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4 SELECT COMMITTEE TO INVESTIGATE THE
5 JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.

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11 DEPOSITION OF: RYAN KELLEY
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15 Thursday, April 21, 2022

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17 Washington, D.C.
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20 The deposition in the above matter was held via Webex, commencing at 9:03 a.m.

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2 Appearances:

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5 For the SELECT COMMITTEE TO INVESTIGATE

6 THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

7

8 [REDACTED], SENIOR ADMINISTRATIVE ASSISTANT

9 [REDACTED], CHIEF CLERK

10 [REDACTED], INVESTIGATIVE COUNSEL

11 [REDACTED], INVESTIGATIVE COUNSEL

1

2 Mr. [REDACTED] Good morning. This is a deposition of Ryan Kelley, conducted by
3 the House Select Committee to Investigate the January 6th Attack on the United States
4 Capitol pursuant to House Resolution 503.

5 Mr. Kelley, please state your full name and spell your last name for the record.

6 The Witness. Ryan Darrell Kelley, K-e-l-l-e-y.

7 Mr. [REDACTED] Thank you very much. And would you please raise your right hand
8 to be sworn by the court reporter?

9 The Reporter. Do you solemnly declare and affirm under the penalty of perjury
10 that the testimony you are about to give will be truth, the whole truth, and nothing but
11 the truth?

12 The Witness. I do.

13 Mr. [REDACTED] Thank you very much.

14 So this will be a staff-led deposition. Members of the select committee of course
15 may choose to also ask questions.

16 My name is [REDACTED], investigative counsel. On the video call with me today
17 is [REDACTED], investigative counsel. There are currently no members present,
18 but I will announce any staff or members who join.

19 We will follow the House deposition rules that we've provided to you previously.

20 Under the House deposition rules, you are permitted to have an attorney present,
21 but I will note for the record that you do not have an attorney present.

22 And under the House deposition rules, neither committee members nor
23 committee staff may discuss the substance of testimony you provide today unless the
24 committee approves release. You will have an opportunity to review the transcript.

25 And, also, no other recordings of this proceeding are permitted. Can you

1 confirm for the record, Mr. Kelley, that you are not recording this deposition?

2 The Witness. I am not recording.

3 Mr. [REDACTED] Thank you very much.

4 The Witness. I do have a question, though. May I ask, you just mentioned the
5 transcripts, being able to get a copy of that. What does that look like? Can I get a copy
6 of what's being recorded now, or is it all what's going to be done in writing?

7 Mr [REDACTED] We can definitely talk about that more in detail later. There's a
8 whole process that involves you coming into the office to review after the transcript is
9 finalized. So I'm happy to go over that in more detail after we're done.

10 The Witness. We can talk about that later. Very good. Thank you for
11 clarifying that.

12 Mr. [REDACTED] Absolutely. Thank you.

13 So, before we begin, I'd also like to go over a couple of ground rules for the
14 deposition.

15 There is an official reporter transcribing the record of this deposition. The
16 reporter is also joining us by Webex. So please wait until each question is completed
17 before you begin your response, and we will try to wait until your response is complete
18 before we ask our next question. And it's just so much better for the reporters,
19 especially over the internet, that we make sure not to talk over each other, just for their
20 sake. And I know I've been guilty of that in the past, so I will make sure to be better
21 today.

22 The reporters also cannot record nonverbal responses, such as shaking your head,
23 so it is important that you answer each question with an audible, verbal response.

24 For the benefit of the reporter and the record, there may be times where I spell a
25 name or a word that I'm using or that I ask that you do the same.

1 The Witness. Understood.

2 Mr [REDACTED] Thank you.

3 And we ask that you provide complete answers based on your best recollection.

4 If the question is not clear, which may happen, please just ask for clarification. And if
5 you do not know the answer, please simply say so.

6 And, logically, if you need any breaks for whatever reason, just let us know;
7 we're happy to accommodate. We'll turn our microphones off, our cameras off, and
8 take a quick recess.

9 The Witness. Understood.

10 Mr [REDACTED] And throughout the deposition, we're going to be directing your
11 attention to exhibits which will be displayed on the screen, assuming I can use technology
12 appropriately. And when we refer you to a document, you can take time to familiarize
13 yourself with it before we discuss it.

14 So I am going to pull up exhibit 1 -- I'm going to try to pull up exhibit 1.

15 Unfortunately, I am not able to share my screen. Can we recess in place quickly?

16 [Discussion off the record.]

17 Mr [REDACTED] We'll go back on the record at 9:09.

18 Oh. Sorry. We'll go --

19 The Witness. May I ask a quick clarifying question in regard to the reporters?

20 You said there was a reporter. I see two names on there. Is there two separate
21 reporters?

22 Mr. [REDACTED] They switch on and off sometimes, just because it's -- yeah, it takes a
23 lot of energy to -- so one goes, then the other goes.

24 The Witness. Understood. Okay.

25 [Discussion off the record.]

1 Mr. [REDACTED] Let's try this again. All right. We'll go back on the record at 9:09.
2 And I'm going to share exhibit 1 with you, Mr. Kelley. Do you see exhibit 1 on the
3 screen, which is the subpoena that you received from the House select committee?

4 The Witness. Partial.

5 Mr. [REDACTED] I can scroll down and --

6 The Witness. That is it. That's the document I received thus far.

7 Mr. [REDACTED] Thank you.

8 The Witness. Now, that looks -- that I did not see, though, whatever was on
9 there, that --

10 Mr. [REDACTED] That's the proof of service.

11 The Witness. I did not receive that.

12 Mr. [REDACTED] Yeah. That one comes directly to us.

13 The Witness. Understood.

14 Mr. [REDACTED] Okay.

15 So, under the deposition rules that accompanied the subpoena, you may only
16 refuse to answer a question to preserve a privilege recognized by the select committee.
17 If you refuse to answer a question based on a privilege, staff may either proceed with the
18 deposition or seek a ruling from the chairman on the objection. If the chairman
19 overrules such an objection, you are required to answer the question.

20 And I also want to remind you, as we do with all witnesses, that it is unlawful to
21 deliberately provide false information to Congress. Since this deposition is under oath,
22 providing false information could result in criminal penalties, to include for perjury and/or
23 providing false statements.

24 Do you understand, Mr. Kelley?

25 The Witness. I do.

1 Mr. [REDACTED] Thank you very much.

2 So we'll start with the substantive questions with just a little background and then
3 get into the topics.

4 EXAMINATION

5 BY MR. [REDACTED]

6 Q How old are you, Mr. Kelley?

7 A Forty.

8 Q And where do you live?

9 A Allendale, Michigan.

10 Q How long have you lived there?

11 A Two and a half years? Something like that.

12 Q Have you lived in Michigan for longer than that?

13 A Thirty-five years.

14 Q Thank you. And what's your current occupation?

15 A I own a real estate firm.

16 Q And are you currently running for office?

17 A That is accurate.

18 Q Which office?

19 A Governor of Michigan.

20 Q Thank you. Do you have any former law enforcement background?

21 A I do not.

22 Q Any military background?

23 A I do not.

24 Q Do you currently have a role in local government?

25 A Not currently, no.

1 Q Did you previously?

2 A Yes.

3 Q And what was it?

4 A Allendale planning commissioner.

5 Q Thank you very much.

6 And are you the founder of a group called the American Patriot Council?

7 A I am.

8 Q Why did you decide to found it?

9 A To stand up for our rights in America, specifically in Michigan.

10 Q Okay. And what does the group do to stand up for rights in Michigan?

11 A We had a couple rallies in the past, but we haven't done anything for quite
12 some time.

13 Q And what kind of rallies were they?

14 A We had a rally up at the State capitol building, one in Grand Rapids, back up
15 at the capitol building throughout 2020.

16 And then we planned a coordinated set of rallies in separate States. We called it
17 the Nationwide Freedom March. October 24th of 2020 was when that would've
18 happened. And it was just finding like-minded individuals that were willing to show up
19 and make our voices heard for freedom.

20 Q I guess I should've asked first, when did you found the American Patriot
21 Council?

22 A I'm going to say probably -- the American Patriot Council started probably
23 May or June of 2020.

24 Q Okay. And was there a specific event that prompted you to found the
25 American Patriot Council?

1 A The response of everything with the COVID-19 pandemic and the lockdowns
2 and the rules and regulations.

3 Q Okay. So, then, back to the rallies that you were talking about, were these
4 rallies, then, in response to the COVID lockdown rules and regulations?

5 A Accurate.

6 Q And what were you hoping that the rallies would do?

7 A Inspire fellow individuals in Michigan or across America to stand up for our
8 rights, stand up for what's right.

9 Q And what specifically are those rights or what is right?

10 A The Bill of Rights, our Constitution.

11 Q Can you tie that to the COVID lockdowns? I'm just trying to figure out
12 those -- that specific tie.

13 A Good question. I guess -- to clarify, I guess, dive into the specific rights that
14 were infringed upon and what we were standing up for?

15 Q Yes. What -- exactly.

16 A So First Amendment, peaceably assemble. In Michigan especially,
17 everybody was locked down in their homes, not allowed to earn a living. And, you
18 know, we have a right to life, liberty, and the pursuit of happiness. So it was simple,
19 basic stuff like that.

20 Q Okay.

21 And you mentioned having rallies across States, I believe you said. Were you
22 coordinating with other groups for these rallies?

23 A No.

24 Q And how did you put on rallies across multiple States?

25 A Just with different individuals that were interested in doing -- we kind of

1 had, call it, like, a franchise almost; it was like a template. And we just said, Hey, you
2 know, get a permit at whatever venue you choose, and here's a marketing flier, get
3 people to show up at that same day at the same time.

4 It was on October 24th, I want to say, I can't quite remember, but maybe 3:00
5 p.m., and then it would've been 2:00 p.m. central, 1:00 p.m. mountain, and then noon
6 Pacific time, was kind of the whole idea behind it.

7 Q And how did you promote this event or find --

8 A Facebook.

9 Q Okay. And is that how you found people to work across the country with
10 you?

11 A Correct.

12 Q Okay. Understood.

13 Was there somebody that you founded the American Patriot Council with?

14 A Yes.

15 Q And who is that?

16 A Jason Howland.

17 Q And who is he?

18 A He's a friend from the other side of the State. I live on the west side of
19 Michigan; he lives on the east side. Friends that, through business, I guess -- I really
20 don't remember how we met, but some networking event or something like that. And
21 he's a sales guy, business guy. So am I. And then we're both freedom, liberty-minded
22 individuals, which led into what we're doing with -- well, not anymore, but what we were
23 doing with the rallies.

24 Q And how long have you known Mr. Howland?

25 A That's another tough question. I don't remember exactly when we met.

1 If I had to put a number on it, probably between 3 and 4 years, I would say.

2 Q Okay.

3 And I think I saw in something with the American Patriot Council that you call
4 yourself a founding father of the American Patriot Council. Is there a significance to that
5 specific framework?

6 A Founding Fathers of America, I guess. You know, it's just a -- there was
7 nothing substantially specific or significant with that, but, you know, just a play off of that.

8 Q So did you tie the American Patriot Council to, sort of, 1776 or any sort of
9 Revolutionary ideas?

10 A No.

11 Q Yeah. All right.

12 And other than holding rallies, did the American Patriot Council have any other
13 events or do anything else?

14 A I mean, not really, no. I mean, the rallies were pretty much the biggest
15 thing that we did. I mean, Facebook posts, which -- I was kicked off of Facebook. They
16 didn't like people with the type of posts that I put up there in opposition to what the
17 narrative was at the time, so -- yeah, not really.

18 Q Understood.

19 And how many members would you say there were of the American Patriot
20 Council? Was it just you and Mr. Howland, or did you have other people working with
21 you?

22 A We had followers, but, you know, nobody really as members, I guess. We
23 didn't really have memberships. So just some other people that followed us and
24 showed up at the rallies.

25 Q It wasn't a thing where you had people who had to formally join or anything

1 like that?

2 A No, huh-uh.

3 Q And you mentioned a purpose of standing up for people's rights. Was
4 there also a purpose of something like no more lawsuits? And what did that mean?

5 A I -- that doesn't ring a bell. How do you mean? Can you clarify that?

6 Q Yeah. So I think the way you were using it is that, instead of filing lawsuits
7 to try to end the COVID lockdowns, that American Patriot Council was trying a new
8 avenue. And what was that avenue?

9 A I'm not sure I -- I don't know.

10 Q You don't remember?

11 A I don't think that was a thing. Yeah, I don't know.

12 Q Okay.

13 A Was there a post or something where we said that? I mean, that doesn't
14 ring a bell to me, so I don't really know.

15 Q Yeah. I was just looking at the website when I found this. So that's fine if
16 you can't remember.

17 And I think it also mentioned empowering American patriot groups. So what is
18 an American patriot group to you?

19 A Somebody that loves their country.

20 Q Is there anything more specific than that?

21 A Not really, no.

22 Q Would somebody who supported the COVID lockdowns be a patriot?

23 A Somebody that -- I guess there's more to the equation than that. Yeah, I
24 don't know, there's -- that's a very light question, I guess.

25 Q Well, just in general, you said, you know, you want to empower American

1 patriot groups. If everyone who loves their country is a patriot, I'm just trying to think,
2 is there a limiting principle to that? Because then you're supporting -- most people love
3 their country, so I guess I'm just trying to figure out --

4 A There you go.

5 Q -- what American patriot groups are. Did you have anything -- is there any
6 other definition to it?

7 A I mean, not necessarily in that context. I mean, people that are standing up
8 for their rights, love their country.

9 Q Okay.

10 A Lawfully, of course.

11 Q And did the American Patriot Council associate with any local militias in
12 Michigan?

13 A There was individuals that showed up at our rallies, but we weren't affiliated
14 or associated specifically with any of them.

15 Q And who were those individuals?

16 A I'm not really sure on their names of, you know, all the individuals that
17 showed up.

18 Q Do you recognize the name Michigan Liberty Militia?

19 A Yes.

20 Q Do you know who they are?

21 A I know Phil. Some of the other guys in his group, I don't really know those
22 people. I --

23 Q And who is Phil?

24 A -- would probably recognize their faces.

25 Q Who is Phil?

1 A I don't know. The guy that started it, ran it. I'm not really sure exactly
2 what his role is.

3 Q Do you know why they showed up at your rallies?

4 A Not really, I guess.

5 Q Were they ever there to --

6 A They were invited to show up. I mean, we invited anybody that wanted to
7 come. But --

8 Q Right. Were they providing some sort of security at your rallies?

9 A Yeah, I believe so.

10 Q And why is that?

11 A To keep us safe.

12 Q From who?

13 A From whoever might have been trying to injure us.

14 Q Okay.

15 And was that Phil Robinson?

16 A Yes.

17 Q Okay.

18 Do you recognize the name The Guardians of Freedom Michigan?

19 A I don't, no.

20 Q Michigan --

21 A Wait, is that the -- I think there's a group Guardians of Freedom, but I don't
22 think, if you're relating to a militia, that that's the same thing.

23 Q What is the Guardians of Freedom that you know?

24 A It's some group that -- I don't really know exactly what their mission is, but I
25 was invited to come speak at a Guardians of Freedom group, and it was some people that

1 were just meeting, and, as a Governor candidate, I was invited to come speak with them.
2 And they were just talking about different Governor candidates and wanted to know
3 what my platform was.

4 But, as far as a militia, you know -- I know you were on the militia topic, so that -- I
5 have no idea of a militia name for that group.

6 Q Understood. And thank you for clarifying.

7 Have you, yourself, ever trained with a militia or associated with any militias?

8 A No, I have not.

9 Q And it's been reported that Mr. Howland has membership in some militias.

10 Are you aware of that?

11 A Not that I'm aware of.

12 Q Okay.

13 So American Patriot Council has never worked with any Oath Keepers or Proud
14 Boys or Three Percenters, then?

15 A We have not.

16 Q Okay.

17 In the American Patriot Council's core values, which I can pull up as an exhibit if
18 you need to refresh yourself, it talks about nonviolence as one of its core values.

19 Do you believe that militias jibe with the nonviolent core value of American
20 Patriot Council?

21 A The individuals that I've associated with, yes, but I can't speak for every
22 person.

23 Q Right. But, in general, the idea of a militia training with weapons, you
24 know, a private militia that's not part of the State government, do you think that jibes
25 with the idea of nonviolence?

1 A In short, yes. That's a God-given, constitutionally protected right.

2 M[REDACTED]

3 BY MR.[REDACTED]

4 Q Hi, Mr. Kelley.

5 I just wanted to clarify, do you consider the American Patriot Council a militia?

6 A I do not.

7 Q Okay.

8 A It never was.

9 Q Have you ever posted an event that might be called a "Well-Regulated
10 Militia"?

11 A Yes, we had an event there, but that was not -- we weren't considered a
12 militia.

13 Q Okay. Because my understanding is that the purpose of that event was,
14 quote, "to encourage armed patriots to unite as a well-regulated militia." So was the
15 American Patriot Council uniting as a well-regulated militia?

16 A That was not ever -- we were never a militia.

17 Q So why did you say that the purpose of the event was to encourage armed
18 patriots to unite as a well-regulated militia?

19 A Referring to the Second Amendment of the United States Constitution.

20 Q Okay. What is your understanding of what a militia is?

21 A A group of individuals that supports the Second Amendment and makes sure
22 that they are well-trained in understanding their rights and their ability to exercise the
23 Second Amendment.

24 Q Okay. So it seems like you've described the American Patriot Council as a
25 group that recognizes and promotes the Second Amendment right. Is that correct?

1 A Can you clarify that, please? A group that --

2 Q I'm just trying to understand -- you've described a militia with a couple of
3 different things. One is people who promote the Second Amendment. The other thing
4 was training and --

5 A Right.

6 Q -- making sure you can exercise that right.

7 So help me understand why the American Patriot Council doesn't fall into those
8 categories.

9 A So -- why we don't fall into that category?

10 Q You said that they aren't a militia, so I'm just trying to understand.

11 A Yeah. It was pretty much me and Jason as the people, and I never joined
12 any militia. We weren't ever a militia. The APC, American Patriot Council, was literally
13 a couple of people that planned some rallies and invited some people up to, whether it
14 was the capitol or Grand Rapids, the Nationwide Freedom March that we did.

15 Q Got it. So your position is that the American Patriot Council was just you
16 and Jason Howland? Is that correct?

17 A And the followers that we had, yeah. We didn't have -- as I mentioned a
18 minute ago, there wasn't membership and a bunch of people that were part of it with us.

19 Q So who were those followers?

20 A I don't know, lots of -- lots of people. I don't have names. I don't have a
21 list.

22 Q You don't know who was coming to your events?

23 A Open to the general public. Lots of people showed up.

24 Q Well, you mentioned that you were organizing events in other States. Who
25 was organizing those?

1 A Don't have a list on those names either. We were deleted from Facebook.

2 Q You don't remember who was organizing events under your own
3 organization's name?

4 A There was a guy from Texas named Brian; a lady from Maryland named
5 Evelyn, I think. I don't know. I don't have any communication with the individuals that
6 were part of that organization -- or that event that we did.

7 Q So why did you let them use the name of your organization to organize their
8 events?

9 A We just gave the template, as I mentioned, of: Here's the flier, what we're
10 doing that day. It wasn't even "APC" on the flier. And, you know, we said, Hey, pick
11 your location, get your permit, and invite people to show up.

12 So it was kind of their deal. It was just a coordinated effort to have an America
13 freedom-loving rally same day, same time, in multiple locations.

14 Q So those weren't advertised as American Patriot Council events?

15 A I don't believe so, no.

16 Q So why did you say that the American Patriot Council had events in other
17 States?

18 A Well, that's an event that we did under that banner, I guess, if you will,
19 right? I mean, that's Jason and I planning things, and we were planning that, so --

20 Q I'm sorry. I'm not trying to be dense. I'm just trying to understand what
21 the American Patriot Council is.

22 You said that you organized events in other States, but you said you don't know
23 who those people are. And now you're saying that they weren't organized under the
24 APC banner.

25 So what is the American Patriot Council?

1 A Right. It's a loose name, if you will, right? We weren't a political action
2 committee. There wasn't anything official as far as an LLC or any type of thing like that.
3 You know, we hosted events, and that's it.

4 The individuals that you're talking about that happened, you know, in other States
5 with the Nationwide Freedom March, which is the name that we used, we found them on
6 Facebook. We gave them the template, picked the day, here's a flier you can use, and
7 invite people to show up that day, right? Grab your little megaphone, bring your
8 American flags.

9 Q Got it.

10 What was the crime watch list that the American Patriot Council put together?

11 A What's that? I'm sorry.

12 Q We saw on your website that there was a crime watch list published by the
13 American Patriot Council. Or, criminal watch list. Sorry.

14 A Yeah. I believe that's a list of individuals that we saw were violating
15 constitutional law.

16 Q Got it. Okay. So I see Gretchen Whitmer, Dana Nessel, Jocelyn Benson,
17 all Michigan officials, on this list, in addition to some other politicians.

18 What crimes do you think the Michigan officials were committing?

19 A There's a case tab on that page you can look at.

20 Q You don't remember what you were accusing them of?

21 A I remember some of it, but it's probably best to refer to that page.

22 Q Okay. I didn't see anything additional on the page, just their names. You
23 don't know what you were protesting Gretchen Whitmer about?

24 A Is there the tab on that page that you see where it says "Cases"?

25 Q I will check later, but I'm just asking you now, what were you protesting

1 Gretchen Whitmer about?

2 A The lockdowns, as we mentioned. Stay-at-home orders.

3 Q What crimes do you think she was committing?

4 A So, under Federal law, 18 U.S.C. 241.

5 Q Okay. I'm not familiar with that offhand. What is that?

6 A I don't remember exactly offhand the verbatim way it's worded, but basically
7 it's conspiracy for two or more people to take away the rights of other individuals that are
8 protected by the Constitution. Executive Order 2020-50, I think -- don't hold me to that
9 number; I don't remember specifically -- where she takes away the right to peaceably
10 assemble. And, you know, there's a variety of other things. I don't remember them all
11 off the top of my head.

12 Q Got it. And I do see that on your website.

13 A Okay.

14 Q Thanks for pointing us to that.

15 Just so I understand, what were you hoping to accomplish by creating this list?

16 A I'm sorry, what's that?

17 Q What were you hoping to accomplish by creating this list and posting it
18 online?

19 A Well, first of all, we made it public because we didn't want to hide anything.
20 We didn't want people to think that we were doing things behind the scenes, because we
21 weren't. We operated legally and lawfully in all of those aspects. And those are the
22 things that we saw and we put together.

23 And I did go to the DOJ and to the FBI with what you see there on that page, which
24 is another reason why we made it public. You can actually see on that page there's the
25 communication that I had with our U.S. attorneys here in the State of Michigan. And we

1 wanted to make it all public, because we weren't doing anything behind the scenes.

2 Q Got it. Did you think that these politicians were traitors?

3 A I'm sorry, what's that? I'm sorry. Your volume or whatever, it kind of is
4 cutting in and out, and it's hard to hear.

5 Q Oh, I'm sorry. Can you hear me now?

6 A I can. It keeps coming in and out, though. So I'm sorry to keep asking you
7 that.

8 Q That's okay. One second.

9 Can you hear me now?

10 A That's worse, actually. Sorry.

11 Q Is this better?

12 A That's a little bit better. That's definitely a different tune -- or a different
13 tone.

14 Q Okay. Let's try this for a little bit.

15 Did you think that these politicians were traitors?

16 A Not necessarily, no. That was not the intention there.

17 Q Got it. Did you think other Governors were traitors?

18 A I guess, can you define in what word -- or in what way you're meaning
19 "traitor"? Like, what's the specific that you're asking me?

20 Q Sure. Did you think that certain Governors, like Governor Whitmer or
21 maybe Jay Inslee from Washington, were committing treason?

22 A You know, I'm not a jury to decide anything like that, and so that's not
23 my -- not my position to say.

24 Q Got it.

25 [REDACTED] can we pull up exhibit 14? And can you zoom out a little bit so we can

1 see more?

2 Mr. Kelley, these are Parler posts -- and please stay at the top. These are Parler
3 posts from June 26, 2020, between you and Jason Howland.

4 The first one says: "I agree. Traitors should be tried as such. The penalty is
5 5 years minimum and \$10k fines, all the way up to death. People like Inslee in
6 Washington should see the gallows."

7 Later on, you agree with Jason Howland, saying: "It is our responsibility as
8 Patriots to make sure the constitution stays number one."

9 And then on June 28th Jason Howland writes: "Real question: would gallows
10 being built in town squares around the country and a serious willingness to use them put
11 an end to some of this treason we are seeing?"

12 You respond: "That's a great question! How they used to do it!"

13 We can take the exhibit down.

14 So, Mr. Kelley, help me understand this conversation here.

15 A June of 2020, responding to a couple messages. Is there inaccurate
16 questions -- is there inaccurate statements there?

17 Q Do you agree that "people like Inslee in Washington should see the
18 gallows"?

19 A No, I'm not the judge and jury on that. No.

20 Q Okay.

21 A He'd have to be tried with a crime first.

22 Q So you think that we should reinstate gallows in town squares? I'm not
23 sure I understand.

24 A I'm not saying that, no.

25 Q Okay. Well, it seemed like you agreed with Mr. Howland when he asked,

1 "Would gallows being built in town squares around the country and a serious willingness
2 to use them put an end to some of this treason we are seeing?"

3 A How did I agree?

4 Q You wrote, "That's a great question! How they used to do it!", with an
5 American flag.

6 A Was things done that way previously?

7 Q Mr. Kelley, I mean, we can parse your language here, but it seems like
8 you -- the tone of your post and what you wrote indicates that you were pretty excited
9 that Mr. Howland was writing that.

10 A I would say that that's inaccurate.

11 Q Okay. Have you ever called for gallows to be built and for politicians to be
12 hung?

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

14 Q Okay. And that's your position today?

15 A Correct.

16 Q All right. Well, Mr. Kelley, I think those Parler posts speak for themselves.
17 Why -- help me understand why you founded an organization with Mr. Howland in
18 particular.

19 A Why specifically Jason?

20 Q Uh-huh.

21 A Um --

22 Q Did you agree on a lot of things?

23 A Several things, yes.

24 Q What did you agree on?

25 A We agreed on that somebody needs to stand up for our rights in Michigan.

1 Q Did you regularly hear Mr. Howland calling for violence?

2 A No.

3 Q Okay. I just showed you a post where he called for violence.

4 A But you asked if I regularly heard him call for violence.

5 Q Okay. Have you ever heard him call for violence?

6 A If you interpret that post as that way, then I guess that would be a time.

7 Did I agree with it or --

8 Q I'm sorry. How else would you interpret "people like Inslee in Washington
9 should see the gallows"?

10 A How else would I interpret it?

11 Q Yes.

12 A As a statement that somebody made, as an opinion of theirs. They have a
13 First Amendment --

14 Q Did you continue to associate with Mr. Howland after that?

15 A What's that?

16 Q Did you continue to associate with Mr. Howland after June 26, 2020?

17 A Yeah, I still speak with Jason.

18 Q Okay. Did you continue to organize events with him?

19 A After June 26th?

20 Q Yep.

21 A I think the only event that we had after that was -- I've gotta think back to
22 the dates we did all of our stuff. I think the only event that we had after that was the
23 Nationwide Freedom March, which Jason didn't take much part in planning of that.

24 Q Got it. Okay.

25 Did the American Patriot Council continue to function after June 2020?

1 A Did the APC continue to function? Into -- I mean, the Nationwide Freedom
2 March that I mentioned, right? But, again, the APC was kind of a loose -- it wasn't a
3 super-well-organized PAC, political action committee, or LLC or anything like that. So it
4 wasn't, like, normal business meetings or, you know, putting together any type of formal
5 structure in that aspect. So, when you say "continue to function," I continued to stay
6 alive, right?

7 Q Mr. Kelley, were you with Mr. Howland in Washington, D.C., on January 6th?

8 A I believe he was there as well, yes.

9 Q Were you with him?

10 A Was I with him throughout the day?

11 Q Were you with him on January 6th? It's a simple question.

12 A Yes. I saw him there.

13 Q Got it.

14 So were you concerned that somebody who said "people like Inslee in Washington
15 should see the gallows" -- you continued to associate with him. You went to
16 Washington, D.C., on January 6th. Were you concerned that Mr. Howland was going to
17 engage in violence?

18 A No, I was not.

19 Q Why?

20 A That post that you're specifically referring to didn't even come to my mind.

21 Q Okay. Are you aware that there were gallows constructed outside the
22 Capitol in Washington, D.C., on January 6th?

23 A I was not aware of that.

24 Q Were you aware that people were chanting "Hang Mike Pence"?

25 A I was not aware of that.

1 Q Okay. Well, I can represent to you that both of those things happened.

2 I want to ask about a couple of events from early 2020.

3 Did you organize the April 30, 2020, event inside and around the Michigan State
4 capitol?

5 A I did. And I provided you guys with documentation of that. You should
6 have that in your possession as well.

7 Q Yes, we did get a lot of photos from you.

8 A You got the paperwork as well, right?

9 Q We did.

10 A Okay.

11 Q Who else organized that event?

12 A Jason organized that event with me. And there was --

13 Q Got it.

14 A -- two other people that helped us out with that, as well, with just some of
15 the logistical things, music and speakers and stuff like that.

16 Q Got it. And what was your role on the day of?

17 A I was a speaker, number one. And, number two, I was there making sure
18 everything went good. I communicated quite a bit with the Michigan State Police and
19 just made sure that nothing bad happened that day.

20 Q Got it. Were you armed that day?

21 A I was, yes.

22 Q Got it. What was the goal of the event?

23 A To get the senate to vote "no" to extend the state-of-emergency declaration
24 in Michigan.

25 Q Understood. Did you decide beforehand that the event would move inside

1 the capitol?

2 A We did not, no.

3 Q Okay. Can you tell me a little bit about how that happened?

4 A I'm not really -- that wasn't a decision that I made -- I'm sorry. You were
5 talking still. Go ahead.

6 Q When did people go inside the capitol?

7 A Once it was finished, people started going inside. And that was not a
8 decision that I made, and that was not how the rally was initially planned.

9 Q Got it. Did you go inside the capitol?

10 A I did not.

11 Q Did Mr. Howland go inside the capitol?

12 A I do not know the answer to that question.

13 Q Okay.

14 And do you know who the Null twins are?

15 A I do.

16 Q Got it. Were you coordinating with them that day for the event?

17 A I was not.

18 Q Okay. Were they there?

19 A I don't know if they were or not. They had been to a couple of our rallies.
20 I know those are the guys that are tied up in the plot to kidnap the Governor. They tried
21 pointing me in having some role in that, which is absolutely inaccurate. But those are
22 the individuals that -- they did show up at a couple of our rallies, but, no, I'd never plan
23 and coordinate anything with those guys.

24 Q Got it.

25 You mentioned earlier that you're familiar with the Michigan Liberty Militia, right?

1 With Phil Robinson?

2 A Correct.

3 Q Were you aware that they were planning to go inside?

4 A I was not. I don't know if they were or if that was just a
5 spur-of-the-moment thing for them, too.

6 Q Got it.

7 What are your thoughts on the fact that an event that you organized resulted in
8 people going inside the capitol?

9 A What are my thoughts on that?

10 Q Yep.

11 A There was nothing unlawful that happened that day.

12 Q Well, I guess I'm asking, why didn't -- you mentioned that you didn't plan
13 beforehand to have people go inside the capitol. Was there a particular reason for that?

14 A Not really. I mean, that just wasn't part of the plan, I guess, right?

15 Q Do you agree with their decision to go inside the capitol?

16 A Nothing unlawful there.

17 Have you spoke with the Michigan State Police?

18 Q We have.

19 A How did that conversation go?

20 Q I can't answer that question, Mr. Kelley.

21 I'm asking, do you agree with the decision to go inside the capitol during your
22 event?

23 A I agree that there's the opportunity for the people to be part of the
24 legislative process and to be part of their government, and that includes the ability, which
25 is legal and lawful, for individuals to be present while the legislature is making decisions.

1 Q Got it.

2 Does it intimidate people to have people with weapons in the legislature?

3 A Some individuals it may. I can't speak on the behalf of everybody on how
4 they feel about certain things.

5 Q Have you ever had an event where people go inside the capitol building or
6 any legislature before?

7 A I have not, no.

8 Q Got it. And since then have you?

9 A I have not, no.

10 Q Are you familiar with someone named Mike Sparks?

11 A I'm not.

12 Q Okay. He goes by a couple different names, so I'll just read this off --

13 A I'm sorry, did you say Mike or Mark?

14 Q Mike, Michael Sparks.

15 A Michael Sparks?

16 Q Sometimes goes by Mike Cardwell?

17 A That doesn't ring a bell either.

18 Q Okay.

19 A C-a-r-d-w-e-l-l?

20 Q That's right.

21 A Cardwell. Yeah. And then Sparks, S-p-a-r-k-s?

22 Q That's right.

23 A Yeah. I don't know who that is.

24 Q Okay.

25 Do you remember what the police response was to having armed protestors enter

1 the capitol?

2 A I do.

3 Q What was the response?

4 A They walked people inside, had them put their signs down, took their
5 temperature, and walked them to the chamber.

6 Q And what happened once people entered the building?

7 A I don't know the answer to that question because I wasn't inside. I know
8 the media stories, but I don't know the truth of what went on inside.

9 Q When did people exit the building?

10 A I don't know the answer to that question either.

11 Q Do you remember how long people were inside roughly?

12 A I don't, no.

13 Q Okay.

14 A Could I ask about Mike Cardwell, who's Mike Cardwell or Mike Sparks?

15 Why did that name come up?

16 Q He is an individual who was there that day.

17 A Okay.

18 Q Mr. Kelley, on May 18th, did you organize an event in Grand Rapids?

19 A Sheriffs Speak Out.

20 Q Got it. And what was that?

21 A It was an event where sheriffs were speaking out against the lockdowns.

22 Q And -- I'm sorry. I asked, did you organize that?

23 A Oh, I'm sorry. Yes.

24 Q Got it. Who did you organize that with?

25 A Jason. And then there was a few other people that helped with music,

1 speakers --

2 Q Got it.

3 A -- and that kind of stuff, yep. Same type of thing. You know, it's kind of a
4 stamp out. Doing a rally's pretty easy. You get some music, you get some people, and
5 you show up.

6 Q Sure. Did Sheriff Dar Leaf join?

7 A That's accurate, yes.

8 Q Okay. Did you invite him?

9 A I did, yes. Not personally. Someone else did, I believe. But he ended up
10 speaking with me and agreeing to come.

11 Q Got it.

12 A There were several different sheriffs across the State of Michigan that were
13 speaking out against the lockdowns, which is why the event happened in the first place.

14 Q Understood. And did you have a relationship with Sheriff Leaf?

15 A Acquaintance.

16 Q Have you organized any events since then with Sheriff Leaf?

17 A Organized an event, no. He did show up at an event that I was speaking at
18 as a Governor candidate. But he was just there -- actually, he did talk for a couple of
19 minutes, just about some stuff that was happening in Barry County. I don't even
20 remember what it was. And then he was there. But organizing events with him, no.

21 Q Got it.

22 Was it typical for you to, kind of, coordinate with law enforcement in that way?

23 A Yes.

24 Q Can you describe generally your relationship with law enforcement?

25 A Supportive. Legal --

1 Q Was the relationship --

2 A -- and lawful in the aspect -- I'm sorry, what's that?

3 Q I'm asking about your logistical relationship with law enforcement.

4 A In regard to each event?

5 Q In general terms, you know, do you coordinate with law enforcement for
6 events? Do --

7 A Yes.

8 Q -- you typically have them speak at your events?

9 A Oh, to speak at the events? No. I'm not opposed to it, though, I mean, if
10 they want to show up and speak.

11 We did ask -- for example, the May 18th event, we did ask the Grand Rapids Police
12 and the sheriff for Kent County there to speak. We let them know what we were doing
13 and, you know, here's where we're going to be, here's how we're going to set up.

14 Same thing with the April 30th rally, coordinating everything with the Michigan
15 State Police so they knew where we were going to be, knew how things were going to
16 operate. We were going to stay out of their way, as far as law enforcement. We're
17 not law enforcement officers. They were welcome to come and speak with everyone.
18 Just wanted to make sure that we had a good event and everybody stayed safe.

19 Q Got it.

20 A Which was how it turned out.

21 Q Are you familiar with the constitutional sheriffs movement or the
22 Constitutional Sheriffs and Peace Officers Association?

23 A By name, yes. But details and individuals, not really.

24 Q Got it. Well, are you familiar with the concept of a constitutional sheriff?
25 I think Sheriff Leaf identifies himself as a constitutional sheriff.

1 A General term, yes.

2 Q Got it.

3 Well, just for the basis of our discussion, generally, constitutional sheriffs believe
4 that they're the highest authority and they have the power to defy laws that they
5 consider unconstitutional.

6 Do you agree with the constitutional sheriff movement?

7 A I would need more information specifically. Or do you want me to base it
8 off what you just shared there?

9 Q Well, you mentioned that you were familiar with the concept, so I'm
10 asking --

11 A By name, right? Constitutional sheriff. What was the second part that
12 you said? Constitutional sheriff and something else?

13 Q There's an organization called the CSPOA, the Constitutional Sheriffs and
14 Peace Officers Association.

15 A CSOPA?

16 Q CSPOA.

17 A POA. CSPOA. Okay. Yeah.

18 As mentioned, I don't -- by name, I mean, I've heard of that before, but I don't
19 know the details of all their inner workings. So I can't answer that question really --

20 Q Got it.

21 A -- accurately with detail.

22 Q You know, it seems like you were pretty active in organizing events and
23 holding rallies in 2020. Were you politically active before then?

24 A Somewhat, yes. Involved with different campaigns, helping out, some
25 fundraising things, going to, you know, different meet-and-greets and all that kind of

1 stuff.

2 Q Got it. So it seems like the COVID lockdowns were the thing that really got
3 you fired up. Is that fair?

4 A They were an inspiration to take action.

5 Q Got it.

6 So, in the summer of 2020, there were a bunch of protests around the country
7 centered around the Black Lives Matter movement. Did you attend any of those events
8 perhaps as a counter-protester or anything like that or organize counter-events?

9 A Just when the group came to Allendale, Michigan, and there's a statue out
10 there that they had a protest at, and we just showed up there, making sure they didn't
11 destroy the statue and they didn't destroy our city.

12 Outside of that, I was not part of, nor did I attend, any of the official BLM, you
13 know, highly publicized events, if you will.

14 Q Got it. And, to your knowledge, did Mr. Howland attend any of those other
15 events?

16 A I have no idea.

17 Q Okay.

18 You know, seeing what was happening over summer 2020, what were your
19 concerns? You mentioned that you were concerned that your city, Allendale, would get
20 destroyed. Can you elaborate on that?

21 A Grand Rapids, Michigan, just down the road from me, millions of dollars'
22 worth of damages. And they had a major event out there that was highly publicized.
23 Concerned that that would happen in Allendale.

24 Q Got it. And who do you think was responsible for causing that damage?

25 A As far as an individual's name or --

1 Q No. Just in general terms, who do you think was responsible for causing
2 that damage?

3 A The BLM and antifa groups that were there having the protests.

4 Q Got it.

5 And were you aware of things that were happening elsewhere in the country
6 with --

7 A Yes. We all were. It was all over the media.

8 Q Was that the context in which the Parler conversation that I showed you
9 earlier, exhibit 14, "people like Inslee in Washington should see the gallows," was that in
10 relation to the Black Lives Matter protests that were happening in Washington at the
11 time?

12 A I have no idea what that post was made for.

13 Q Okay.

14 A I didn't post it. I saw it when you brought it up a minute ago.

15 Q You engaged with it --

16 A What's that? I'm sorry.

17 Q You engaged with it. I'm trying to understand where the anger towards
18 Governor Inslee was coming from. Was it in relation to COVID? Was it in relation to
19 Black Lives Matter?

20 A Don't have a good answer there for you. I don't -- I don't remember. Not
21 a question I would be able to answer. I don't know.

22 Q Okay.

23 Moving forward to the election in 2020, did you organize any poll-watching or
24 security at polling locations?

25 A I did not, no.

1 Q Did you participate in either of those activities, poll-watching or election
2 security?

3 A I did not, no.

4 Q After the --

5 [Video interruption.]

6 Mr. [REDACTED] I'm sorry. Sorry about that.

7 The Witness. What happened?

8 Mr. [REDACTED] My WiFi cut out for a second, and I --

9 The Witness. Oh. You're good. Your audio's been good ever since you took
10 the earpiece out, so --

11 Mr [REDACTED] Okay. Good.

12 The Witness. Yeah.

13 BY MR. [REDACTED]

14 Q Ahead of the election, were you concerned about potential fraud?

15 A Somewhat, yes. In Michigan, Jocelyn Benson mishandled the mail-in
16 ballots. That was found out previously to the election. So there was some concern
17 there, yes.

18 Q Uh-huh. Did you have other concerns?

19 A Concerns that the national media pulse, if you will, didn't like Donald Trump,
20 and that was a --

21 Q How would that result in fraud?

22 A What's that?

23 Q How would that result in fraud?

24 A Oh, that doesn't relate to that, for sure. But you just said was there any
25 other concerns, so that was the other concern.

1 In relation to fraud, I mean, how Jocelyn Benson handled the mail-in ballots was a
2 concern. But in regard to fraud, you know, no, there was nothing else there that I
3 specifically thought was going to happen or could happen.

4 Q Got it.

5 Actually, I want to step back in time a little bit.

6 And, Mr. [REDACTED] can we pull up exhibit 7?

7 So this is a Parler post from you from October 6, 2020: "More Militia needed
8 nationwide ready to step up & fight for America."

9 What did you mean by that?

10 A You know, I -- specifics on what I mean? I mean, more people that love
11 their country ready to fight for America.

1

2 [10:01 a.m.]

3 BY MR. ██████████

4 Q Well, why militia specifically?

5 A Second Amendment.

6 Q To do what?

7 A Nothing specific, I guess. Legally and lawfully stand up for our country.

8 Q But you used the word "militia." I'm just trying to understand.

9 A It's part of the Constitution, Michigan and United States. It's a lawful word.

10 Q Sure. I'm not challenging your ability to use the word "militia." I'm just
11 trying to understand. You could say more Americans needed nationwide, more patriots
12 needed nationwide, but you said more militia needed nationwide.

13 So I'm just trying to understand. And you also said Second Amendment.

14 A It's part of the Second Amendment. It's part of the Michigan Constitution
15 as well.

16 Q I'm not challenging that it's lawful or that it's part of the Michigan
17 Constitution. I'm asking why you said more militia were needed to fight for America.

18 A No specific answer for you there.

19 Q So you just post things and you're not sure what you mean by them?

20 A Gave a couple of answers already, and those answers weren't good for you,
21 so I don't really know where to go from there.

22 Q Well, Mr. Kelley, what were you hoping militias would do if they stepped up
23 and fought for America?

24 A Legally and lawfully exercise our First Amendment to petition the
25 government for grievances and make sure that we get our voices heard that we -- we

1 want to keep our country a free country.

2 Q Got it. So there's no particular reason you think militias were necessary?

3 A Necessary? I guess can you clarify?

4 Q You wrote "needed." I'm asking why they were necessary. What were
5 you concerned about in October 2020?

6 A The continued lockdowns. The continued stay-at-home orders. The
7 continued violations of the Constitution in Michigan.

8 BY MR. [REDACTED]

9 Q How would the Second Amendment have helped any of those continued
10 lockdowns or fight back against those things?

11 A I guess it's just the fact that that word shows up in the Second Amendment.
12 I'm saying that it's a lawful word to use.

13 Q Again, no one is saying what words are unlawful to use, but you mentioned
14 the Second Amendment. The Second Amendment is the right to bear arms in certain
15 circumstances.

16 So what does the right to bear arms have to do with fighting against COVID
17 lockdowns?

18 A So are you asking if this is a call to violence?

19 Q I am asking what the right to bear arms has to do with fighting against COVID
20 lockdowns.

21 A Nothing directly or specifically. Are you asking if this is a call to violence?

22 Q Well, we're trying to figure out specifically why you used the word "militias"
23 are needed, and you mentioned militias having to do with the Second Amendment. So
24 we're trying to tease out why a militia versus, you know, people just using their voices, for
25 instance.

1 A Are militias not able to use their voices?

2 Q Of course they are, Mr. Kelley. But you -- you know, you said the Second
3 Amendment. So the Second Amendment is obviously different from the First
4 Amendment. Why did you choose to rely on the Second Amendment to fight for
5 America against COVID lockdowns?

6 A No specific answer on that. That's not what this post even says, number
7 one. And, number two, no, it's not a call for any violence.

8 Mr. [REDACTED] Mr. Kelley -- Mr. [REDACTED] I think we can take the exhibit down,
9 unless you have another question.

10 BY MR. [REDACTED]:

11 Q Mr. Kelley, after the election, did you attempt to contact any election
12 officials in Michigan?

13 A Election officials? Can you clarify who those people would be? You're
14 talking like election inspectors, Representatives?

15 Q County election officials, people who are employed by the State or the
16 county to carry out elections.

17 A There may have been a couple of State reps that I reached out to. I don't
18 know.

19 Q I'm asking, did you contact any election officials, people who actually
20 conducted the election?

21 A I don't believe so, no.

22 Q Did you protest any election officials?

23 A I don't believe so, no.

24 Q Did you participate in any protests against the secretary of state, Jocelyn
25 Benson?

1 A We had a rally at the Capitol, "stop the steal" rally.

2 Q Got it. And did you organize that?

3 A Partially, yes.

4 Q Got it.

5 A The screen keeps going green. I don't know what's going on with that.

6 Q I'm sorry?

7 A The screen keeps flashing solid green. I don't know if you see that on your
8 end or if that's just my end.

9 Q I think it might just be on your end.

10 A I don't know why that would be. That's interesting.

11 Q When was the "stop the steal" protest that you organized?

12 A Partially organized. Maybe in December -- I don't remember the exact
13 date. Probably December, I think, of 2020.

14 Q Got it. What do you mean by partially organized, just so I understand?

15 A There were some other people that -- that were organizing it, and they asked
16 me to come out there and be part of it. So I helped to get some of the people. I think I
17 provided the music, a music guy.

18 Q Got it. Did you help organize the speakers?

19 A I was a speaker, but, no, I didn't help organize all the speakers for it.

20 Q Got it. There was -- you mentioned December. I think there were several
21 events related to Stop the Steal in Michigan. There was another event in November, on
22 November 11th. Are you familiar with that event?

23 A I don't think so. Not that I'm aware of, I guess. Where was it at?

24 Q It was outside the Capitol, State Capitol.

25 A Okay.

1 Q For the "stop the steal" event that you were just describing, were you
2 organizing that along with any organization, for example, the national "stop the steal"
3 organization?

4 A No, not that I'm aware of. The national "stop the steal," I never had any
5 communication with them, I don't believe. And I don't think that that was -- I don't
6 think that was coordinated in Michigan. I don't know the answer to that question,
7 though. To be specific, I don't know if anybody else talked with them or not.

8 Q Got it. Have you ever talked to or worked with Ali Alexander?

9 A Not that I'm aware of. I know who that is. The name sounds familiar,
10 though.

11 Q Okay.

12 A Ali Alexander. How do you spell it?

13 Q A-l-i Alexander.

14 A Alexander. And who is that?

15 Q He was one of the heads of the "stop the steal" organization.

16 A That's probably where I know it from, but I don't believe that I ever spoke
17 with him directly.

18 Q Got it. There was a protest outside Secretary of State Jocelyn Benson's
19 home on December 5, 2020. Did you participate in that?

20 A I did not put that event together, but I heard about it.

21 Q Got it. So did you have a role beyond hearing about it?

22 A I did not plan putting that together or have a role in putting that together.

23 Q Did you -- I'm sorry, I --

24 A That was not an event, no, that I did.

25 Q Okay. So you didn't have any role in that event?

1 A I heard about the event, but --

2 Q Mr. Kelley, I'm sorry. I just -- I feel like -- I thought this was a simple
3 yes-or-no question, but you're answering with other characterizations.

4 Did you have a role in the December 5, 2020, event/protest outside the secretary
5 of state's home?

6 A No.

7 Q Did you have a role in the December 16, 2020, protest outside the Michigan
8 Department of Health and Human Services Director's home?

9 A What day is that?

10 Q December 16, 2020.

11 A That was the Gordon protest?

12 Q Yes, the Director of the DHHS.

13 A No, I didn't have a role.

14 Q Are you familiar with Mike Shirkey?

15 A Yes. Senate majority --

16 Q Do you have a relationship with Mr. Shirkey?

17 A Somewhat.

18 Q Can you describe it?

19 A He was the Senate majority leader, and I spoke with him quite a few times
20 throughout 2020.

21 Q Regarding?

22 A Several different things, I guess. I mean, everything that was going on. I
23 was trying to encourage him to push back against Whitmer.

24 Q Got it. Has he attended American Patriot Council events?

25 A He did come to -- I don't remember which one. Sheriffs Speak Out, the

1 Grand Rapids one.

2 Q You mentioned that you had contacted a couple of State Reps after the
3 election. Were you a constituent of those State Reps, or were those people that you
4 just had a relationship with?

5 A I don't remember if I even contacted anyone.

6 Q Okay. So you didn't contact any officials after the election?

7 A Shirkey? No, I did not talk with Shirkey. I may have contacted my State
8 rep, which is Luke Meerman, possibly my Senator, which is Roger Victory.

9 Q Got it. What were you hoping that they would do?

10 A What's that?

11 Q What were you hoping that they would do?

12 A I don't know that I even contacted them. I don't remember if I did or not.

13 Q Okay. Did you have concerns about the election results after they were
14 announced?

15 A Absolutely.

16 Q Why?

17 A Everything. The way that it was handled with the mail-in ballots from
18 Jocelyn Benson, with the not asking for signature validation, the coordinated pipe bursts
19 all around the country. There was a lot of questions that were floating around that
20 weren't being answered.

21 Q I'm not familiar with the coordinated pipe bursts. What is that?

22 A In Michigan, there was a pipe burst. I don't remember what time it was.
23 Philadelphia, Arizona. I forget where else the cities were, but there was pipe bursts that
24 happened and stopped counting and -- so that was one of the -- one of the questions that
25 were making things seem rather suspicious, right? So yeah, I had concerns.

1 Q Got it. I'm not -- I'm sorry, I'm not familiar with that. Who do you think
2 was responsible for the pipe bursts?

3 A You could jump on Google real quick or whatever and look at them to see
4 coordinated pipe or -- don't put coordinated. Just put pipe bursts, you know, the
5 election day, November 3, 2020.

6 Q Well, let me ask a different question. Did you think that there was a
7 coordinated effort to engage in fraud in the 2020 election?

8 A Do I think -- do I believe that?

9 Q Yes, that's what I'm asking.

10 A I do.

11 Q And who do you think coordinated that?

12 A That's -- if I knew the answer to that question, I'd be telling everybody.

13 Q So you have no idea who would coordinate that?

14 A Don't know the answer to the question. If I did, I would tell everybody.

15 Q Why do you think people would coordinate -- engage in fraud over the
16 election?

17 A To get rid of Donald Trump.

18 Q And why would they want to do that?

19 A Because they don't like him.

20 Q Why do you think people who would engage in fraud don't like Donald
21 Trump?

22 A I don't know. That's not a question that I can probably answer for you.
23 They'd have their own reason and belief behind it.

24 Q Mr. Kelley, I'm just trying to understand. You have concerns about the
25 election results, but I'm not sure I understand why and who you think is responsible and

1 what you think they were trying to do.

2 You've mentioned that people don't like Donald Trump. You've mentioned
3 concerns about the mail-in ballots. But as far as -- you mentioned you believe that there
4 was a coordinated effort to engage in fraud.

5 I guess I'm not sure I understand why. Can you help me?

6 A I have a right to that opinion. It's what I believe. I shared --

7 Q You absolutely have a right to that opinion. I'm asking you to explain it.

8 A Nothing to explain there. That's how I feel. And between the mail-in
9 ballots being handled incorrectly, not asking for signature validation, you know, the pipe
10 bursts, the not allowing poll watchers into the TCF Center.

11 I mean, there's a lot of those things there that don't have any answers. I don't
12 have the answers. You don't have the answers. The general public doesn't have the
13 answers to those questions. So I'm able to feel the way that I do, and that's the answer I
14 got for you, my friend.

15 Q Did you encourage voters recently to tamper with election machines if they
16 think that fraud is going on?

17 A Absolutely not.

18 Q Do you want to explain your comments then?

19 A The --

20 Q For the sake of the record -- I'm sorry to interrupt you.

21 For the sake of the record, you said in February this year: If you see something
22 happening you don't like happening with machines, if you see something going on, unplug
23 it from the wall. Take control of the narrative.

24 What do you mean by that?

25 A That was in Livingston County. And the trouble with some of those type of

1 things is they only take the small comments of what I said.

2 That was directed at election inspectors. That was directed to individuals that
3 were working the election, not voters. You mentioned, did I tell voters to do that?

4 Absolutely not.

5 Election inspectors, those hired by the State to work the election. Under
6 election law in Michigan, 168.799 I believe is the MCL, election inspectors would
7 absolutely have the authority to do that if they witnessed fraud happening.

8 Q Got it. And I do see that you directed that towards poll workers.

9 A Election inspectors, yes.

10 Q So I'm trying to understand where the buck stops on this. Do you think
11 election inspectors or poll workers should take matters into their own hands?

12 A Under 168.799, I believe it is, the law directs them to take the matter into
13 their own hands.

14 Q Got it. Do you think they should have done that in 2020?

15 A You know, if there was individuals that witnessed crimes happening, they
16 had the obligation to stand up and say something. I don't know all the details of how
17 everything worked out, so making an informed statement on a specific situation from
18 2020, not something I can do.

19 Mr. [REDACTED] Okay. I understand. I'm going to turn it back to [REDACTED] to
20 take up the rest of the questions.

21 Mr. [REDACTED] Thank you, Mr. [REDACTED]

22 BY MR. [REDACTED]

23 Q Mr. Kelley, speaking of post the election, did Enrique Tarrio ever reach out to
24 you?

25 A No.

1 Q He never reached --

2 A What's the name?

3 Q Enrique Tarrio, E-n --

4 A That's that Proud Boys guy, right?

5 Q Yes.

6 A Yeah. I've never spoken to him, no.

7 Q But did he ever reach out to you on Facebook?

8 A No, not that I'm aware of. I didn't have a Facebook after the election. My

9 Facebook was taken down back in October maybe of 2020.

10 Q Did he reach out to American Patriot Council?

11 A No, not that I'm aware of. Not to me.

12 Q Did any Proud Boys reach out to you after the election?

13 A No.

14 Q Did you ever speak with Kellye SoRelle, S-o-R-e-l-l-e?

15 A K-e-l-l-y?

16 Q K-e-l-l-y-e. Last name SoRelle, S-o-R-e-l-l-e.

17 A I have not heard from that person.

18 Q Okay. She was investigating voter fraud in Detroit.

19 A No, I haven't spoken to that person.

20 Q Okay. So we're going to talk about January 6th now. When did you learn

21 about the event that was being held in Washington, D.C., on January 6th?

22 A When?

23 Q Yes.

24 A I don't know the answer to that question.

25 Q Do you remember seeing some -- a post by President Trump -- well, it was a

1 tweet.

2 A I'm sure it was a tweet.

3 Q Yeah. Do you remember the tweet where he calls for people to come to
4 Washington, D.C., on January 6th and says, you know, something like "big protest, be
5 there, will be wild"?

6 A I don't specifically know about that tweet or exactly when I heard about it,
7 but I do believe it was a tweet from President Trump.

8 Q What about the tweet made you -- is the tweet what made you want to go
9 to Washington, D.C., on January 6th?

10 A I don't really remember the thought process with all of that in regard to
11 reading the tweet and thinking whether I did or didn't want to go to Washington, D.C.

12 Q Did you think President Trump wanted you to be in Washington, D.C., on
13 January 6th?

14 A Me specifically, like by name?

15 Q Not by name, but just in general.

16 A Yeah. I mean, in general, yes. I mean, that was kind of the theme behind
17 it. In general, yeah.

18 Q So when -- why did you decide to go to Washington, D.C. on January 6th?

19 A To be there to exercise our First Amendment and hopefully see the election
20 would be investigated properly so that we knew the correct outcome.

21 Q Were you there to support President Trump?

22 A Yes. I was there in general to support America and a process for an
23 election system that is fair, accurate, honest and transparent.

24 Q Did you hear about the event from any other sources than President Trump's
25 tweet?

1 A Not that -- not that I'm aware of, I guess. I don't know, you know. I don't
2 know.

3 Q Who -- did you go to Washington, D.C. with anybody?

4 A I traveled with a friend.

5 Q Which friend?

6 A I don't know that I need to share that.

7 Q Well, under the deposition rules, Mr. Kelley, you can only refuse to answer a
8 question for a privilege recognized by the committee.

9 Are you claiming any privilege that would prevent you from answering that
10 question?

11 A What would the privileges be, I guess? Is that part of the packet you sent?

12 Q Well, there's the Fifth Amendment privilege against self-incrimination. You
13 could claim a First Amendment privilege. You could claim -- I don't think -- you know,
14 the Fourth Amendment doesn't exactly apply to that question. But attorney-client
15 privilege, that kind of stuff. But are you claiming any of that?

16 A First Amendment.

17 Q And what about the First Amendment is preventing you from answering that
18 question?

19 A The right to peaceably assemble.

20 Q Well, I'm just asking who you traveled with. So I'll ask this: Did you travel
21 with Jason Howland to Washington, D.C.?

22 A That's a good question. Yes.

23 Q Okay. Thank you.

24 So was the American Patriot Council promoting the event on January 6th in
25 Washington, D.C.?

1 A No.

2 Q I'm going to pull up a post. Can you see this post, Mr. Kelley?

3 A Yes.

4 Q That's something from the American Patriot Council. It looks like a tweet, a
5 quote tweeting or retweeting -- I don't know the correct phrase -- something from
6 President -- former President Trump: On January 6th, we strengthen the American
7 Republic, renew the spirit of America, and inspire millions to continue the never-ending
8 fight for freedom. Be in D.C.

9 So did the American Patriot Council want to get other people to Washington, D.C.,
10 on January 6th?

11 A I don't think I tweeted that out personally. And, you know, I wasn't actively
12 promoting that a bunch of people go to Washington, D.C.

13 Q So who did tweet this?

14 A I don't know the answer to that question.

15 Q If it wasn't you, was it Mr. Howland?

16 A Possibly.

17 Q Who else could have tweeted this?

18 A I'm not sure.

19 Q Who ran the Twitter account?

20 A I don't know the answer to that question, who all had access to the Twitter
21 account.

22 Q How many people could have had access to the Twitter account? You
23 described the organization as pretty small.

24 A Only a handful of people did.

25 Q So yourself, Mr. Howland. You told us the organization was basically just

1 the two of you. Were there other people who were helping organize American Patriot
2 Council events?

3 A There was a couple people helped with planning some other things, yes.

4 Q And they had access to the Twitter account?

5 A I don't know the answer to that question. I don't remember tweeting that
6 out personally myself.

7 Q Did you ever tweet from the American Patriot Council account?

8 A From that Patriot rally tweet -- post, yes, I had before.

9 Q Okay.

10 BY MR. [REDACTED]

11 Q Mr. Kelley, I'm struggling to understand what your role in this organization
12 is. You have told us that there are events in other States that you have given templates
13 for. You initially characterized it as American Patriot Council was organizing events in
14 other States and then walked that back.

15 You're telling us here that there's a Twitter account for the American Patriot
16 Council. You don't know who has access to it. You don't know who tweets on it.

17 What is your role in this organization?

18 A There's no official name of a role, I guess, right?

19 Q Do you run the American Patriot Council?

20 A There -- it's not even in operation anymore.

21 Q Did you run the American Patriot Council?

22 A I was a founder of it, yes, and I planned some rallies.

23 Q Did you run the American Patriot Council? It's a simple question.

24 A Did I run the American Patriot Council? As a founding member, I planned
25 rallies and operated some of our different events.

1 Q So you were just a member?

2 A There really wasn't memberships, as we mentioned earlier.

3 Q You just characterized yourself as a founding member --

4 A Correct.

5 Q -- person or founding father.

6 A Sure, sure.

7 Q So you are characterizing your role in the American Patriot Council as just a
8 member. You don't know what's going on in the organization?

9 A As of now, there's nothing going on with the organization.

10 Q Mr. Kelley, you know, we can do this all day, but you know what period I'm
11 asking about.

12 December 30, 2020, what was your role in the American Patriot Council?

13 A You know, being involved in -- we weren't doing anything. I mean, this is
14 not an event that we planned in Washington, D.C. No, we did not coordinate with
15 anyone else, which is what you guys are getting at. And so there --

16 Q Actually, Mr. Kelley, I'm just trying to understand. You have a Twitter
17 account for the American Patriot Council, and an unknown number of people have access
18 to it. It seems like anybody can tweet anything they want, and you have no idea what's
19 going on.

20 So are you affiliated with this organization? Do you have a leadership role in it?

21 Did you have a leadership role in it?

22 A I did have a leadership role in it, yes.

23 Q Okay. And did that -- it seems like that leadership role did not extend to
24 knowing what happens with the communications of that organization.

25 A There were several different people that said a lot of things.

1 Q There were several different people who said a lot of things.

2 A That's accurate.

3 Q Who were those people?

4 A What's that?

5 Q Who were those people?

6 A I -- I don't know what to -- I don't know how to answer that question, I guess.

7 There's a lot of people that showed up to our different events and our rallies.

8 Q Mr. Kelley, who -- did you have access to the American Patriot Council

9 Twitter account?

10 A Yes. You asked me a minute ago if I had tweeted from there.

11 Q You don't know who else had access to the Twitter account?

12 A I've had a lot of different Twitter accounts. I'd have to look back and see

13 who had access to what. There's different admins, and when we had our Facebook

14 page. So --

15 Q So your position today is that there were a lot of people who said a lot of

16 different things, and then you don't know who they are, you don't know what they were

17 saying?

18 A I think that's a very broad brush --

19 Q Mr. Kelley, just a minute ago, you said several people were saying several

20 different things. I asked you who those people were. You don't know who they are.

21 Do you want to amend that response?

22 A Can you be more specific with what -- I mean, are you talking about this

23 communication that we see on the screen right now, or are you talking about other

24 communication?

25 Because on social media, a lot of people post a lot of things. There's a lot of

1 communication in regards to all sorts of different topics throughout 2020. So I'm happy
2 to answer more of a specific question, but that is a very broad question.

3 Q Okay. Let's just move on. I think you've made your position clear.

4 BY MR. [REDACTED]

5 Q Mr. Kelley, in terms of this specific post, you don't remember whether you
6 posted it, but it did come from your organization's account.

7 So, in terms of "on January 6th, we renew the spirit of America," what does that
8 mean?

9 A I don't have an answer for that question.

10 Q What do you take it to mean?

11 A I don't have an answer for that question there.

12 Q You don't have any meaning when you read those words? Like, you don't
13 have -- what does it mean to you?

14 A It sounds like you want to sing the national anthem. You want to exercise
15 your First Amendment. You want to pledge the Pledge of Allegiance. You want to
16 stand up for the Constitution.

17 Q You're listing, you know, some specific actions. Are those the actions that
18 you expected to take on January 6th in Washington, D.C.?

19 A To sing the national anthem?

20 Q You said sing the national anthem, Pledge of Allegiance.

21 A Wave the American flag, Pledge of Allegiance. Absolutely.

22 Q Are those signifiers of patriotism to you?

23 A Partially, yes. That's one aspect of it.

24 Q What would be another aspect?

25 A Lawfully conducting your actions.

1 Q Does the peaceful transfer of power play into patriotism at all?

2 A It does, yes.

3 Q How so?

4 A Wanting to make sure that our republic is able to operate and a legal, lawful
5 transfer of that power from one administration to another.

6 Q And, on January 6th, did you understand any significance to that specific day,
7 or were you just there because President Trump said there would be a rally?

8 A That was the day that the vote, I believe, to -- what's the word -- not
9 canvass. What's --

10 Q Certify.

11 A Certify, there you go. Thank you. Yeah. To certify the election result.

12 Q Right. Did you believe that there was a chance that the vote would not be
13 certified for President Biden that day?

14 A Did I believe that there was a chance? Yeah. I believed that there was
15 the possibility that the Congress would have said, you know: Hey, lots of irregularities;
16 let's make sure we're making the right decision so that the American people have
17 confidence in our election system.

18 So, yes, I believed that that could have been a possibility on that day.

19 Q And did you have any sort of expectation or thought about what would
20 happen if Congress did not do that and instead certified the vote for President Biden?

21 A No, not really, I guess.

22 Q Would that have constituted the peaceful transfer of power?

23 A Do you want to clarify that?

24 Q Yes, sorry. That was a bad question.

25 If Congress certified for President Biden on January 6th, would that have been

1 part of the peaceful transfer of power to you?

2 A That's what happened, right? So you're saying if what happened, which is
3 what did happen, right, does that constitute the peaceful transfer of power?

4 Q To you, in your view, before January 6th, so before it happened, if Congress
5 did certify the vote, in your view at that time, would that have constituted part of the
6 peaceful transfer of power?

7 A I guess I'm not really sure how to answer that question.

8 Q So you had concerns about election fraud --

9 A Correct.

10 Q -- and hopes that Congress would not certify and take another look, right?

11 A Correct.

12 Q So, before January 6th actually happened, if -- in your mind, if Congress did
13 certify the vote for President Biden, what did you think would happen after that?

14 A Him take over as President, I guess, right? Move towards the inauguration.
15 I guess that's -- I don't know how to answer that question specifically other than that.

16 Q So would your concerns have been assuaged by Congress certifying the
17 vote?

18 A I'm sorry, what's that?

19 Q Before January 6th, you go into it. You're hoping for a certain outcome. If
20 the other outcome had happened, would you have been okay with it at that time?

21 A If the outcome of them wanting to do an election audit?

22 Q No, the other outcome, certifying for President Biden. Would you have
23 been --

24 A That's what happened.

25 Q Yes. But before January 6th, there are two possibilities, right?

1 A Oh, understood. I get what you're saying now.

2 Q Yeah. Sorry. I was not being clear.

3 A Yeah, yeah. So you're asking if before -- that green stuff is happening on
4 your screen now too. I don't know what's going on.

5 Q We're not seeing it, so I don't know what's happening either.

6 A Yeah. The whole thing just turns green, kind of like a -- okay, anyways.

7 So you're asking if, before January 6th, if they would have certified for President
8 Biden, would I have been okay with that.

9 Q Correct.

10 A I guess I never put any thought to it. I don't really remember my mindset
11 previous to that, and there's not a good answer to that question.

12 Q Fair. Did you expect any sort of violence on January 6th --

13 A No.

14 Q -- before you got there?

15 So, on November -- [REDACTED] showed you your October 6 post that we talked
16 about with militias, and I think someone you're related to back on November 15th said:
17 It's time to take America back and not nicely, lock and load.

18 This was a post on social media, and I'll leave the person's name out because it's
19 unnecessary to say who it is.

20 Were any of those thoughts on your mind before January 6th?

21 A I don't know who posted that. I don't know -- you said you didn't want to
22 mention their name. I don't know if there was a response that I had. But, no, wanted
23 to do everything legally and lawfully and no violence, right?

24 Q Did you meet up with anybody when you got to January 6th?

25 A No, we did not. No.

1 Q It was just you and Mr. Howland?

2 A Yeah. We didn't meet up with anybody else. I mean 2 million people,
3 right? I mean, there was a lot of people there, but we didn't specifically have anyone
4 we were meeting up with.

5 Q Do you know if any other groups from Michigan were also in Washington,
6 D.C., on January 6th?

7 A I heard there was other people, but I don't know them nor have I spoke with
8 them.

9 Q You didn't communicate ahead of time with other groups in Michigan who
10 were going to Washington, D.C.?

11 A That's accurate.

12 Q Do you know who Brian Cash is?

13 A Brian Cash?

14 Q Spelled the way it sounds.

15 A C-a-s-h?

16 Q Correct.

17 A I don't know. I don't know I've heard of him.

18 Q Okay. Is he a member of the Michigan Liberty Militia, as far as you know?

19 A I have no idea.

20 Q So let's talk about what you did on January 6th. Just walk me through your
21 day if you want to, for an open-ended question.

22 A Showed up in Washington, D.C., went to, I guess it would be, what, the
23 Washington Monument, saw the Trump speech that happened there.

24 People started heading towards the Capitol. We walked over that direction.

25 Things got a little bit out of hand, not in the direction of what I expected. After Ashli

1 Babbitt was shot and that news got around, I left.

2 Q All right. So let's take it piece by piece. Did you listen to other speeches
3 besides President Trump's that morning?

4 A I don't know who else gave a speech, so I don't know.

5 Q You don't remember hearing other people speak?

6 A It seems like there was, but I don't know the names of whoever spoke. I
7 don't -- don't recall what speeches I heard, no.

8 Q Do you remember -- could you hear President Trump's speech?

9 A Hear? Yes. Not super well. And I couldn't see him.

10 Q And you were at the Washington Monument, so what was the crowd like
11 around you while President Trump was speaking?

12 A Very -- very crowded I guess is a good word to use. Lots of people.

13 Q What were you hearing people say?

14 A Nothing that I can recall that's noteworthy.

15 Q Were people talking about heading to the Capitol?

16 A No, not that I'm aware of. That wasn't a topic of discussion.

17 Q Was it your intention to go to the Capitol before you arrived on January 6th?

18 A Not necessarily, no. I didn't know what to really expect logically wise,
19 where to go that day.

20 Q What did you know would happen that day?

21 A Trump was going to give a speech.

22 Q And that's it; you had no other details?

23 A That's it.

24 Q So why did you decide to go walk towards the Capitol?

25 A Walking with the crowd, seeing what's going on for the day.

1 Q Did you hear President Trump say anything about "we're going to walk
2 to -- down Pennsylvania Avenue" or "we're going to walk to the Capitol"?

3 A I did not hear him specifically say that.

4 Q Did you hear something to that effect?

5 A I don't believe so.

6 Q Did people around you start talking about going to the Capitol while
7 President Trump was speaking?

8 A Yes, once -- once people started heading that direction.

9 Q And then you became aware -- did you become aware that President Trump
10 had said something to that effect as you were going to the Capitol?

11 A I don't think so, no.

12 Q And as you're walking to the Capitol, was President Trump still speaking?

13 A I don't remember. I don't remember what -- logically wise, who was
14 saying what when. I don't know if the speech was over. I don't remember. There
15 was a lot of people there, lots of noise.

16 That's the other thing too is that, with so many people, I mean, you know, you go
17 into a restaurant and you're having dinner with somebody, right, and everybody in the
18 place is talking, and it just sounds like white noise. So that's pretty much the sound is
19 just, you know, so many people talking that you can't really make out anything.

20 Q Were you walking with Mr. Howland?

21 A For part of it, yes. We ended up separating some way somehow. I don't
22 really know how or when.

23 Q Well, what were you talking to Mr. Howland about as you were walking to
24 the Capitol?

25 A I don't remember.

1 Q Were you aware at that time that Vice President Pence had decided not to
2 step in and stop the certification of the vote for President Biden?

3 A I was not aware of that until after the event.

4 Q After the event meaning?

5 A When I left. I don't know how long it kept going after I was there. I know
6 everything ended the same day. So I don't know specifically when I heard that that
7 didn't happen, but it wasn't on my way over to -- towards the Capitol.

8 Q Well, when you got -- when you're approaching the Capitol, can you tell me
9 what you're seeing? Are you seeing police officers? Are you seeing barriers? What's
10 going on?

11 A There was a couple police officers, not very many. And a lot of them were
12 shooting flash bangs and spraying mace and rubber bullets or whatever it was.

13 Q And why did you think they were doing those things?

14 A Didn't really have an answer then. Don't really have an answer now.

15 Q At the time, when you saw -- you say you support law enforcement, correct?
16 And if law enforcement is using those tools, what did [inaudible] was happening?

17 A You just totally cut out there. Sorry. I didn't catch --

18 Q Oh, I'm sorry.

19 So earlier you said you support law enforcement and you've worked with law
20 enforcement. And now you're telling me you saw on January 6th law enforcement use
21 rubber bullets, mace, flash bangs.

22 In your mind at the time, why were they using those things?

23 A Don't have an answer, really.

24 Q Did it give you pause?

25 A Did it give me pause, like did it make me stop?

1 Q Yes.

2 A I didn't want to be on the receiving end of any of those things, sure.

3 Q But if you're heading -- in general, if you're heading somewhere and police
4 are using flash bangs, what do you think?

5 A I'm going to think probably something is a reason behind it, some sort of
6 issue that is aiming to be addressed.

7 Q Do you think that there's something wrong?

8 A One could draw that conclusion, yes.

9 Q Do you draw that conclusion? I'm asking about you.

10 A In certain instances, maybe I would, but I don't believe that that was a
11 conclusion that I drew right then. I didn't see anybody around me that was taking part
12 in any actions that would have permitted -- I don't want to say permitted. That's not the
13 right word. That would have -- what's the word I'm looking for? Any reasoning why
14 that would have been a response to the people that were standing there may be a good
15 way of saying it.

16 Q Well, let me show you a video, Mr. Kelley, from that day. And I'm going to
17 do my best to do this, and I apologize for my lack of technological skill sometimes.
18 That's the wrong screen. Sorry about this. Give me one second.

19 Mr. [REDACTED] just for the sake of the record, can you identify the
20 exhibit?

21 Mr. [REDACTED] Yes. This is exhibit 9.

22 Mr. [REDACTED] Thank you.

23 BY MR. [REDACTED]

24 Q Mr. Kelley, I'm going to play this video, and let me know if you can hear it.

25 [Video shown.]

1 BY MR. [REDACTED]

2 Q Can you hear it? Did you hear it, Mr. Kelley?

3 A It froze.

4 Q Right, but can you hear it now?

5 [Video shown.]

6 BY MR. [REDACTED]

7 Q Did you hear that video, Mr. Kelley?

8 A I heard it that time, yep.

9 Q Great. So that was a video from January 6th taken as people were running
10 up the steps of the Capitol, and someone says: Come on, let's go. This is it. This is
11 war. This is war, baby.

12 Q Was that your voice?

13 A It was not.

14 Q It was not your voice?

15 Q Were you around people who were heading up the stairs of the Capitol?

16 A I saw that happen, yes.

17 Q And what did you think about when you saw that happen?

18 A I don't have a response to what I was thinking.

19 Q You don't remember what you were thinking as people are running up the
20 steps of the Capitol and there are flash bangs going off?

21 A I don't know if there was flash bangs going off at that point of the day. I'm
22 not sure. My reference earlier was to before any of the day's events had started.

23 Q And, to clarify again, you know, that was not my voice on the video, and I have
24 seen that video before, and -- yeah.

25 Q Okay. But you were there on January 6th, and you said you saw people run

1 up the Capitol. So I'm asking you, in your mind, what -- like, what is going on? Like,
2 you see people running up the steps of the Capitol. What did you think was happening?

3 A First Amendment, redress of grievances, lawfully protected by the
4 Constitution.

5 Q Okay. I'm going to show you another video, and this would be exhibit 10.

6 Oops, sorry, let me try this again. This one doesn't have sound, so forgive me for --

7 Are you ready, Mr. Kelley, to watch it?

8 A Yes.

9 Q And I apologize that it's small.

10 [Video shown.]

11 BY MR. ██████████

12 Q Is that you, Mr. Kelley, where the arrows are pointing? I tried to pause it,
13 but it won't pause.

14 A I won't be identifying myself in any videos or any pictures or anything like
15 that. I don't know if it is or not.

16 Q Mr. Kelley, are you asserting a privilege for why you are not responding to
17 this question?

18 A I guess that would be the Fifth, right? I don't have to identify myself.

19 Q So, just for the clarity for the record, you're asserting your Fifth Amendment
20 right against self-incrimination instead of answering the question about whether that is
21 you in this video in exhibit 10, correct?

22 A So the Fifth Amendment, how does that read, because --

23 Q So the Fifth Amendment, you need to have a reasonable belief that
24 answering this question would tend to incriminate yourself. Is that what you're
25 asserting?

1 A No, I didn't do anything criminal that day. So --

2 Q Then what is the basis for your assertion of the Fifth Amendment not to
3 answer the question about whether that's you in the video?

4 A The First Amendment, right to peaceably assemble.

5 BY MR. [REDACTED]

6 Q Mr. Kelley, how would answering that question impede your ability to
7 peaceably assemble? It's a video of a thing that happened more than a year ago.

8 A Yeah. Well, I elect not to identify myself in any videos that are being
9 played or --

10 Q Mr. Kelley, this is a deposition under subpoena. You are entitled to refuse
11 to answer a question only to preserve a privilege. We've asked if you have a particular
12 privilege to assert, and you've declined to assert both the First and Fifth Amendment
13 after we've explained what that means.

14 So you can either answer the question or assert a privilege, but you can't not
15 answer the question.

16 A Fair enough. Give me one second here to --

17 [Pause] yeah, we can say Fifth Amendment.

18 Q Okay. And, just so we understand, you're asserting the Fifth Amendment
19 to refuse to respond to a question asking you to identify if somebody in a video is you,
20 because that answer would tend to incriminate you?

21 A Not incriminate, no. To bring infamous bad reputation.

22 BY MR. [REDACTED]

23 Q Mr. Kelley, the Fifth Amendment privilege is not there to protect you against
24 a bad reputation. It is there to protect you against self-incrimination in a court of law.

25 A Fifth Amendment says "infamous."

1 Q So you are asserting the Fifth Amendment?

2 A Correct.

3 Q And, just for the record again, it is because you have a reasonable belief that
4 answering the question would tend to incriminate yourself?

5 A I can't agree to that. I don't believe that there was any crimes committed.

6 Was there anything unlawful that I did?

7 Q We just showed you --

8 BY MR. [REDACTED]

9 Q Well, Mr. Kelley, if you believe that there isn't anything unlawful, then why
10 wouldn't you identify yourself?

11 A Electing not to.

1

2 [10:59 a.m.]

3 Mr. [REDACTED] Okay.

4 BY MR. [REDACTED]

5 Q And we could go in circles about this, Mr. Kelley. You're in a deposition.

6 You were served a subpoena. You are under oath. You are required to answer
7 questions unless you assert a valid privilege.

8 The Fifth Amendment -- and this will be -- the Fifth Amendment is there to protect
9 you against self-incrimination. And I understand you are refusing to answer the
10 question, and you are not saying it's because you believe answering would incriminate
11 yourself. Is that correct?

12 A Can you clarify that one more time, please?

13 Q Sure. You are refusing to answer the question. You did say Fifth
14 Amendment, but when we followed up by asking whether you're asserting the Fifth
15 Amendment because answering would tend to incriminate yourself, you said, no, that is
16 not your belief. But yet you are still refusing to answer the question. Is that correct?

17 A Correct.

18 Q Okay.

19 Did you think there was anything criminal that happened on January 6th?

20 A Anything that I personally did, or other individuals?

21 Q Other individuals.

22 A Yes.

23 Q What were those criminal activities?

24 A I would say probably fighting with our law enforcement officers.

25 Q How about breaking into the Capitol?

1 A That is not something people should've done either.

2 Q Okay. Property destruction?

3 A Correct.

4 Q In general, would you say it is unlawful to try to stop the certification of the
5 electoral count?

6 A That was never my intention, number one, you know, to try to be there to
7 forcefully stop anything. You know, we were there hoping that Congress would make
8 the decision to take a look at the outcome of the 2020 election and the details leading up
9 to that. However, there's -- can you repeat the question?

10 Q Sure. Is it your understanding that it would be unlawful to stop the
11 certification of the electoral count?

12 A Depending on who did it. You know, I think if Congress did it, it would be
13 lawful. I think there'd be lawful measures to make that happen.

14 Q Right. But let's talk about -- you just said the word "forcefully." So, in the
15 context of January 6th, people storming the Chambers to stop the certification of the
16 vote, would that be unlawful?

17 A That is not a decision for me to make. I don't know what law would be
18 infringed upon there, right?

19 Q Do you think that people doing that infringes upon the peaceful transfer of
20 power?

21 A That would be a subjective question, depending on the person that you're
22 asking.

23 Q I'm asking you.

24 A I believe that it would've been good for Congress to elect to take a look at
25 the 2020 election a little closer to determine the validity.

1 Q Okay. But I'm asking you specifically: If people storm the Capitol and
2 stop the certification of the vote -- as happened on January 6th, and Congress had to
3 evacuate. You said you didn't want to -- you couldn't answer if it was lawful, but would
4 that stop or impede the peaceful transfer of power?

5 A It didn't.

6 Q It didn't slow it down?

7 A I don't know what the timeframe was for everything to happen that day. I
8 don't -- I never saw the schedule that was being used.

9 Q Okay.

10 Mr. [REDACTED] Mr. [REDACTED], do you have --

11 BY MR. [REDACTED]

12 Q Mr. Kelley, did you encourage people to come into the Capitol once you
13 were on the Capitol Grounds?

14 A There was police officers that were allowing people to go inside. They
15 opened the doors for them. And I do believe I mentioned to a few people that, yes, the
16 law enforcement is opening the doors for people to go inside.

17 I never went inside, but I know that there was many people that were peacefully
18 walked in by law enforcement officers.

19 Q Got it.

20 And did you -- were you aware that people were using bike racks as weapons?

21 A No.

22 Q Okay. I'd like to show you --

23 A What were -- what was -- pipe -- what'd you call them?

24 Q Bike racks.

25 A Bike racks. As weapons?

1 Q Yep.

2 A What were they -- what kind of weapons?

3 Q Well, let me just show you this video. One second.

4 Mr. [REDACTED] And, Mr. [REDACTED], this will be marked as exhibit 15, I believe. Yes.

5 Mr. [REDACTED] Can we recess for just 30 seconds why I figure out why I can't
6 share?

7 Mr. [REDACTED] Yeah, we can recess in place.

8 [Discussion off the record.]

9 Mr. [REDACTED] Okay. We can go back on the record.

10 [Video shown.]

11 BY MR. [REDACTED]

12 Q Mr. Kelley, in the video that we just saw, there was a man in blue jeans, a
13 black jacket, black sunglasses, and a backwards hat who was gesturing at the crowd to
14 come closer or to come in. Was that you?

15 A Again, I won't be identifying or denying anything in any video of myself.

16 Q On what basis?

17 A Fifth Amendment.

18 Q Okay. So, just so we're clear, you're asserting the Fifth Amendment
19 privilege because the answer to my question would tend to incriminate you?

20 A There's no criminal activity that I participated in that day.

21 Q Mr. Kelley, you know, the basis for invoking the Fifth Amendment privilege in
22 the context of congressional investigations is in response to questions that would -- for
23 which the answer would tend to incriminate you.

24 You are entitled to refuse to answer a question on the basis of a privilege. I have
25 explained how the Fifth Amendment privilege applies in this situation. So I'll ask you

1 again: Are you refusing to answer my question because the answer would tend to
2 incriminate you?

3 A No. There's no criminal activity I took part in that day.

4 Q Okay. So, then, proceed with answering the question. Was the man in
5 that video you with the sunglasses and backwards hat?

6 A I'll choose not to identify myself in any videos today.

7 Q Mr. Kelley, we can go around and around, and I'm sure -- you know, the
8 committee has procedures for dealing with situations where witnesses refuse to answer
9 questions. I don't think any of us would like to go down those procedures.

10 But I'm asking you if you're refusing to answer a question based off of a privilege
11 that is recognized by the committee or --

12 A Which privileges are recognized by the committee?

13 Q Mr. [REDACTED] outlined First Amendment, Fourth Amendment, Fifth Amendment,
14 attorney-client privilege, among others. If you'd like to make an objection based off of
15 another recognized privilege, you are free to do so. But, as far as I'm aware, those are
16 the big-ticket ones.

17 A So what would be the First Amendment one?

18 Q If an answer to a question would infringe on the exercise of your First
19 Amendment rights.

20 A I guess, um -- how would we like to proceed?

21 Q Okay.

22 I'll note for the record that the witness has refused to answer the question and
23 has also failed to provide a basis -- a recognized basis for refusing to answer the question,
24 and we can move on.

25 A Fifth Amendment. However, there's no unlawful criminal activity I took

1 part in on January 6th.

2 Mr. [REDACTED]. Mr. Kelley, perhaps this is a situation in which it would've been
3 beneficial for you to have counsel for this deposition.

4 I have explained how the Fifth Amendment privilege applies in a deposition. It is
5 for situations in which the answer would tend to incriminate you. I'm not sure why
6 you're restating your opinion of what the Fifth Amendment is.

7 But I will again note for the record that the witness has refused to answer the
8 question, and he's refused to raise a recognized privilege as a reason for refusing to
9 answer the question.

10 Mr. [REDACTED]?

11 Mr. [REDACTED]. Thank you, Mr. [REDACTED]

12 BY MR. [REDACTED]

13 Q So, Mr. Kelley, in the videos we've showed you, there's a lot of activity going
14 on. We just saw bike racks getting passed up. We saw people climbing on stages.

15 Do you think that activity was peaceful?

16 A It was very busy, we'll say that. I can't really say to what everyone in the
17 video was doing, whether they were peaceful or not.

18 Q In your view, was it peaceful? Without saying if each person was peaceful,
19 if the --

20 A It didn't look like there was any violence in the video, didn't look like anyone
21 was getting hurt. There was no sound, so -- it looks like it probably would've been loud,
22 but it doesn't look like there was anything that was not peaceful happening.

23 Q In the video I showed you earlier, where there was sound, you heard
24 someone say, "This is war, baby." You heard another person say, "Revo-fucking-lution."
25 You heard "1776" chants. What do those signify to you?

1 A Those are not things that I said. I don't recall necessarily hearing them.
2 You know, on top of that, you know, I don't know if that video was edited. I
3 don't know if that video was actual. I'm not sure on the validity of the content.

4 Q I can represent to you that there were plenty of those chants. There was
5 also chants of "Hang Mike Pence."

6 So, in the context of the crowd -- and I'm representing to you that those things
7 were said -- would that have seemed peaceful to you?

8 A You know, that's not something that I took part of, you know? I know you
9 mentioned gallows earlier, and specifically there with Pence, that was not something I
10 was part of, nor did I see that happen. You said that it did. I will take that at the value
11 that you bring to that. And I would always advocate for nonviolent actions.

12 Q Is it your position that January 6th was relatively peaceful?

13 A I'm going to say 99-percent-of-it-plus was, yeah, absolutely.

14 Q Ninety-nine percent, but --

15 A There was some people that busted out windows in the Capitol, and that's
16 absolutely not right to do. You know, there was some people that fought with police
17 officers, and that's not the right thing to do.

18 Majority of people that were there, myself included, did not fight with any law
19 enforcement officers, didn't do any damage to the property, grounds, windows, you
20 know? And so most of the people that were there, myself included, operated
21 themselves under the First Amendment peacefully.

22 Q What about tearing down sheets off of an inaugural stage?

23 A That's not violence towards anyone, I would say.

24 Q It's not property destruction?

25 A Not necessarily, no.

1 Q What would you call it?

2 A You said moving -- what did you call it?

3 Q People who ripped off sheets off of the inaugural stage.

4 A Ripping sheets off a stage. Was there any permanent damage that was
5 done to it?

6 Q If you tear up a sheet, you have to sew it back together, just like if you break
7 a window, you have to fix the glass. So is that property destruction?

8 A I would say that it's probably not the right choice for somebody to make.

9 Q All right.

10 And was it your position, then, that the people who were just on the Capitol
11 Grounds in these large crowds who didn't go into the Capitol, were they acting
12 peacefully? Were they part of the 99 percent?

13 A Again, really big number of people, and I can't verify everybody's actions
14 that they had there that day, but I'm going to say that a majority of the people that were
15 there, over 99 percent, were there peacefully exercising their First Amendment.

16 Q Did you see any barriers when you got onto the Capitol Grounds?

17 A Any barriers?

18 Q Yes.

19 A There were -- there was a door, right? There was a little -- one of those
20 bike rack things that you talked about. I saw a couple of those. But there wasn't any
21 true barriers, no.

22 Q What would you call bike racks lined up in a row, if not a barrier?

23 A I don't know. I don't have another name for that.

24 Q So it is a barrier?

25 A Not necessarily, no. I mean, it's a -- maybe which way you want people to

1 walk to or where you want -- directing where you want individuals to go.

2 Q And did you see bike racks that had been knocked over or that were just on
3 the ground?

4 A Yes, I do believe so.

5 Q And --

6 A There was law enforcement officers that were moving bike racks that I saw.

7 So there was a --

8 Q Did you see people swarming towards police officers and trying to push
9 them out of the way?

10 A That did happen in multiple different areas, yes. And there was other areas
11 where police officers moved out of the way and just allowed people to walk through. So
12 I saw where both things were happening.

13 Q As someone who has had -- seems to have had good relations with police
14 officers in Michigan, if there were 2 police officers and 1,000 people, what would you
15 expect the police officers to do in that situation where you're saying they're moving out
16 of the way?

17 A I saw police officers walk people towards the Capitol. So, you know, again,
18 whatever law enforcement was directed to do that day or whatever decision law
19 enforcement officers made that day, you know, that's not my decision to make.

20 Q Did you have any interactions with law enforcement that day?

21 A I did not, no. Nothing personal as far as conversation or interactions. No
22 altercations.

23 Q Did you see them using force or flash-bangs or tear gas or mace against
24 anybody?

25 A As mentioned earlier, yes.

1 Q So you actually saw that happening?

2 A I did.

3 Q Okay. And, again, while that's happening, why did you think the police
4 were using those tools?

5 A At that time, I don't know, because there was nothing happening for the day
6 that was out of control. That was very early on, when I saw all those things happening,
7 before anything started that caused any controversy.

8 Q And in the videos that we showed you earlier, where you refused to say
9 whether it was you, you can see that people are pushing up against police officers in at
10 least one of them.

11 Would that have constituted something where police were justified in using the
12 tools that you mentioned?

13 A That's not a decision, I guess, for me to make, in regard to whatever the
14 lawful use of police, whether it's force or certain type of response mechanisms.

15 Q Are the police justified in defending themselves against unruly crowds?

16 A Absolutely.

17 Q Did that look like a situation where an unruly crowd was pushing up against
18 a few police officers who were trying to stop them from going somewhere?

19 A In certain situations there was that, yes.

20 Q On January 6th, right?

21 A Correct.

22 Q Okay.

23 A Other times too, I'm sure, right? But for that specific event, yes, we all
24 have the right to defend ourselves, and that includes law enforcement.

25 Mr. [REDACTED] ?

1 BY MR. [REDACTED]

2 Q Mr. Kelley, you said earlier that you were concerned that identifying yourself
3 in those videos would cause harm to your reputation. Is that right?

4 A I'm sorry. Your video froze.

5 Q Mr. Kelley, you said earlier that you were -- during our conversation, our
6 back-and-forth on why you refused to identify yourself in those videos that we showed
7 you, one of the things you mentioned was that you were concerned about harm to your
8 reputation. Is that right?

9 A That's a potential there, yeah. I mean, that's part of the Fifth Amendment,
10 with, you know, looking at the harm it can do to reputation in regard to --

11 Q Well, I'll -- Mr. Kelley, I'll dispute that that's part of the Fifth Amendment,
12 but, as you're not an attorney, we don't need to go back and forth on this.

13 Are you proud that you went to the Capitol on January 6th?

14 A I guess there's not a direct answer for that in regard to proud. I mean, am
15 I --

16 Q Were you proud of your actions on January 6th?

17 A To go to Washington, D.C.?

18 Q Are you proud of your actions on January 6th?

19 A I am okay with me exercising my First Amendment to stand up for what I
20 believe is right.

21 Q It's just a "yes" or "no." Are you proud of your actions on January 6th?

22 A Which actions specifically are you speaking of?

23 Q Well, for example, if we showed you videos of you engaging in particular
24 actions on January 6th, as we have, would you be proud to show people those videos?

25 A You know, I think that rolls into the same answer from earlier with -- I mean,

1 speaking of any specific videos, you know, I'm not going to answer to any of those specific
2 videos.

3 And, you know, am I thankful for my opportunity to live in America and express,
4 under my First Amendment rights, my grievances with the government in a lawful, legal
5 manner? Yes.

6 BY MR. [REDACTED]

7 Q Earlier, Mr. Kelley, you said you were encouraging people to go inside. Are
8 you proud of that?

9 A I wouldn't say I was encouraging people to go inside. That's not what I
10 said.

11 Q You said you were encouraging people to follow -- I guess you said you saw
12 police letting people in, so you were encouraging people to go that way. Is that what
13 you said?

14 A I don't believe that "encourage" was the word that I used, versus had
15 mentioned to some other people that police were allowing people to go inside.

16 Q Let's just show exhibit 8 quickly.

17 Mr. [REDACTED] can you do it? I seem to have lost my ability to share all of a
18 sudden.

19 Mr. Kelley, was that you in that picture?

20 A I don't see a photo.

21 Q Well, that's a problem. I can see it.

22 A Oh, there it is, right there. It just popped up.

23 Q Okay. This is a still shot from the same timeframe of the video that Mr.
24 [REDACTED] showed you. Is that you with the glasses and backwards hat?

25 A Same answer as previously. Won't identify myself in any videos.

1 Q Okay. And instead of going down the same exercise we've done, we'll just
2 note for the record that your answer is the same as when we asked you in other videos.
3 Is that okay?

4 A Approved.

5 Q Okay.

6 If somebody were, on January 6th, to encourage people to come into the Capitol
7 with their hands and say, "Come on," would that have been an acceptable thing to do?

8 A Is there any other potential outcomes, you know, whatever individual is
9 looking to achieve? Maybe they wanted some people to yell louder, wave their flags.

10 Q I'm asking you specifically about the hypothetical of encouraging people to
11 go inside the Capitol.

12 A Were they lawfully allowed to go inside the Capitol?

13 Q I can tell you that, no, they were not lawfully allowed to go inside the Capitol
14 that day. I can represent that to you.

15 A If there was law enforcement officers that were allowing it to happen,
16 wouldn't that -- what would that outcome be?

17 Q If a law enforcement officer allowed you to shoot someone in the head,
18 would that be a lawful exercise?

19 A Valid point. Okay.

20 What was the law that did not allow individuals inside the Capitol that day?

21 What law did the law enforcement officers break by allowing people to come inside?

22 Q I don't know the exact specifics, but from what I understand, the Capitol was
23 closed for COVID reasons and closed to the public for other reasons. So the public was
24 not allowed in the Capitol on January 6th.

25 A And there was laws that were passed that upheld that?

1 Q I'm just asking you a hypothetical. So, in this hypothetical, people are not
2 allowed in the Capitol and someone else is encouraging them to go into the Capitol on
3 January 6th. Is that okay?

4 A That -- I mean, hypotheticals -- I mean, I think we should stick to fact.

5 Q Okay.

6 So were you aware -- did you know that Mr. Howland went into the Capitol?

7 A I cannot speak for any of his actions that day.

8 Q Did you find out later whether he went into the Capitol?

9 A I won't speak for his actions.

10 Q I'm asking if you found out something, if you saw, if you heard about
11 something that happened. I'm not asking you to tell me why or what he did. I'm
12 asking what you --

13 A Sure.

14 Q -- know.

15 A I didn't hear specifically from him. I did hear from some different
16 individuals that they thought he did, but I never confirmed with him whether he did or
17 not. It wasn't my business, and I didn't want to know.

18 Q Do you know an Angela Rigas, R-i-g-a-s?

19 A I do, yep.

20 Q Was she --

21 A She's running for State rep.

22 Q Was she in Washington, D.C., on January 6th?

23 A I believe so, but I did not see her there. She said she was, but I can't speak
24 for any of her actions or validity of whether or not she was there as well.

25 Q Okay.

1 Do you know a Mark Petzold, P-e-t-z-o-l-d?

2 A I do. I've met him on the campaign trail.

3 Q Okay. But you did not see him on January 6th?

4 A Correct.

5 Q Same question for a John Rocha, R-o-c-h-a?

6 A Yes, accurate. I know him, didn't see him there, cannot confirm or deny
7 any of his actions either.

8 Q Same question for an Amee Archer, A-m-e-e, Archer?

9 A I don't know who that is.

10 Q Okay. How about Audra Johnson?

11 A I know who that is, but, again, can't confirm anything that she did that day,
12 had no communication with her either.

13 Amee Archer. Who was the -- you said John Rocha?

14 Q Okay. Did you have any communications with these people leading up to
15 January 6th?

16 A Not in regard to January 6th, no, but I don't believe I -- I didn't know Mark
17 prior to that. I don't know Amee. I don't think I started talking with John until after he
18 started running for State house. And then Angela -- I don't know.

19 Q Okay.

20 A There wasn't any communication there.

21 Who was the other person? You said Mark?

22 Q I think you got them all.

23 So were you part of any Zello chats on January 6th?

24 A No.

25 Q Okay.

1 And after January 6th, in the time afterwards -- you know, we've shown you some
2 videos -- looking back on it now, do you still think January 6th was mostly peaceful?

3 A Yeah. Over 99 percent of the people that were there were there
4 peacefully, absolutely.

5 Q Did you think it was an energizing event?

6 A I did say that previously before in the past, and so I will confirm that I said
7 that. And, yeah, there was a lot of energy, there was a lot of love of America. Singing
8 of the National Anthem, the Pledge of Allegiance -- you know, there was a lot of very
9 patriotic, positive things that happened that day.

10 Q Was what happened on January 6th positive, then?

11 A A bunch of people coming to the Capitol exercising their First Amendment
12 peacefully, hoping that the Congress would take a look at the election and do an audit so
13 we can figure out the validity of how everything turned out in the States that
14 99.9 percent of the people took part in? Yeah. Absolutely.

15 Q But how the day turned out, was that a positive?

16 A The day turned out a lot of different ways, I guess. Can you be specific
17 on --

18 Q Sure. How the day turned out for yourself. You were on the Capitol
19 Grounds, you heard that Ashli Babbitt got shot, and you left.

20 A Correct.

21 Q A couple of people died. A lot of people got hurt. People have been
22 charged with a lot of crimes from January 6th.

23 So, in your view, was the day still a net positive?

24 A I guess in regard to Ashli being shot, that's a negative, absolutely. Other
25 people getting injured, that's definitely a negative. You know, people doing dumb

1 things, that's a negative, yes.

2 In regard to, you know, people exercising their First Amendment, that's a positive.

3 So it depends on the lens that you're looking at it, and I'm not trying to paint the
4 entire day in one broad stroke of a brush.

5 Q Is there ever a point at which exercising your First Amendment right can
6 cross over the line into unacceptable behavior?

7 A Of course.

8 Q And what is that line?

9 A When you, I guess, violate the liberties of someone else or you break some
10 other lawful law that -- whether it damages, you know, life, liberty, or property of another
11 individual.

12 Q And would you say that the people who went into the Capitol crossed that
13 line?

14 A The people that went into the Capitol, I'm going to say, no, that they didn't
15 cross that line. Ones that maybe did damage, yes, that is crossing the line.

16 But, you know, as far as peacefully walking inside the Capitol, it's the people's
17 house. And, to my knowledge, to the best of my knowledge and to the best of your
18 knowledge -- I guess you didn't know -- there's no specific law, other than maybe a COVID
19 restriction, which is not a law, of why people weren't allowed to be in there that day.
20 You know, they could've peacefully been walking in there --

21 Mr. ██████████ Well, actually, Mr. Kelley, I can represent to you that several
22 people, possibly dozens of people, have already been convicted on the basis of Federal
23 laws related to unlawful entry of the Capitol Building.

24 So it's not a hypothetical. And I just want to clarify from the previous
25 conversation, it's not a hypothetical. It is illegal. It was illegal under those

1 circumstances, and people have already been convicted on that basis.

2 So I'm not sure what the point is.

3 The Witness. Were individuals that were walked into the Capitol by law
4 enforcement officers convicted?

5 Mr. [REDACTED] There are more than 700 people who have been indicted. I
6 don't know the specifics of every single one of them. I can represent to you that many
7 people have been convicted on the basis of unlawful entry into the Capitol.

8 Mr. [REDACTED] Including for charges of parading and obstructing justice and other
9 charges just merely by their presence of being in the Capitol. Those are the people I
10 believe you're talking about, people who walked in and, by all accounts, walked out.
11 They have been charged and convicted of breaking several Federal laws.

12 The Witness. Yeah, I'm not sure on every case in regard to what their actions
13 were that led to that.

14 BY MR. [REDACTED]

15 Q Correct. But in the question of crossing the line from First Amendment
16 activity into unacceptable activity, you mentioned breaking some other laws. So would
17 people who went into the Capitol and were breaking laws that day have crossed the line
18 from First Amendment activity?

19 A Specific to the situation, there's a lot of people that did a lot of things, and
20 I'm not going to be the judge on every one of those people. And, again, that's kind of a
21 broad-brushstroke question.

22 Q Do you take the people who went into the Capitol to be patriots?

23 A Some of them may have been. I'm not going to put a label on every one of
24 those individuals.

25 Q Are people patriotic who break the law?

1 A I guess it would depend on the law. You know, there's a lot of different
2 laws out there. And, again, I think that's a situational. To say that somebody doesn't
3 love their country and then steals a candy bar from a store, you know -- you know, you're
4 talking about a lot of different -- that's a broad answer to a question, right?

5 Q Yeah. You have made my bad question apparent, so I appreciate that.

6 I was being specific to January 6th in terms of that. Would you say that people
7 who broke the laws and entered the Capitol on January 6th, were they acting
8 patriotically?

9 A You know, if individuals were maybe fighting with police officers in order to
10 gain access, that's one thing, versus somebody that was peacefully walked in by law
11 enforcement officers, which a lot of that happened as well. You know, again, there's a
12 lot of different angles to look at that question from.

13 Q Okay.

14 A Somebody that was just walked in there peacefully, you know, not knowing
15 that they were doing anything wrong, I mean, are they at fault? I'm not a judge and jury
16 either, but a lot of different angles to look at that question from.

17 Q And just for the record, I would like to make it clear that I asked a bad
18 question before, about people who entered -- people who break the law as being
19 patriots. That was very unclear, and I appreciate you pointing that out, Mr. Kelley. I
20 was just -- I was trying to ask specifically about --

21 A It's all good.

22 Q -- January 6th and then those who broke in.

23 A Fair enough. It's all good.

24 Q Yeah.

25 I think that the last question I have relates to whether the FBI has contacted you

1 or any other law enforcement has contacted you about the events on January 6th.

2 A I have not been contacted.

3 Q Okay.

4 A You are the first person to reach out to me, my friend.

5 Q There we go.

6 Mr [REDACTED] Mr [REDACTED], do you have any other questions?

7 BY MR. [REDACTED]

8 Q Mr. Kelley, there's a group that's based in Texas called the Southern Patriot
9 Council. Are they affiliated with the American Patriot Council?

10 A No.

11 Q Okay.

12 A What's the name? You said Southern --

13 Q Southern Patriot Council.

14 A Never heard of it before you just mentioned it now.

15 Q Does the name Eric Braden ring any bells?

16 A Braden? No, that's Brandenburg running for Governor. No, I don't think
17 so.

18 Q Okay. No problem.

19 A Eric, as in -- how do you spell that? E-r-i-k or c?

20 Q E-r-i-c, last name B-r-a-d-e-n.

21 A No, I don't believe so.

22 Q Okay. Just wanted to clarify, given the similarity in the organization names.

23 A So he was whatever role in the Southern Patriot Council?

24 Q That's right.

25 The Witness. The screen is totally green right now. I can't see you guys

1 anymore.

2 Mr. [REDACTED] Can you --

3 The Witness. And there, you're back now.

4 Mr. [REDACTED] Okay. I'm sorry. We're not seeing that on our end.

5 The Witness. I have no idea what's going on. It's like a glitch, you know? It's
6 like some sort of -- I don't know how to explain it.

7 Mr. [REDACTED] Yeah. Yeah, I'm not sure what's happening.

8 I think we may be getting towards the end of the deposition. Can we just take a
9 5-minute recess, Mr. Kelley? And Mr. [REDACTED] and I will discuss, and we'll come back, but
10 we should be close to being done.

11 The Witness. Works for me.

12 Mr. [REDACTED] So let's go off the record, and we'll come back at 11:41.

13 [Recess.]

14 Mr. [REDACTED] We'll go back on the record at 11:41.

15 We have no further questions for you, Mr. Kelley, unless -- you know, if you have
16 anything you'd like to say before we wrap up, you are welcome to. From our end,
17 unless Mr. [REDACTED] has something to say, we are done with our questions.

18 The Witness. Nothing else from me. If you guys --

19 Mr. [REDACTED] Okay. Just -- I'm sorry to jump in. Just because the witness,
20 for the record, has refused to answer some questions, we're going to leave the record
21 open on this deposition while the committee considers how to handle the refusal to
22 answer those questions.

23 So the deposition will stand in recess, subject to the call of the chair, but we're
24 done for today.

25 [Whereupon, at 11:44 a.m., the deposition was recessed, subject to the call of the

1 chair.]

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4 I have read the foregoing ____ pages, which contain the correct transcript of the
5 answers made by me to the questions therein recorded.

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10 Witness Name

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Witness Name

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Date