conference room, for example,  
6 the sound of your conversation will reflect and carry in a way that doesn't occur in more open areas. Even  
7 if you're not inside, your surroundings can have a similar impact, depending on the degree to which they  
8 reflect or dampen sound.

9 Still, because none of those circumstances were present here, I'm able to come to a reliable  
10 conclusion about how easy it would've been for an average human being in Officer Navarro's position to  
11 hear Danger's comment. As I suggested above, from where Officer Navarro was standing, the sound of  
12 the bulldozer would've been louder than a busy subway station but not quite as loud as a jackhammer. At  
13 the same time, the sound of Danger's comment would've been about as loud as someone talking in a  
14 normal speaking voice. It's also noteworthy that Officer Navarro testified that a number of other people  
15 (mostly protesters, it seems) were yelling and shouting in the same general area. It's difficult to say exactly  
16 how that would've impacted Officer Navarro's hearing — to do that, I would have needed to conduct an  
17 analysis on-site, which I wasn't able to do — but it's safe to say that it wouldn't have made Danger's  
18 comment any clearer. All that in mind, it's my expert opinion that, given the circumstances that Officer  
19 Navarro describes in Officer Navarro's affidavit, it would've been very difficult for Officer Navarro to  
20 have heard Danger's comment. After all, if you're walking down the sidewalk with a friend and pass by  
21 a jackhammer, what's the likelihood that you'll still be able to make out what your friend is saying? As  
22 we all probably know from experience, not much.

23 Now, can I say with certainty whether Officer Navarro *actually* heard the comment? No, and it's  
24 possible that Officer Navarro did. I'm not a mind reader, and every person's hearing works a little  
25 differently. In particular, it's important to remember that the human ear generally is better at picking up  
26 higher frequencies than lower frequencies. "Frequency" refers to a sound's pitch, *e.g.*, whether it's high-  
27 pitched (like a whistle), low-pitched (like the sound of a bass guitar), or somewhere in between. The pitch  
28 of a human voice can vary quite a bit, but it's basically always going to be higher than a bulldozer's  
29 engine. But, a difference in pitch alone definitely won't guarantee that the human ear will pick up on a  
30 particular sound.

31 Additionally, I can't speak at all to the issue of Officer Navarro's comprehension of Danger's  
32 statement. It's one thing for a person to hear a series of spoken words; it's quite another for the person to  
33 understand them. It's theoretically possible that Officer Navarro heard Danger's comment in the sense

1 that the comment's soundwaves reached Officer Navarro's ear, but that Officer Navarro misheard them  
2 as something else. Have you ever listened to a song, looked up the lyrics, and realized that you completely  
3 misunderstood what the singer was saying? That's the sort of thing I'm talking about. I can't speak to that  
4 issue here because I didn't seek to interview Officer Navarro prior to providing this affidavit; in order to  
5 evaluate comprehension, I'd need at minimum to conduct an in-person interview with the subject. (In  
6 retrospect, perhaps I should've done that.)

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

11 *s/Trini Redbird*

12 Trini Redbird

13 Dated: October 16, 2020.

14  
15 Subscribed and sworn before me on October 16, 2020:

16  
17 *s/Roberta Bost*

18 Roberta Bost

## 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.

29  
30 Subscribed and sworn before me on October 9, 2020:

31  
32 s/Roberta Bost

33 Roberta Bost

## AFFIDAVIT OF CAMDEN BUCHANAN

Hi there! The name's Camden Buchanan. I'm 54 years old, and I'm the founder and chief executive officer of Buchanan Properties LLC. Our company's mission is simple: we buy decrepit buildings, renovate them while keeping their basic charms and style intact, and then either lease them out or sell them. Sure, it's business, and I do pretty well for myself, but I like to think I'm also making a difference, you know? We give new leases on life (so to speak) to structures that most people have long forgotten, and I like to think that Rowe's skyline is better for it.

The Digby Theater, which we acquired in 2012, is one of our finest properties, but it's also turned out to be one of the trickiest to manage. The theater has been around since the 1920s, and, in my opinion, it's the single most gorgeous building in Rowe. I've *never* seen stained glass as beautiful or as intricate as that in the windows on the theater's enormous front doors. It's basically right in the center of Rowe, so it gets a ton of foot traffic, and it's long been Rowe's go-to venue for concerts, speeches, political rallies — you name it, and it's probably happened at the Digby. The problem, though, is that the Digby has been listed in the National Register of Historic Places since 1991, and that's really limited what we've been able to do with it. For years, I've been trying to convince Rowe's City Council to let us redo the theater to make it safer, brighter, and more durable than the current structure, which, as anybody who's ever visited the theater can tell you, is on its last legs.

Tragically, the explosion and stampede at last year's "Can You Dig It?" festival proved my point; a young music fan was trampled to death in part because the building has so few exits. After that — and following a presentation by my friend Ari Frankel on the Digby's structural unsoundness — the City Council ended up seeing things my way. Ari has worked for Buchanan Properties for quite a while; whenever we're thinking about buying or selling a property, we have Ari inspect it, so we've paid Ari a good chunk of change of the years. Naturally, we paid Ari to deliver the presentation to the City Council, too. Ari showed me a draft of the presentation before she delivered it, and she had characterized her inspection as an "independent" analysis of the Digby's structural soundness. I thought that was a little misleading, but I told Ari to go ahead and deliver it anyway. I mean, the City was going to make its decision based on Ari's findings, not on the label she attached to her remarks. In the end, who cares, right?

Anyway, once the City Council issued its decision permitting our renovations, things went swimmingly — for a time, at least. Our plan was to keep the Digby's basic architectural skeleton, but to redo the interior layout and exterior completely. The renovations were set to begin in mid-December when, just a few days before we broke ground, a reporter at *The Rowegonian* named Jersey Jackson published a story claiming that Ari had lied to the City Council when giving her presentation. The whole thing was

1 balderdash, but, within a day, it became clear that the public was buying it. Both in the online comments  
2 to Jersey's story and on social media, I started seeing calls for a protest at the Digby. I didn't think much  
3 of it at the time, but, just to be safe, I called the Rowe Police Department and asked that they send a couple  
4 of officers to the scene to make sure things proceeded in an orderly fashion. I didn't attend the renovation  
5 myself, though. (I had an appointment that day out in Cascade County.)

6 The morning of when the renovations were supposed to begin — December 20, 2020, I recall —  
7 I received a call from my office manager Erin Esparza, who told me that, in light of Jersey's article, the  
8 City Council had decided to suspend its authorization of our project. I was flabbergasted! How could the  
9 City pull the rug out from under our feet just because of one measly article? It was absolutely ridiculous.  
10 Fortunately, we were able to smooth things over with the City; we hired a second inspector who,  
11 unsurprisingly, confirmed Ari's findings. I then worked with our contractors to reschedule the renovations  
12 for January 15, 2020, and this time, I made sure to be there in person. I wanted to be 100% certain that  
13 everything went off without a hitch. Like I did the last time, I called the Rowe Police Department and  
14 asked that they send some officers to make sure things didn't get out of hand with any protesters.

15 Right away, though, I knew we were going to have a problem. The protesters had lined up against  
16 the chain-link fence surrounding the theater and had linked arms. At 10:00 a.m., the construction  
17 equipment in the lot next to the theater powered up, and that really seemed to set the protesters off. I was  
18 standing in the lot across the street, but I had a pretty good view of what was going on: the protesters were  
19 yelling in my general direction, and some even appeared to be locking themselves to the fence. I got out  
20 my phone and recorded some of the sounds I was hearing. (I wanted to send the recording to *The*  
21 *Rowegonian*; the last story had been so one-sided!) A true and correct copy of that recording is in the file  
22 labeled Exhibit 3.

23 A moment or two later, I heard a police officer on a bullhorn announce: "You are trespassing on  
24 private property. Disperse now or you will be subject to arrest." That seemed to have the opposite of its  
25 intended effect. I didn't see a single protester leave, and when the police officers surrounding me saw  
26 what little their announcement had done, they moved toward the protesters. A few moments after that, I  
27 heard one of the protesters yell something about barricading themselves inside. It took me a second to  
28 figure out where the voice was coming from, but I then noticed someone in a blue t-shirt standing in front  
29 of the fence by the Digby's front door with what looked like a brick in the person's hand. I started to yell:  
30 "Hey! That person is about to break down the door!" There was a beat, and then, fortunately, a police  
31 officer grabbed the person by the wrist and appeared to arrest the person.

32 The police officer, whom I now know and recognize as Marlowe Navarro, walked the person,  
33 whom I now know and recognize as Jersey Jackson (I had never met or seen Jersey's face before), right

1 by the place where I was standing. I heard the two of them talking as they went. “It wasn’t me!”  
2 complained Jersey, “I took that rock out of Danger’s hand!” “I’m sure you did,” said Officer Navarro,  
3 politely but with a definite note of sarcasm, “but we told you all to clear out and you didn’t.” Officer  
4 Navarro then pushed Jersey into a squad car and started walking back toward the remaining protesters. By  
5 that point, only two or three of them were still there, and Officer Navarro’s colleagues seemed to be trying  
6 to pry them away from the fence. Officer Navarro started walking back toward the fence, but by the time  
7 Officer Navarro got there, all of the protesters had either left or had been arrested.

8 The whole episode was pretty stressful. Fortunately, our contractors were able to reach the Digby,  
9 which is scheduled for its grand re-opening in mid-2021. I’m grateful to Officer Navarro for saving the  
10 Digby’s front door, which we’ve retained in our remodel. Who knows what would’ve happened if Officer  
11 Navarro hadn’t taken that rock out of Jersey’s hand?

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

16 s/Camden Buchanan

17 Camden Buchanan

18 Dated: October 9, 2020.

19  
20 Subscribed and sworn before me on October 9, 2020:

21  
22 s/Roberta Bost

23 Roberta Bost  
24  
25

## AFFIDAVIT OF EDEN SAAB

I'm Eden Saab, and I'm 51 years old. In my day job, I teach history and social studies at Burrough High School here in Rowe. That's not quite why I'm here, though. For the last 15 years, I've been the chair of Chinook County's Citizen Review Committee, which we call the "CRC" for short. I've long had an interest in how the police operate, in both an academic sense and, tragically, a personal sense. When I was seven, my mother was driving home from work one evening, turned onto the highway, and found herself caught in the middle of a high-speed police chase. She ended up getting run off the road and sustained a serious spinal injury. Thankfully, she made a full recovery, although it took several years. We never were able to figure out exactly what happened — that was long before the days when news helicopters would film those sorts of things — but, ever since, I've found myself wondering whether the police could've done something to prevent the accident. In a nutshell, that's why I decided to join the CRC.

The CRC's basic role is simple: we're an independent quasi-governmental body that conducts civilian oversight and investigates allegations of misconduct involving Chinook County's police, including (but not necessarily limited to) the Rowe Police Department. Following an investigation, we issue findings and, if we decide that misconduct has occurred, we recommend disciplinary measures for the officer or officers involved. We're an independent body, and when I say we're "independent," I mean it: the CRC is a creature of the Chinook County Commission (it was created as a result of a resolution they passed back in 2001) and not the Rowe Police Department itself. That means we answer not to the police, but rather to the County Commissioners and, indirectly, to the citizens who elect them. Also, we're all volunteers, so it's not like we've got a financial stake in any of the findings we issue.

I'd say I'm pretty well-qualified for my role as the CRC's chair. I have a B.A. and an M.A., each from the University in Oregon and each in history. My master's thesis focused on the emergence of "modern" American police forces in the early 1900s. As I'll explain further in a moment, I also regularly provide training to police departments around Oregon, including the Rowe Police Department, on conflict-resolution strategies and community-based approaches to policing. I'm also intimately familiar with the academic literature on best practices for policing, and, in fact, I've occasionally contributed to it. Articles I've written have appeared both in scholarly journals like *The American Journal of Police* as well as major newspapers like *The Rowegonian*. Beyond that, I've testified as an expert witness seven times in civil trials involving allegations of police misconduct; in six of those cases, I testified for the defense, and in the other, I testified for the plaintiff. The only caveat to all that, I suppose, is that I've never actually worked as a police officer myself. Still, though, since I've been thinking, writing, and teaching about best practices for police



1 departments for the better part of three decades, I'm confident that my views on the subject are reliable and  
2 well-grounded in fact.

3 I became involved in this case when Jersey Jackson filed a complaint with the CRC regarding Jersey's  
4 arrest by Marlowe Navarro. Jersey's basic complaint was that Officer Navarro had arrested Jersey in  
5 retaliation for Jersey's exercise of Jersey's First Amendment rights. Right away, we let Jersey know that we  
6 couldn't come to a conclusion one way or the other on that specific issue; we're not lawyers, and more  
7 importantly, we really aren't able to determine what was going on in Officer Navarro's head at the time of  
8 the arrest. (For that reason, I can't give an opinion one way or the other on whether Jersey's prior comments  
9 to Officer Navarro had anything to do with the subsequent arrest.) Still, the CRC is there to serve the  
10 community, so we agreed to investigate the arrest in a more general sense, with the goal of determining  
11 whether there was anything improper or irregular about it.

12 In conducting our investigation, I personally interviewed Jersey, Officer Navarro, Danger Smith, and  
13 Camden Buchanan. During those interviews, they informed me of the facts that appear in their affidavits in  
14 this case, and nothing more. In my opinion, those interviews provided me with sufficient information for my  
15 analysis. The principles and methods that I used to analyze those facts are reliable and well-accepted among  
16 those who advise police departments on best practices, and I applied them reliably in this case.

17 Before I get into the nitty-gritty of this case, it's important to understand two general principles. First,  
18 since about the 1980s, it's become clearer and clearer as a statistical matter that community-based policing  
19 leads to better overall results. "Community-based policing" is a loose term, but it refers generally to an  
20 approach to policing in which officers hold themselves out as partners with the communities they serve.  
21 They're there not simply to arrest people who commit crimes, but rather to take a proactive approach to  
22 solving problems. To put that in concrete (if overly simplistic) terms, a good police officer doesn't just sit  
23 and wait on a street corner hoping to catch a litterer in the act; instead, she ensures that the public waste bins  
24 on the corner remain clean and unobstructed. And, if the officer happens to catch someone littering, the  
25 officer might simply engage the person in polite conversation and ask her to pick up her trash, rather than  
26 issuing her a full-blown ticket.

27 Second, however, context matters quite a bit when it comes to community policing. It's relatively  
28 easy to implement community policing when it comes to petty crimes and minor violations like littering or  
29 jaywalking. It becomes a much harder job, though, in more volatile circumstances, of which making an arrest  
30 in crowd is a prime example. Especially in a raucous setting like a protest, a concert, or a sporting event, the  
31 specific circumstances in which the crowd has gathered can have a huge impact on the degree to which an  
32 officer who makes an arrest is perceived as a community partner, rather than as an adversary. Consider, for  
33 example, a sporting event in which a fan becomes unruly and begins to threaten others seated nearby. In

1 those circumstances, it's likely that the other sports fans will want their unruly compatriot removed. By  
2 comparison, consider a public protest against misconduct by the police themselves. Even if a police officer  
3 has probable cause for an arrest — say, for trespassing — and conducts the arrest appropriately, it's  
4 nevertheless likely that the officer's intervention would be perceived as hostile and, in turn, escalate the  
5 situation.

6         Where should officers draw the line? That's an extraordinarily difficult question, but it's one on which  
7 the Rowe Police Department's policies offer an eminently reasonable middle ground. RPD Directive 0635.10  
8 sets forth a procedure for its officers to follow when there arises a potential need to disperse a crowd. A true  
9 and accurate copy of that policy is set out in Exhibit 2. The policy divides police action in group settings into  
10 two basic categories. On one hand, for crimes that pose no reasonable risk of violence or damage to property,  
11 Officers may make arrests only after giving the subject or subjects of the arrests at least two clear verbal  
12 warnings and if there exists "no reasonable alternative" to de-escalate the situation. On the other hand, for  
13 crimes that do pose such a risk, Officers may make only those arrests that are "reasonably necessary" to  
14 protect the safety of others in the crowd. There's a common thread that runs between each of those rules:  
15 when it comes to crowd control, RPD officers may take only those actions that are needed to ensure the safety  
16 of the crowd.

17         As it turns out, I'm intimately familiar with RPD Directive 0635.10, because I recently delivered a  
18 training session to a group of RPD officers how best to implement it. The training occurred on January 7,  
19 2020. Officer Navarro was in that group and seemed actively engaged during our entire session. During the  
20 training, I went over the full contents of RPD Directive 0635.10 in detail, went over the same points about  
21 community policing that I make above, and discussed how that concept should influence the way in which  
22 RPD officers implement the directive. I also explained that RPD Directive 0635.10 was an official RPD  
23 policy and that an officer's failure to abide by it could lead to official discipline. During a question and  
24 answer session toward the end of the training, I recall that Officer Navarro offered a comment and a question.  
25 "You know," Officer Navarro said, "we had a protest at the Digby last month, and some of the protesters  
26 really got in our faces. What's the best way to de-escalate that sort of verbal abuse?" Officer Navarro seemed  
27 calm and genuine in asking the question. In response, I indicated that RPD officers should generally keep  
28 their distance, except in cases where an officer perceives a threat of violence or property damage. Officer  
29 Navarro nodded thoughtfully and indicated that Officer Navarro understood and appreciated my response.

30         In my expert opinion, Officer Navarro's conduct during the January 15th protest complied with both  
31 RPD Directive 0635.10 and more generally with the principles of community policing outlined above. By all  
32 accounts, the crowd at the Digby was in an impassioned state, and Officer Navarro appropriately carried out  
33 the advice I had given during our training session by politely asking them to move, rather than immediately

1 arresting them. Moreover, assuming Officer Navarro truly believed that Jersey was about to throw a rock  
2 through the Digby's stained-glass window, Officer Navarro's arrest of Jersey in that moment was appropriate  
3 given the setting and context of the larger protest. In particular, as I explained to Officer Navarro and the  
4 others during our training session, violence and property damage are all but certain to enflame the overall  
5 situation, whereas petty offenses and technical violations of law are not. I also explained that RPD expects  
6 its officers to respond promptly to the former and to decline to make arrests or use force in regard to the  
7 latter; RPD, I noted explicitly, requires its officers to approach crowd management with de-escalation as their  
8 first and most important goal. Based on my review of multiple accounts of the January 15th protest, Officer  
9 Navarro embodied those principles well.

10 I delivered my findings in May 2020 in oral testimony to Rowe's City Council. During my testimony,  
11 I explained that there was nothing obviously improper about Officer Navarro's arrest of Jersey Jackson, but  
12 emphasized that I couldn't say one way or the other whether Officer Navarro made the arrest in response to  
13 Jersey's prior comments or any other of Jersey's First Amendment activities. I also noted that the other RPD  
14 officers, including the incident commander on the scene, appeared to have violated RPD Directive 0635.10  
15 by beginning to make arrests after giving the protesters only one warning. (As I noted above, RPD policy  
16 required that officers provide a minimum of two warnings.) Many of the protesters began to disperse when  
17 the arrests began, which tells me that the arrests themselves might ultimately have been unnecessary. At any  
18 rate, I'm just glad the situation didn't turn out any worse.

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

23 s/Eden Saab

24 Eden Saab

25 Dated: October 16, 2020.

26  
27 Subscribed and sworn before me on October 16, 2020:

28 s/Roberta Bost

29 Roberta Bost  
30

**EXHIBIT 1: Photograph of rock found in Jersey Jackson's hand**



## EXHIBIT 2: Rowe Police Dept. Crowd Management/Control Policy

### Rowe Police Department

Directive 0635.10

### CROWD MANAGEMENT/CROWD CONTROL

#### Policy:

1. **Purpose.** The purpose of this Directive is to provide guidance for demonstrations, special events, the managing of crowds during demonstrations, and controlling crowds during civil disturbances.
2. **Free Speech & Assembly.** The Rowe Police Department recognizes that Rowe has a tradition of free speech and assembly. It is the responsibility and priority of the Rowe Police Department not to unduly impede the exercise of First Amendment rights and to provide for the safe and lawful expression of speech, while also maintaining the public safety, peace and order. A police response that impedes otherwise protected speech must be narrowly tailored to serve a significant government interest. The content of the speech does not provide the basis for imposing limitations on First Amendment rights. While the First Amendment provides broad protections for the expression of speech, it does not provide protection for criminal acts including, but not limited to, riot, disorder, interference with traffic upon the public streets, or other immediate threats to public safety, peace or order.
3. **Nature of Police Responses.** The Rowe Police Department recognizes that demonstrations and events are dynamic in nature. Accordingly, Officers will monitor the crowd throughout the event to assess the level of risk posed to both demonstrators and the public at large, with the goal of minimizing potential violence, injury or damage to property. Officers' response should be commensurate to overall crowd behavior, and Officers should differentiate between groups or individuals who are engaging in criminal behavior or otherwise posing a threat to the safety of others and those in the crowd who are lawfully demonstrating. Officers will strive to maintain a diplomatic presence to dissuade participants from engaging in civil disturbance and to encourage crowd self-monitoring.
4. **Specific procedures.** For suspected crimes that occur during demonstrations that pose no reasonable risk of violence or damage to property, Officers may make arrests only (i) after giving the subject or subjects of the arrests at least two clear verbal warnings and (ii) if there are no reasonable alternative measures for de-escalation or resolution. For suspected crimes that occur during demonstrations that pose a risk of violence or damage to property, Officers may make only those arrests that are reasonably necessary to ensure public safety and must carry out such arrests in the least disruptive manner possible.

An Officer who violates any part of this policy is subject to discipline up to and including termination.

### **EXHIBIT 3: Audio Recording from January 15, 2020**

This audio recording was made on January 15, 2020 by Camden Buchanan.

Link to Audio: <https://drive.google.com/file/d/1UFCSII0iHtmu-wjTTrtS3bDeUnmsNPsv/view?usp=sharing>

#### EXHIBIT 4: Area Map – January 15, 2020

This map was excerpted from Officer Marlowe Navarro's police report filed after the arrest of Jersey Jackson. The map depicts the scene prior to Jackson's arrest. The map is not to scale.

