

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,)	Criminal Action
)	No. 21-00175
Plaintiff,)	
)	
vs.)	
)	
ETHAN NORDEAN, JOSEPH R. BIGGS,)	Washington, D.C.
ZACHARY REHL, ENRIQUE TARRIO and)	January 13, 2023
DOMINIC J. PEZZOLA,)	9:11 a.m.
)	
Defendants.)	
)	
* * * * *)	

TRANSCRIPT OF JURY TRIAL - DAY 14
BEFORE THE HONORABLE TIMOTHY J. KELLY,
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT:	JASON B.A. McCULLOUGH, ESQ.
	ERIK M. KENERSON, ESQ.
	CONOR MULROE, ESQ.
	NADIA MOORE, ESQ.
	UNITED STATES ATTORNEY'S OFFICE
	FOR THE DISTRICT OF COLUMBIA
	555 Fourth Street, Northwest
	Eleventh Floor
	Washington, D.C. 20530

FOR THE DEFENDANT	NICHOLAS D. SMITH, ESQ.
NORDEAN:	DAVID B. SMITH, PLLC
	1123 Broadway
	Suite 909
	New York, New York 10010

APPEARANCES, CONT'D:

FOR THE DEFENDANT
BIGGS: JOHN D. HULL, IV, ESQ.
HULL MCGUIRE, P.C.
1420 N Street, Northwest
Washington, D.C. 20005

NORMAN A. PATTIS, ESQ.
PATTIS & SMITH, LLC
383 Orange Street
First Floor
New Haven, Connecticut 06511

FOR THE DEFENDANT
REHL: CARMEN D. HERNANDEZ, ESQ.
7166 Mink Hollow Road
Highland, Maryland 20777

FOR THE DEFENDANT
TARRIO: NAYIB HASSAN, ESQ.
LAW OFFICES OF NAYIB HASSAN, P.A.
6175 Northwest 153rd Street
Suite 209
Miami Lakes, Florida 33014

SABINO JAUREGUI, ESQ.
JAUREGUI LAW, P.A.
1014 West 49th Street
Hialeah, Florida 33012

FOR THE DEFENDANT
PEZZOLA: STEVEN METCALF, II, ESQ.
METCALF & METCALF, P.C.
99 Park Avenue
Sixth Floor
New York, New York 10016

ROGER ROOTS, ESQ.
LAW OFFICES OF ROGER ROOTS
113 Lake Drive East
Livingston, Montana 59047

1 REPORTED BY: LISA EDWARDS, RDR, CRR
2 Official Court Reporter
3 United States District Court for the
4 District of Columbia
5 333 Constitution Avenue, Northwest
6 Room 6706
7 Washington, D.C. 20001
8 (202) 354-3269
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I N D E XDirectCrossRed.WITNESSES FOR THE GOVERNMENT:

Thomas Loyd	3481
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EXHIBITS RECEIVED IN EVIDENCEPAGE

Government's Exhibit No. 105	3488
Government's Exhibit Nos. 101-104	3489
Government's Exhibit Nos. 111-180	3497
Government's Exhibit Nos. 354-398	3500
Government's Exhibits Nos. 200 through 235; 259; 261; 411-A through D; 414-A and B; 415; 417; 425; 429-C; 430-A; 432; 434; 446-A; 451; 454; 455-A; 456; 457; 460; 468; 477; 478; 479-A through D; and 499-A through D	3501
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Government's Exhibit No. 107	3542

1 THE COURTROOM DEPUTY: Your Honor, this is
2 Criminal Matter 21-175, the United States of America versus
3 Defendant 1, Ethan Nordean; Defendant 2, Joseph Biggs;
4 Defendant 3, Zachary Rehl; Defendant 5, Enrique Tarrío; and
5 Defendant 6, Dominic J. Pezzola.

6 Present for the Government are Jason McCullough,
7 Erik Kenerson, Conor Mulroe and Nadia Moore.

8 Present for Defendant 1 is Nicholas Smith; present
9 for Defendant 2 are John Hull and Norman Pattis; counsel is
10 not present for Defendant 3; present for Defendant 5 are
11 Nayib Hassan and Sabino Jauregui; and present for Defendant
12 6 is Steven Metcalf.

13 Also present are Defendant 1, Mr. Nordean;
14 Defendant 2, Mr. Biggs; Defendant 3, Mr. Rehl; Defendant 5,
15 Mr. Tarrío; and Defendant 6, Mr. Pezzola.

16 THE COURT: Well, good morning, everyone.

17 First, I guess, let me -- so we do not have
18 Ms. Hernández with us. Correct?

19 MR. JAUREGUI: Good morning, your Honor. Sabino
20 Jauregui on behalf of Tarrío.

21 Judge, I received a text this morning. We all
22 received it; we're in a group chat together. She's running
23 a little late. She wasn't feeling well, so she had to go
24 and get a COVID test. Thank God, she's negative. But she
25 should be here any minute now, I hope.

1 THE COURT: All right. Well, we'll wait for her.

2 MR. JAUREGUI: Thank you.

3 THE COURT: The trial -- I just direct counsel
4 again to the trial procedures order, which indicates that
5 counsel is to be present, unless otherwise ordered, at 9:00
6 here every day to deal with preliminary issues.

7 I granted her the courtesy of not taking the bench
8 until 9:10. But here we are. And we have many counsel, our
9 Defendants and everyone else waiting for her to be present.

10 And we all know this is going to be a longer
11 trial, but it's only going to get longer if folks can't
12 comply with my orders.

13 So we'll wait.

14 MR. JAUREGUI: Judge, if I may address another
15 issue, if it's okay, so we can, you know, move forward a
16 little bit.

17 THE COURT: Well, we'll see if I can address it
18 without her present. Go ahead.

19 MR. JAUREGUI: Well, Judge, yesterday, we talked
20 about the order of how the defense was going to be doing --
21 conducting the cross-examination. If your Honor would
22 please allow us, we'd like to conduct the cross-examination
23 in an order that we determine. We're going to determine it
24 ahead of time so there will be no delay, so it's as
25 efficient as possible.

1 And if your Honor would allow that, we'd greatly
2 appreciate it.

3 There's also going to be a default order anyway
4 between us, so if nobody needs to go first, there will be a
5 default order. So we just wanted to ask your Honor to allow
6 that. I think it's going to make cross-examining much
7 quicker, much more efficient because, let's be frank,
8 there's going to be witnesses that we're not going to ask
9 many questions of and we're going to be in and out, whereas
10 other Defendants are going to have a much more lengthy and
11 detailed cross-examination.

12 THE COURT: How about we do this: I'm all for
13 efficiency and I'm all for trying to move forward as
14 expeditiously as possible.

15 So I'll give you -- we'll start with the way
16 you're proposing. However, if -- the first time this comes
17 up, or the second time, or I don't see efficiency, if I
18 don't see the next counsel up to conduct a cross, if I see
19 folks looking between each other, "Oh, who's going next,"
20 that will be the end of that.

21 MR. JAUREGUI: Understood. Thank you so much,
22 your Honor.

23 THE COURT: So if it's clear and you all work it
24 out in advance and there isn't any confusion that I observe,
25 that's fine. But the minute I observe, "Well, are you

1 going? Am I going," that will be over.

2 MR. JAUREGUI: Thank you so much, your Honor.

3 THE COURT: All right.

4 MR. McCULLOUGH: Your Honor, before we move to the
5 next issue, your Honor, just from the Government's
6 perspective, delays prejudice the Government. That's just
7 our position. We have a jury. We are ready to go. You
8 have asked us to have witnesses ready to go. And these
9 delays will prejudice the Government.

10 And so I think, your Honor, both arriving on time
11 and the efficiency with -- we have no objection to them
12 deciding an order ahead of time and being ready to go. And
13 we think that that's great.

14 But, you know, I don't want to get into a
15 three-strikes rule here on issues like showing up late or
16 kind of -- or the kind of order of cross because I just --
17 again, I think that those --

18 THE COURT: On the order of cross issue, I've said
19 the minute I see confusion, that will be over. All right?
20 There won't be three strikes. There will be one strike and
21 that will be it.

22 On the delays here, I mean, what -- what would you
23 propose that I do, given that here we are, it's 9:16, and
24 Ms. Hernández is not present? I mean, it's not the first
25 time. So, you know, I'm open to hearing from any party

1 about what they think I can really do about this. I don't
2 think we can proceed with Mr. Rehl not having his attorney.
3 So, you know, if I need -- well, anyway.

4 So Mr. McCullough, I'll hear from you.

5 MR. McCULLOUGH: At this moment, I do not have a
6 proposal. I agree with you that we cannot proceed without
7 Ms. Hernández. I also agree with you that I think in
8 pretrial we have experienced this, and I think that we just
9 need to make sure that all parties are on the same page as
10 to your Honor's expectations and what the repercussions
11 would be for missing those expectations.

12 I will tell you my heart has been pounding a
13 couple of times when I have come back at, you know, 58 as
14 opposed to at the right number. So that's the way that we
15 approach this. And we recognize your Honor's authority to
16 offer us a rebuke or take the bench and put the jury in the
17 box and wait for us to arrive. And those are things that
18 concern me and concern us. And I just hope all counsel are
19 on that same page.

20 THE COURT: Rebuke or to take the bench. Yes.
21 Right. I can do that. Correct. And I think it is fair for
22 me to mention that. That had been something I had been
23 contemplating before today. And so -- I guess I should
24 just -- and I wouldn't have done it without telling
25 everyone.

1 So I think that's fair. You know, I think counsel
2 should be on notice that if something like this happens
3 again, that's what I'll do: I'll put the -- we'll put the
4 jury in the box and we'll wait. And if someone is late,
5 they're late.

6 Mr. Hull?

7 MR. HULL: Good morning, your Honor. Dan Hull for
8 Joe Biggs.

9 Just by way of reminder, we would be grateful if
10 the Court could give a cautionary -- or an instruction with
11 respect to no adverse inferences drawn from not opening for
12 Mr. Biggs.

13 We will probably -- I will -- for everyone's
14 information, I will open for Mr. Biggs whenever the
15 Government is done with its case. And I gather that we're
16 going to have Mr. Pattis close. But I think they need to
17 know that. And we appreciate it.

18 THE COURT: Well, here's what I plan to say:
19 Defendant Biggs has elected to reserve giving an opening
20 statement at this time, as is his right. You should not
21 hold that against him in any way.

22 MR. HULL: Thank you.

23 MR. METCALF: Your Honor, just briefly, I just
24 wanted to note for your Honor that Mr. Roots has some sort
25 of a conflict with a suppression hearing, and I'm going to

1 be covering for today.

2 THE COURT: All right. When I hear the word
3 "conflict," you know, I'm going to get traumatized.

4 (Laughter.)

5 MR. METCALF: You and me both. I was actually
6 trying to avoid that word.

7 THE COURT: Right. You mean a time conflict?

8 MR. METCALF: Yes.

9 THE COURT: All right. Very well.

10 Well, actually -- he has a conflict right now?

11 MR. METCALF: Right this second. Yes.

12 THE COURT: And does he have any other conflicts?

13 MR. METCALF: As far as scheduling goes?

14 THE COURT: Yes.

15 MR. METCALF: No. This -- this is new by me. I
16 just learned about it this morning.

17 THE COURT: All right.

18 MR. METCALF: And I have no problem proceeding
19 today on Mr. Pezzola's --

20 THE COURT: Well, you're lead counsel.

21 MR. METCALF: Yes.

22 THE COURT: So very well.

23 MR. METCALF: I just wanted your Honor to know and
24 let the record reflect that.

25 Thank you.

1 THE COURT: All right.

2 MR. PATTIS: I had a left-handed request --
3 recommendation, and I've been ordered to speak more slowly
4 by the court reporter.

5 Have you ever considered bringing all counsel into
6 chambers for an off-the-record trial management discussion?
7 It's harder to do some things in public than it is
8 privately. And so some of the -- you know, I take your
9 concerns very much to heart and get it. And there may be --
10 so I offer that suggestion for what it's worth.

11 THE COURT: Mr. Pattis, I think everything that we
12 do here should be in public. I take the right to a public
13 trial very seriously.

14 MR. PATTIS: Okay.

15 THE COURT: And it's certainly not the practice in
16 this courthouse to do that and it's certainly not my
17 practice.

18 MR. PATTIS: Great.

19 THE COURT: So I have not considered that.

20 MR. PATTIS: Fair enough.

21 THE COURT: And I don't expect to consider it
22 going forward.

23 Let me ask the Government -- again, I guess the
24 one other thing we could do while we're waiting is, how long
25 do you expect your direct of this witness to be? Whoever is

1 best positioned to answer that question.

2 MR. MULROE: Good morning, your Honor. Conor
3 Mulroe for the United States.

4 We expect probably in the neighborhood of two and
5 a half hours of direct. It will be a more lengthy witness.

6 THE COURT: All right.

7 MR. MULROE: On the topic of that witness, I've
8 spoken with the counsel who are present and we've got a
9 demonstrative map, not to be offered into evidence, on the
10 easel right there. Just for the sake of efficiency, we'd
11 ask the Court's permission to have that up ahead of time
12 when the jury comes in. Obviously, Ms. Hernández has not
13 weighed in on that, but I've heard no objections from the
14 counsel who are present.

15 THE COURT: All right. Any objection?

16 MR. HASSAN: No objection from Tarrio, Judge.

17 MR. SMITH: No objection.

18 But while we have some time waiting for
19 Ms. Hernández, I think one issue that we might profitably
20 discuss now is whether this witness will be a means to
21 introduce some of the tools evidence that the Government has
22 been referring to. And if so, I think there could be a
23 preliminary proffer from the Government on what the
24 connection between these Defendants and videos -- these
25 protesters and videos have to these Defendants.

1 THE COURT: It may be tools --

2 Well, Mr. Mulroe, why don't you just let me know
3 if we're likely to have any dispute between the parties
4 about that or anything else about this witness that I can
5 address now. Again, that's just out of -- for efficiency's
6 sake.

7 MR. MULROE: Your Honor, I don't expect that there
8 will be a dispute. Certainly I don't think there should be
9 a dispute.

10 This witness is going to be largely an overview
11 witness who gives the account of the progression of the riot
12 throughout the course of the day. He's not going to zero in
13 on, you know, specific individuals so much as provide the
14 big picture, including some of his firsthand observations on
15 the ground. So there will be individuals shown.

16 I think that every one of the videos that we
17 intend to put in through the first witness, Inspector Loyd,
18 either has the Defendants themselves visible in the video
19 or, in the limited number where the Defendants may not be
20 depicted, it is members of the marching group that they led
21 to the Capitol, which we understand, pursuant to the Court's
22 ruling on the motions *in limine*, is sort of fair game under
23 the tools theory.

24 (Thereupon, Ms. Hernández entered the courtroom
25 and the following proceedings were had:)

1 THE COURT: Right. All right. So it sounds like
2 there won't be a dispute there. And even after -- even sort
3 of slightly beyond what Mr. Mulroe mentioned, as you all
4 know, I have ruled the Government has some leeway even to go
5 beyond what Mr. Mulroe laid out in terms of proving the
6 charge relating to civil disorder.

7 So, you know, they have a little leeway there. So
8 it sounds like we won't have a dispute.

9 MR. MULROE: And your Honor, I'll just note, for
10 counsel's benefit, in our preliminary exhibit productions,
11 we had what we call the riot montage. It was kind of a
12 stitched-together -- different footage from different places
13 throughout the 6th at the Capitol.

14 We're not going to offer that through this
15 witness. We've elected instead to just offer the individual
16 pieces of footage kind of separately, as separate exhibits.
17 I just preview that for the benefit of counsel.

18 THE COURT: All right.

19 MR. HASSAN: Judge, there is one thing about some
20 of the statements that this officer can make, and most
21 importantly, based upon one of the 302s that were provided
22 regarding this witness that we anticipate his testimony
23 could be some of the incidents that occurred with Ms. Ashli
24 Babbitt. I don't know if the Government intends to go into
25 that. That would be highly prejudicial, and I don't

1 anticipate the Government going into that. But that's going
2 to be a concern that the defense would have, and that would
3 be one of the objections I would be raising throughout the
4 testimony, Judge.

5 THE COURT: Mr. Mulroe?

6 MR. MULROE: Your Honor, as the Court is aware,
7 there was an officer-involved shooting; Capitol Police
8 officers outside the -- near the House chamber fired upon
9 rioters who were trying to make entry into the chamber and
10 Ashli Babbitt, as he mentioned, was killed in that episode.

11 That certainly is not going to be any prominent
12 feature of Inspector Loyd's testimony. I do think that the
13 fact that shots were fired within the Capitol Building is an
14 important thing that happened in the course of the day that
15 did affect the responses and the reactions of any number of
16 officers who are going to testify. So that is going to be
17 mentioned in the trial. But we're certainly not going to
18 dwell on it or go into detail or talk about what Ms. Babbitt
19 was doing or anything like that. No videos of that, no
20 photos of that.

21 THE COURT: That doesn't seem to me objectionable,
22 given the fact that a shot was fired or whatever was
23 happening in some other part of the Capitol might have
24 affected the goings-on that they're going to present.

25 MR. HASSAN: Judge, but nonetheless, there's no

1 connection between what occurred with -- where the shots
2 fired were and none of these individuals that are here
3 present, nor Proud Boys, per se, Judge.

4 THE COURT: I mean, that's true, and you can make
5 that clear on cross. You know, if they're not going to
6 dwell on it, I assume you're not going --

7 The fact that she was killed, is that going to be
8 part of what someone testifies to?

9 MR. MULROE: I don't expect that it would, your
10 Honor. We wouldn't seek to elicit that fact. I think it's
11 going to be along the lines of an officer testifies: I was
12 in this place doing this thing and then I heard on the radio
13 that shots were fired and so I responded to another place
14 based on hearing that.

15 THE COURT: Okay.

16 MR. PATTIS: Judge, I understand you don't want
17 and will not permit speaking objections. I anticipate, with
18 an overview witness, a lot of offering of evidence on the
19 grounds of present sense impressions. And certainly I get
20 that.

21 But to the degree that this officer seeks to draw
22 conclusions from those sensory impressions about states of
23 mind or otherwise, we'll just tender a one-word objection,
24 "Speculation," at that point, and that's what we'll be
25 signaling, that we think that it goes beyond a present sense

1 impression.

2 THE COURT: All right. We'll take that up as it
3 comes.

4 Ms. Hernández, can I call you up to the podium,
5 please.

6 MS. HERNANDEZ: Good morning, your Honor.

7 THE COURT: Good morning.

8 Do you have an explanation as to why you're 25
9 minutes late?

10 MS. HERNANDEZ: Right. I have a cold. I don't
11 know if the Court has heard me sneezing and hacking in the
12 back. And I've been testing for COVID every other day since
13 my son was exposed.

14 And I wasn't feeling well this morning. I had
15 tested yesterday. I wouldn't ordinarily -- I decided I'd
16 better test. And that test takes longer -- you have to wait
17 15 minutes for the results. So that's why I'm late.

18 THE COURT: Ms. Hernández, it's not -- I'm sorry
19 you feel bad. I'm glad you're negative. But that's not a
20 sufficient explanation given the number of people we have in
21 this courtroom waiting for you.

22 MS. HERNANDEZ: Right.

23 THE COURT: I understand the test takes 15
24 minutes. If you're not feeling well, get up 15 minutes
25 earlier, take your test and either you'll be here -- you

1 know, either you're here or not. The next time this
2 happens, you know, I'll bring the jury in and have them sit
3 there and we'll all wait collectively.

4 The reason I'm saying this, again, is not -- you
5 know, I wouldn't be saying this if it was the first time.
6 But throughout the pretrial proceedings here, you have been
7 late on many occasions. And we just have too many people
8 here waiting for all of us to be here for the parties not to
9 be prompt.

10 MS. HERNANDEZ: Correct. You know, I was late
11 when -- the first day when my son exposed me to COVID and,
12 unexpectedly, I needed to test. I don't believe I've been
13 late at other occasions. But I'll take the Court's -- the
14 Court asked for the explanation. That's what happened this
15 morning.

16 THE COURT: All right. I'm glad you're not
17 seriously sick.

18 MS. HERNANDEZ: I mean, I'm not feeling well, but
19 I understand my responsibility. I understand the number of
20 people that are sitting here waiting.

21 THE COURT: All right. Everyone should be on
22 notice that it is a possibility that I will simply just put
23 the jury in the box and wait for whoever is late.

24 MS. HERNANDEZ: And although I'd prefer not to
25 wear a mask, I -- just out of courtesy to others, I've been

1 wearing it just in this case.

2 THE COURT: And as I've said from the beginning,
3 masks are optional. While I'm not ordering counsel to wear
4 masks, masks are perfectly -- if counsel would like to wear
5 a mask, they're perfectly entitled to that.

6 All right. Let's bring in the jury.

7 Mr. Pattis, I appreciate you previewing -- I think
8 that's an efficient way to proceed. If you have something
9 you think is going to come up, to just preview it like you
10 did for me.

11 MR. PATTIS: Yes, sir.

12 THE COURTROOM DEPUTY: Jury panel.

13 (Whereupon, the jury entered the courtroom at 9:32
14 a.m. and the following proceedings were had:)

15 THE COURT: You all may be seated.

16 Ladies and gentlemen, good morning. Welcome back.

17 THE JURY: Good morning.

18 THE COURT: A few housekeeping notes for you all:
19 Number one, today we're only going to be going until 12:00
20 noon. For various reasons, on Fridays, in part to allow me
21 to attend to totally unrelated matters, we may have
22 truncated days on Fridays; in some instances, we may not sit
23 on Fridays at all. I'll try to give you more notice than
24 I'm giving you today about what our schedule will be in
25 advance. But just so you all know, that's our timing for

1 today.

2 Second, as to the monitor, we had someone look at
3 it. They weren't able to address it before this morning.
4 The jurors who don't have that monitor near them obviously
5 still have the big screen. But after we wrap up today,
6 there is going to be somebody to look at it, and I think be
7 able to complete that fix, so that monitor will be taken
8 care of.

9 Defendant Biggs -- just so you all know, Defendant
10 Biggs has elected at this time to reserve giving an opening
11 statement, as is his right. You should not hold that
12 against him in any way.

13 So we'll now turn to the Government's case, and
14 I'll ask the Government to call their first witness.

15 MR. MULROE: Your Honor, the United States calls
16 Thomas Loyd.

17 THE COURTROOM DEPUTY: Will you please remain
18 standing and raise your right hand.

19 THOMAS LOYD, GOVERNMENT WITNESS, SWORN.

20 THE COURTROOM DEPUTY: Thank you. You may be
21 seated.

22 DIRECT EXAMINATION

23 BY MR. MULROE:

24 Q. Good morning, sir.

25 A. Good morning.

1 Q. Why don't you start by telling the jury, where do you
2 work?

3 A. I work for the United States Capitol Police.

4 Q. And what's your position with --

5 THE COURT REPORTER: Could you just have him state
6 his name for the record, please, and spell it?

7 MR. MULROE: Apologies.

8 BY MR. MULROE:

9 Q. Sir, please start by stating and spelling your name for
10 the court reporter.

11 A. Inspector Tom Loyd, L-O-Y-D.

12 Q. Inspector Loyd, you were telling us you work at Capitol
13 Police. Do you have a particular position there?

14 A. Yes. I'm currently assigned as the division commander
15 at the United States Capitol Building.

16 Q. So division commander. Tell us, where does that fall in
17 the chain of command for the Capitol Police?

18 A. You have the first-line officers out in the field. Then
19 you have sergeants who supervise them. Above the sergeants
20 are the lieutenants. And above the lieutenants, you have
21 captains. And above the captains, you have inspector, my
22 position.

23 Q. And then what about -- above the inspector?

24 A. I'm sorry?

25 Q. What about above the inspector?

1 A. Above the inspector, you have -- you start with deputy
2 chief. Then the deputy chiefs report to the assistant
3 chiefs. And then the assistant chiefs report to the chief
4 of police.

5 Q. And so, in your position as inspector, there are
6 officers who are under your command?

7 A. Yes.

8 Q. How long have you been with the Capitol Police,
9 Inspector?

10 A. 32 years.

11 Q. And in your 32 years with the department, have you held
12 other positions?

13 A. Yes. I've been basically all around the Hill, working
14 mostly in the uniformed services bureau. I started off at
15 the Senate office buildings, went to the Library of Congress
16 office buildings. Then I moved to the House office
17 buildings. And currently I've been at the Capitol for the
18 past four and a half years.

19 Q. And prior to joining the department, any other law
20 enforcement or military or professional experience?

21 A. No. Just school.

22 Q. Inspector, generally speaking, what goes on at the
23 Capitol?

24 A. The Capitol is the house of the legislative branch of
25 the government, comprised of the House of Representatives

1 and the U.S. Senate. And it's their job to legislate, put
2 bills together in order to forward to the president to sign
3 into law. It's also the Congress's -- another great
4 responsibility is their oversight over the rest of the
5 Federal Government.

6 Q. And who all works at the Capitol?

7 A. You have the members with the House of Representatives;
8 you have the U.S. senators; and you have the thousands of
9 staff members that work for the Congress.

10 Q. So thousands of people working for the members of
11 Congress?

12 A. Yes.

13 Q. What all do they include?

14 A. They just keep the individual offices running. On the
15 House side, it's much bigger, obviously; you have 435
16 members on the House, so they have tens of thousands of
17 employees.

18 On the Senate, it's a little bit smaller because
19 there's only 100 senators, so a lot less on the Senate.

20 Q. And are there also kind of maintenance staff and just
21 general upkeep and people who keep the lights on?

22 A. Yes. We have the Architect of the Capitol that's
23 responsible for the maintenance and the upkeep of the
24 building.

25 Q. Inspector, you mentioned the senators and the

1 representatives. Apart from members of Congress, are there
2 other what we might call VIPs who come to the Capitol
3 Building from time to time?

4 A. Yes. We have a very -- a lot of visitors, ranging from,
5 you know, the vice president, the president, heads of state,
6 ambassadors, prime ministers from all over the world come to
7 visit the Congress on a regular basis.

8 Q. What about ordinary Americans? Do people come from
9 other parts of the country to visit?

10 A. Yes. Actually, all over the world. The buildings just
11 recently opened up to pubic tours, so anybody from all over
12 the world can come visit, and they do.

13 Q. Is the Capitol an important place?

14 A. Yes.

15 Q. Now, Inspector, as part of your work with Capitol
16 Police, are you familiar with the location and layout of the
17 Capitol?

18 A. Yes.

19 Q. Where is the Capitol located geographically?

20 A. It's in the center of the city. The official address is
21 No. 1 First Street, Northwest.

22 Q. The city being the District of Columbia?

23 A. Yes.

24 Q. And what all does the Capitol property writ large
25 consist of?

1 A. It consists of the grounds and a couple dozen buildings
2 overall between the House buildings, the Senate buildings
3 and so forth. A couple dozen buildings on the grounds.

4 Q. Inspector, I'm going to direct you to the poster that's
5 over your shoulder there that's marked Government Exhibit
6 106 for identification.

7 Does that demonstrative exhibit help to illustrate
8 the layout of the parts of the Capitol grounds that are
9 going to be most relevant to your testimony?

10 A. Yes.

11 Q. And so what all do we see on the map, 106, up there?

12 A. You'll see the outline of the Capitol Building itself
13 and you'll also have a depiction of the inaugural stage
14 right below it.

15 Q. And if you would, could you orient us as to which
16 direction is which on the map in terms of north, south,
17 east, west?

18 Inspector, I'll ask you, if you step away from the
19 microphone, with the Court's permission, to really make your
20 voice loud without the microphone.

21 A. This is the outline of the United States Capitol. Up
22 there above, this is the inaugural stage that was in place
23 on January 6th. This is the north side of the building
24 where the U.S. Senate resides. In the middle is the Rotunda
25 with the circle. And on the south side is the House of

1 Representatives, where they meet.

2 Q. And what about the green area down on the bottom of the
3 poster?

4 A. The green area is the west front of the Capitol. And we
5 have the Pennsylvania Avenue walkway that comes down, the
6 Peace Circle, Peace Monument. And you have the Maryland
7 Avenue walkway that goes down to Garfield Circle.

8 Q. Thank you, Inspector. You can return to the stand.

9 A. (Witness complies.)

10 MR. MULROE: And if we could have the display only
11 for the witness.

12 I'm going to ask Ms. Rohde if you could pull up
13 Government Exhibit No. 105.

14 MR. PATTIS: I didn't hear the number, sir.

15 MR. MULROE: 105.

16 Apologies. I'm not sure if I'm supposed to have
17 that on this monitor.

18 Thank you, Madam Deputy.

19 BY MR. MULROE:

20 Q. Inspector, do you recognize what's on your screen as
21 Government 105?

22 A. Yes.

23 Q. What's that?

24 A. That's a picture of the United States Capitol Building,
25 to include the inauguration stage.

1 Q. It's kind of a computer rendering of the building?

2 A. Yes.

3 Q. And is it accurate?

4 A. Yes.

5 MR. MULROE: Move to admit 105.

6 THE COURT: Without objection.

7 MR. HASSAN: No objection.

8 (Whereupon, Government's Exhibit No. 105 was
9 entered into evidence.)

10 MR. MULROE: Let's publish that to the jury with
11 the Court's permission.

12 THE COURT: Permission to publish.

13 BY MR. MULROE:

14 Q. If you could just point out to the jury, Inspector, what
15 the parts of the building are that you had pointed to us on
16 the map earlier.

17 A. Yes. In the middle you have the complete building. You
18 see the dome in the middle of the Rotunda. And to the left
19 of the dome is the United States Senate wing, which houses
20 the U.S. Senate. And to the right on the south side is the
21 House of Representatives. That's where they meet, the House
22 wing.

23 Q. So with the Senate on the north end, House on the south,
24 are we viewing the Capitol in this rendering from the west
25 side?

1 A. Yes. The west side.

2 MR. MULROE: If we could have the screen just for
3 the witness.

4 And I'm going to ask Ms. Rhode, if you would, to
5 show in sequence Government's Exhibits 101 through 104.
6 Just pause on each one for a moment.

7 BY MR. MULROE:

8 Q. Did you get a chance to see 101 through 104, Inspector?

9 A. Yes.

10 Q. And what are those?

11 A. The blueprints of the Capitol Building.

12 Q. And is it one diagram for each floor?

13 A. Yes.

14 Q. Are you familiar with those from your work?

15 A. Yes.

16 Q. And are those accurate?

17 A. Yes.

18 MR. MULROE: Move to admit Government Exhibit 101
19 through 104.

20 MR. HASSAN: No objection.

21 MR. PATTIS: No objection.

22 THE COURT: No objection.

23 (Whereupon, Government's Exhibit Nos. 101 through
24 104 were entered into evidence.)

25 THE COURT: And permission to publish.

1 MR. MULROE: Thank you.

2 Ms. Rohde, if you could show those one by one to
3 the jury.

4 THE COURT: To be clear, they'll be admitted
5 without objection, and permission to publish.

6 MR. PATTIS: Brief moment with the Government,
7 Judge.

8 (Discussion had off the record between counsel.)

9 MR. PATTIS: Thank you, sir.

10 BY MR. MULROE:

11 Q. So, Inspector, moving from the layout of the Capitol to
12 the structure of the Capitol Police, tell us, what is the
13 mission of the United States Capitol Police?

14 A. Protect the Congress.

15 Q. And what is the size of the entire department overall?

16 A. It fluctuates. Currently, I believe we have
17 approximately 1800 sworn, approximately 400 to 500 civilian.
18 But it does fluctuate.

19 Q. Do those sworn and civilian employees exercise different
20 responsibilities, depending on their role?

21 A. Yes.

22 Q. What kinds of things are those?

23 A. The sworn would deal with law enforcement issues or
24 security. The civilians would mostly do administrative
25 tasks.

1 Q. You described some of them as sworn officers, Inspector.
2 Do the sworn officers take any type of oath when they join
3 the department?

4 A. Yes.

5 Q. Sitting here today, do you remember the entire oath?

6 A. I'm familiar with it.

7 Q. Do you have it memorized?

8 A. No, I do not.

9 Q. Is there something that would refresh your memory about
10 the oath?

11 A. Yes.

12 MR. MULROE: May I approach the witness, your
13 Honor?

14 THE COURT: Yes, you may.

15 BY MR. MULROE:

16 Q. Inspector, does that paper I've handed you refresh your
17 memory of the full text of the oath of office for Capitol
18 Police?

19 A. Yes.

20 Q. What is that oath?

21 A. Do you want me to read it?

22 Q. Yes, please.

23 A. Okay. I, Tom Lloyd, do solemnly swear that I will
24 support and defend the Constitution of the United States
25 against all enemies, foreign and domestic, that I will bear

1 true faith and allegiance to the same, that I take this
2 obligation freely, without any mental reservation or purpose
3 of evasion, and that I will and [sic] faithfully discharge
4 the duties of the office on which I'm about to enter, so
5 help me God.

6 Q. So, Inspector, when you joined 32 years ago, you took
7 that oath?

8 A. Yes.

9 Q. And all the officers under your command, do they take
10 that oath?

11 A. Yes.

12 MR. PATTIS: Judge, that should be marked as a
13 full exhibit if he's now read it into the record.

14 THE COURT: It was used to refresh recollection.

15 MR. PATTIS: But it's not been marked, and he was
16 reading from a document not in evidence. We'd ask that it
17 be marked as a full exhibit.

18 MR. MULROE: Your Honor, I think the jury heard
19 the text, and the transcript is going to reflect that. We
20 don't object to marking it.

21 THE COURT: We'll mark -- we'll take this up at
22 the next break.

23 Continue, counsel.

24 BY MR. MULROE:

25 Q. Inspector, in carrying out its mission, does the Capitol

1 Police ever have opportunity to cooperate with other law
2 enforcement agencies?

3 A. Yes.

4 Q. Which ones, primarily?

5 A. Several. The primary one that we deal with is the
6 United States Secret Service. They have a five-agent team
7 who is permanently assigned to the United States Capitol,
8 and I work with them on a daily basis to ensure that any
9 protectee under Secret Service protection -- that we make
10 sure the arrival of the visit and the departure goes
11 smoothly.

12 Q. Does the Capitol Police sometimes cooperate also with
13 Metropolitan Police Department?

14 A. Yes.

15 Q. How does that happen?

16 A. Just on a mutual support basis, depending on the event
17 or the need.

18 Q. Inspector, if you could -- the microphone is
19 adjustable -- to make sure it's pointed directly at your
20 mouth there so the jury can hear you.

21 A. Got it. Thank you.

22 Q. The Metropolitan Police Department, is that just kind of
23 the local city police for D.C.?

24 A. It's the city police that has jurisdiction throughout
25 the entire city.

1 Q. Now, Inspector, looking back over your 32-year career,
2 have there been times in your work when large groups of
3 people have gathered at the Capitol?

4 A. Yes.

5 Q. In the course of your career, have there been episodes
6 of violence at the Capitol?

7 A. Yes.

8 Q. And throughout your career, does any one event stand out
9 to you?

10 A. January 6th.

11 Q. What happened on January 6th?

12 A. There was a very large riot that day.

13 Q. In the course of that large riot, did rioters get inside
14 the building?

15 A. Yes.

16 Q. And the rioters getting in the building, Inspector, did
17 that happen all at once or did that take place kind of step
18 by step?

19 A. Step by step.

20 Q. Was there what we might call a series of breaches?

21 A. Yes.

22 Q. I'm going to walk you through the day with a focus on
23 some of the major breaches. And when I do that, would it be
24 helpful to you to use audio and visuals to help you tell the
25 story?

1 A. Yes.

2 Q. I'm going to ask you about a couple categories, then.

3 First, Inspector, does the Capitol use a system of
4 security cameras --

5 A. Yes.

6 Q. -- as part of its routine operations?

7 A. Yes.

8 Q. Are you familiar with how those work?

9 A. Yes.

10 Q. And in your experience working with the cameras, are
11 those a reliable way of recording what's taking place at a
12 given location?

13 A. Yes.

14 Q. When those cameras record footage, do they also record a
15 timestamp that indicates what time of day it was when any
16 particular footage was taken?

17 A. Yes.

18 Q. In your experience, are those accurate?

19 A. Yes.

20 MR. MULROE: May I approach with a set of
21 exhibits, your Honor?

22 THE COURT: You may.

23 BY MR. MULROE:

24 Q. Inspector Loyd, I've handed you a USB drive that's
25 labeled CCTV, and that contains media files that are marked

1 Government Exhibits 111 through 180.

2 Before coming to court today, did you have a
3 chance to open up that drive and review all the video files
4 on the drive?

5 A. Yes.

6 Q. And are those your initials on the drive indicating
7 that's the one you reviewed?

8 A. Yes.

9 Q. Is each of the files on that drive a clip from the
10 Capitol Police security cameras on January 6th, 2021?

11 A. Yes.

12 Q. And these clips collectively, do they show the overall
13 progression of events on the 6th?

14 A. Yes.

15 Q. Does each of those clips fairly and accurately depict
16 what was happening at each respective time and place?

17 A. Yes.

18 Q. And based on your knowledge of the camera system, do the
19 timestamps on those videos actually reflect what time it was
20 when all the footage was taken?

21 A. Yes.

22 MR. MULROE: Your Honor, we move to admit the set
23 of Government Exhibits 111 through 180.

24 MR. PATTIS: Brief voir dire, Judge?

25 THE COURT: Pardon me?

1 MR. PATTIS: Brief voir dire on the question of
2 its admissibility?

3 THE COURT: Do you have an objection? What's your
4 objection?

5 MR. PATTIS: I don't know who prepared the overall
6 progression of events. In other words, this is a document
7 that has been edited. The Government asked: Does it show
8 the overall progression?

9 Who assembled that overall progression and by what
10 means?

11 THE COURT: The witness has -- the objection is
12 overruled.

13 MR. MULROE: Are the exhibits admitted, your
14 Honor?

15 THE COURT: Any other objection?
16 They will be admitted.

17 (Whereupon, Government's Exhibit Nos. 111 through
18 180 were entered into evidence.)

19 BY MR. MULROE:

20 Q. Moving on, Inspector, does the Capitol Police Department
21 also use radios as part of its routine operations?

22 A. Yes.

23 MR. MULROE: May I approach again, your Honor?

24 THE COURT: Yes, you may.
25

1 BY MR. MULROE:

2 Q. Inspector Loyd, I've handed you another drive that's
3 labeled USCP radio runs. And that contains media filings
4 that are marked Government Exhibits 354 through 398.

5 Did you review those files before coming to court
6 today?

7 A. Yes.

8 Q. And are they all clips from the Capitol Police radio on
9 January 6th?

10 A. Yes.

11 Q. Does each one of those clips contain a statement from
12 one or more officers that they made sort of in real time
13 about their activities as events were progressing on the
14 6th?

15 A. Yes.

16 Q. And for each clip, does the audio in the file fairly and
17 accurately reproduce what was transmitted over the Capitol
18 Police radio on the 6th?

19 A. Yes.

20 Q. Those clips are in the form of a short video file that
21 has a transcript visible. Is that correct?

22 A. Yes.

23 Q. And are each of those transcripts accurate?

24 A. Yes.

25 Q. Does each of the clips have a timestamp that indicates

1 when the particular transmission occurred?

2 A. Yes.

3 Q. Inspector, how does one know what time a particular
4 radio transmission happened?

5 A. Every time there's a radio transmission by anybody, the
6 dispatcher gives a timestamp over the air.

7 Q. And so based on your review of the clips on that drive,
8 are each of the timestamps on each of the files accurate?

9 A. Yes.

10 MR. MULROE: Move to admit Government Exhibits 354
11 through 398.

12 MR. PATTIS: Request for voir dire of who selected
13 what and when.

14 THE COURT REPORTER: I'm sorry. Who is speaking,
15 please?

16 MR. PATTIS: Pattis on behalf of Biggs. Request
17 for voir dire for grounds similar to previously.

18 THE COURT: I'm going to overrule the objection.

19 But I'm admitting -- let me amend my prior ruling
20 about 111 through 180 and apply it to 354 to 398. They'll
21 be conditionally admitted subject to any relevance objection
22 that, as the Government uses any of these particular
23 materials, if the defense wants to make a relevance
24 objection, I'll certainly hear that.

25 MS. HERNANDEZ: Your Honor, I wasn't clear from

1 the testimony if those exhibits include the transcripts of
2 the radio runs.

3 THE COURT: Mr. Mulroe, do they?

4 MR. MULROE: I think the testimony was that they
5 do.

6 MS. HERNANDEZ: There are objections on the
7 transcripts, which don't need to be raised at this moment.
8 Just so the Court knows that there are objections to the
9 transcripts on two different grounds.

10 THE COURT: So I'm going to conditionally admit
11 these exhibits subject to objections that may come up to
12 relevance or any other particular objections you may have
13 going forward.

14 MS. HERNANDEZ: Thank you.

15 (Whereupon, Government's Exhibit Nos. 354 through
16 398 were entered into evidence.)

17 BY MR. MULROE:

18 Q. Inspector Loyd, apart from the footage from the security
19 cameras, are you familiar with other images and videos that
20 were captured on January 6th?

21 A. Yes.

22 Q. Do those include photos and videos taken by the Capitol
23 Police crime scene squad?

24 A. Yes.

25 Q. Do they include body-worn camera footage from

1 Metropolitan Police Department officers who responded?

2 A. Yes.

3 Q. Do they include photos and videos taken by journalists
4 or reporters who were present at the scene?

5 A. Yes.

6 Q. Do they include photos and videos taken by members of
7 the crowd?

8 A. Yes.

9 MR. MULROE: May I approach once more, your Honor?

10 THE COURT: You may.

11 BY MR. MULROE:

12 Q. I've handed you a drive labeled Other Media that
13 contains each of the following exhibits: Government
14 Exhibits 200 through 235; 259; 261; 411-A through D; 414-A
15 and B; 415; 417; 425; 429-C; 430-A; 432; 434; 446-A; 451;
16 454; 455-A; 456; 457; 460; 468; 477; 478; 479-A through D;
17 and 499-A through D.

18 Inspector, based on your experience on
19 January 6th, does each of those videos or photos fairly and
20 accurately depict things that took place on the Capitol that
21 day?

22 A. Yes.

23 MR. MULROE: Your Honor, subject to the same
24 condition of relevance, we'd move to admit each of those
25 exhibits.

1 MR. PATTIS: We'd reserve on -- the right to
2 object on a case-by-case basis. If he saw it and he knows
3 it to be fair and accurate, he can authenticate it;
4 otherwise, he can't.

5 THE COURT: He has already testified that he had
6 seen it and it is fair and accurate.

7 So they're admitted, subject to the relevance
8 objection that the Defendants may raise on a case-by-case
9 basis.

10 MR. PATTIS: Reserve a right to argue.

11 (Whereupon, Government's Exhibit Nos. 200 through
12 235; 259; 261; 411-A through D; 414-A and B; 415; 417; 425;
13 429-C; 430-A; 432; 434; 446-A; 451; 454; 455-A; 456; 457;
14 460; 468; 477; 478; 479-A through D; and 499-A through D
15 were entered into evidence.)

16 THE COURTROOM DEPUTY: Judge Kelly, I apologize,
17 but I'm going to need counsel to go through that list again
18 that we're admitting, the list of numbers.

19 THE COURT REPORTER: I can give it to you later.

20 THE COURTROOM DEPUTY: Okay.

21 BY MR. MULROE:

22 Q. Inspector, let me take you first to the general
23 timeframe of January 6th and early January of 2021.

24 Was there anything that was structurally different
25 about the Capitol grounds during that time?

1 A. Yes. Every four years, an inaugural stage is built on
2 the west front of the Capitol. It begins in the fall and is
3 completed before the inauguration early in the following
4 year.

5 MR. MULROE: Ms. Rohde, if we could have
6 Government 105, which has been admitted, on the screen.

7 BY MR. MULROE:

8 Q. Can you point out to us the inaugural stage on this
9 exhibit?

10 A. (Witness indicates.)

11 Q. And does the stage appear on the large demonstrative map
12 that's behind you?

13 A. Yes.

14 Q. Is it the kind of spaceship-looking thing in the middle
15 there?

16 A. Yes. Just below the building.

17 Q. On the day of the 6th itself, was the platform finished
18 or was it still under construction?

19 A. No, it was still an active construction site.

20 Q. So were there workers there?

21 A. Yes.

22 Q. Now, again, in general, Inspector, are members of the
23 public allowed to come inside of the Capitol Building?

24 A. Yes.

25 Q. Are they subject to any security restrictions?

1 A. Yes.

2 Q. Tell us about those.

3 A. Anybody who enters the Capitol Building who is not a
4 member of Congress or law enforcement has to go through a
5 basic airport security screen. The person has to walk
6 through a magnetometer to make sure there's nothing
7 nefarious on their person. If they have any bags with them,
8 the bags have to go through an x-ray machine to make sure
9 there's nothing nefarious in the bags.

10 Q. What's the purpose of those procedures?

11 A. Security. Just to make sure there's no weapons coming
12 in the building.

13 Q. What about specifically on January 6th? If someone was
14 willing to go through the whole airport screening, would
15 they be allowed inside the Capitol?

16 A. If they were a member of Congress, a staffer or an
17 invited guest, they could enter the building once going
18 through the security.

19 Q. What about anyone else?

20 A. No. It was not open to the public.

21 Q. Why was that?

22 A. Two reasons: Number one, the buildings at the time were
23 completely shut down to the public because of the COVID
24 virus. And on this particular day, we had the presidential
25 ballot process, the certification process being held.

1 Q. Inspector, apart from the building itself, I'll ask you
2 the same question about the grounds of the Capitol. Are the
3 Capitol grounds usually open to the public?

4 A. Yes.

5 Q. What about on January 6th?

6 A. They were partially open. On the east side, the east
7 plaza, which is the paved portion on the east side where the
8 vehicles are parked, that was bike racked off to segregate
9 protesters from the members and the staff.

10 On the west side, the west -- the entire west half
11 of the square was cordoned off. Originally, it was cordoned
12 off for the stage itself, the inauguration stage. But then,
13 late Friday, on January 5th into early morning January 6th,
14 the entire square was reinforced with a bike rack.

15 MR. MULROE: If we could have the screen just for
16 the witness for a moment.

17 And I'll ask Ms. Rohde to please pull up
18 Exhibit 100.

19 BY MR. MULROE:

20 Q. Inspector, do you recognize what's shown here on the
21 screen?

22 A. Yes.

23 Q. What is this?

24 A. That's the outer perimeter that was in place on
25 January 6th.

1 MR. MULROE: Move to admit 100.

2 MR. PATTIS: No objection.

3 THE COURT: Without objection, it will be
4 admitted.

5 (Whereupon, Government's Exhibit No. 100 was
6 entered into evidence.)

7 THE COURT: And permission to publish.

8 BY MR. MULROE:

9 Q. So, Inspector, I think you started telling us; but this
10 red-line security perimeter, how, if at all, was that marked
11 or made apparent to members of the public on the 6th?

12 A. In addition to the bike rack itself, there were signs
13 posted periodically on the fence basically telling people
14 they could not enter that area.

15 Q. You said bike rack. Describe the bike rack in a little
16 more detail for us.

17 A. The bike rack is a piece of metal fencing. It looks
18 like a bike rack. In some places, it's actually bolted to
19 the ground so people can secure their bicycles in the
20 particular area. And we use it as a perimeter when needed.

21 Q. About how high is the bike rack?

22 A. Waist level, three or four feet.

23 Q. And what's it made of?

24 A. Metal.

25 Q. Aside from the bike rack, was there any other type of

1 barrier in place?

2 A. Yes. For the inauguration stage, every four years, up
3 until January 6th, we segregated the west front with green
4 snow fence just to keep people out. And the snow fence had
5 signs saying you cannot cross this area. And it was just
6 basically a way to segregate the stage because the stage was
7 a construction area.

8 Q. Inspector, you've mentioned signs. I'm going to hold up
9 what's marked Government Exhibit 74.

10 Do you recognize this?

11 A. Yes.

12 Q. What's this?

13 A. That's the signs that are used every four years for the
14 inauguration stage. And it was also used for the outer
15 perimeter on January 6th.

16 Q. And so -- did you say these signs were on the bike
17 racks?

18 A. Yes.

19 Q. And were they also on the snow fence?

20 A. Yes.

21 Q. Was that only on January 6th or was that some period of
22 time prior to January 6th?

23 A. The snow fence had it beginning back in the fall when
24 the construction was started. The bike rack received the
25 signs very shortly before January 6th.

1 MR. MULROE: Your Honor, we move to admit 74.

2 MR. PATTIS: No objection.

3 THE COURT: Without objection, it will be
4 admitted.

5 (Whereupon, Government's Exhibit No. 74 was
6 entered into evidence.)

7 THE COURT: And permission to publish.

8 MS. HERNANDEZ: I'm sorry, your Honor. I'm
9 standing at the back of room. This is just so I can see the
10 exhibits, because we can't see them from where they are,
11 just to let the Court know.

12 THE COURT: Very well.

13 BY MR. MULROE:

14 Q. Now, these "Area Closed" signs, Inspector, do you have a
15 count of how many there were?

16 A. No, I don't.

17 Q. Were they isolated or were there many of them?

18 A. The original signs on the snow fence was every few feet,
19 because we had plenty of time to hang those. The bike rack,
20 it was hit or miss. They were supposed to be on each piece
21 of bike rack. I'm not sure if every piece got hit, but
22 there was enough signs around -- on the bike rack that
23 people knew to stay out.

24 Q. You may have alluded to this earlier --

25 MR. HASSAN: Judge, I'm going to object to the

1 last statement of the witness as speculative.

2 THE COURT REPORTER: Who is speaking, please?

3 MR. HASSAN: Nayib Hassan on behalf of Tarrio.

4 Judge, that would be speculation. Judge, he's speculating
5 as to what individuals could see.

6 THE COURT: Overruled.

7 BY MR. MULROE:

8 Q. Inspector, you may have alluded to this a bit earlier --

9 THE COURT: Well, actually, let's have the
10 witness -- I'll strike the testimony -- so I'll just -- the
11 objection is sustained as to the conclusion about what other
12 people knew.

13 BY MR. MULROE:

14 Q. Inspector, I'll ask you the question this way: Was
15 there anyplace anywhere around that security perimeter where
16 these signs would not have been visible?

17 A. No.

18 Q. You may have mentioned this before, but was there any
19 reason that, on January 6th, there were extra signs and
20 measures in place?

21 A. Yes; because of the presidential ballot process that
22 day.

23 Q. And why did that make additional security necessary?

24 A. Oh, we were expecting a very large crowd that day.

25 Q. Were you aware on the 6th of whether there were any

1 permitted demonstrations planned?

2 A. Yes.

3 Q. Were any of those permitted demonstrations planned for
4 inside the restricted area?

5 A. No.

6 Q. Were any of those permitted demonstrations planned for a
7 place that might be mistaken for somewhere inside the
8 restricted area?

9 A. No.

10 Q. Now, the certification process, what, if any,
11 responsibilities did you personally have in connection with
12 the process?

13 A. I was responsible for routine operations within the
14 Capitol.

15 Q. And so what was kind of the primary mission or objective
16 for you that day?

17 A. Make sure the United States House of Representatives
18 gets to the House floor safely, along with their staff. The
19 same for the U.S. Senate. And also, the visit from the vice
20 president of the United States.

21 Q. On that last point, did you at all cooperate with other
22 law enforcement agencies in connection with your duties on
23 the 6th?

24 A. Yes. Early in the morning on January 6th, I met very
25 briefly with Paul Wade, who at the time was the lead agent

1 of the Secret Service team that's assigned to the Capitol,
2 just to go over the vice president's arrival. It was a very
3 short meeting because, prior to the COVID, the vice
4 president came up on a weekly basis, so it was pretty
5 routine for us.

6 Q. And the vice president, was that Mike Pence at the time?

7 A. Yes.

8 Q. And he was going to be present at the Capitol for the
9 certification on the 6th?

10 A. Yes.

11 Q. If you could walk us through the morning of the 6th.
12 When did your day start at work?

13 A. Around 7:30 in the morning.

14 Q. And what did you do at 7:30?

15 A. The first thing I did was meet with my sergeants, my
16 lieutenants and my captains to go over the COVID absences.
17 At that time, the COVID was a very hot issue, so I met with
18 them, and they assured me that it was very minor as far as
19 the absences and that operations would continue.

20 Q. Did you have any meetings with any other law enforcement
21 entities in the morning?

22 A. Yes. Around 9:30, I met very briefly with Paul Wade
23 that I just mentioned, just to go over the vice president's
24 arrival.

25 Q. Did you have any opportunity during the morning to go

1 outside the building?

2 A. Yes. Around 10:00, I went out on the east plaza just to
3 observe things. And I also met with the officers at the
4 barricade where the vice president was scheduled to arrive
5 just to make sure the barriers were working properly.

6 Q. So you said the east plaza. Would that be at the top of
7 the map that's behind you?

8 A. Yes.

9 Q. Were there crowds gathered on the east plaza when you
10 went out in the morning?

11 A. Yes.

12 Q. How would you characterize the crowds?

13 A. They were angry and making comments, inappropriate
14 comments.

15 Q. When you were outside in the morning, were all the
16 barriers that constituted the security perimeter still in
17 place?

18 A. Yes.

19 Q. Let me take you to about 11:00 that morning. What were
20 you doing at that time?

21 A. Making my rounds and checking on all the officers.

22 Q. And as you're making your rounds, are you monitoring
23 Capitol Police radio channels?

24 A. Yes.

25 MR. MULROE: I'm going to ask Ms. Rohde to play an

1 exhibit that's been conditionally admitted, and that is
2 Government's Exhibit 354.

3 MR. PATTIS: 354, sir?

4 MR. MULROE: 354.

5 (Whereupon, Government's Exhibit No. 354 was
6 published in open court.)

7 BY MR. MULROE:

8 Q. Inspector, with something like the certification taking
9 place, was it relevant to you, in the exercise of your
10 duties, whether there were large groups of people moving
11 together?

12 A. Yes.

13 Q. Why is that?

14 A. Just to make sure there was not going to be any
15 disruptions, pedestrian or vehicle obstructions to the
16 complex.

17 MR. MULROE: If we could have Government 355,
18 please.

19 (Whereupon, Government's Exhibit No. 355 was
20 published in open court.)

21 BY MR. MULROE:

22 Q. Inspector, you mentioned the vice president earlier and
23 his plans to come to the Capitol.

24 Did he, in fact, come to the Capitol that day?

25 A. Yes.

1 Q. Approximately when did that happen?

2 A. Between 12:35 and 12:40 in the afternoon.

3 Q. What, if anything, did you do in connection with the
4 vice president's arrival?

5 A. Just helped escort him to make sure he gets safely to
6 the Senate chamber.

7 Q. And so at 12:45, approximately, where were you then?

8 A. I was in the area of the Ohio Clock Hallway, adjacent to
9 the Senate chamber.

10 Q. Were you still monitoring the radio?

11 A. Yes.

12 MR. MULROE: Exhibit 358, please.

13 (Whereupon, Government's Exhibit No. 358 was
14 published in open court.)

15 BY MR. MULROE:

16 Q. What does condition yellow --

17 MS. HERNANDEZ: What exhibit was that?

18 MR. MULROE: 358.

19 BY MR. MULROE:

20 Q. What does condition yellow mean?

21 A. Condition yellow is the order that's given to raise
22 any -- there's four sets of barriers that protect the
23 Capitol square that can be activated at any time. If a
24 supervisor tells a particular checkpoint to go to condition
25 yellow, that means to safely raise the barriers to block any

1 vehicles coming up that way.

2 Q. Would this condition yellow have been any cause for
3 unusual alarm for you at that time?

4 A. No. We experience that all the time with large
5 pedestrian crowds.

6 MR. MULROE: Exhibit 359, please.

7 (Whereupon, Government's Exhibit No. 359 was
8 published in open court.)

9 BY MR. MULROE:

10 Q. Would this message have been a cause for concern for
11 you?

12 A. Yes.

13 Q. What, if anything, did you do when you heard this radio
14 call?

15 A. When I heard the radio call, I moved from the Ohio Clock
16 area into Senator McConnell's office, who was -- whose
17 office was right adjacent to the Ohio Clock, because his
18 office has the bird's-eye view of where the breach was
19 occurring.

20 Q. And Inspector, if you don't mind standing up, could you
21 point us roughly on the demonstrative where that office is
22 located?

23 A. His office would be in the area right around here,
24 looking down Pennsylvania Avenue to the Peace Monument where
25 the original breach took place.

1 Q. What did you see from the office?

2 A. I saw the --

3 Q. Inspector, you can return.

4 A. (Witness complies.)

5 Okay. When I looked out of the window, I saw
6 protesters breaching the barricades there and beating up my
7 officers.

8 MR. MULROE: Ms. Rohde, could we play Government
9 446-A.

10 (Whereupon, segments of Government's Exhibit No.
11 446-A were published in open court.)

12 MR. MULROE: We can pause there, please.

13 BY MR. MULROE:

14 Q. Tell us what we saw in this video, Inspector.

15 A. That's the original breach down at Peace Circle.

16 Q. And earlier in your testimony, you testified about a
17 series of breaches. Was this the first major breach?

18 A. Yes.

19 Q. Inspector, you've got a couple pieces of paper with tape
20 on them there. One of them has got a little 1 on the back.
21 If you would, take that sticker and place it on the map
22 where that first major breach took place.

23 A. (Witness complies.)

24 Q. You can take a seat. Thanks.

25 MR. MULROE: Your Honor, I'd note for the record

1 that the witness has placed a rectangle that says "Breach 1"
2 with an arrow pointing to the walkway going north from Peace
3 Monument on the demonstrative.

4 BY MR. MULROE:

5 Q. Inspector, did you continue to monitor the radio after
6 you saw this breach take place?

7 A. Yes, as well as responding to the west front to assist.

8 MR. MULROE: 360. Exhibit 360, please.

9 (Whereupon, Government's Exhibit No. 360 was
10 published in open court.)

11 BY MR. MULROE:

12 Q. What, if anything, did you do in response to this
13 breach?

14 A. Responded immediately to the stage, the west front.

15 Q. You physically went there?

16 A. Yes.

17 Q. Why did you do that?

18 A. To help.

19 Q. Did you take any action in terms of ordering anything?

20 A. Yes. When I got on the stage and saw the continued rush
21 of the crowd, I ended up locking down the Capitol Building
22 and calling for additional assets.

23 MR. MULROE: Ms. Rohde, Government Exhibit 361,
24 please.

25 (Whereupon, Government's Exhibit No. 361 was

1 published in open court.)

2 BY MR. MULROE:

3 Q. How common is it to order a lockdown of the Capitol?

4 A. It's very rare.

5 Q. Do you have a count of how many times it's happened in
6 your 32 years with the department?

7 A. Less than ten.

8 Q. And why did you think it necessary to order a lockdown
9 at this time?

10 A. Because the crowd was surging and was obviously --
11 eventually were going to make it to the edge of the
12 building.

13 Q. So we saw the video of the breach and the crowd rushing
14 forward. What actions did your officers take in response to
15 that?

16 A. Initially, retreating from Peace Circle, and then they
17 attempted to form -- did temporarily form a line at the
18 lower west terrace.

19 MR. MULROE: Ms. Rohde, if we could have
20 Government 160, please.

21 MR. PATTIS: That number again, please?

22 MR. MULROE: 160.

23 MR. PATTIS: Thank you.

24 MR. MULROE: I'll ask to go to timestamp 6:45 of
25 the video, 6 minutes 45 seconds.

1 BY MR. MULROE:

2 Q. Inspector Loyd, the Capitol Police security footage does
3 not have sound. Is that right?

4 A. It does not have sound.

5 Q. And what are we seeing here on Government 160 at
6 approximately the seven-minute mark?

7 A. This is a video of the crowd that has breached the
8 entire west front, surging up to the lower west terrace.

9 Q. As we watch them surge up to the terrace, are there any
10 physical barriers that we can see on the screen that are
11 between the crowd and the Capitol Building?

12 A. Yes. Through the middle of the screen, there's that
13 black fence that the crowd is walking up to. And that fence
14 is actually temporary. It's only brought out every four
15 years for the inauguration setup. And it's used to
16 segregate ticket holders who have invites to the actual
17 inauguration. That fence is used to segregate one set of
18 tickets from the other.

19 Q. You said it's temporary. Is it secured to the ground in
20 any way?

21 A. Yes. It is secured to the ground.

22 Q. What's it made of?

23 A. It's made of metal.

24 (Whereupon, segments of Government's Exhibit No.
25 160 were published in open court.)

1 MR. MULROE: Ms. Rohde, if you could pause it
2 there.

3 BY MR. MULROE:

4 Q. So at 7:57 of Government 160, Inspector Loyd, at this
5 point, has the crowd more or less stopped at this black
6 metal fence?

7 A. Yes.

8 Q. Were you in a position to see the crowd at this point?

9 A. Yes.

10 Q. Where were you?

11 A. I was out on the main -- in the center of the stage, out
12 in that area.

13 MR. MULROE: Government Exhibit 363, please.

14 (Whereupon, segments of Government's Exhibit
15 No. 363 were published in open court.)

16 MR. SMITH: That was 160, sir?

17 MR. MULROE: The video was 160. The radio
18 currently up is 363.

19 And we can start at the beginning, please.

20 (Whereupon, Government's Exhibit No. 363 was
21 published in open court.)

22 BY MR. MULROE:

23 Q. So 400 at the beginning, what's 400?

24 A. That's my call sign at the Capitol.

25 Q. And so that was you saying that they're getting ready to

1 take over the stage?

2 A. Yes.

3 Q. What are you referring to when you say the stage?

4 A. The stage is the inaugural stage for the president.

5 Q. And could you point out to us where you were concerned
6 on the map that the crowd might take over?

7 A. This is the outline of the inauguration stage for
8 January 6th. And I was worried they were going to take over
9 the entire stage.

10 Q. You can return to your seat.

11 A. (Witness complies.)

12 Q. What about the terrace area beneath the stage? Was the
13 crowd in that area at this point when they're at the black
14 fence?

15 A. Yes.

16 Q. Had they gotten past the black fence yet?

17 A. No.

18 Q. What was it about the crowd's behavior that made you
19 think they were going to take over the stage?

20 A. Just the angry animosity towards law enforcement that
21 day.

22 Q. And would they need to get across that black fence line
23 before they took it over?

24 A. Yes.

25 MR. MULROE: Government 417, please.

1 Ms. Rohde, if you could play the first few seconds
2 and then just pause it.

3 (Whereupon, segments of Government's Exhibit No.
4 417 were published in open court.)

5 BY MR. MULROE:

6 Q. So, Inspector, if you could just orient us to our
7 perspective here in terms of where the footage is being
8 taken from and which direction it's facing.

9 A. Yes. That footage is being taken from the crowd who has
10 approached that black fence on the lower west terrace. And
11 we're facing east.

12 MR. MULROE: Continue the video.

13 (Whereupon, segments of Government's Exhibit No.
14 417 were published in open court.)

15 MR. MULROE: Maybe another second or two.

16 (Whereupon, segments of Government's Exhibit No.
17 417 were published in open court.)

18 BY MR. MULROE:

19 Q. Inspector, we heard a voice say, "We are on the front
20 lines." Was this the front lines of the rioters at this
21 point?

22 A. Yes.

23 Q. And did members of the crowd eventually go through this
24 black metal fence?

25 A. Yes.

1 MR. MULROE: Continue the video.

2 (Whereupon, segments of Government's Exhibit No.
3 417 were published in open court.)

4 BY MR. MULROE:

5 Q. Once the crowd got past the black metal fence, was the
6 fence still in place?

7 A. No. It was destroyed.

8 Q. And other than breaking it, did the crowd do anything
9 else? Did anything else happen to that fence?

10 A. Yes. It was eventually broken apart, and each
11 individual bar that you saw there was -- a lot of it was
12 thrown at us as a weapon.

13 Q. The fence was?

14 A. Yes.

15 Q. Let's see another angle at Government 160, back to the
16 surveillance.

17 MR. MULROE: Ms. Rohde, if you would start that at
18 8:30, please. And just pause when you get to that
19 timestamp, if you would.

20 BY MR. MULROE:

21 Q. So I just want to note, Inspector, before we go on, what
22 is the time of day that the clip is starting at here, if we
23 look at the CCTV timestamp?

24 A. That's 12:58 p.m.

25 Q. 12:58 and 30 seconds?

1 A. 33 seconds. Yeah.

2 MR. MULROE: All right. Let's play the clip,
3 please.

4 (Whereupon, segments of Government's Exhibit No.
5 160 were published in open court.)

6 MR. MULROE: We can pause there.

7 BY MR. MULROE:

8 Q. What have we seen in this clip, Inspector?

9 A. You saw me walk out to the middle of the stage. Now I'm
10 off to the right here on the stage. And as the crowd
11 breached that fence line, I stepped back to make a radio
12 call to lock down the building and to request additional
13 resources.

14 Q. Now, the crowd going through this fence line here, is
15 that the second major breach of the day?

16 A. Yes.

17 Q. And you've got a sticker with a little 2 on it up there.
18 With the Court's permission, I'll ask you to step down and
19 place that sticker up on the map where Breach No. 2
20 occurred.

21 A. This is the black fence line right there. Breach No. 2.

22 MR. MULROE: Can we go back about ten seconds in
23 the video, Ms. Rohde. Maybe 8:40.

24 (Whereupon, segments of Government's Exhibit No.
25 160 were published in open court.)

1 BY MR. MULROE:

2 Q. And so looking at the footage, Inspector, did that
3 breach happen right in the middle, the center of the fence
4 line or was it kind of on one side or the other?

5 A. That was on the northern side of the lower west terrace.

6 Q. And so if you would, just put the sticker kind of on the
7 side that it took place.

8 A. (Witness complies.)

9 Q. I think you pointed out -- had you come onto the stage
10 at this point?

11 A. Yes.

12 Q. So you're watching these events?

13 A. Yes.

14 Q. Were your officers able to contain this breach?

15 A. No.

16 Q. Did they eventually take over this whole area, as you
17 predicted?

18 A. Yes.

19 MR. MULROE: Ms. Rohde, if we could resume the
20 video and bump it up to four-times speed so we can see kind
21 of a time lapse.

22 (Whereupon, segments of Government's Exhibit No.
23 160 were published in open court.)

24 MR. MULROE: And we'll pause that when it reaches
25 the 10:30 mark in the video.

1 (Whereupon, segments of Government's Exhibit No.
2 160 were published in open court.)

3 BY MR. MULROE:

4 Q. What do we see here, Inspector?

5 A. The crowd has surged to the base of the stage.

6 Q. Have they taken over the entire terrace area?

7 A. Yes.

8 Q. And if we look at the timestamp in the upper left, what
9 time of day is it where we've got the video paused at 10:31?

10 A. 1:00 p.m. and 31 seconds.

11 Q. So is that -- about two minutes have elapsed since we
12 saw the crowd at the fence at 12:58:33 p.m. earlier?

13 A. Yes.

14 Q. At this point of the day, how would you rate the overall
15 demeanor of the crowd on a scale from peaceful to violent?

16 A. Very violent.

17 Q. Tell us more about that.

18 A. Just the -- their actions, breaching the barricades,
19 physically assaulting my officers. At this point, they had
20 breached two fence lines and had assaulted the officers in
21 both occasions. And just the constant derogatory comments
22 that were coming from the crowd.

23 MR. MULROE: Ms. Rohde, if we could go to the
24 11:30 mark and then let it play at normal speed.

25 (Whereupon, segments of Government's Exhibit No.

1 160 were published in open court.)

2 BY MR. MULROE:

3 Q. Now, I see two figures walking up from the bottom of the
4 screen there. Who are they?

5 A. That's part of our less lethal team.

6 Q. What is the less lethal team?

7 A. Less lethal team has weapons assigned to them that are
8 used to not use deadly force, but we call them an
9 attention-getter, that they've been targeted and that they
10 need to cease their activities.

11 MR. MULROE: Ms. Rohde, could we have Government
12 Exhibit 364.

13 (Whereupon, Government's Exhibit No. 364 was
14 published in open court.)

15 BY MR. MULROE:

16 Q. In your 32 years with the Capitol Police, how often does
17 less lethal get called into action?

18 A. It's been called a few times. On January 6th, it was
19 the first time that it was actually used.

20 Q. And what was it about the events of January 6th that
21 warranted the use of this technique?

22 A. The actions of the crowd breaching the barricades and
23 assaulting the police officers.

24 MR. MULROE: 398, please.

25 (Whereupon, segments of Government's Exhibit

1 No. 398 were published in open court.)

2 MR. MULROE: Ms. Rohde, if we could bring it
3 somewhere in the middle and pause it so that the transcript
4 is visible.

5 (Whereupon, segments of Government's Exhibit
6 No. 398 were published in open court.)

7 BY MR. MULROE:

8 Q. Just to ask you about a couple of parts of that,
9 Inspector, I see a reference and we heard a reference to
10 giving warnings about chemical munitions.

11 What does warnings refer to?

12 A. A warning will consist of somebody on the scene telling
13 the crowd that we're getting ready to deploy less lethal
14 munitions.

15 Q. Did the crowd respond to that in any way?

16 A. No.

17 Q. And I see -- and we heard -- the phrase "identify the
18 agitators."

19 What does that mean?

20 A. Yes. That's the protocol for the less lethal team.
21 They cannot just lay cover fire with their less lethal
22 projectiles in a crowd. They have to specifically target
23 somebody who is an agitator; and they will focus their
24 attention and any firing of the less lethal on that
25 particular individual.

1 Q. Now, did you tell us at this point of the day -- you
2 were up there on the stage with less lethal?

3 A. Yes.

4 Q. Did you stay up there?

5 A. No. I eventually went down to the base of the stage
6 where the crowd was.

7 Q. Why did you do that?

8 A. Because my officers were down there getting abused and I
9 wanted to be down there with them and to help lead them and
10 take care of them.

11 Q. Ordinarily, for an inspector in your position, do your
12 duties generally involve kind of going and being on the
13 front line and --

14 A. No.

15 Q. What was it about this situation that made --

16 A. It was a very dire situation. The two breaches that we
17 had and the level of injuries to the officers -- the initial
18 breach at Peace Circle, I had one female officer who was
19 knocked unconscious. I had a second female officer who
20 suffered an almost career-ending leg injury when the bike
21 rack was pinned against her leg.

22 So the initial breach was very violent. And so
23 the second breach at the black fence, it continued the
24 violence to the base of the stage.

25 MR. MULROE: Ms. Rohde, could we have Government

1 203, please.

2 (Whereupon, segments of Government's Exhibit
3 No. 203 were published in open court.)

4 MR. MULROE: Pause for a moment.

5 BY MR. MULROE:

6 Q. Inspector --

7 THE COURT: Mr. Mulroe, can you pause for a
8 second.

9 Just while -- I didn't want to interrupt the video
10 from playing, but I have to ask everyone at counsel table to
11 keep their voices down while videos like that are playing.

12 Mr. Mulroe, you may proceed.

13 MR. MULROE: Thank you, your Honor.

14 BY MR. MULROE:

15 Q. Inspector, how did the Capitol Police officers match up
16 against the crowd at this point in terms of numbers?

17 A. We were greatly outnumbered. You're seeing thousands of
18 people in the crowd to a couple dozen officers on the line.

19 Q. Did Capitol Police receive any help from anyone else?

20 A. Yes.

21 Q. What happened?

22 A. The D.C. Metropolitan Police Department were the first
23 ones to show up on the scene.

24 Q. Was that an important event from your perspective?

25 A. Yes.

1 Q. Why was that?

2 A. I was getting ready to evacuate -- give up the entire
3 stage and evacuate into the building because we were getting
4 beaten up so bad. And then Metropolitan Police showed up
5 and took over the line.

6 MR. MULROE: Let's continue the video.

7 (Whereupon, segments of Government's Exhibit
8 No. 203 were published in open court.)

9 MR. MULROE: Pause it there.

10 BY MR. MULROE:

11 Q. Inspector Loyd, can we see you on the video at this
12 point?

13 A. Yes. That's where I am, circled in blue.

14 MR. MULROE: And I'll just note for the record
15 he's circled the figure on the left side of the screen who's
16 facing to the right with the cap on.

17 Continue, please.

18 (Whereupon, segments of Government's Exhibit
19 No. 203 were published in open court.)

20 MR. MULROE: Ms. Rohde, let's pause it for a
21 moment.

22 BY MR. MULROE:

23 Q. Inspector, I'm circling something that's kind of in the
24 top left quadrant of the screen. Can you see that?

25 A. Yes.

1 Q. What's that?

2 A. That's part of the black fence, the temporary black
3 fence, that we talked about earlier.

4 Q. And what kind of shape is that piece of black fence in?

5 A. It's destroyed.

6 Q. And what did you tell us they were doing with the parts
7 of the fence?

8 A. If you see the individual pieces that are hanging with
9 that one bar, they were taking individual pieces of the
10 fence and throwing them at us.

11 Q. Other than the parts of the fence, was the crowd using
12 other things as weapons?

13 A. Yes.

14 Q. Were they throwing things?

15 A. Yes.

16 Q. What kind of things did they throw?

17 A. Anything they could get their hands on. It was an
18 active construction site, the stage. So we had tools that
19 were left behind by the construction workers, screwdrivers,
20 hammers, drills and so forth. There were fire
21 extinguishers. The inaugural stage is made of nothing but
22 plywood and nails, so there was dozens of fire extinguishers
23 for safety purposes on the stage. Those fire extinguishers
24 were thrown at us.

25 Homemade weapons, poles, flagpoles. Some of the

1 flagpoles have nails at the end of them that were thrown at
2 us. Frozen water bottles and tons and tons of pepper spray,
3 bear spray, all kinds of spray were thrown our way.

4 Q. For an officer working in conditions like this, what
5 type of threat does it pose to have things thrown at you?

6 A. It can be deadly, depending on what's thrown and the
7 lack of equipment that you have.

8 Q. Were members of the crowd spraying officers?

9 A. Yes.

10 Q. With what?

11 A. Bear spray and pepper spray that I'm aware of.

12 MR. MULROE: I'll clear the annotation.

13 And, Ms. Rohde, if we could continue the video.

14 (Whereupon, segments of Government's Exhibit
15 No. 203 were published in open court.)

16 BY MR. MULROE:

17 Q. Now, Inspector, at the end there, did we see you move to
18 a different position on the screen?

19 A. Yes. I moved up to the front line.

20 MR. MULROE: Let's go back to that in a moment.

21 For now, on the radio, Ms. Rohde, could we have
22 369.

23 (Whereupon, Government's Exhibit No. 369 was
24 published in open court.)

25

1 BY MR. MULROE:

2 Q. Why cases of water?

3 A. For the large amounts of spray that we were taking.

4 Q. What does the water do for that?

5 A. It helps dilute the effects of the spray.

6 Q. So they would use the water bottles to wash their eyes?

7 A. Yes.

8 MR. MULROE: 371, please.

9 (Whereupon, Government's Exhibit No. 371 was
10 published in open court.)

11 BY MR. MULROE:

12 Q. Inspector, what is a decon tent?

13 A. A decon tent is a temporary structure that is put
14 together by our HAZMAT team to help decon any exposure to
15 any irritant by our HAZMAT team.

16 Q. In your view, did the circumstances on the west front
17 call for a decon tent?

18 A. Yes.

19 Q. Is that the spray that you were telling us about a
20 moment ago?

21 A. Yes.

22 Q. Did you have any firsthand experience with that?

23 A. Yes.

24 Q. Tell the jury about that.

25 A. Several times while out on the west front, I did take

1 direct hits from pepper spray or bear spray and, when that
2 happens, you have to retreat from the front line, go
3 rehabilitate until you're prepared to go back to the line
4 after the exposure dissipates.

5 Q. Why does the spray force you to rehabilitate?

6 A. It blinds you and makes it tough to breathe.

7 THE COURT: Mr. Mulroe, is now a good time to
8 pause?

9 MR. MULROE: Sure. Yes, your Honor.

10 THE COURT: I just want to give the court reporter
11 a break. We have to give her one break this morning at some
12 place, and this seems like a decent place maybe to pause.

13 Ladies and gentlemen of the jury, we're going to
14 take a quick break for the court reporter. Ten minutes.
15 We'll have you back here in a moment.

16 (Whereupon, the jury exited the courtroom at 10:49
17 a.m. and the following proceedings were had:)

18 THE COURT: Inspector Loyd, you may step down.
19 You all may be seated. Before we go on break, can I have --
20 you may step down, sir.

21 (Witness excused.)

22 THE COURT: Before we go on break, can I have
23 counsel pick up the phone.

24 (Whereupon, the following proceedings were had at
25 sidebar:)

1 THE COURT: I just want to make this point:
2 Following up on an objection that Mr. Pattis made earlier,
3 Mr. Mulroe, I think this is a highly technical, but I think
4 accurate, point. You know, the witness does have to say
5 that the thing -- the videos, the audio are fair and
6 accurate depictions of the things they purport to reflect.

7 I don't think -- I think you asked him at one
8 point: Are the transcripts accurate? He said they are.
9 But I think technically you need to ask him: Are the videos
10 fair and accurate depictions of the things they purport to
11 reflect that happened on January 6th? And same with the
12 audio, before the proper foundation is laid.

13 MR. PATTIS: Judge, Norman Pattis speaking, and
14 speaking slowly.

15 I'm new to your courtroom. And so I didn't want
16 to press hypertechnical points. But with respect to the
17 refresh recollection document, may I be heard briefly on
18 that?

19 THE COURT: Well, we'll take it up, but I don't
20 want to burn time right now on it. Well, go ahead.

21 MR. PATTIS: My understanding is that documents
22 can be used for a number of purposes to refresh
23 recollection. They can be past recollection recorded. They
24 can be admissible in and of themselves. But when a witness
25 fails to recall, they can be shown something, but they can't

1 read the document. That is really not refreshed
2 recollection; that's reading a document not in evidence.
3 Hence, my request to have it marked.

4 I see -- you know, it may not be -- in this
5 context, it didn't matter. But who knows where we're going.
6 And I don't know how you conduct your proceedings. So I
7 lodged that objection.

8 THE COURT: Regardless of how I conduct my
9 proceedings, you may object if you think appropriate, of
10 course.

11 I think in that case, the record reflects -- let's
12 put it this way: If you want to mark it on
13 cross-examination for some reason, that's fine. But I don't
14 think the Rules of Evidence require the Government -- if the
15 witness says, That has refreshed my recollection, and
16 they're sort of partially reading it, partially doing it
17 from their recollection, I don't think they need to mark it.
18 But I --

19 MR. PATTIS: I respectfully disagree. It may
20 matter with respect to the refreshed recollection of a
21 cooperator. It didn't matter in this context. But we want
22 to lay down a hard marker to suggest there may be fights to
23 come.

24 THE COURT: I'll say this: The Government said at
25 some point, We don't mind marking it. So maybe in response

1 to your objection, they will mark it. But my own ruling is
2 I don't think they necessarily need to. But they may decide
3 to. And we'll take up these future issues when they come
4 up.

5 MR. PATTIS: One last thing: I saw you seemed
6 puzzled when I asked to voir-dire a witness. Some
7 jurisdictions permit voir dire preliminarily. And so with
8 respect to, for example, a larger exhibit -- he said these
9 things fairly and accurately reflected something. But he
10 didn't say they fairly and accurately reflected what he saw.
11 And so that was the basis of that objection.

12 And the hope was to voir-dire -- to suggest that
13 there was either an adequate or inadequate foundation. It
14 was not to challenge authenticity.

15 THE COURT: I understand. And I think if you
16 would just say, "Lack of foundation," that would be clear to
17 me.

18 And again, that's why I responded the way I'm
19 responding now. I don't think -- by the way, I don't think
20 he has to say he looked at them and they accurately -- he
21 doesn't have to say they accurately reflect what he saw.

22 MR. PATTIS: There's no foundation if he doesn't.

23 THE COURT: He can say they're fair and accurate
24 depictions of what happened on January 6th.

25 MR. PATTIS: I'm not so sure, your Honor. Your

1 Honor --

2 MR. MULROE: I would just note we've briefed this
3 in our motion *in limine* on authenticity. We laid out the
4 various bases for authenticating this, one of which is
5 firsthand observations. But there are others as well such
6 as, for example, cross-authenticating it to other ones that
7 he's already authenticated. So the witness's testimony is
8 sufficient on this, I think.

9 THE COURT: Look, if the Government agrees that he
10 has to say, based on his observations, these are fair and
11 accurate depictions about what happened on January 6th,
12 that's fine. I don't think the record right now -- my point
13 is, I'm not sure the record is clear that he has said that.
14 And so, to that extent, I think Mr. Pattis was right in
15 terms of the objection.

16 MR. PATTIS: We will work it out, Judge.

17 THE COURT: Again, that's also a highly technical
18 point. But I wanted to -- I was looking back at the
19 realtime.

20 I think you were technically right, Mr. Pattis.

21 MR. PATTIS: You could say that on the record,
22 your Honor.

23 THE COURT: Well, I know. I'm sensitive to the
24 fact that the witness is in the room and so --

25 MR. PATTIS: Right.

1 THE COURT: -- that's why we do this this way.

2 MS. HERNANDEZ: I'm sorry, your Honor. Carmen
3 Hernandez.

4 I know the Court has at an earlier time stated
5 that you want each Defendant to make objections. You won't
6 allow one Defendant to -- for purposes of trial, I think
7 it's going to get crazy if we --

8 THE COURT: 100 percent, Ms. Hernández.

9 I'm not going to require each of you to pop up.
10 And I've noticed that you seem to be dividing and
11 conquering, observing you here today. So for purposes of
12 trial objections, yes; one objection for all the Defendants
13 will take care of all of you.

14 MR. MULROE: Your Honor, back to the original
15 point: From the Court's perspective, would it satisfy if we
16 authenticated -- if we treated them as a whole batch to say
17 all of those videos and audio fairly and accurately reflect
18 what they purport to reflect?

19 THE COURT: And based on your observations of what
20 happened on January 6th, I think that's -- yes. Yes.

21 MR. PATTIS: We can work this out. Part of this
22 is default moves. In every trial, the law of the case
23 emerges.

24 Well, I apologize if I broke the spirit of our
25 agreement. But it's -- you know, you see something; you

1 start shooting. That's the way it is.

2 THE COURT: I totally get it. And because you had
3 referenced in your objection the fair and accurate, that's
4 the standard language, of course. And then when I went back
5 and I actually didn't see the words "fair and accurate," I
6 just wanted to bring it your attention.

7 MR. PATTIS: I get a little goofy that way. I'll
8 talk to the Government at the break and see if we can
9 streamline this.

10 THE COURT: Fair enough. Thanks.

11 (Whereupon, the following proceedings were had in
12 open court:)

13 THE COURT: It's now -- we'll come back at five
14 after, which is maybe five minutes -- because of what we
15 discussed and I want the parties to be able to just have a
16 moment to discuss that. So it's 10:57. I'll come back on
17 the bench at 11:05 and we'll continue from there.

18 We'll be in recess for seven minutes.

19 (Thereupon a recess was taken, after which the
20 following proceedings were had:)

21 THE COURTROOM DEPUTY: Your Honor, we're back on
22 the record in Criminal Matter 21-175, the United States of
23 America versus Ethan Nordean, et al.

24 THE COURT: All right, Ms. Harris. Let's bring
25 the jury back in.

1 MR. MULROE: Should we bring the witness in, your
2 Honor?

3 THE COURT: Yes. The witness may retake the
4 stand. Yes.

5 (Witness retakes the witness stand.)

6 THE COURT: Welcome back, sir.

7 THE WITNESS: Thank you.

8 THE COURTROOM DEPUTY: Jury panel.

9 (Whereupon, the jury entered the courtroom at
10 11:11 a.m. and the following proceedings were had:)

11 THE COURT: You may be seated.

12 Welcome back, ladies and gentlemen. We'll resume
13 with the Government's examination of Inspector Loyd.

14 BY MR. MULROE:

15 Q. Inspector Loyd, we'll pick up where we left during the
16 break.

17 MR. MULROE: Before we do that, your Honor, I've
18 marked the paper that refreshed the witness's recollection
19 with -- as Government 107. We would offer that into
20 evidence at this time.

21 THE COURT: All right. Any objection?

22 MR. PATTIS: None, sir.

23 THE COURT: It will be admitted.

24 (Whereupon, Government's Exhibit No. 107 was
25 entered into evidence.)

1 BY MR. MULROE:

2 Q. Inspector, on the exhibits, let me also make sure that
3 I've asked -- all the exhibits that I asked you about at the
4 beginning, so the surveillance videos and the radio clips
5 with transcripts and the other videos and photos, do all of
6 those videos fairly and accurately depict the events of
7 January 6th based on your own observations and experiences
8 that day?

9 A. Yes.

10 Q. Let's continue, then. And you were telling us about the
11 west front, Inspector, and the spray that was being used
12 against officers there.

13 Now, you yourself, despite being sprayed, were you
14 able to keep fighting on the west front?

15 A. Yes. You just step off the line when you're sprayed.
16 If you have water, you hose yourself down with water, or you
17 just get out of the line of fire until you can actually see
18 and breathe again properly.

19 MR. MULROE: Ms. Rohde, if we could have
20 Government 468.

21 (Whereupon, Government's Exhibit No. 468 was
22 published in open court.)

23 BY MR. MULROE:

24 Q. Inspector Loyd, tell the jury, if you would, what did we
25 see in that video?

1 A. Metropolitan had taken over the line for the most part
2 during that video clip and I -- most of my team was going
3 into the building to get rehabilitated. I stayed out there
4 with Metropolitan and assisted them. And whenever there was
5 a gap in the line, I would step up and fill in that gap.

6 Q. And at the end of the clip, what did we see you do with
7 your hat?

8 A. I tossed it aside.

9 Q. Why did you toss your hat?

10 MS. HERNANDEZ: Can you --

11 THE COURT: If you could just -- Inspector, if you
12 could just speak into the microphone.

13 THE WITNESS: Oh, okay. I apologize.

14 I tossed my hat aside because it was becoming a
15 problem with all the fighting going on.

16 MR. MULROE: Ms. Rohde, 261, please.

17 (Whereupon, Government's Exhibit No. 261 was
18 published in open court.)

19 BY MR. MULROE:

20 Q. Did you see yourself in that video?

21 A. Yes.

22 Q. Was that another angle of the same scene before you
23 threw your hat?

24 A. Yes.

25 MS. HERNANDEZ: Your Honor, I'm sorry. Can we...

1 (Whereupon, the following proceedings were had at
2 sidebar outside the presence of the jury:)

3 MS. HERNANDEZ: Your Honor, the defense is
4 prepared to concede that there was -- or to stipulate that
5 at this point the Government has proved there was civil
6 disorder. We would request that any evidence from now on be
7 directed at the testimony regarding our clients specifically
8 rather than continuing to produce these videos that do not
9 necessarily -- or do not involve our clients, do not picture
10 our clients.

11 MR. HULL: Biggs joins, your Honor.

12 MR. MULROE: This is Conor Mulroe for the
13 Government.

14 As is clear at this point, the witness does not
15 know the Defendants. I can proffer that. For the most
16 part, these individuals, as I said at the beginning, have
17 included the Defendants and/or members of the marching
18 group, the tools of the conspiracy.

19 So in the most recent one we just watched, there
20 is a member of the marching group who deployed spray against
21 officers. That's something that this witness doesn't know
22 about because he doesn't know that person. We'll tie it up
23 later. The same is going to go for all the other videos
24 we're going to show.

25 THE COURT: As far as this particular -- where we

1 are right now, it's not -- these are connected factually.
2 They're at the side of the Capitol that the Defendants
3 themselves breached, number one.

4 As the Government represents, they are -- it
5 captures some of the people who marched with them. And so I
6 think -- so based on that, and based on the fact that --
7 I'll give them a little bit of leeway to talk about the
8 overall event. I think I'm going to overrule the objection.
9 I think we may hit a point when we're talking about things
10 that are totally unrelated. But I don't think we're
11 anywhere near that point.

12 I'm sure on cross-examination you'll be able to
13 point out that -- the lack of connection of some of this to
14 your clients. I'm sure you're prepared to do that. So I'm
15 going to give the Government that leeway.

16 (Whereupon, the following proceedings were had in
17 open court:)

18 BY MR. MULROE:

19 Q. So that video that we were just looking at, Inspector,
20 that was another angle of the same one that we saw before?

21 A. Yes. From a Metropolitan body cam.

22 Q. Was there hand-to-hand fighting taking place on the west
23 front?

24 A. Yes.

25 Q. And were your officers taking part in that hand-to-hand

1 combat?

2 A. Yes.

3 Q. Do your officers carry firearms?

4 A. Yes.

5 Q. Out on the west front at this time, did any of them use
6 their firearms?

7 A. No.

8 Q. Why was that?

9 A. It's a personal decision. You know, every officer --

10 MR. PATTIS: Objection as to form at that point.

11 Personal decision. And foundation.

12 THE COURT: The officer can talk about his
13 decisions and what he knows about other people's decisions
14 if he knows them.

15 BY MR. MULROE:

16 Q. So what about you personally, Inspector? Do you carry a
17 gun?

18 A. Yes. I carry a gun.

19 Q. Did you use it on the west front?

20 A. No.

21 Q. Why not?

22 A. Circumstances for me did not dictate the use of deadly
23 force as far as I'm concerned.

24 Q. Why was that?

25 A. There was no situation where I could -- number one,

1 needed to or had the ability to safely protect other people,
2 innocent people, if a target is identified.

3 Q. As you were out there on the west front, did you know
4 whether or not members of the crowd were armed?

5 A. With firearms, I'm not aware of anybody on the west
6 front armed with firearms. Other weapons, yes.

7 Q. At the time, did you know one way or the other?

8 A. No, I did not.

9 Q. Did that play into your decision of whether or not to
10 use your own firearm?

11 A. Yes.

12 Q. How so?

13 A. If you're not sure -- you know, you're going to think
14 about using deadly force. But until the situation is right
15 before you that requires deadly force, that's when you will
16 decide, for me personally, to use the firearm.

17 Q. So what, if anything, were you and the other officers
18 trying to achieve out there on the west front at the time
19 that we've been seeing videos from?

20 A. The last videos we saw, we're there to maintain a line,
21 to stop the surge of the crowd until enough resources come
22 in there to save us.

23 Q. And were there times when you had at least some degree
24 of success in maintaining and holding a line?

25 A. Very briefly.

1 MR. MULROE: Let's have Exhibit 145. And let's
2 start that at the 25:30 mark and play it at four-times
3 speed, please.

4 MR. METCALF: That was 145?

5 MR. MULROE: Exhibit 145, starting at timestamp
6 25:30.

7 (Whereupon, segments of Government's Exhibit No.
8 145 were published in open court.)

9 BY MR. MULROE:

10 Q. Inspector, what kind of techniques are we seeing at work
11 here?

12 A. Metropolitan has come in to help us establish another
13 fence line, and there's a tremendous battle going on right
14 now. Things are being thrown at us, a tremendous amount of
15 spray and some hand-to-hand combat.

16 (Thereupon, Mr. Roots entered the courtroom and
17 the following proceedings were had:)

18 (Whereupon, segments of Government's Exhibit No.
19 145 were published in open court.)

20 BY MR. MULROE:

21 Q. And do we see whether that fence line is more or less
22 holding?

23 A. Yes. Temporarily.

24 (Whereupon, segments of Government's Exhibit No.
25 145 were published in open court.)

1 MR. MULROE: All right. Let's pause it there.

2 BY MR. MULROE:

3 Q. Now, Inspector, you've walked us through the first
4 breach at Peace Circle and the second breach at the black
5 fence line.

6 MR. MULROE: And I may not have said this before,
7 but for the record, Breach No. 2 sticker that the inspector
8 has placed up there is sort of in the center left part of
9 the short stairs in front of the inaugural stage on the
10 demonstrative, just for the record.

11 BY MR. MULROE:

12 Q. Apart from those two breaches, were there further
13 breaches on January 6th?

14 A. Yes.

15 MR. MULROE: Let's have Exhibit 451.

16 And, Ms. Rohde, if you could pull that up and then
17 just pause it right at the beginning so we have a still
18 frame.

19 (Whereupon, segments of Government's Exhibit No.
20 451 were published in open court.)

21 BY MR. MULROE:

22 Q. Inspector, what are we seeing in this frame?

23 A. You're seeing scaffolding, the base of scaffolding on
24 the north side of the stage. And the scaffolding is
25 covering the stairs. You can see a small bit of the stairs

1 that go from the lower west terrace to the upper west
2 terrace.

3 Q. Would you show the jury on the demonstrative what we're
4 looking at in the frame?

5 A. Right in this area, the scaffolding is covering up the
6 stairs that lead from the lower west terrace to the upper
7 west terrace.

8 Q. Take your seat, please.

9 A. (Witness complies.)

10 Q. What, if anything, is the significance of those stairs
11 in terms of defending the Capitol?

12 A. Those stairs lead right to the first floor of the
13 building where there are doors and windows.

14 Q. Would that pose a threat to the crowd getting inside?

15 A. Yes.

16 Q. Did the crowd, in fact, get up those stairs?

17 A. Yes.

18 MR. MULROE: Let's let the exhibit play.

19 (Whereupon, segments of Government's Exhibit No.
20 451 were published in open court.)

21 MR. MULROE: We can stop it there.

22 Ms. Rohde, 411-C, please.

23 (Whereupon, segments of Government's Exhibit No.
24 411-C were published in open court.)

25 MR. MULROE: Pause at the beginning.

1 BY MR. MULROE:

2 Q. Are we seeing the same scene here?

3 A. Yes.

4 MR. MULROE: Let's let that play.

5 (Whereupon, segments of Government's Exhibit No.
6 411-C were published in open court.)

7 MR. MULROE: We can stop that exhibit.

8 Play 382, please.

9 MR. HERNANDEZ: Sorry. Are there times for these
10 particular -- when this is happening? Because the
11 Government hasn't said.

12 THE COURT: Do you have an objection,
13 Ms. Hernández?

14 MS. HERNANDEZ: Yes, your Honor. I would ask --

15 THE COURT: What's the objection in one word?

16 MS. HERNANDEZ: To identify the time when this is
17 occurring, when this video is occurring.

18 THE COURT: Okay. That's overruled.

19 MR. MULROE: 382, please.

20 (Whereupon, Government's Exhibit No. 382 was
21 published in open court.)

22 MR. MULROE: And Exhibit 383, please.

23 (Whereupon, Government's Exhibit No. 383 was
24 published in open court.)

25

1 BY MR. MULROE:

2 Q. We heard a reference to the upper west terrace.

3 Inspector, would you tell the jury, using the map, where is
4 the upper west terrace?

5 A. Down here you have the lower west terrace. And the
6 stairs that they're talking about right now in the audio
7 lead up to the upper west terrace. Here's the upper level.
8 The upper west terrace.

9 Q. So the map is two dimensions. But is the upper west
10 terrace higher than the lower west terrace?

11 A. Yes. About a story -- a building story higher.

12 Q. You can return to the stand.

13 A. (Witness complies.)

14 Q. What would it mean for the crowd to reach the upper west
15 terrace?

16 A. On the west side, that would mean that they would have
17 direct access to doors and windows.

18 Q. Was that something to be alarmed about?

19 A. Yes.

20 Q. And, Inspector, the crowd -- we saw the video, but did
21 the crowd get up those stairs?

22 A. Yes.

23 Q. Did they get past the line of officers to do that?

24 A. Yes.

25 Q. Is that another major breach?

1 A. Yes.

2 Q. Please take the exhibit sticker -- not exhibit, but
3 Sticker 3 there that you have on the stand and place that
4 one up on the demonstrative. And then you can return to
5 your seat and tell us where you've put it.

6 A. The third breach was the breach going up the stairs
7 underneath the scaffolding going from the lower west terrace
8 up to the upper west terrace.

9 Q. You mentioned the scaffolding. Was there any fighting
10 taking place inside the scaffolding?

11 A. Yes.

12 MR. MULROE: Exhibit 429-C, please.

13 (Whereupon, segments of Government's Exhibit No.
14 429-C were published in open court.)

15 MR. MULROE: Pause there, please.

16 BY MR. MULROE:

17 Q. So, Inspector, we paused the video at zero minutes and
18 37 seconds. And can you see what looks like some clear
19 plastic objects in the middle of the frame?

20 A. Yes.

21 Q. Do you recognize what those are?

22 A. Those are shields.

23 Q. What kind of shields?

24 A. Used for defending yourself during a riot.

25 Q. Are they Capitol Police equipment? Or can you tell?

1 A. It's tough to tell from that particular angle.

2 Q. Apart from the fighting happening inside the
3 scaffolding, did the scaffolding itself pose any safety
4 risks at this time?

5 A. Yes. My original concern when they entered the
6 scaffolding was that they were going to topple the
7 scaffolding, topple the main part of the stage.

8 MR. MULROE: Government's Exhibit 386, please.

9 (Whereupon, Government's Exhibit No. 386 was
10 published in open court.)

11 BY MR. MULROE:

12 Q. Inspector, you told us a moment ago that the upper west
13 terrace gives direct access to the doors and windows.

14 Did the crowd ultimately reach the upper west
15 terrace?

16 A. Yes.

17 MR. MULROE: 429-C, please, Ms. Rohde. And if you
18 could start that at the 9-minute, 20-second mark.

19 (Whereupon, segments of Government's Exhibit No.
20 429-C were published in open court.)

21 MR. MULROE: If we can stop it there at about ten
22 minutes and ten seconds and play Exhibit 387, please.

23 (Whereupon, Government's Exhibit No. 387 was
24 published in open court.)

25

1 BY MR. MULROE:

2 Q. Inspector, when the officer says, "They're coming and we
3 can't stop them from breaching," was that accurate, in your
4 opinion?

5 A. Yes.

6 MR. MULROE: 385, please.

7 (Whereupon, Government's Exhibit No. 385 was
8 published in open court.)

9 BY MR. MULROE:

10 Q. What did the crowd do when it reached the upper west
11 terrace?

12 A. I'm sorry. I didn't hear.

13 Q. What did the crowd do once it reached the upper west
14 terrace?

15 A. They got to the terrace. There was a small line of
16 officers at the very top. They easily got past them and
17 eventually made their way to the base of the building.

18 MR. MULROE: Please, Exhibit 147 and start at 1
19 minute and 25 seconds.

20 (Whereupon, segments of Government's Exhibit No.
21 147 were published in open court.)

22 BY MR. MULROE:

23 Q. What part of the Capitol do we see here, Inspector?

24 A. The portion that's in the center is referred to as the
25 Senate wing door.

1 Q. And is this on the upper west terrace?

2 A. Yes.

3 (Whereupon, segments of Government's Exhibit No.
4 147 were published in open court.)

5 MR. MULROE: If we could pause it there at about
6 two minutes and two seconds.

7 BY MR. MULROE:

8 Q. Inspector, in the video, did we see some individuals
9 running toward the three archways in the middle of the
10 screen?

11 A. Yes.

12 Q. Would you get up and point out on the demonstrative map
13 where those are?

14 A. Right in this area right here. That small little area
15 right there.

16 Q. So you're pointing at kind of a recessed rectangle on
17 the left side of the Capitol Building --

18 A. Yes.

19 Q. -- from our view?

20 Does that pose any security concerns? You can
21 return to the seat to tell us.

22 A. (Witness complies.)

23 Yes. The door that's in the center of that
24 picture and the windows on either side, once you break
25 through that, you're in the building.

1 MR. MULROE: Let's have Exhibit 425, please.

2 (Whereupon, Government's Exhibit No. 425 was
3 published in open court.)

4 BY MR. MULROE:

5 Q. Inspector, did the crowd break the windows?

6 A. Yes.

7 Q. And did they use any implements to do that?

8 A. I saw a two-by-four and a Capitol Police riot shield.

9 MR. MULROE: Let's look at Exhibit 112.

10 (Whereupon, segments of Government's Exhibit No.
11 112 were published in open court.)

12 MR. MULROE: And just pause at the beginning.

13 BY MR. MULROE:

14 Q. Is this an interior view of the same windows and doors?

15 A. Yes.

16 MR. MULROE: Let's continue.

17 (Whereupon, segments of Government's Exhibit No.
18 112 were published in open court.)

19 BY MR. MULROE:

20 Q. Now, as it's playing, Inspector, let me ask you about
21 something we see on the screen. When we view these windows
22 from the inside, do they have shutters?

23 A. Yes.

24 Q. Tell us about those shutters. And specifically, do they
25 serve any security purpose?

1 A. No security related to today. I'm not sure -- they were
2 installed in 1800, when the building first opened. They may
3 or may not have been used for security back then.

4 But as of today, they're strictly used for
5 shielding the sun from the building [sic]. That's the only
6 thing they're used for.

7 Q. Those shutters are original to the building?

8 A. Yes.

9 Q. And when was the Capitol built?

10 A. The first section that was opened was 1800.

11 Q. I'm sorry?

12 A. 1800. And you're actually in the original part of the
13 building at that point.

14 Q. So those shutters would be more than 200 years old?

15 A. Yes.

16 Q. Did part of your lockdown order involve closing those
17 shutters at all?

18 A. No.

19 (Whereupon, segments of Government's Exhibit No.
20 112 were published in open court.)

21 MR. MULROE: Pausing here at 1 minute and 18
22 seconds.

23 BY MR. MULROE:

24 Q. Do we see the crowd enter from an interior angle?

25 A. Yes.

1 MR. MULROE: Exhibit 388, please.

2 MR. PATTIS: Which one, sir?

3 MR. MULROE: 388.

4 (Whereupon, Government's Exhibit No. 388 was
5 published in open court.)

6 BY MR. MULROE:

7 Q. Now, once the crowd got into the Capitol, did they stay
8 put or did they keep moving?

9 A. They kept moving.

10 MR. MULROE: 432, please.

11 (Whereupon, segments of Government's Exhibit No.
12 432 were published in open court.)

13 BY MR. MULROE:

14 Q. And it looked in this clip like we just saw the crowd go
15 through a door. We're paused at 11 seconds into the video.

16 Was that door locked on January 6th?

17 A. Yes.

18 Q. How was it that the crowd managed to open the door?

19 A. It was forced open.

20 MR. MULROE: All right. Let's let the video play.

21 (Whereupon, segments of Government's Exhibit No.
22 432 were published in open court.)

23 BY MR. MULROE:

24 Q. Do you know, Inspector, who was that one officer that we
25 saw interacting with the crowd?

1 A. That was Officer Goodman.

2 Q. And do you know what his assignment is within Capitol
3 Police?

4 A. You want for that day or currently?

5 Q. For that day.

6 A. For that day -- his home assignment is the Senate
7 chamber section. So he would be assigned to the Senate
8 chamber. Due to the COVID situation and the buildings were
9 closed and there was need for less manpower around the
10 Senate chamber, he was actually assigned to the rest of us
11 out on the west front.

12 Q. Ordinarily, Senate chamber, though?

13 A. Yeah. Ordinarily, Senate chambers.

14 MR. MULROE: 389, please.

15 (Whereupon, Government's Exhibit No. 389 was
16 published in open court.)

17 BY MR. MULROE:

18 Q. Did we hear Officer Goodman's voice at all on that radio
19 clip?

20 A. Yes.

21 Q. Which one was he?

22 A. Towards the last, on that first slide, where he was
23 indicating that they were heading to the Senate floor. The
24 person who made that comment "To the Senate floor" was
25 Goodman.

1 Q. Headed -- did he say Senate chamber?

2 A. I think he said Senate floor, if I remember.

3 Q. Senate floor?

4 MR. MULROE: Let's play Exhibit 457, please.

5 (Whereupon, Government's Exhibit No. 457 was
6 published in open court.)

7 BY MR. MULROE:

8 Q. Now, Inspector, I neglected to do it before, but if you
9 would take the fourth sticker there for Breach 4 and place
10 that --

11 MS. HERNANDEZ: Your Honor, before we go on, can
12 we...

13 (Whereupon, the following proceedings were had at
14 sidebar outside the presence of the jury:)

15 MR. SMITH: Your Honor, this is not -- as the
16 Court probably knows, this is not part of the Government's
17 standard January 6th civil disorder evidence. What they're
18 attempting to do is link these Defendants to Officer
19 Goodman's interaction with the Defendant Jensen and others
20 up on the Ohio Clock Corridor. This is irrelevant. It's
21 inflammatory. And it has nothing to do with this case.
22 None of these Defendants are involved with this exchange.

23 MR. MULROE: Your Honor --

24 MR. SMITH: It's an iconic kind of exchange in
25 the --

1 MR. MULROE: Your Honor --

2 MR. SMITH: -- in the January 6 cases. So this is
3 not admissible evidence.

4 MR. MULROE: Your Honor, Pezzola was there.

5 THE COURT: Does any other Defendant want to make
6 an objection?

7 MS. HERNANDEZ: Your Honor, Carmen Hernandez.

8 Two things with respect to this. I would ask for
9 a limiting instruction if it doesn't involve my client or --
10 and I understand the Government is going to say Mr. Pezzola
11 was originally in this group of people. But I think at this
12 point he's not.

13 And again, I believe that we are back to this
14 issue of how much evidence the Court [sic] is going to
15 introduce of background or whatever. And depending on
16 whatever the purpose the Court introduces it for, I would
17 ask that there may be a limiting instruction, depending on
18 the Court's ruling, what purpose this is coming in for.

19 THE COURT: We can take up -- I don't think any --
20 let me back up.

21 Mr. Mulroe was starting to say Mr. Pezzola is
22 there; and he is there.

23 So it's relevant evidence, broadly speaking, to
24 the conspiracy, because Mr. Pezzola is there all the way up
25 through -- and I happen to be very familiar with this scene

1 because -- from another trial I presided over. So he is
2 there in the Ohio Clock Corridor while this is going on.

3 So it's relevant and admissible.

4 I don't think an instruction makes sense. But
5 because obviously some parts of evidence of a conspiracy
6 will pertain to one Defendant and some to others, we can
7 talk about that later, if you think it's appropriate.

8 MR. SMITH: Mr. Nordean moves to sever.

9 THE COURT: Okay. The motion is denied. Thank
10 you.

11 MS. HERNANDEZ: I'm sorry, your Honor. One last
12 thing: The reason I asked for the time when some videos
13 were being shown is it applies to where my client may or may
14 not be.

15 THE COURT: I understand why you asked that. But
16 it's not an objection. If you want to do that on cross,
17 that's fine. The Government doesn't have to put on its case
18 the way you would like.

19 Let's --

20 MS. HERNANDEZ: I think the objection would be to
21 relevance depending on what particular time it is.

22 THE COURT: That wasn't the objection you lodged.

23 (Whereupon, the following proceedings were had in
24 open court:)

25 THE COURT: You may proceed, sir.

1 MR. MULROE: Thank you.

2 BY MR. MULROE:

3 Q. Inspector Loyd, we just saw a video of Officer Goodman
4 leading a group of members of the crowd through the Capitol.

5 For those of us unfamiliar with the interior
6 layout of the Capitol Building, was there anything
7 significant about the route that he took?

8 A. Yes. The group, once they breached the Senate wing
9 door, they went north from the door probably about 10 or 15
10 yards and they made a right and went east in the building,
11 and then they made another right, where they met Officer
12 Goodman, as we first saw Officer Goodman. And Officer
13 Goodman is at the base of the east Senate grand staircase.
14 And that's the staircase that they backed him up in the
15 video.

16 Q. In your professional opinion, what would have been the
17 consequence if he had taken them in a different direction?

18 MR. PATTIS: Objection. Speculation.

19 THE COURT: If the witness can articulate the
20 basis for his conclusion, he may answer the question.

21 MS. HERNANDEZ: Objection. Relevance.

22 THE COURT: The objection is overruled.

23 BY MR. MULROE:

24 Q. You can answer the question.

25 A. Yes. When Officer Goodman got to the base of the stairs

1 on the second level, you see him look over his left shoulder
2 down the hallway, the empty hallway, and he sort of taunts
3 the lead demonstrator to come with him as he backs them
4 around the corner.

5 If the demonstrators had gone to where Officer
6 Goodman looked over his left shoulder, that leads you to the
7 rear of the Senate lobby where the vice president and the
8 senators were located.

9 Q. So was Vice President Pence and the members of the
10 Senate in the chamber at that time?

11 A. Yes.

12 Q. And if they had gone to that side of the chamber, is
13 there anything about the architecture there that --

14 A. Yes.

15 Q. -- would have posed any threat?

16 A. Yes. The doors that lead into the Senate -- back of the
17 Senate chamber, the Senate lobby, are made of nothing but
18 glass, mostly glass. So they're easily breachable. And if
19 those doors had been breached, more than likely there would
20 have been gunfire at that point.

21 Q. Where was the location that we saw at the end of the
22 previous video where Officer Goodman had led them into
23 another part of the building?

24 A. Yes. Officer Goodman leads them to -- you know, the end
25 of that video, and I come into the scene. That is the Ohio

1 Clock area.

2 MR. MULROE: Let's have 126, please.

3 (Whereupon, segments of Government's Exhibit No.
4 126 were published in open court.)

5 BY MR. MULROE:

6 Q. And as the video plays, Inspector, can we see you on the
7 screen right now?

8 A. Yes. I'm with the Class A hat.

9 Q. Is that, the type of hat you're wearing, part of your
10 uniform?

11 A. Yes.

12 Q. What are you doing as the video plays?

13 A. Trying to calm the crowd down. I have four other police
14 officers trying to set up another police line to stop the
15 surge at that particular point.

16 Q. Are members of the crowd continuing to filter in?

17 A. Yes.

18 (Whereupon, segments of Government's Exhibit No.
19 126 were published in open court.)

20 MR. MULROE: Let's stop it there at 45 seconds.

21 Ms. Rohde, if you could pull up 499-A, please.

22 (Whereupon, Government's Exhibit No. 499-A was
23 published in open court.)

24 BY MR. MULROE:

25 Q. Is this a photo of the same scene?

1 A. Yes.

2 Q. Is that you on the right with your back to the camera?

3 A. Yes.

4 MR. MULROE: 499-C, please.

5 (Whereupon, Government's Exhibit No. 499-C was
6 published in open court.)

7 BY MR. MULROE:

8 Q. Same scene?

9 A. Yes.

10 MR. MULROE: 499-D, please.

11 (Whereupon, Government's Exhibit No. 499-D was
12 published in open court.)

13 BY MR. MULROE:

14 Q. Is this the same interaction?

15 A. Same interaction, but I am no longer there.

16 MR. MULROE: And 499-B.

17 (Whereupon, Government's Exhibit No. 499-B was
18 published in open court.)

19 BY MR. MULROE:

20 Q. Are you in this photo?

21 A. Yes.

22 Q. And what are you doing here?

23 A. I'm speaking with the gentleman to the right of me.

24 Q. And on the right side of the photo, there's a man
25 holding a transparent object. Do you recognize that?

1 A. Yeah. That's one of our police riot shields.

2 Q. Inspector Loyd, tell the jury what was going through
3 your mind at this point.

4 MS. HERNANDEZ: Objection.

5 THE COURT: What's the objection?

6 MS. HERNANDEZ: Relevance.

7 THE COURT: Overruled.

8 BY MR. MULROE:

9 Q. You can answer.

10 A. Just trying to delay the surge, stop the surge at any
11 point to delay the time long enough that we would have
12 sufficient reinforcements to resolve the issue.

13 Q. Inspector, if you could just bend the microphone so it's
14 pointing a little more directly at you.

15 Had the officers, broadly speaking, made retreats
16 up to this point?

17 A. Yes; starting at 12:53 at Peace Circle.

18 MR. MULROE: And if we could keep the exhibit up.

19 BY MR. MULROE:

20 Q. The encounter that we're seeing here, was retreat an
21 option at this point?

22 A. No.

23 Q. Why not?

24 A. They're at the door of the Senate chamber.

25 Q. Was there anywhere left to retreat to?

1 A. No. At that point, the final stand is the Senate
2 chamber at that particular location.

3 Q. And I think you testified that you were trying to kind
4 of buy time here. Were you successful in doing that?

5 A. Yes.

6 Q. What happened next?

7 A. Shortly after this, Deputy Chief Waldow, who was on the
8 west front with me, also joined me at the Ohio Clock area.
9 I was relatively satisfied that the situation, as dire as it
10 looks, it was fairly stable because my officers had done
11 what they were trained to do: Whenever there is a threat
12 inside the building, they retreat back into the Senate
13 chamber, lock the doors and they shelter in place. And
14 that's what occurred here.

15 And I spoke with Deputy Chief Waldow. I asked for
16 permission to go from the Senate chamber to the House
17 chamber to check on the status of that.

18 THE COURT: Mr. Mulroe, is now a decent time to
19 break for the day, given that I have --

20 MR. MULROE: I think so, your Honor. I think I
21 probably have 20 minutes left, so...

22 THE COURT: All right. You know, I do have a stop
23 at noon.

24 All right. So, ladies and gentlemen of the jury,
25 as I told you, we're stopping at noon today. We'll pick up

1 with the rest of Inspector Loyd's testimony on Tuesday.

2 So I'll have Ms. Harris release you for the day.
3 Have a great long weekend. And thank you all -- let me also
4 just say, thank you all for your punctuality this morning.
5 If you all will continue to be so punctual, hopefully we'll
6 be able to start on time every day and get the case to you
7 as soon as we can.

8 Thank you. And have a great weekend.

9 (Whereupon, the jury exited the courtroom at 11:57
10 a.m. and the following proceedings were had:)

11 THE COURT: You may be seated.

12 All right. So we'll pick up -- if counsel will be
13 here again promptly at 9:00, we will take up whatever
14 preliminary matters we need to, if we need to, and we'll
15 begin the testimony as soon as possible after that.

16 Are there any matters either side wants to be
17 heard on very quickly here today? Again, because I do have
18 another matter and I -- and more importantly. Ms. Harris
19 and other folks need to have lunch before we begin that
20 other matter.

21 MR. McCULLOUGH: Your Honor, we have a number of
22 out-of-state witnesses. It would be helpful for our
23 planning purposes -- if the Court knows at this point
24 whether next Friday we will be sitting a half day or full
25 day, that would be helpful to the Government for its

1 planning purposes.

2 THE COURT: That is a good and fair request.

3 As of right now, it looks like I do have a full
4 day, so we will probably not sit next Friday.

5 MS. HERNANDEZ: At all?

6 THE COURT: That having been said, if between now
7 and then I can adjust things to give us part of the day, I
8 would like to do that so that we can move forward as
9 expeditiously as possible. It is a fairly -- it is a
10 reasonably full day. But I'm going to -- I'll attempt to
11 see if I can move things around. If we do, I'll let the
12 parties know if we might have a few hours in the morning
13 like we have here today.

14 It won't be a full day. We know that. We know
15 that. If I can crunch things into half of a day, I'll --
16 we'll let you all know as soon as we can.

17 MS. HERNANDEZ: I have a 2:00 p.m. matter before
18 Judge Nichols that day. So if the Court could --

19 THE COURT: There's no way -- again, the maximum
20 we could do is the morning --

21 MS. HERNANDEZ: Okay.

22 THE COURT: -- so you'll be fine for your 2:00.

23 MS. HERNANDEZ: Thank you.

24 Your Honor, on this issue of relevance, limiting
25 instructions, as the Court may recall, I filed a motion to

1 sever, and also based on Mr. Rehl's position that there are
2 multiple conspiracies involved in here -- that is, my
3 client's conspiracy involves the Ministry of Self-Defense,
4 does not involve the random -- what I will identify, and
5 which some of the Government witnesses have described, as
6 random acts of violence.

7 I don't know whether the Court wants us to brief
8 these over the weekend or -- because they're going to
9 continue to come up as the evidence comes up.

10 THE COURT: If you want to raise it with me --
11 however you would like to proceed. If you want to just
12 raise it with me -- I mean, obviously, I've ruled on this --

13 MS. HERNANDEZ: Right.

14 THE COURT: -- and there's nothing -- let me put
15 it this way: There's no new evidence here. There's no
16 evidence that no one anticipated would be part of the case.

17 So, you know, you can proceed however you would
18 like. But I'm happy on Tuesday at 9:00 to hear from you if
19 you want to be heard briefly on the issue.

20 MS. HERNANDEZ: Right. I mean, I think the issue
21 is that we believe there are multiple conspiracies. And so
22 I understand the Court has ruled at this point. But this
23 is -- it's going to be a continuing issue and if it is -- it
24 is multiple conspiracies, then obviously we're entitled to
25 either severance or a limiting instruction.

1 I can continue to make the objections at each
2 juncture. Or -- I don't know how the Court wants to handle
3 it. Do we want a continuing objection?

4 THE COURT: If you want to just put on the record
5 that you have this objection, again, that's -- I'm happy to
6 give you just a continuing objection to this. It's
7 something I've ruled on.

8 Let me put it this way: I've ruled on it
9 pretrial. I don't think anything has materially changed
10 from now to then. But if you think it has and you want to
11 raise that material change with me and say, Judge, does this
12 change your mind, I would hear from you because I'm an
13 open-minded judge and I want to get it right.

14 MS. HERNANDEZ: Right.

15 THE COURT: But nothing has changed between when I
16 ruled on that motion and now.

17 MS. HERNANDEZ: Correct. I just think that the --
18 it's a conditional -- it's a ruling based on a conditional
19 fact. And I think the issue will be joined more properly
20 once the Government introduces evidence of what the
21 conspiracy is rather than, you know, this evidence.

22 And also -- and, again, I would request, and I can
23 make the objections again, that when these videos are
24 played, that the time when the video is taking place is
25 relevant to whether this is direct evidence of my client's

1 involvement or whether I can put on a defense that my client
2 was somewhere else at the time and could not have seen it.

3 THE COURT: Again, I'll hear you on this on Monday
4 if you would like. But there's no -- the Government doesn't
5 have to put on its case the way you would like.

6 Mr. Hull, did you have something you wanted to
7 say?

8 MR. HULL: Your Honor, it would be helpful if the
9 Government, say, by mid-next week could give us a heads-up
10 estimate on how many trial days they think they will be
11 putting their case in chief -- is that a fair request?

12 THE COURT: I mean, the parties have been talking
13 about the length of this trial for a while. I encourage
14 them to -- I encourage you all to continue to do so. I
15 mean, I'm not going to order that. But --

16 MR. HULL: No.

17 THE COURT: -- this isn't -- I absolutely think
18 the parties should be talking about -- and part of my order
19 sets out the types of notice and things like that that the
20 parties need to provide each other. But as far as -- and I
21 encourage the parties to do that.

22 MR. HULL: Mr. McCullough was kind enough to talk
23 with me yesterday about this and said maybe, perhaps by
24 Tuesday or Wednesday of next week, they'll have a better
25 idea. But it would be good to know as a reminder for

1 everyone.

2 THE COURT: I agree.

3 Is it there's nothing further, everyone have an
4 excellent weekend. We'll see you Monday -- Tuesday at 9:30.

5 (Proceedings concluded.)
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CERTIFICATE

I, LISA EDWARDS, RDR, CRR, do hereby
certify that the foregoing constitutes a true and accurate
transcript of my stenographic notes, and is a full, true,
and complete transcript of the proceedings produced to the
best of my ability.

Dated this 13th day of January, 2023.

/s/ Lisa Edwards, RDR, CRR
Official Court Reporter
United States District Court for the
District of Columbia
333 Constitution Avenue, Northwest
Washington, D.C. 20001
(202) 354-3269

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