

In the Matter of:

In the Matter of April Arlene Sponsel

Reporter's Transcript of Recorded Proceedings [Day 2]

October 5, 2023



**G R I F F I N G R O U P
I N T E R N A T I O N A L**

3200 East Camelback Road, Suite 177
Phoenix, Arizona 85018

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF)
 THE STATE BAR OF ARIZONA,)
)
 APRIL ARLENE SPONSEL,) PDJ 2023-9018
 Bar No. 023009)
)
)
 Respondent.)
)

Before the Honorable Margaret H. Downie
 Mark Sifferman, Volunteer Attorney Member
 Randall Clark, Volunteer Public Member

HEARING - DAY 2

Phoenix, Arizona
 October 5, 2023
 9:30 a.m.

TRANSCRIBED BY:
 Debra Riggs Torres, RPR
 Certified Reporter
 Certificate No. 50647

(Certified Copy)



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A P P E A R A N C E S

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P R O C E E D I N G S

THE COURT: This is the time set for day 2 of the hearing in PDJ 2023-9018, in the matter of a member of the State Bar of Arizona, April Sponsel.

The record will reflect the presence of Ms. Sponsel; her lawyers, Mr. Calderon and Mr. Echeveste; counsel for the State Bar, Ms. Shuman and Mr. Henley; and the hearing panel members are present.

Any preliminary matters before we reconvene, I assume, with Mr. Green?

MR. HENLEY: Mr. Green, correct, Your Honor.

THE COURT: Anything else?

MR. CALDERON: No, Your Honor.

THE COURT: All right. Is Mr. Green here?

MR. HENLEY: He is.

THE COURT: Good morning, Mr. Green.

THE WITNESS: Good morning.

THE COURT: Welcome back.

THE WITNESS: Thank you.

THE COURT: You were sworn in yesterday, and so you're still under oath.

And I think you remember to please pull the microphone close to you so we can get good recording and amplification.



1 And we'll pick up where we left off yesterday
2 afternoon.

3 Mr. Henley.

4 MR. HENLEY: Good morning again, panel.

5
6 DIRECT EXAMINATION (RESUMED)

7 BY MR. HENLEY:

8 Q. Good morning, Mr. Green.

9 A. **Good morning.**

10 Q. When we closed your testimony yesterday, I
11 believe we were talking about your request for the second
12 incident review. Is that where we left off?

13 A. **That sounds correct, yes.**

14 Q. Okay. When did you make your request for the
15 second incident review?

16 A. **That would have been -- well, I think my first
17 request was on a Friday, when I suggested it an email to
18 Ken Vick and, I believe, Vince Goddard as well. I then
19 made that request again on the following Monday, which I
20 think was February 8th, when I spoke to Ken Vick over the
21 phone.**

22 Q. Did you talk to Ms. Sponsel regarding your
23 request to set up a second incident review?

24 A. **Not on that day. I believe the next time I
25 contacted Ms. Sponsel would have been on Wednesday, which**



1 I think would have been February 10.

2 Q. What was the purpose of your request?

3 A. At that point, that second incident review was
4 set for the Friday, February 12, and I knew that -- I
5 guess I just assumed or knew that she was aware of it. So
6 I had sent some text messages, and I don't have them in
7 front of me, but my recollection is that I was saying
8 would you like me to text you or email you some of the
9 questions that -- that I believe you would be asked,
10 something to that effect. And then ultimately I ended up
11 speaking with her briefly, and I then I sent an email with
12 a number of questions in anticipation of the February 12th
13 incident review.

14 Q. The email I believe you're referring to has been
15 marked and entered as Exhibit 10. Do you think that would
16 help you refresh some of the information you were
17 requesting?

18 A. It would, yes.

19 Q. Exhibit 10.

20 A. Okay.

21 THE COURT: Exhibit 10. I think that's something
22 else.

23 THE WITNESS: This appears to be something else.

24 THE COURT: Mr. Henley?

25 MR. HENLEY: Why don't we move forward.



1 **THE WITNESS: Sure.**

2 BY MR. HENLEY:

3 Q. The email that you sent to Ms. Sponsel requested
4 certain information; correct?

5 A. **That's correct, yes.**

6 Q. And generally, if you can recall some of the
7 information that you were looking for?

8 A. I think -- my recollection is the way that I set
9 up the email was sort of asking questions about each
10 element or certain elements of the gang charge as to -- in
11 other words, what is the evidence that we have for this
12 element, for example, that this is an association or
13 ongoing association?

14 What evidence do we have to support, let's say,
15 certain criteria of the criminal street gang member
16 definition?

17 I think I had some other questions also about the
18 riot charge. But it was just generally focused questions
19 that would hopefully smooth the progression of the
20 incident review.

21 Q. Did Ms. Sponsel reply to that email?

22 A. I don't recall if she replied to the email. I
23 know we had some text messages back and forth. And I knew
24 from the text messages or at least from briefly speaking
25 with her that she was working on answering those



1 questions.

2 Q. My apologies, Mr. Green. If I can get you to
3 move over to Exhibit 92.

4 A. 92? Yes, Exhibit 92 is the email.

5 Q. Is that the email that you were referring to?

6 A. Yes.

7 Q. My apologies, Mr. Green.

8 Was there any particular piece of information
9 that you felt was important to receive from Ms. Sponsel
10 prior to the second incident review?

11 A. I think in -- I think almost everything that I
12 was listing I thought was important. You know, I wanted
13 to know, for example, what direct evidence we would have
14 that would support that this particular group and these
15 specific arrestees, which would now be the 17, not the 18,
16 because by then Ryder Collins had been dismissed -- oh,
17 sorry. Well, sorry, I take that back. In my mind, I
18 knew -- I was becoming confident that Ryder Collins was
19 not part of this group. But he had not been dismissed.
20 Let me clarify that.

21 But I wanted to know, do we have any direct
22 evidence, somebody who can say that this group all knew
23 each other and -- because you have to show an association.

24 Also whether or not this specific group had in
25 the past committed felonies, which is also an important



1 factor in the definition of a criminal street gang.

2 Also, I was interested in making sure that the
3 name of the gang, do we really know that for sure that
4 this specific group actually referred to themselves as
5 A-C-A-B, or ACAB, because that would affect one of the
6 other criteria for criminal street gang member; that being
7 self-proclamation.

8 So that's just an example of some of the specific
9 items of information that I was very interested in.

10 Q. Did Ms. Sponsel provide you with any of this
11 information prior to the second incident review?

12 A. No. My recollection is that the understanding
13 was that this information would be provided at the second
14 incident review.

15 Q. Did the second incident review begin as
16 anticipated?

17 A. Yes, it did.

18 Q. And that was on February 20th --

19 A. February 12th.

20 Q. February 12th of 2021.

21 How did it begin?

22 A. So back on that Wednesday, I had figured out or
23 learned that Clint Davis, who was an expert -- gang expert
24 who used to work for Phoenix PD, was going to be
25 assisting. So when we showed up at the incident review,



1 it was April and Clint Davis, and then it was, I believe,
2 the same members of the group that had been present for
3 the Zoom or GoToMeeting on October 30th. And April had a
4 PowerPoint. And the presentation began.

5 Q. Was this an in-person incident review?

6 A. It was, yes.

7 Q. What (indiscernible)?

8 A. There is, on the first floor of the 225 West
9 Madison building, a press room, a fairly large room, and
10 that's where it was.

11 Q. If I recall your prior testimony -- well, strike
12 that.

13 Who was present at the meeting? You listed the
14 people at the first incident review. Who were some of
15 those folks?

16 A. So it would have been Sherry Leckrone, Vince
17 Goddard, William Long, Ken Vick, Tom Van Dorn, obviously
18 myself, Jennifer Liewer, Heather Livingstone, April and
19 Clint. I don't know -- I apologize if I'm missing
20 anybody, but I think -- I think that was definitely most
21 of the people.

22 Q. Was there a moderator of the incident review, a
23 person in charge?

24 A. I don't know that I would say that there was a
25 moderator -- oh, I'm sorry. I left -- Allister Adel was



1 present. I'm sorry. And that was the first time that I
2 had seen Allister Adel since she had come back from her
3 surgery. I knew there was somebody I was missing.

4 Q. Was there anyone in charge of the meeting?

5 A. I don't recall anybody, like, taking charge. If
6 anyone was to have done so, I would say it would have been
7 Ken Vick, you know, to some extent, like, "Let's get
8 started."

9 Q. How did it get started?

10 A. My recollection is that she -- there may have
11 been a few preliminary things said, but basically
12 April began with her presentation, which was a PowerPoint.

13 Q. Did the PowerPoint present any information, any
14 new information, that wasn't discussed in the first
15 initial review?

16 A. Well, there was definitely new information, like
17 information that had not been discussed at October -- on
18 the October 30th meeting. However, the information did
19 not necessarily answer the questions about the evidence
20 for this case.

21 Q. What do you mean?

22 A. So, for example, one of the things that I recall
23 from the PowerPoint was sort of information about the
24 group that was believed to be called ACAB. And a lot of
25 the names that we were seeing, if not almost -- almost all



1 of them, not necessarily all, but I think, for example,
2 Suvarna Ratnam was a common name, but most of the names
3 were people who were not part of those who had been
4 arrested on October 17th. So there was discussion about
5 that.

6 There were text messages, but they were, my
7 recollection is, mainly between people who were not,
8 again, part of this group of arrestees.

9 There were -- also, the content of the text
10 messages did not necessarily show what my impression was
11 from October 30th, which is that this was a group that was
12 planning to do specific violence on October 17th; for
13 example, a conspiracy to commit aggravated assault against
14 officers and things like that.

15 So there was -- that was -- that was a decent
16 portion of the PowerPoint. There was some other sort of I
17 guess extraneous slides regarding a couple of -- maybe at
18 least one other jurisdiction, I believe Utah, and there
19 were some other, like, social media postings and things
20 like that. And I -- I can refresh my recollection if
21 necessary by looking at the PowerPoint.

22 Q. Okay. We'll continue on for now. We may get
23 into that later.

24 Did Ms. Sponsel present any evidence or photos
25 identifying sharpened fingernails or umbrellas?



1 A. No, because there -- there were no -- there were
2 no sharpened fingernails. There were -- I do recall a
3 photo -- photos or at least one photo of an umbrella or
4 umbrellas. In fact, I do remember I believe the photo of
5 the umbrella from the Suvarna Ratnam August case was in
6 there.

7 My recollection from looking at the screen is I
8 really couldn't see whether it had been modified, but I
9 think at that time I was less concerned about that case
10 than I was about the October 17th case that we were there
11 to talk about.

12 Q. The umbrella -- regarding the umbrella in the
13 Suvarna Ratnam case, that was an umbrella that related
14 solely to Suvarna; correct?

15 A. The -- I'm sorry -- in the August Suvarna Ratnam
16 case, that particular umbrella related, yes, to Suvarna
17 Ratnam. She had been arrested in August of 2020 in a
18 separate incident.

19 Q. Do you know why Ms. Sponsel included the umbrella
20 that was seen as part of Suvarna Ratnam's arrest in
21 August of 2020?

22 A. I think because it was -- she was a common
23 defendant from the August incident to the October 17th
24 incident, so, you know, to some extent, I mean, it could
25 potentially be relevant and admissible under Rule 404 as



1 sort of a prior act showing intent. I -- I'm somewhat
2 speculating, but using my prosecutor mind, that's what I
3 would conclude.

4 Q. Did you review the umbrellas that were seize --
5 did the PowerPoint contain pictures of the umbrellas that
6 were seized during the October 17, 2020, arrest?

7 A. I can't remember specifically if that PowerPoint
8 that we saw on February 12th did. It may have, but I know
9 that by that time I had reviewed the photographs, and I
10 had already seen the umbrellas that were seized on
11 October 17th.

12 Q. Did any of the umbrellas that were seized on
13 October 17th have the same clipped area as the August 2020
14 umbrella used by Suvarna Ratnam?

15 A. No. When you say "clipped area," do you mean
16 like that top part?

17 Q. Yeah. So let's come up with a term for that.

18 A. Yeah.

19 Q. What do you -- what do you call it? What do
20 you -- what is your language to describe the umbrellas
21 with that little metal protrusion at the top?

22 A. So to make it clear, I don't know that when I
23 ever watched Mary Poppins, but I think I had kind of
24 referred to it as like the old-style Mary Poppins
25 umbrella. I don't know if that really did have that



1 little lengthy part at the end. But, yeah, that's what I
2 considered that type of old-style umbrella.

3 Q. And were there that old-style of umbrella, was
4 that a type of umbrella that was used in the October 17,
5 2020, protest?

6 A. Yes. So there were -- there were a few of them,
7 two, three or so, but I do -- I recently looked at the
8 photos and it -- my recollection is that most of them are
9 kind of those smaller, I guess more modern umbrellas that
10 have no point at the end.

11 Q. Did any of the umbrellas that were seized as part
12 of the October 17, 2020, arrest include any modifications?

13 A. There was no modification that I could see, and I
14 was -- I never received any evidence that there had been
15 any modification.

16 Q. During Ms. Sponsel's presentation at the second
17 incident review, did she present any evidence which would
18 link any of the October 17th protesters?

19 A. Just a small amount of I guess -- I believe there
20 may have been a small amount of evidence linking a few of
21 them together that, you know, some of them -- certainly
22 some of these protesters knew each other. But I think my
23 concern was do we have evidence linking them not only
24 together but also participating in prior felony acts,
25 which would be relevant to a gang charge. But there



1 was --

2 Q. (Indiscernible)?

3 A. Oh, I'm sorry.

4 Q. No. You go ahead.

5 A. No. I was going to say that one of the other
6 issues, though, was that there were a number of those who
7 were present who simply -- it did not appear that there
8 was a link between them. That they had simply shown up, I
9 believe, potentially in response to a social media
10 posting.

11 Q. Who did you determine may not have had any
12 knowledge of the protesters prior to the events of
13 October 17th?

14 A. Well, I'm -- two that stick out, my recollection
15 is that I believe there was one named Amy Kaper and
16 another, Nathaniel Llanes, who -- my understanding is that
17 they did not have a -- like a personal friendship or prior
18 association with those that they had joined. That was my
19 understanding. And I think that there were also a
20 couple -- at least -- at least one other, I believe.

21 Q. Who was the one other that comes to mind
22 immediately?

23 A. I can't remember right now. I'm sorry.

24 Q. Would --

25 A. Oh, I'm sorry. Let me take a step. Ryder



1 Collins was obviously the main one. I apologize. That
2 was the main one. I kind of separated him out. But by
3 the time we got to the incident review, although I was
4 still interested in, you know, maybe there was something I
5 missed, I was already fairly certain that he had no
6 connection with these -- these people, the other people
7 who had been arrested.

8 Q. Were the other issues identified in your
9 February 10th email addressed by Ms. Sponsel?

10 A. Well, it's hard for -- it's hard for me to
11 remember exactly, you know, how she addressed or didn't
12 address them. But the bottom line was that we were
13 never -- I was never presented with any evidence that
14 would satisfy that we had sufficient evidence to prove the
15 gang charge. So the -- in other words, the questions
16 about whether or not these people had associated and --
17 you know, in previous, you know, felony events. I'm going
18 to -- like, for example -- I'm just looking at Bates
19 Number 1934. I put under A, for example, is there a
20 police report identifying two or more of these indicted
21 defendants meeting together on a date other than
22 October 17th?

23 And then I have another little subsection,
24 Sergeant McBride seemed to suggest in testimony that he
25 was familiar with some of these defendants from prior,



1 quote, arrests and violent crimes that were committed.

2 So I don't believe we -- I know we never received
3 any evidence that these people specifically had come
4 together in a previous incident where they were committing
5 violent crimes together, that I could, you know, see.

6 Q. Moving --

7 A. At least on this day.

8 Q. Moving on to Bates 1935.

9 A. Yes.

10 Q. Again, I'm in Exhibit 92.

11 A. Yes.

12 Q. The question identified as the third question on
13 that email asked for a captured electronic communications
14 between the specific arrestees.

15 Did Ms. Sponsel provide -- would you call it a
16 group or a committee of these incident reviews?

17 A. Yeah. I mean, so incident review, again, there's
18 the kind of official incident review, but there is
19 technically a standing committee for incident review, but
20 I think, in practice, a lot of times it's some -- it can
21 be somewhat ad hoc based on what the subject matter is
22 and -- yeah.

23 So I'm sorry. What was your question?

24 Q. So would it be safe -- would I be fair in saying
25 that these are just members of the second incident review?



1 A. Yes, correct.

2 Q. Okay. So did Ms. Sponsel provide the members of
3 the second incident review with any captured electronic
4 communications between the specific arrestees prior to
5 October 17th?

6 A. There were captured communications; however, one
7 of the things that caught my attention and concerned me is
8 that most of the communications that we were seeing did
9 not involve people who were arrested on October 17th.

10 I believe that one of the common people in those
11 communications was Suvarna Ratnam. But from my
12 recollection, all these other names were people who simply
13 were not part of what happened on October 17th. And that
14 was going to be a huge problem for being able to prove
15 that this group here is an association that meets the
16 definition of criminal street gang.

17 Q. Based on Ms. Sponsel's statements during the
18 first incident review and the second incident review, did
19 you anticipate that there would be evidence of captured
20 communication between these individuals?

21 A. My -- well, certainly after I left the
22 October 30th meeting, you know, my impression, the story
23 that was in my mind after listening to the presentation
24 was that they had text messages between these people. And
25 my recollection was that the phrase was used, something



1 along the lines of text messages indicating violence.

2 And I do remember having this question, and I
3 don't know if I verbalized it or not, but what does that
4 mean, "indicating violence"? Do we have -- you know, give
5 me specifics.

6 However, by the time we got to the second
7 incident review, it became clear that none of the text
8 messages, at least most of these text messages or chats
9 that we had, did not relate to planning October 17th.

10 There was a text message relating to the planning
11 of the October 17th protest that had been -- we later
12 learned -- or it may have been presented in this incident
13 review -- coming from Riley Behrens to law enforcement.
14 Essentially, there's going to be a protest, and it's not
15 going to be peaceful -- or something like that.

16 But that wasn't a text message between
17 coconspirators, if that makes sense.

18 Q. Who is Riley Behrens?

19 A. Riley Behrens was one of the arrestees. Riley
20 Behrens was also somebody who, you know, I guess you can
21 use the term had become kind of an informant, maybe --
22 whether formally or informally had become an informant.

23 Q. Which law enforcement agency was -- did you
24 understand Riley Behrens to be providing information to?

25 A. Well, this is what I can't quite in my mind



1 remember what I learned on February 12th and what I
2 learned later as I was researching the case. But,
3 basically, Riley Behrens began giving information to a
4 Gilbert police detective. Then that information ended up
5 getting passed on to members of the Phoenix Police
6 Department and the FBI Joint Terrorism Task Force. And
7 then from there, Riley Behrens ended up having some
8 meetings with the -- the -- I guess I'll just say like an
9 FBI task force that includes some Phoenix officers or
10 detectives.

11 Q. Did you later learn information about
12 Mr. Behrens' veracity?

13 A. Yes.

14 Q. Did you learn information about his termination
15 as a CI by the FBI?

16 A. Yeah. So we had actually heard about his
17 termination from the FBI back on the October 30th Zoom
18 call. April had mentioned that he was unreliable. And
19 I -- and while I don't remember all the specifics, I -- I
20 think that she had mentioned that he had sort of outed
21 himself to media. But then by the time we got to the
22 second incident review, I -- I'm pretty sure, I'm almost
23 positive, it was discussed again.

24 Q. Despite having informed the members of the first
25 incident review that Riley Behrens had been terminated as



1 a CI, did you determine why Ms. Sponsel was still trying
2 to rely on Riley Behrens' purported conversations to law
3 enforcement in the second incident review?

4 A. I don't know -- I -- I don't know for sure, I
5 mean, other than perhaps context. You know, like this is
6 how we believe we know what we know.

7 Q. So, again, the only electronic communications
8 that were captured regarding the October 17th protest and
9 that potentially involved violence was an email -- was
10 solely an email from Riley Behrens to law enforcement?

11 MR. CALDERON: Objection. Asked and answered.

12 THE COURT: I'm a little confused on this point.

13 MR. HENLEY: Sure.

14 THE COURT: I actually had a question about it,
15 that this answer could clarify. If not, I'll follow-up.

16 But could you go ahead and answer that.

17 THE WITNESS: Sure. And then this -- a lot of
18 what I'm about to say as far as my knowledge comes after,
19 because I eventually obtained the communications between
20 Riley Behrens and a Detective Steve Denny, who was working
21 for the FBI task force.

22 On I believe October 16th or right around there,
23 Riley Behrens had sent some text messages to Steve Denny,
24 and -- alerting him that there was going to be a protest
25 and that it was not going to be peaceful.



1 There were some attachments. There was an
2 attachment that had some sort of like a -- a screenshot
3 from some communications, and that did have a
4 communication -- I believe it was from somebody named
5 Kaleb, who might have been Kaleb Martin in the -- in the
6 protest.

7 So it was basically Riley Behrens saying it, a
8 screenshot that I don't know that we ever verified for --
9 I don't think we ever verified for sure that it came from
10 Kaleb. So there was that information.

11 I don't know -- I know I obtained that
12 information later after I had taken the review of the
13 case.

14 THE COURT: Before you move on, let me just
15 clarify my understanding.

16 Who did Riley Behrens send the text message to?

17 THE WITNESS: The one that I'm speaking of went
18 to a detective Steve Denny. However, Riley Behrens'
19 original discussions with police was to a Gilbert police
20 detective by the name of Terry Burchett.

21 THE COURT: Thank you.

22 BY MR. HENLEY:

23 Q. During the second incident review, did
24 Ms. Sponsel present any captured electronic communications
25 between Ryder Collins and any of the October 17th



1 protesters?

2 **A. No.**

3 Q. Did -- again, during that second incident review,
4 did Ms. Sponsel present any evidence which would link Amy
5 Beth Kapers to any of the other October 17th protesters?

6 **A. Not that I recall. I recall a -- I believe there**
7 **was a screenshot of a social media posting, but it was**
8 **more of a political statement as opposed to a connection**
9 **between the others.**

10 Q. It was just a general flyer?

11 **A. No. It was -- you have to forgive me. I don't**
12 **have Twitter. I think it was like a -- a tweet, and I**
13 **think it said like -- it was something along the lines of,**
14 **like, "Burn It Down" or something like that. I mean, it**
15 **was, you know, kind of an inflammatory or -- or like**
16 **"Riots 2020." I'd have to review it.**

17 **But whatever it was, it did not connect her to**
18 **the other arrestees that I could see.**

19 Q. Did Ms. Sponsel present any evidence linking
20 Nathaniel Benjamin Llanes with any of the October 17th
21 protesters?

22 **A. Not that I recall.**

23 Q. Did she present any captured electronic
24 communications between any of the other October 17th
25 protesters?



1 A. My recollection --

2 Q. Other than what you testified today, with Riley
3 and the --

4 A. Yeah. No. The one -- it was basically -- I
5 believe Suvarna Ratnam was one of the communicators, so
6 there was that common link. But the others that she was
7 communicating with, I don't believe any of them were the
8 arrestees.

9 Q. Ms. Sponsel certainly didn't present any evidence
10 to link any of these -- these protesters together;
11 correct?

12 A. Well, I believe that she tried and -- and I don't
13 remember the specifics, but I felt -- I remember my
14 feeling was that this isn't a strong connection or this is
15 tenuous or we don't have a direct witness who is going to
16 be able to establish that.

17 Q. What happened next?

18 A. So we did the incident review. I do know that
19 there were, you know, a lot of questions going back and
20 forth during the incident review to April, both from me,
21 from Ken Vick, from Tom Van Dorn.

22 After it was over, I believe April and Clint
23 Davis exited the room. We had a discussion. We went
24 through, you know, our thoughts on the case, and then we
25 reconvened a little bit later for kind of a smaller group



1 final decision on what was to be done.

2 And Allister made the decision, you know, to
3 dismiss the entire cause number without prejudice. So
4 essentially it's dismissing all of the defendants at that
5 point.

6 Q. As part of your discussion, did you glean the
7 reason -- the primary reason the case was to be dismissed?

8 A. Well, a few things. I guess, number one, lack of
9 evidence or, you know, on, you know, like an insufficient
10 reasonable likelihood of conviction on certain charges.

11 Then when it came to misdemeanor charges, I think
12 the -- I know I can -- I guess I should be careful and
13 just speak from what my, you know, opinion was that I
14 would have conveyed, which is that while, yes, there were
15 clearly a number of misdemeanors or there were
16 misdemeanors that were committed here, if we're going to
17 refile these charges, we need to start over. We need to
18 make sure we really know what happened. We're going to
19 need more investigation.

20 And so -- and I think the others generally
21 agreed -- ultimately agreed with that, and -- I mean,
22 there may have been some disagreement about how many
23 charges get dismissed. But ultimately everything was
24 dismissed without prejudice with the intent that it would
25 sort of be reviewed to look at whether it was appropriate



1 to refile either some of the misdemeanor charges or a
2 lower level felony charge.

3 Q. Did anyone during the discussions indicate that
4 misdemeanor charges would be appropriate for Ryder
5 Collins?

6 A. No, no. I -- I think -- my recollection is that
7 it was pretty -- well, I know what my opinion was. At
8 that point, I was convinced that Ryder Collins had
9 absolutely nothing to do with this. So I don't think
10 anybody was suggesting in this smaller group that Ryder
11 Collins would be part of any refiling.

12 That being said, to -- you know, that doesn't
13 mean that there would not be further investigation. You
14 know, to be fair, I think April still believed and had
15 expressed her belief in the original incident review on
16 February 12th that he was involved and that they were
17 going to find video that would show that.

18 However, based on what I had already seen, I was
19 confident that there's not going to be any video showing
20 him involved with this group, other than the account that
21 he gave.

22 Q. What was your understanding of the account that
23 Mr. Ryder gave to the police officers?

24 A. That he had traveled from Prescott and that he is
25 an amateur photographer and he was taking pictures of



1 buildings with some friends or colleagues of his and
2 specifically he had come down to take pictures at sunset.
3 I think he had referred to it as like the "sweet spot"
4 time. And he was over by Cityscape when he saw this kind
5 of event unfolding before him, you know, a bunch of people
6 wearing black and walking down the street and being
7 followed by the police.

8 And so he had a camera, and it was interested --
9 interesting, and he began taking pictures and generally
10 followed sort of along the sidewalks. At one point I
11 think he did tell the police that he had gone out into the
12 street while they were ahead so he could take a single
13 picture.

14 MR. CALDERON: Objection. Hearsay.

15 THE WITNESS: Oh, I'm sorry.

16 Basically my understanding is that he was there
17 to take pictures in Phoenix at sunset. Saw this and then
18 started taking pictures.

19 BY MR. HENLEY:

20 Q. Was Ms. Sponsel informed of the group's decision
21 to dismiss Ryder Collins' case?

22 A. Yeah. So she would have been informed on
23 February 12th. And although I'm not the one that did the
24 informing, I'm just generally aware that she was informed
25 that the decision was made to dismiss all of the



1 defendants without prejudice on that date, Friday,
2 February 12th.

3 Q. Did you have any conversations with Ms. Sponsel
4 following the second incident review?

5 A. I did -- I did not have any in-person
6 conversations. There were a couple of emails the
7 following week.

8 Q. What was the nature of those emails?

9 A. So the following week, once it was decided that I
10 was going to be the one to review the October 17th case, I
11 believe there was an email about an upcoming court date
12 and then an email about something to do with Mesa and
13 photos and some information that they had. There may have
14 been a couple of others. And then I sent a final email
15 February 19th, which was the follow Friday, informing her,
16 Vince Goddard, and Sherry Leckrone, giving them a heads-up
17 that I had just filed a motion to dismiss with prejudice
18 on Ryder Collins.

19 Q. Why did you file a motion to dismiss with
20 prejudice?

21 A. Is it okay if I give kind of some context leading
22 up to it?

23 Q. Please do.

24 A. So we had the incident review on Friday,
25 February 12th. And then the decision was made to dismiss



1 without prejudice.

2 That weekend was President's Day weekend. So it
3 was a three-day weekend. And I continued to review body
4 cam -- I think the Strongwatch video, you know, and some
5 of the other information in the case. And I came to the
6 conclusion that -- just even a stronger conclusion that
7 Ryder Collins had nothing to do with these people and
8 that, frankly, he had been -- it was a wrongful arrest
9 and, therefore, I wanted -- I felt that we should dismiss
10 it with prejudice.

11 I also, in my email, made -- discussed some other
12 issues about the protest cases. I had suggested that the
13 protest cases be assigned to somebody else. I had
14 specifically said -- threw out the name Rachel Mitchell
15 because she was in the prosecution integrity unit. I soon
16 found out, you know, with such luck, you know, my chief
17 deputy said you've already been reviewing it. I'm going
18 to assign this to you for review.

19 So I then ended up continuing my review that
20 week, and I got in touch with a case agent and was asking
21 him to do follow-up as it related to Ryder Collins. And
22 ultimately, I was really asking to get a follow-up with a
23 sergeant, the first sergeant who essentially directed the
24 arrest of Ryder Collins.

25 And when it was absolutely confirmed that -- that



1 when Sergeant Groat made a statement that that was not the
2 guy that he was yelling at, so to speak, I -- I -- that's
3 when I filed my motion to dismiss with prejudice, and then
4 I gave April the heads-up.

5 Q. Why did you feel it was important to file a
6 motion to dismiss with prejudice given that a motion to
7 dismiss without prejudice had already been filed?

8 A. I -- well, I guess I sort of -- in the interest
9 of justice, it's our obligation when we realize that, you
10 know, that this is the wrong person.

11 It is as -- as about as confirmed as it can be at
12 that point. The right thing to do, the thing that we
13 have -- that we should do is to dismiss with prejudice.

14 Q. Were you directed to file that motion to dismiss
15 with prejudice, or did you do that voluntarily?

16 A. No. I wasn't directed to do it. I had been -- I
17 had suggested it in my email that I had sent I believe
18 that Monday. I think it was President's Day. And then
19 we -- there was a discussion where let's just make a
20 hundred percent certain that we're not missing something,
21 that the police maybe do have something. Let's make sure
22 we get it right.

23 And that's why I had asked the case agent,
24 Detective Legere, to do the follow-up. And once that
25 follow-up on Friday was confirmed, I then filed the motion



1 to dismiss with prejudice. And I don't think -- I guess I
2 wasn't directed to do it. It was understood that this is
3 what we would do and what I would do. I guess I -- I
4 didn't do it against orders. I wasn't ordered to do it.
5 It was -- I had suggested it. And there was -- I don't
6 believe there was any disagreement. I think my chief
7 deputy agreed that that would be the appropriate thing to
8 do.

9 Q. So you testified to a couple of things, and I
10 just want to make sure that I have these folks identified.

11 Who was your chief deputy at the time?

12 A. Ken Vick.

13 Q. You also testified that Rachel Mitchell was in
14 some way affiliated with the prosecutorial integrity unit.

15 First off, what is the prosecutorial integrity
16 unit?

17 A. So it was kind of brand-new at that time. The
18 idea was to review cases that had already -- that were
19 post-conviction to determine whether or not there, you
20 know, is new evidence of innocence or some other reason
21 why in the interest of justice the case should sort of be
22 reopened and looked at and whether any -- whether any
23 action should be taken.

24 So it's basically cases where the entire judicial
25 process usually has been completed. You know, let's say



1 appeal, post-conviction relief, all of that's done, yet
2 something -- there's something about the case, usually
3 like factual innocence, that ought to be looked at.

4 Q. You -- why did you suggest Ms. Mitchell to
5 undergo the future investigation of the Ryder Collins case
6 and the October 17th protest?

7 A. I mean, you just -- it kind of -- in my mind, it
8 sort of fit with like a -- although it wasn't exactly the
9 function of prosecutorial integrity, it generally fit the
10 concept: Let's make sure we get it right.

11 You know, I guess, in my mind, I was kind of
12 assuming maybe she had time to do it. So she was one of
13 the suggestions. I mean, it wasn't necessarily like,
14 please assign it to her. I have -- whatever the email
15 said is what I said.

16 Q. You said that the chief deputy at the time told
17 you no such luck and that you were going to be the guy?

18 A. Correct.

19 Q. Did Ms. Mitchell continue an investigation of any
20 of the FRB cases?

21 A. So this is where I'm -- the timeline, I don't
22 have it perfect in my head. So my recollection is right
23 around that time, Rachel Mitchell ends up getting
24 contacted by a defense attorney from one of the protesters
25 on a different case, a case that occurred in August, and



1 was asked to review the case and, you know, something
2 along the lines of --

3 MR. CALDERON: Objection. Hearsay.

4 THE COURT: I think we are getting into hearsay.

5 MR. HENLEY: That's fine. Why don't we move on.

6 **THE WITNESS: Sure.**

7 BY MR. HENLEY:

8 Q. After your chief deputy informed you that you
9 were going to be tasked with investigating the
10 October 17th protester case further, what efforts did you
11 take?

12 A. So the -- the most immediate effort was the issue
13 of Ryder Collins, because I had discussed with Ken, like,
14 this is -- this is the biggest problem that I see is that
15 this guy was not involved. And we had the discussion that
16 I just mentioned about, you know, let's make sure we got
17 it right. Let's see what the police say.

18 So I had reached out to the -- this Detective,
19 Adam Legere, to do follow up. I wanted him to interview
20 Sergeant Groat. The interview didn't happen quite as fast
21 as I would like, but ultimately it happened on that
22 Friday. That was the main thing that I did.

23 I know that I walked the route that week to get
24 an idea of, you know, I had seen by this time body cam and
25 Strongwatch video, so I had walked the route just to get



1 an idea. So those were some of the things that I was
2 doing when I first got the case.

3 I probably prepared that motion to dismiss with
4 prejudice, you know, at some time even before the actual
5 interview with Sergeant Groat because I really felt like,
6 from watching the video, that I knew where this was going.
7 But I really wanted to -- I wanted to make sure we got
8 that confirmation. Once I got the confirmation, I filed
9 it.

10 Q. Did you file the motion to dismiss without
11 prejudice after Sergeant Groat had been interviewed?

12 A. It was -- so the motion to dismiss with prejudice
13 is what I filed right after I got word over the phone from
14 Detective Legere that he had interviewed Sergeant Groat
15 and Sergeant Groat had said something to the effect of,
16 "No, the guy that I was yelling at was not -- not that
17 Ryder Collins guy." You know, that -- that's what
18 Sergeant Groat had said. And regardless, once I heard
19 that, I -- I know I'm going to be filing that motion.

20 Q. Did you take any other efforts regarding the
21 court record involving Ryder Collins?

22 A. So in -- in the motion to dismiss with prejudice,
23 I had included language that the Maricopa County
24 Attorney's Office has no objection to a -- a petition
25 filed under -- I'm blanking on the statute. Like it might



1 be 13-40-51, but essentially clearance of record for those
2 who have been wrongfully arrested. That's the language of
3 the statute.

4 Q. Was that motion granted?

5 A. So because -- my understanding of the statute, we
6 can't -- it has to be filed on behalf of the person who
7 was arrested. So our position was, we don't object. You
8 can file it. And then ultimately, I believe that petition
9 was filed and it was granted.

10 Q. Was Ms. Sponsel made aware that you were filing
11 the motion to dismiss with prejudice?

12 A. I don't believe -- I only made her aware after I
13 filed it. There was an email where I said, just to give
14 you a heads-up, and it was to, I believe, her, Vince, and
15 Sherry. But I did not -- I did not talk to her about that
16 prior to February 19th.

17 Q. What other efforts did you take on behalf of the
18 Maricopa County Attorney's Office regarding the protester
19 cases?

20 A. So that same week, when I got assigned the
21 October 17th case, because Suvarna Ratnam had an open
22 case, it made sense that I also get assigned that. So I
23 then also began researching that case.

24 And then soon thereafter, and I can't remember if
25 it was late February or early March, but the Chief Deputy



1 had sort of called together all of the different
2 protest-related felony cases and as well as submittals
3 that seemed to relate to protests. And he had suggested
4 and I think ultimately it was kind of a direction that we
5 would form a team and split up these protest cases for
6 review and the review would be done by people outside of
7 Special Prosecution I.

8 So those who were involved was me, Ed Leiter,
9 Neha Bhatia, and then we were to get some trial group, you
10 know, sort of younger prosecutors as well to help review
11 cases.

12 The cases were a mixture of submittals, cases
13 that had not even yet been reviewed for charging, and then
14 there were pending cases.

15 So Ed and Neha, for example, got some other, you
16 know, cases involving, for example, I believe Defendants
17 Byrd, Jonah Ivy, Tyce [phonetic], some of those people.

18 I obviously obtained the October 17th -- I had
19 the October 17th case and the Suvarna Ratnam case. There
20 were a few other cases as well that were -- one was
21 pending. One was on bench warrant status. Ultimately the
22 bench warrant status, the case did come to me.

23 And then -- yeah. And then the other -- and then
24 there were a bunch of cases that were reviewed by the
25 trial group -- some trial group prosecutors, one in



1 particular who did a lot of the review, and we made
2 decisions. And most of those decisions were to either
3 refer cases to the city for misdemeanor prosecution. Some
4 were simply turndowns, no reasonable likelihood of
5 conviction. And then other cases that were pending were
6 reviewed.

7 Many -- there were a number of incident reviews,
8 kind of formal incident reviews on some of those cases.
9 And then there were also just sort of informal staffings
10 among the group. And in particular, Ed, Neha, and I had
11 reviewed some of the cases that they were assigned to.

12 Q. So let's unpack that a little bit.

13 A. Sure.

14 Q. First you mentioned Ed Leiter. Just for the
15 purposes of the record. He's a Maricopa County deputy
16 county attorney at the time?

17 A. Correct, yes.

18 Q. At that time, during this February 2021,
19 March 2021 time frame, was he working in the FRB?

20 A. No, he was not.

21 Q. Had he previously worked in the FRB?

22 A. I don't -- I don't believe he -- no. I don't
23 believe he was ever in FRB, no.

24 Q. So he was brought in from another division?

25 A. Correct. He would have been under Special



1 Prosecution team, and I believe at the time he was bureau
2 chief of the sort of white collar cybercrime bureau. But
3 that bureau also does handle -- usually it's cases -- sort
4 of specialty-type cases. It kind of used to be called
5 Special Crimes.

6 Q. Neha Bhatia, was she an FRB attorney at the time?

7 A. No, she was not.

8 Q. What division did she get called from?

9 A. She was in the same bureau as Ed.

10 Q. You said that there was a trial group prosecutor
11 that spent a lot of time with your group also. Who was
12 that trial group?

13 A. That was Suzie Caughlin and -- and at this time I
14 think almost all of our discussions, at least -- I'm
15 sorry -- with Suzie, I believe, was over the phone or
16 perhaps maybe email, things like that.

17 Q. When you -- is it safe -- is it fair to call your
18 Ed, Neha, and yourself, your "group" or your "committee"?
19 I don't know what term you like using.

20 A. I'm not sure what we really called ourselves. We
21 were just a group of people that were tasked to review
22 these protest cases and make decisions. Some of them
23 ended up going to a more formal incident review. A lot of
24 them, you know, were simply resolved among us, discussing
25 it, making sure that we got the right decision, making --



1 you know, like, for example, Suzie Caughlin would say,
2 "I'm inclined to turn this down," you know, or "Give me a
3 call." You know, we'd talk about it. I'd go into the
4 case and look at it and say, "Yeah, I agree. I think this
5 is better prosecuted as a misdemeanor," things like that.

6 Q. Did you have access to support staff in your
7 efforts to review these FRB cases?

8 A. Yes. I mean, I -- you know, to the extent that
9 we needed paralegal support or anything like that, we
10 could use I believe the paralegals who were in FRB. I
11 know like on, for example, the October 17th case, I worked
12 with the paralegal who had originally been assigned to
13 that case.

14 Q. Did your group have access to secretarial staff?

15 A. So, like, I guess our group didn't have any staff
16 that was specifically assigned to us as a group. It would
17 basically be if I needed something, I would probably ask,
18 you know, whoever I thought might be willing to help.
19 Yeah, so I guess it wasn't like -- we weren't a new bureau
20 or anything. We were just a group of people that were,
21 why don't you guys review these cases and go through them
22 carefully. And then when you -- and if you need help from
23 paralegal staff, you know, you can rely still on the FRB
24 staff, if necessary.

25 Q. You testified that you were reviewing both



1 submittals and filed cases. I know what filed cases are.

2 What are submittals?

3 **A.** So submittals are, you know, the standard way
4 that our office gets a felony case is that whether
5 somebody is arrested or being investigated and not
6 arrested, in order for a felony to get charged, it's --
7 the decision has to be made by a prosecutor on a felony
8 case. Unlike misdemeanors, I talked about last time, it's
9 possible that you can have a citation.

10 So the way that that happens is law enforcement
11 will put together a packet that will contain the police
12 report, as well as some checklists, a general probable
13 cause statement and some other documents. They submit it
14 to us. And then it gets assigned to a prosecutor for
15 review.

16 Q. You referred to probable cause affidavit. Are
17 those also referred to as "Form 4 affidavits"?

18 **A.** Correct, yes.

19 Q. Moving forward with your process, so was there
20 some way -- you had been provided the universe of cases
21 that Mr. Vick wanted you to review; correct?

22 **A.** Yes.

23 Q. And those included both filed cases and
24 submittals; correct?

25 **A.** Correct.



1 Q. How did you decide who would investigate which --
2 which particular offense?

3 A. I think by the time that happened, some of the
4 filed cases, more or less, had already been assigned; you
5 know, the ones that I mentioned earlier as it relates to
6 Ed and Neha. Like, for example, there was a large, sort
7 of -- yeah, some of the -- well, I shouldn't say some of
8 the summer cases that had already been filed, as well as
9 one from October, prior to October 17th, had been assigned
10 to Ed and Neha.

11 The other ones, I really can't remember if it was
12 among the group, you know, certain prosecutors volunteered
13 to review certain submittals. I don't think there was
14 any -- I don't know that there was a method necessarily to
15 assigning other than just workload.

16 Q. Once you receive the case, what did you do?

17 A. Which case?

18 Q. Let's just -- just generally when you would pick
19 up the filed case or a submittal, what was your process?
20 What -- of review. What did you do?

21 A. Well, I guess the best example would be the
22 October 17th case. You know, I mean, I'm now going to,
23 again, review reports, I'm going to review photographs,
24 I'm going to review video, and then -- and then of course
25 I'm going to go farther, if necessary.



1 The October 17th case involved a lot of sort of
2 follow-up investigation. But on a submittal case, for
3 example, you know, it's sort of a less complex case. It's
4 going to be review the reports. Review any body camera,
5 to the extent that it exists. And then just sort of do
6 that evaluation of, you know, whether or not there's any
7 reason to reduce the charges, dismiss the charges, make a
8 plea offer, move forward with the charges. But it's the
9 totality of the circumstances and -- and just evaluating
10 it.

11 Q. After evaluating the -- well, strike that.

12 Did your review also include reviewing the
13 existing PbK records?

14 A. Yes. Well, like a lot of the PbK records is
15 going to be the police reports, photographs, if they've
16 come in and they've now been disclosed to the defense.
17 Yeah, I mean, there's a number of different pieces of
18 information that can come in, that we can access through
19 PbK once it's uploaded.

20 Q. And you had access to all of the records for the
21 individual cases?

22 THE COURT: I think this has been covered both
23 yesterday and today.

24 MR. HENLEY: Judge, I agree except that we're
25 talking about his review process, which has been alleged



1 to have been politically motivated.

2 THE COURT: Well, he talked about the PbK records
3 yesterday. He talked about how he initially didn't have
4 access, that he later got access, and he was able to
5 review them.

6 So I just think we're covering a lot of detail
7 that has been covered.

8 MR. HENLEY: Okay.

9 BY MR. HENLEY:

10 Q. Was your review of any of the submittals for
11 filed cases influenced in any way by politics?

12 A. No.

13 Q. What was your goal in reviewing the cases?

14 A. **Basically make sure that we got it right on each
15 individual case. Every case has its own set of facts.**

16 Q. In reviewing any of the filed cases, did you make
17 any recommendations through the IR process to continue
18 felony prosecutions?

19 A. **Yeah. So there were a number of different cases.
20 The incident -- when it comes to -- there were a couple of
21 cases where we did continue felony prosecution that did
22 not need to go to incident review, and it was unrelated to
23 any of the folks that kind of come up in this issue.**

24 Then there were, as it relates to the
25 October 17th case, you know, after I had continued to



1 review the case and sort of figure out the history of what
2 happened and trying to balance all of the different
3 interests on, you know, the -- whether it's public safety
4 interest, interests, you know, in abiding by the law
5 versus the things that had now already happened, my
6 recommendation on the October 17th case was initially that
7 we proceed with prosecuting misdemeanors and at least, you
8 know, consider whether one or two be looked at for
9 resisting arrest, but not as a felony -- as a misdemeanor.

10 Q. What were the other misdemeanor charges that you
11 recommended to the IR members?

12 A. So my recommendation, if I recall correctly, was
13 that disorderly conduct I felt was appropriate as well as
14 obstructing a public thoroughfare. I did also consider
15 the misdemeanor of failure to obey a police officer, but I
16 really had some questions about whether that would be a
17 redundant charge.

18 Q. Was there any recommendation that the
19 October 17th protesters be prosecuted as felony offenders?

20 A. Not from me, no. I -- I did not believe that, at
21 that point, they should -- that there should be a felony
22 charge brought. Again, there was one individual who
23 definitely I felt resisted arrest and had met the elements
24 of a felony. But I just felt given the totality of the
25 circumstances, it would be better to be prosecuted as a



1 misdemeanor, if we were to do that.

2 Q. Who was that October 17th protester that you
3 thought might qualify for a felony resisting arrest?

4 A. I hope I'm not getting it wrong, but I think it
5 was a Mr. Aderholdt, because the video had shown him
6 really, you know, resisting the arrest, and that's my
7 recollection. I have not watched the body cam recently,
8 but I think that was the one.

9 And then there was one other person who I felt,
10 from looking at the body cam, I felt confident that we
11 could show sort of the passive resistance, because there
12 was this technique where a number of them had linked
13 themselves to resist the arrest, but I felt, you know,
14 that that would be better looked at as a misdemeanor, if
15 we were to go forward.

16 Q. Did any of your group's review of police
17 submissions result in a recommendation of felony charges?

18 A. Not -- so not that I recall. My belief is that
19 none of them resulted in recommendation -- none of the
20 submittals resulted in a recommendation for felony
21 charges. Again, there was -- there were a couple of
22 felony charges that I had taken over that were unrelated
23 to the group that I guess we're generally talking about
24 today.

25 Q. Did any of the police submissions that you



1 believed might qualify for misdemeanor consideration get
2 prosecuted by the Maricopa County Attorney's Office?

3 A. I don't believe so. Like, in other words, we're
4 talking about the cases that were submitted to us that had
5 not yet been charged. I think all of them were either
6 going to be a turndown or a refer to the city for
7 misdemeanor.

8 Q. When you say "turndown," that's a decision not to
9 pursue any criminal charges?

10 A. That's correct, yes.

11 Q. When -- what was your process in transferring the
12 cases that you reviewed, the submittals, to the city
13 prosecutor's office?

14 A. So that process is handled by support staff. You
15 know, the decision is made by a prosecutor. And, again,
16 when it came to these submittals, it was more so than a
17 trial prosecutor, but I would review it and either agree
18 or disagree or have some questions.

19 But then, ultimately, our office would end up
20 sending it back to the agency -- you know, I don't want to
21 get this wrong. I think the process is it goes back to
22 the agency and then that agency, such as Phoenix or Tempe,
23 will then submit it to themselves to the municipal
24 prosecutor.

25 Q. Once you turned down a case or submitted it for



1 misdemeanor consideration, that was the end of your
2 involvement in reviewing that particular case; correct?

3 A. Yeah. And, generally, at least that's -- it's
4 over for us. Once we've made our decision that -- you
5 know, our decision is referred to the city for misdemeanor
6 prosecution, it's going to go back to the agency so the
7 police agency can see what our decision was, and we're out
8 of it.

9 It may end up getting resubmitted later if
10 there's additional evidence to support a felony charge.

11 Q. You testified earlier that your original
12 recommendation to your IR review team for the October 17th
13 case included the possibility of pursuit of misdemeanor
14 considerations. Did you maintain that position throughout
15 your review?

16 A. Well, the position changed. You know, I think we
17 kind of adjust and we always sort of balance the various
18 factors. And so while I have the opinion that I felt that
19 looking at the totality, you know, that there were issues
20 with -- there were problems. And I knew that I just
21 looked at as there should be accountability all the way
22 around. If a police officer did something wrong, the
23 police officer should be accountable. If anybody in our
24 office did something wrong, there could be accountability.
25 There's a process for that.



1 As to what I was looking at, I still felt at
2 that -- you know, by March and April, that there should be
3 accountability for what happened in terms of like the 30,
4 35 minutes of, you know, disobeying police.

5 However, ultimately it was -- we did dismiss with
6 prejudice the October 17th case. You know, so all --
7 against everybody. So -- and my opinion did change by the
8 time we did that.

9 Q. Were any of your recommendations of the
10 submittals or filed cases due to a personal animus against
11 Ms. Sponsel?

12 A. No, not at all.

13 Q. How long did your review take?

14 A. So for the October 17th case?

15 Q. Let's start with the October 17th case.

16 A. That was an extraordinarily long review in the
17 sense that I really needed -- I wanted -- it was important
18 to me to find out the genesis of how the gang charge --
19 why it is that there was this belief that this group met
20 the definition of a criminal street gang. Where did it
21 come from?

22 And so that involved a lot of research, research
23 in particular on Riley Behrens, getting additional video
24 from the Gilbert Police Department, getting also -- just
25 researching credibility issues with the Tempe Police



1 Department and getting more reports.

2 Also, a lot of carefully watching body cam more
3 than once. Of course, there was a lot of officers that
4 were involved, and the process went on for a long time.
5 So you have each officer may have three or four different
6 body cam recordings, recordings, for example, of while
7 they're following the protesters. That could be, you
8 know, 30 or -- plus minutes. Body cam from while they're
9 interacting with the arrestees at the police station. And
10 then shut off and then brought on again.

11 There were a lot of small details that I really
12 wanted to capture. So it just involved just hours and
13 hours of researching.

14 And then there was, of course, the effort to --
15 I, you know, was involved in in responding to the motions
16 to dismiss with -- with prejudice because my belief is
17 that it was still fair and appropriate to at least have
18 the option to bring misdemeanor charges against them,
19 against these, -- you know, excluding Ryder Collins,
20 against the others at some point.

21 So that took a lot of time to -- you know, engage
22 in that litigation as well. That's just an example.

23 Q. When did your review of the filed cases and
24 submittals regarding protester cases, when did that
25 formally cease?



1 A. Well, that's a good question. I guess I'm going
2 to generally say around July of -- I think July of 2021
3 because, if you recall, I still had the Suvarna Ratnam
4 August case, I guess we'll call it the umbrella's case,
5 and I had already filed a motion to reduce the charges
6 because of some of the investigation that we had done.

7 And then, in addition to that, I actually -- we
8 ended up getting some additional video. We had body cam
9 video, but we ended up getting video that we didn't have.
10 I found out about it from the news. And then I contacted
11 the defense attorney, and he was able to get me some
12 additional cell phone video that required us to review it,
13 speak with the -- you know, the officers who were
14 designated victims.

15 And then we dismissed that, I believe, in July.
16 So I'm going to say generally around July is when the bulk
17 of the review ended.

18 Q. During your review of the filed cases and
19 submittals, did you have other prosecutorial duties in
20 addition to your review of these protester cases?

21 A. Yes. I was the division chief of Training and
22 Post-Conviction Division, which was a, you know, totally
23 different division. So none of these cases would have
24 ever been my responsibility. So taking that on, it
25 took -- it did take me away from my other obligations.



1 Q. Would the same be true for Mr. Leiter?

2 A. Oh, I -- you'd have to ask him, but I believe so.

3 Q. They were from a different division; correct?

4 A. Yes. I'm sorry, yes. Ed Leiter was also from

5 Special Prosecution II. I was from Training and

6 Post-Conviction. These cases were coming out of Special

7 Prosecution I, which had the FRB bureau.

8 Q. How did the absorption of these filed cases and
9 submittals -- strike that.

10 How did the -- your review of the filed cases and
11 submittals impact your caseload?

12 MR. CALDERON: Objection. Asked and answered.

13 THE COURT: Sustained.

14 BY MR. HENLEY:

15 Q. Were you able to prosecute other cases in a
16 manner that you typically prosecute them during this
17 period?

18 A. I mean, I wasn't able to give as much attention
19 to a number of my other responsibilities; in particular, I
20 think my supervision responsibilities. You know, I didn't
21 have as many opportunities to meet with the bureau chiefs
22 that I supervised. I didn't have -- it made it -- it
23 certainly was a strain on me trying to work on reviewing
24 special actions coming out of the Appeals bureau,
25 petitions, you know, for post-conviction relief. Those



1 are just examples of the things that -- you know,
2 necessarily I'm reviewing these protest cases and involved
3 in that; there's only so many hours in the day.

4 So while I -- I know that it impacted my
5 availability and my ability to work on those other cases.
6 I still did my best to make sure that I attended to those
7 duties.

8 MR. HENLEY: Judge, I have no further questions
9 at this time.

10 THE COURT: Cross-examination.

11 MR. CALDERON: Yes, Your Honor.

12 With the Court's permission, I'd like to take a
13 five-minute break, either now, in about 15 minutes or so.

14 THE COURT: Can we wait 15 minutes and do that.
15 That'll just break up the morning, unless it's urgent.

16 MR. CALDERON: I -- I'm going to do my best.

17 THE COURT: No. Let's take a break, then. You
18 look a little worried.

19 MR. CALDERON: Thank you.

20 THE COURT: All right. It's 10:35. Let's
21 reconvene at 10:45.

22 (Recess)

23 THE COURT: All right. We're back from the
24 morning recess.

25 And, Mr. Calderon, you may commence your



1 cross-examination of Mr. Green.

2 MR. CALDERON: Thank you, Your Honor.

3 And thank you to the tribunal for that recess of
4 personal privilege.

5

6 CROSS-EXAMINATION

7 BY MR. CALDERON:

8 Q. Mr. Ryan [sic], we've met each other before, have
9 we not?

10 A. **That's correct, yes.**

11 Q. I took your deposition?

12 A. **Yes, you did.**

13 Q. And we probably met someplace else, we both said
14 to each other; right?

15 A. **We may have, yes. I just couldn't remember.**

16 Q. Yeah.

17 I want to ask you about some of these meetings
18 that you testified to. You said that there was a meeting,
19 the first meeting you had of the group to review things,
20 was Clint Davis in that meeting?

21 A. **The first meeting on October 30th?**

22 Q. Yes.

23 A. **No, he was not.**

24 Q. Okay. A person you did not mention yesterday in
25 the first meeting -- I think, was the meeting. Jennifer



1 Liewer was in that meeting, was she not?

2 **A. Yes. I didn't mention her?**

3 Q. No, I don't think so.

4 **A. I apologize.**

5 Q. No. That's okay.

6 And what is Jennifer Liewer's law enforcement
7 expertise?

8 **A. She doesn't have any, like, training or law --**
9 **expertise in terms of training. Just I suppose whatever**
10 **she learned while on-the-job in our office.**

11 Q. Is she in charge of public relations?

12 **A. She was the public information officer at that**
13 **time.**

14 Q. Okay. Why would --

15 **A. Or communications director.**

16 Q. Communications.

17 Why would you have a public relations
18 communications person involved in the decision-making over
19 whether a case was valid to be charged or not?

20 **A. Well, I think when you -- we discussed this at**
21 **our deposition. You know, she's part of the executive**
22 **team, and, you know, sometimes there's a real benefit to**
23 **getting sort of a nonlawyer's perspective. She didn't**
24 **have any final decision-making authority or anything like**
25 **that, but I think, over time, she had demonstrated that**



1 she had pretty good judgment; asked questions that were
2 pertinent; sometimes brought up things that just we, as
3 prosecutors, didn't think about.

4 There's another aspect that -- you know, it's
5 important for our office to obviously communicate to the
6 public, and if she's the one who is going to be making
7 those communications, it's important for her to have -- to
8 know what the rationale is behind certain decision-making.

9 Q. As --

10 A. The decisions that are made.

11 Q. Thank you.

12 As of the time of your deposition, I think I
13 looked up Ms. Liewer's qualifications, and it said she was
14 trained in event planning.

15 Did your meeting in any way talk about planning
16 an event, a soiree, or a conference of some sort?

17 A. No, it did not.

18 Q. Okay. You exchanged texts with Jennifer Liewer,
19 did you not?

20 A. I did, yes.

21 Q. And you exchanged texts about this case; correct?

22 A. Yes.

23 Q. And you exchanged texts about Vince Goddard;
24 correct?

25 A. Yes.



1 Q. And they were not very complimentary of
2 Mr. Goddard, were they?

3 A. Well, just to be clear, I don't think that any of
4 my statements -- I don't recall if my statements were not
5 complimentary. But, yes, I know what you're referring to.

6 Q. Okay. So there were derogatory comments in your
7 exchanges with Ms. Liewer?

8 A. I believe it was, you know, why is Vince
9 posturing. Is that what you're referring to? And then
10 he's being dramatic. Is that what you're referring to?
11 Yeah.

12 Q. Right.

13 So one of the people in the meeting, Jennifer
14 Liewer, was in real time texting you about the meeting,
15 and she was critical of Mr. Goddard; correct?

16 MR. HENLEY: Judge, I'm going to have to object.
17 I don't see the relevance of this line of questions.

18 THE COURT: I'm going to give Mr. Calderon a
19 little bit of latitude.

20 MR. CALDERON: Your Honor, this is the last
21 question.

22 THE COURT: (Indiscernible) tie it together.

23 MR. CALDERON: On this topic.

24 THE WITNESS: I'm sorry. I think it's fair to
25 say that -- I mean, I don't know that it was, like,



1 vitriolic, but it was, fair to say, somewhat critical,
2 yes.

3 BY MR. CALDERON:

4 Q. Okay. Now let's talk about the second meeting.
5 The second meeting, Jennifer Liewer was in the second
6 meeting; correct?

7 A. We're now talking about the February 12th
8 incident review?

9 Q. Yes, sir.

10 A. That's correct, yes.

11 Q. Okay. But in this meeting, Clint Davis was
12 present as well?

13 A. That's correct.

14 Q. You characterized him as Clint Davis, a gang
15 expert; correct?

16 A. That's correct, yes.

17 Q. What makes him a gang expert?

18 A. Oh, I mean, he has a lot of training and
19 experience, years of experience with the Phoenix Police
20 Department, working in the gang enforcement unit. And
21 then after that, he worked for the sheriff's office. I
22 think he continued to do some -- some -- he did continue,
23 I believe, to kind of look at gang-related cases. So, I
24 mean, he is an expert.

25 Q. And isn't it true that it was his opinion that



1 this was correctly charged as a gang case?

2 MR. HENLEY: Objection to the extent it calls for
3 a legal conclusion.

4 THE COURT: Overruled.

5 THE WITNESS: That -- yes, that was his opinion.

6 BY MR. CALDERON:

7 Q. The first meeting that you testified about
8 having, Allister Adel was the county attorney at the time;
9 correct?

10 A. Yes. She was the county attorney during both the
11 October 30th meeting, although not present, and then also
12 at the February 12th meeting where she was present, yes.

13 Q. I want to make sure -- thank you.

14 I want to make sure I got this right. It's my
15 understanding that she ultimately said dismiss the charges
16 without prejudice; correct?

17 A. You say ultimately. I guess there's two
18 different -- on February 12th, ultimately, that day,
19 dismiss all the charges without prejudice. And then in
20 June, as it relates to the October 17th case, dismiss the
21 remaining charges with prejudice.

22 Q. It was still Allister Adel giving those orders in
23 June?

24 A. That is correct, yes.

25 Q. Okay. And how did she communicate that with you?



1 A. Which decision?

2 Q. The latter.

3 A. The latter being in June. My recollection, and
4 it's not perfect on this, is that I was -- I went up to
5 the sixth floor prior to going to what would have been an
6 oral argument in front of Judge Ryan-Touhill, and I wish I
7 could remember exactly who was there. I think Ken -- I
8 think it was Ken Vick, Allister, Ed Leiter might have been
9 with me, and there might have been one or two others. I
10 don't believe Jennifer Liewer was there. But that's -- my
11 recollection is that's when she said, let's just -- at
12 this point, let's just dismiss it with prejudice.

13 Q. Let's talk about the umbrella.

14 A. Sure.

15 Q. And I aver to the court, learned colleague across
16 the way, and to you, that the nomenclature for the
17 umbrella, the end -- the thing at the end, I forgot what
18 you called it, the --

19 A. The Mary Poppins?

20 Q. The -- the wanky part. You called it the "wanky"
21 part of the umbrella.

22 A. Did I call it that?

23 Q. Yeah. But that's okay. It's fine. I would have
24 called it wanky too.

25 It's called a tip.



1 **A. Okay.**

2 Q. The tip of the umbrella. I looked it up, so?

3 **A. All right.**

4 Q. So let's talk about the tip -- the tip of the
5 umbrella.

6 Did you see any photographs that had sharpened
7 tips of umbrellas?

8 **A. In the photographs of the umbrellas?**

9 Q. Yeah.

10 **A. Make sure I understand.**

11 **Did I see any sharpened tips?**

12 Q. Tips that were -- tips that were not -- that
13 would not look like it was the manufacturer's intent?

14 **A. Yeah. I did not see any tips that appeared to be**
15 **modified beyond what did manufacturer did. I did not see**
16 **that.**

17 Q. We're going to direct you to Exhibit --
18 Exhibit 120.

19 **A. 120. Okay. I see 120. Appears to be the**
20 **PowerPoint?**

21 Q. Well, actually --

22 **A. There's something stuck in here. Yes, I see --**

23 Q. Well, that something we'll go to next.

24 **A. Okay.**

25 Q. The Exhibit 120 has the word scene, s-c-e-n-e, up



1 in the left-hand corner. That's not it.

2 A. Oh, I'm sorry.

3 Q. It's 120. It's in the book right there.

4 A. I'm on 120. And it's -- you want to see what I
5 have? It starts out with the -- it appears to be a
6 PowerPoint.

7 Q. It's toward the end of the PowerPoint.

8 A. Okay. Give me a second.

9 Oh, I see what you're looking at now, yes.

10 Q. That was the -- the photograph that you saw;
11 correct?

12 A. I've seen this photograph before. I saw a number
13 of other photographs.

14 Q. Was that the photograph that you reviewed when
15 you -- in reference to your testimony here that you didn't
16 see any sharpened tips?

17 A. This would have been -- I reviewed multiple
18 photographs of umbrellas, because they took more than one
19 photo.

20 Q. Right next to it, inserted in the book, and you
21 pulled it out earlier --

22 A. This?

23 Q. -- was this. That is an uncropped version of the
24 same photo. Can you compare them?

25 A. Yeah. I mean, it's showing some of the same --



1 it does appear to be the same photograph, that's correct,
2 just a cropped version.

3 Q. And isn't it true that the uncropped version has
4 an umbrella with a very pointed tip?

5 A. Well, it has a -- it looks like it has a -- yeah,
6 it has a -- I guess it's fair to say it has a pointed tip
7 that did not appear to me to be modified. It's just a --
8 it's a tip.

9 Q. So you say that this is -- the manufacturer would
10 have prepared this umbrella with a -- with a very
11 sharpened tip?

12 A. I -- I mean, it appeared -- I guess what I'm
13 looking at, it appears to be black, you know.

14 Q. Uh-huh.

15 A. So it looked -- it looked like from the
16 photograph that it was still like a rubber -- it was the
17 rubber tip. Or I say rubber. Plastic or whatever it is.
18 But it -- it didn't look -- I don't see anything that is
19 telling me it's been modified, like sharpened and changed.

20 Q. Would you compare and contrast that to the
21 umbrella that is at the bottom of the page, at the
22 forefront. Bottom of the same photo --

23 A. And I'm -- is it okay if I hold it up? Are you
24 talking about this one?

25 Q. Yes.



1 **A. Yes.**

2 Q. Would you compare that tip to the, I'll call it,
3 needle-like tip on the other.

4 **A. Yeah. I mean, I can -- and I can see that**
5 **this -- this tip, the other one, is definitely thicker. I**
6 **mean, that is something that -- I remember seeing this and**
7 **I remember thinking, okay, is this modified? And I**
8 **didn't -- it didn't appear to be modified. And then I was**
9 **never presented with any evidence that -- that somebody**
10 **actually took --**

11 Q. Okay. The question was for you to compare.

12 **A. Sorry.**

13 Q. And I think you answered it.

14 **A. Okay. Thank you.**

15 Q. Thank you so much.

16 We broke yesterday in the middle of your
17 testimony; correct?

18 **A. I think it was Tuesday.**

19 Q. Tuesday. I'm sorry.

20 **A. Yes.**

21 Q. Tuesday. We're working every day.

22 **A. It's okay.**

23 Q. Everybody in the room is working every day.

24 Do you have a lawyer advising you in this case?

25 **A. No.**



1 Q. Okay. Well, I don't want to invade any
2 attorney-client privilege with a question, but did you
3 speak to anybody about your testimony here in between when
4 we recessed on Tuesday and now?

5 A. Well, I mean, I just spoke with the bar,
6 scheduling, and then answering a few questions to make
7 sure that we understood what the facts are.

8 Q. Well, what were those questions?

9 A. Well, I mean, I don't remember every single
10 question. But one, for example, would be the process that
11 I talked about where Ken Vick had asked us to -- you know,
12 sort of create this team or where he created -- wanted us
13 to create a team and review submittals. I suppose -- I'm
14 trying to think of what -- I know there was other facts.
15 I just can't think of them right now.

16 Q. Did you talk to them -- you said you just talked
17 to them --

18 A. Oh, I'm sorry. I think I also mentioned in my
19 deposition I had reviewed the deposition, and there was
20 a -- you know, a typo where it said -- instead of line
21 attorneys, lying attorneys. And then there was one where
22 I had -- there was a -- between you and I, we were talking
23 about whether it was a cell phone versus a home phone.
24 And I -- I let them know that I don't know what my brain
25 was thinking, but it would have to be a cell phone,



1 because it was texting. So there were some of those
2 things.

3 Q. And did you have just one conversation with the
4 bar, or did you have several?

5 A. Oh, since -- since my testimony?

6 Q. In between -- between Tuesday, when we recessed,
7 and this morning's testimony?

8 A. Well, it was more than one. Two or three.

9 Q. Okay. Were they in person?

10 A. No.

11 Q. Okay. And were they telephonic?

12 A. Yeah, telephonic.

13 Q. Did you exchange any emails?

14 A. I think -- other than, like, are you in right
15 now? You know, I did -- like, for example, I did reach
16 out to them to, you know, let them know about certain
17 things that I figured might be pertinent that might be
18 asked about, things like that.

19 Q. So you were --

20 A. Things about --

21 Q. Why would you call them -- I mean, why would you
22 communicate with them to let them know what would be
23 pertinent?

24 A. Well, because I wanted to make sure, since
25 they're the ones that are presenting the case, that --



1 that the testimony, that what I'm bringing out, what's
2 coming out, is accurate.

3 Q. Did they in any way coach you on what to say?

4 A. Not at all. Not --

5 Q. Did you have?

6 A. In fact, the opposite.

7 Q. Did you have any -- oh, the opposite. Explain
8 what the opposite was?

9 A. Mr. Henley said, "Your testimony is your
10 testimony. And you answer it how you feel comfortable."
11 You know, something -- I'm paraphrasing. I don't know if
12 those were the exact words.

13 Q. No. That's my knowledge of Mr. Henley. So, yes,
14 thank you very much.

15 A. Yeah.

16 Q. In your deposition, you testified you only viewed
17 dozens of the videos; correct?

18 A. I think -- if you asked -- I think you asked me
19 to estimate.

20 Q. Yes.

21 A. And I wanted to be careful. So, yeah, at least
22 dozens, yeah.

23 Q. Do you know how many videos there were?

24 A. Body cam videos?

25 Q. Videos that -- that a prosecutor would review.



1 A. Oh, god. I mean, in this case, I think over a
2 hundred and -- you know. And just so you know, in
3 hindsight, I think I probably -- I would not be surprised
4 if I actually did review, I don't know, if not all of
5 them, almost all of them.

6 Q. Okay. If I were to tell you that there's over
7 150, would that be reasonable?

8 A. No. I think that's correct, actually.

9 Q. And I -- that's my -- my count and I was lousy at
10 math, so.

11 A. Me too.

12 Q. So there's that.

13 Do you believe you reviewed all 150 videos?

14 A. I believe that I -- I believe I reviewed either
15 all of them or almost all of them. And then certain
16 videos I would have reviewed multiple times because they
17 were very pertinent.

18 Q. Over what period of time? How many -- how many
19 days, weeks, hours, over what period of time did you
20 review these?

21 A. My review -- well, the beginning of my review
22 would have been when I got access to the case, at least
23 February 8th. I can't remember if I reviewed body cam on
24 that day, but I may have. And then I think it's fair to
25 say that I stopped reviewing those body cams at least in



1 terms of preparation for my review of the case when it was
2 dismissed with prejudice in June. So that period of
3 February 8th to early June.

4 Q. About five months, over five months?

5 A. Around there, yes.

6 Q. Okay.

7 A. Wait. Let me do the math. Yeah, February,
8 March, April, May.

9 Q. I'm guessing?

10 A. Yes, yes.

11 Q. Once again, my math is not good. So please
12 double-check.

13 So over five months you reviewed these videos;
14 correct?

15 A. That's correct.

16 Q. Isn't it true that five months is a lot longer
17 time than a line prosecutor would have to review videos,
18 particularly to review 150 videos, particularly with a
19 10-day deadline in order to protect the defendants'
20 rights?

21 A. Can you rephrase that?

22 Q. Is it possible to review the 150 videos within
23 the 10-day time frame that a prosecutor has in order to
24 evaluate the case to move forward?

25 A. I think I know -- tell me if -- I'm going to



1 rephrase what I think you're asking.

2 Q. Go right ahead.

3 A. If you have, let's say, grand jury set within
4 those -- the probable cause determination required within
5 10 days, is it feasible to review that many body cam
6 videos? No, it's not feasible to review that many body
7 cam videos.

8 Q. So it --

9 A. Unless -- I mean, no, it's not feasible. It's
10 just not.

11 Q. So it's safe to say that, based on what your
12 testimony is -- and correct me if I'm wrong -- that it's
13 reasonable for a prosecutor, based on their caseload,
14 based on their personal life, not to review every single
15 video in that short time frame that you have to work under
16 because of the constitutional protections; correct?

17 A. So that is correct if you must work under that
18 time frame.

19 Q. Okay.

20 A. It is not possible to review that many videos.
21 And it is also common for a prosecutor to not be able to
22 review every single body cam video in a complex case prior
23 to grand jury, again, with the caveat of if you must
24 present by that time period.

25 Q. So in -- so just to close up this area.



1 **A. Yes.**

2 Q. So you had a lot more time to review these videos
3 than April Sponsel had when she was reviewing them at the
4 onset of the case; correct?

5 **A. At the onset of the case, prior to grand jury,
6 yes, I had more time.**

7 Q. Okay. Did you have a conversation with an
8 officer named Ben Moore regarding the decision to dismiss
9 the protest cases?

10 **A. Yeah -- um, yes. I mean, I don't know that I had
11 a conversation with Ben Moore -- oh, wait. Yeah, after
12 the dismissal without prejudice, correct, yes.**

13 Q. Who is Ben Moore?

14 **A. He was a lieutenant in the -- I forgot the exact
15 name. It was downtown operations unit or -- it was
16 essentially the group that's responsible for responding to
17 the, you know, security downtown and protests, things like
18 that.**

19 Q. Would that be City of Phoenix police?

20 **A. Yes, it would be, yes.**

21 Q. And you testified earlier about the federal --
22 somebody from the Federal Bureau of Investigation being
23 involved, also Mesa police. So am I to draw the
24 conclusion that relative to these -- to these -- these
25 riots or these protests, that there were -- there was an



1 interdisciplinary group of law enforcement agencies
2 collecting intelligence?

3 A. I -- yeah. I think that's fair to say. I
4 don't -- you know, how -- how well they communicated is a
5 little bit -- that's a different issue.

6 Q. Yeah. I'm not --

7 A. But, yes, yes, it's fair to say that you had
8 different police agencies that were trying to figure out,
9 you know, who's going to be showing up at these events.
10 Is there going to be a danger to them? So they would have
11 to kind of collect general information, and they were
12 sharing information.

13 Q. So when you let Ben Moore know that the case was
14 going to be dismissed, I think you said without prejudice,
15 what was his reaction?

16 MR. HENLEY: Objection. Relevance.

17 THE COURT: What is relevant about that?

18 MR. CALDERON: Well, Mr. Moore was one of the
19 people that -- upon whose opinion my client relied, and --

20 THE COURT: Yeah, and I think --

21 MR. CALDERON: -- so it goes to her state of
22 mind.

23 THE COURT: I certainly can understand your
24 client testifying about reliance on him, but I'm not sure
25 that this witness -- we're also getting into hearsay.



1 I'm going to sustain the objection to the pending
2 question.

3 MR. CALDERON: All right.

4 BY MR. CALDERON:

5 Q. Is it my understanding that your testimony here
6 today was that Allister Adel dismissed the case for
7 insufficient reasonable likelihood of conviction?

8 A. Are you talking about the dismissed without
9 prejudice on February 12th?

10 Q. Yes.

11 A. Yeah. I mean -- and I say that because we had --
12 we had the -- you know, the incident review, and we looked
13 at the strength of the evidence as to the felony charges.
14 And the consensus was is that there was not a reasonable
15 likelihood of conviction on the felony charges.

16 There was discussion about how, yeah, there are
17 these misdemeanors, but, ultimately, the decision was
18 made -- and I -- obviously, I can't speak to exactly what
19 Allister was thinking, but my recollection is that,
20 generally, it's that we need -- we need to dismiss this
21 right now and sort of start over and get -- make sure we
22 have the facts right, if we're going to be bringing
23 charges in the future.

24 Q. And in the process -- in the process of your
25 career, any prosecutor's career, this sort of thing



1 happens, does it not? This is not, like, Haley's Comet.

2 I mean, it happens.

3 **A. That is to say, like a reevaluation of a case?**

4 Q. Correct.

5 **A. That's correct, yes.**

6 Q. Let me ask you a little bit about your testimony
7 relative to the assisting a criminal street gang.

8 **A. Yes.**

9 Q. Statute.

10 In order for that statute to apply, is it my
11 understanding that your testimony is that you have to have
12 evidence that these people participated in previous
13 felonies?

14 **A. No. So you -- you have to be able to show under
15 the definition of criminal street gang that this is an
16 association whose members, individually or collectively,
17 commit felony offenses, preparatory or otherwise. And so
18 while you don't have to have felony convictions from -- in
19 order to prove that this particular group is a gang, most
20 of the time the gangs that we're dealing with are well
21 established criminal street gangs and there really is no
22 question about whether or not they individually or
23 collectively commit felony crimes. So you don't have to
24 have it --**

25 Q. So --



1 A. But it is certainly going to be important.

2 Q. So how do I -- how do I qualify my street gang to
3 be a street gang if this is going to be our first big
4 thing, under your analysis? Is it -- can a street gang
5 ever become a street gang without having been previously a
6 street gang?

7 A. The answer is yes. There are instances where,
8 for example, a group emerges that's new and however under
9 those -- under the facts of the case itself -- and I'm
10 just giving this as an example.

11 Q. Sure.

12 A. Under the facts of the case itself, you may have,
13 for example, a distinct group and, you know, as they're
14 being investigated, it's determined that they've done
15 multiple armed robberies and drive-by shootings.

16 So as part of the overall evidence in the case,
17 you have a good track record that this group, this
18 association, individually or collectively, commits felony
19 offenses.

20 Q. And your interpretation of the statute is there
21 must be a track record?

22 A. No. I -- sorry. So I'm not saying --

23 Q. And I'm just telling you, I don't practice
24 criminal law.

25 A. Yeah.



1 Q. You -- in your little finger, you know a lot more
2 than I do in my entire body.

3 So -- so you're saying usually, I guess, you look
4 to see if there is some sort of pattern of practice in the
5 past?

6 A. I guess the way I would say it is that the
7 language of the statute is going to require showing
8 individually or collectively "commits felony offenses,"
9 and -- and so while you don't necessarily have to have a
10 track record, it is going to be extraordinarily important
11 in terms of persuasiveness. And not only persuasiveness,
12 to make sure you got it right, that this group really is,
13 number one, an association that is associating with one
14 another; number two, that they really do individually or
15 collectively commit felony offenses.

16 Q. So it's -- so just to try to put a cap on this,
17 it's my understanding that when you reviewed this -- and
18 you testified earlier today that you reviewed it and you
19 didn't see any previous experience as a street gang --
20 that made you uncomfortable proceeding the way it was;
21 that's what prompted you to continue to dig?

22 A. Well, not necessarily. So let me -- because the
23 chronology there, I think, kind of conflated two things.

24 Q. Sure.

25 A. So is it okay if I explain it?



1 Q. Oh, sure. Sure.

2 A. So initially we have the October 30th meeting.
3 The information that's being presented, I have no reason
4 to dispute or disbelieve the information that this group
5 had communications with each other, had sharpened
6 umbrellas, had sharpened fingernails, that they had come
7 together for purpose of assaulting officers. So there's
8 this conspiracy to commit aggravated assault. You know,
9 I -- I believed the information.

10 My concern, though, at the time, though, is
11 that -- you know, I can understand a group, if they -- you
12 know, if they have this intent on this particular night.
13 We need to be very careful, though, about labelling a
14 group a criminal street gang unless we really are sure
15 that this is a gang. And a lot of times the way in which
16 we're sure is that track record, the track record of
17 individually committing -- individually or collectively
18 committing felony offenses.

19 And I go a little bit further. I know the
20 statute, the way it can be read -- it can be read very
21 broadly.

22 One of the things that I've always thought about
23 in terms of the gang statute is that you have to look at
24 what the purpose of the gang statute was. What conduct
25 was it intending to meet? And so I had, you know, very



1 grave misgives about, on October 30th, about the gang
2 statute at that time. At that time, I did not realize
3 that other -- what I saw as being core facts turned out
4 not to exist. But I was concerned at that time that we
5 just didn't have enough evidence to show that it was a
6 criminal street gang.

7 Q. And you would have felt better if there had been
8 evidence of some sort of previous incident where they
9 acted as a street gang?

10 A. Yeah. I would say multiple. I would have felt
11 better if there was, you know, multiple incidents.

12 Q. Multiple?

13 A. Yeah.

14 Q. And in order to charge the street gang, do they
15 all have to be -- every single person involved, do they
16 have to be a member of the street gang in order for those
17 charges to occur?

18 A. No.

19 Q. Okay. And the Maricopa County Attorney's Office
20 didn't create the gang statute, did it?

21 A. Well, that's a legislature that passes the laws.

22 Q. People we elect; right?

23 A. That's correct.

24 Q. Wants to be changed -- like you said, you
25 don't -- you're not comfortable with parts of it, you've



1 got to go to the legislature to have it changed; right?

2 **A. That's correct, yes.**

3 Q. But it's the law?

4 **A. It is the law.**

5 Q. And you and I have to follow the law.

6 **A. We do, but we -- but as a prosecutor, I also have**
7 **to interpret the law.**

8 Q. Absolutely. Absolutely. I'm glad -- I'm very
9 glad you do.

10 Umbrellas.

11 **A. Yes.**

12 Q. This will be a shock to the tribunal and to my
13 colleague, but I protested before. And I never protested
14 with an umbrella. And so in preparation of today, I
15 watched the Reverend Martin Luther King's march -- protest
16 march on Washington. I didn't see any umbrellas. What's
17 the purpose of an umbrella in a protest?

18 **A. So.**

19 MR. HENLEY: Objection, Judge. That's
20 speculative.

21 THE COURT: Well, if you know, you can answer.

22 **THE WITNESS: Yeah. I think I can -- I think I**
23 **can answer.**

24 MR. CALDERON: Sure.

25 **THE WITNESS: In the context of, like, for**



1 example, the way -- the modern usage we're seeing.

2 The umbrellas are part of an overall tactic, you
3 know, that is consistent with, for example, black bloc,
4 and it's designed to conceal identity and essentially
5 prevent identification by police during the course of a
6 protest. You know, that's -- I mean, generally is how it
7 can be used. That's my understanding.

8 BY MR. CALDERON:

9 Q. Would it be fair to say that law enforcement
10 disfavors people protesting using umbrellas, trying to
11 conceal their own identities?

12 A. Well, there's a lot of things that conceal
13 identities. Masks are often used. That conceals
14 identity. The entire -- again, black bloc is designed to
15 sort of conceal and confuse identity. So that -- my
16 understanding from the review of this case -- and also,
17 frankly, just generally kind of following things in the
18 news is that, yes, I mean, the umbrella is designed to
19 make it more difficult for identification.

20 Q. Okay. Black bloc. What does that mean?

21 A. It's essentially dressing in all black,
22 oftentimes including, you know, like a black mask, making
23 it, again, difficult to distinguish between -- you have a
24 large group of people, and if everybody is dressed in
25 black, it can kind of look like a -- like a swarm. And so



1 it is difficult to pick out certain people.

2 Q. Isn't it true that Ryder Collins was wearing
3 black and gray that evening?

4 A. So I know this came up during the deposition.
5 Ryder Collins was not wearing black bloc at all. He was
6 wearing black shorts. I've now looked at the photo -- he
7 was wearing black shorts and I believe black shoes. But
8 he was -- there was -- he was wearing shorts, number one.
9 I think there was one other protester that evening who was
10 wearing shorts. But usually black bloc is, you know,
11 pants, shirt, mask, you know, hat, complete with the
12 umbrella.

13 Q. And --

14 A. He was not in black bloc.

15 Q. And where would I find that definition?

16 A. Of what, black bloc?

17 Q. Black bloc.

18 A. I don't know. Go on line, you know. Urban
19 Dictionary, Wikipedia.

20 Q. Could -- could another prosecutor have a
21 good-faith different opinion than you as to what black
22 bloc is?

23 A. In the context of Ryder Collins?

24 Q. Not -- not Ryder Collins, but in the case of
25 identifying black bloc, could you have an idea that it's



1 not black bloc and a colleague of yours have a good-faith
2 idea that it was black bloc? Is that reasonable to
3 expect?

4 MR. HENLEY: Objection. (Indiscernible).

5 THE COURT: I'm sorry. Say that again.

6 MR. HENLEY: This is all speculative.

7 THE COURT: Well, do you know the answer,
8 Mr. Green?

9 THE WITNESS: I guess if the question is, is it
10 possible? It's possible --

11 MR. CALDERON: Okay. That's all --

12 THE WITNESS -- that in a different situation, you
13 could look at two different people wearing clothing and
14 have a disagreement on whether that constitutes black
15 bloc. And, again, my emphasis is in a different situation
16 because I do not believe that Ryder Collins could
17 reasonably be characterized as wearing black bloc.

18 BY MR. CALDERON:

19 Q. A question for you. In your experience as a
20 seasoned prosecutor, have you encountered the Federal
21 Bureau of Investigation misleading you in very many cases?

22 A. Misleading me?

23 Q. Yes.

24 A. My personal experience?

25 Q. Yes.



1 A. I don't believe I've had personal -- I don't
2 recall personal experience that I felt that the FBI was
3 misleading me. I have -- I have -- I'm aware of other
4 instances where there's been frustration --

5 Q. I'm only testing [sic] about you, because you're
6 the --

7 A. Oh, I'm sorry.

8 Q. -- you're the guy --

9 A. Yeah, I'm sorry. I don't -- I don't recall --

10 Q. All right.

11 A. -- ever feeling that the FBI had misled me. I
12 don't recall that.

13 Q. What -- the same question interchanging the
14 Department of Homeland Security.

15 A. Same answer.

16 Q. Have --

17 A. I don't recall --

18 Q. What about Mesa Police Department?

19 A. Don't recall Mesa Police Department misleading
20 me.

21 Q. What about Phoenix Police Department?

22 A. I don't recall Phoenix Police Department ever
23 intentionally -- like, there may be times that I felt that
24 a report was misleading or the way in which something was
25 phrased was misleading. But I didn't -- I guess I



1 don't -- I never felt that -- that there was ever an
2 intent to mislead me as a prosecutor, if that makes sense.

3 Q. You testified that there was some sort of
4 intelligence -- it might have been a posting -- involving
5 Amy Beth Kapers, where you testified she wrote, "Riots
6 2020. Burn it to the ground."

7 A. Something to that effect, yes. I mean, I
8 could -- if you have a copy, it would refresh your
9 recollection.

10 Q. No. I'm relying on your testimony.

11 A. Okay.

12 Q. That's fine.

13 A. Actually, you know what, I believe it -- it might
14 be in this exhibit. Do you want me to look at that?

15 Q. I'm not going to --

16 A. Okay. Never mind.

17 Q. -- spend much time on it, unless you want to --

18 A. No. That's okay.

19 Q. Okay. Burn it to the -- burn it down. Is
20 that -- is that a call for a peaceful action?

21 MR. HENLEY: Objection. What definitions are we
22 using here?

23 MR. CALDERON: Your Honor, he's the prosecutor.
24 He takes a look at these --

25 THE COURT: Yeah. I think your direct



1 examination opened the door to this social media post.

2 Overruled.

3 **THE WITNESS: Can you repeat the question? I'm**
4 **sorry.**

5 BY MR. CALDERON:

6 Q. Well, the posting says, "Riots. Burn it down."
7 Is this message intended to elicit a peaceful
8 protest?

9 MR. HENLEY: Objection, Your Honor. Now we're
10 into speculation.

11 THE COURT: Well, I agree.

12 Your first question was not objectionable. Now
13 you're asking about the intent of the author.

14 So if you could say it like you did the first
15 time, I wouldn't have a problem.

16 MR. CALDERON: If I could remember it,
17 Your Honor, I would.

18 THE COURT: I think the question is whether
19 Ms. Kaper's post is reasonably consistent with a peaceful
20 plan.

21 MR. CALDERON: Thank you, Your Honor.

22 **THE WITNESS: Yeah. I don't think "riot" and**
23 **"burn it down" is consistent with a peaceful protest, if**
24 **that's what you're asking.**

25 ///



1 BY MR. CALDERON:

2 Q. Allister Adel was the subject of some
3 controversy, and eventually she had an unfortunate
4 circumstance. You were one of the people that wrote a
5 letter in protest about her, weren't you?

6 A. You mean the request for resignation?

7 Q. Yes.

8 A. Yes.

9 Q. Why did you do that?

10 A. Well, I guess that's kind of a complicated
11 matter. But in the sense that there were a number of
12 things that led up to it, but we -- we felt that ethically
13 we had an obligation at that point to request that she
14 resign, and we also felt that ethically we had to report
15 it to the bar and the board of supervisors.

16 Q. Okay. When you say "we," who are you talking?

17 A. Oh, I'm sorry. The division chiefs at the time.

18 Q. Okay. But, yet, you also testified here today
19 that she ultimately told you to dismiss the case with
20 prejudice; correct?

21 A. Yeah. The chronologically, the -- the decision
22 to dismiss the case with prejudice, that occurred in
23 June of 2021. And then, of course -- my recollection of
24 the chronology is, you know, she goes into the rehab, I
25 think, in September of 2021. And then we started having



1 these additional concerns in November of 2021, ultimately
2 culminating in early 2022 with -- I believe it was
3 February 14th or so when that letter was -- was sent.

4 Q. So just so that I can close this loop up. You
5 had confidence in her when she told you to go ahead and
6 dismiss with prejudice. But later in the year, after she
7 sought medical help, you did not have confidence in her
8 leadership?

9 A. I think -- I had -- yeah. I think that's fair to
10 say. I mean, I had -- just so that I'm being transparent,
11 in the February 12th incident review, there was a text
12 message that I believe you have where Jennifer Liewer had
13 asked if I had spoken to Allister about this October 17th
14 case because she apparently thought that we had. And I
15 had not.

16 So I did in the back of my mind have a little bit
17 of concern about lingering effects from the surgery,
18 but -- but I guess to ultimately answer your question, I
19 didn't have any concern about her ability to make the
20 decision to dismiss the case with prejudice on -- in June.

21 Q. You testified that the catalyst, the catalyst
22 that prompted you to take a look at this is you were
23 watching a television program; correct?

24 A. Yeah. So the -- I guess the -- sort of the --
25 where I -- because I'm -- I was not her supervisor. It's



1 not my division. What it is that really kind of made
2 me -- I don't know -- for lack of a better phrase -- stick
3 my nose into the case was that report on February 4th
4 where I saw Ryder Collins.

5 Q. And this was -- you knew then it was going to
6 become a highly politically charged case; correct?

7 A. I don't know about politically charged as much as
8 I did rec -- I mean, I recognized that this was going to
9 be a high-profile, very publicly visible. And I suppose
10 it's fair to say that in a -- in this -- under these
11 circumstances, that that could happen, I suppose,
12 political ramifications.

13 But that's not what I was thinking of. I was
14 thinking of this guy, Ryder Collins, has just said, "I
15 don't even know these people," and that's what really
16 prompted me to take action.

17 Q. So I don't want to misstate anything.

18 A. Sure.

19 Q. It's my understanding that at that time, this
20 area of the gang activity, the charges and stuff, was not
21 in your area of authority; correct?

22 A. Yeah, these -- that case, this October 17th case,
23 was not my case, not my division. I don't supervise it.
24 I didn't charge it. Exactly.

25 Q. So you opted into. You wanted to be part of this



1 case; correct?

2 A. I wouldn't say I wanted to be part of the case.
3 I -- when I saw -- when I saw that report, I wanted to see
4 if I can help. I want -- basically, what my email to Ken
5 Vick was, I think pretty much sums it up. You know, I
6 think that this needs to be -- we need to have an incident
7 review, and I asked for permission to assist, essentially.
8 You know, I have enough work on my own, but, at the same
9 time, yeah, I felt that it was important for me to offer
10 my assistance and -- and, for that matter, have some
11 involvement.

12 Q. Particular -- that's good of you, particularly
13 with the workload you have.

14 Are there any other cases that served as a
15 catalyst for you, you're watching a particular news
16 program -- in this case it was ABC15 news; correct?

17 A. Yes.

18 Q. Okay. Are there any other cases involving ABC15
19 news that you saw and that you said, I've got to get
20 involved in that case?

21 A. I don't want to -- I don't want to say no and
22 then find out that I'm wrong. I -- I --

23 Q. This isn't a trick question.

24 A. Yeah. I just -- I can't -- I can't remember
25 right now.



1 Q. If you can't remember, you can't remember.

2 A. Yeah. The only thing I was going to say is that
3 in a -- so, again, it's not my division, but in September,
4 so before -- September of 2020, before all of this
5 October 17th matter -- and I don't know that it was
6 ABC15 -- there was something in the news about a lawyer
7 who was representing other protesters saying that he's
8 received no discovery. He's received no video.

9 And so in the office, I'm kind of one of the guys
10 that deals a lot with discovery issues, under our Rule 15.
11 And it -- it -- I just wanted to -- you know, I don't like
12 seeing, like, oh, the County Attorney's Office isn't
13 disclosing things. So I -- in that context, and I believe
14 we'll call it the Bruce Franks case is the case that it
15 was -- another August case. I had just quickly reached
16 out to April and said, you guys should really try to get
17 those -- those body cams out or videos out.

18 Q. Even though April was not in your area?

19 A. That's correct. So -- but just to be clear,
20 though, that type of a thing where I would -- where I call
21 another prosecutor, like, hey, you know, I saw this --
22 maybe not in the news, but, you know, I heard about it,
23 you know, in court or something, it is not uncommon for
24 me, as a division chief, and even not as a division chief,
25 to just talk to other prosecutors if I think I can be of



1 assistance. In other words, if I see what might be a
2 problem, I -- if I can be of assistance, I may try to help
3 out. But that doesn't mean that I'm going to insert
4 myself in the chain of command and give any type of an
5 order.

6 Q. Somehow from your previous testimony, I got the
7 impression that there's -- there's a manpower shortage,
8 generally speaking, with the prosecutor's office?

9 A. That's correct.

10 Q. Okay. And was it usual for lawyers to ask for
11 additional help?

12 A. No.

13 Q. Was it unusual for lawyers to be -- to have those
14 requests denied?

15 A. A request for additional help?

16 Q. Yes.

17 A. I -- I think -- I'm not -- I don't -- it's hard
18 to characterize. I guess it depends upon the extent of
19 the need. Because when you think about it, if everybody
20 is shorthanded, it's possible that, you know, somebody, an
21 executive or a division chief may say, I just don't have
22 anybody that I can give you right now to assist. But I do
23 feel that, generally, in our office, we do try to make
24 accommodations. We try to find people who can maybe, you
25 know, help out on some cases, review some cases for



1 charging, things like that.

2 Q. So do you know in the case where April Sponsel
3 asked for additional help and she did not receive it, why
4 she didn't receive it?

5 A. On which case?

6 Q. The -- the gang cases?

7 A. Oh, this case?

8 Q. Yes.

9 A. This particular October 17th case?

10 Q. Yeah. Yes.

11 A. Do I know if she reached out --

12 Q. Do you know why she -- why it was denied?

13 A. I actually --

14 MR. HENLEY: Objection. It really asks and
15 answers questions that aren't in evidence.

16 THE COURT: Well, I think you're jumping ahead a
17 question, because I think he's going to say he doesn't
18 know that there was a request.

19 So I think you need to back up and ask whether
20 he's aware of a request.

21 BY MR. CALDERON:

22 Q. Were you aware of a request?

23 A. I don't -- I don't recall -- if you have
24 something to refresh my recollection --

25 Q. No. It's okay.



1 A. I actually don't recall that.

2 Q. Do you know if she asked for help in other cases?

3 A. Just generally? I mean, there's -- like, as a --
4 knowing her for so many years, we probably (indiscernible)
5 like, hey, Ryan, can you review this motion? Hey, Ryan,
6 can you -- so, yes, she's asked for help.

7 We all ask for help at some point of a colleague.

8 Q. Do you know if she's ever been denied help?

9 A. I -- I don't -- I'm sorry. I don't know.

10 Q. Okay. Did you review all of Ms. Sponsel's cases
11 and the evidence in those cases as part of this review?

12 A. All of her cases?

13 Q. Yes.

14 A. No. You mean like -- like every -- like her
15 entire caseload?

16 Q. Yes.

17 A. Not at all, no.

18 Q. How did you determine what cases to review and
19 what cases not to review?

20 A. It was basically the assignment. So I get
21 assigned the October 17th case. That's what I'm going to
22 review. I get assigned that August Suvarna Ratnam case.
23 I'm going to review that.

24 Then we get that general "You're going to be part
25 of a team." Ryan Green's sort of the division chief,



1 like, the highest ranking person in that team. And
2 then -- so I didn't -- I may not have dug as far into some
3 of the other cases. But when, for example, Ed or Neha or
4 Suzie Caughlin would come to me with one of those cases
5 that I -- if it wasn't assigned to April, it was assigned
6 to somebody else at FRB, I might review it. But it might
7 be more of a cursory review. It would depend on the
8 circumstances. But I definitely did not review all of her
9 cases.

10 Q. And when you say "if I was assigned," who -- who
11 made the assignment?

12 A. Well, I know the October 17th case, that was
13 assigned by -- you know, Ken Vick asked me, he's like,
14 you're -- or told me -- you're going to review the
15 October 17th case. You're going to have that.

16 And then I think like a day or two later, hey,
17 there's this one defendant who is part of that case. It
18 makes sense for you to take that. So then that got
19 assigned to me.

20 And then -- and then I don't know exactly how it
21 got decided by Ken or somebody else, but then eventually
22 Ed and Neha get certain cases assigned to them. I know
23 Rachel was at least reviewing some but I don't know that
24 it was, quote, assigned to her.

25 Q. Do you know how MCAO determines when to provide



1 lawyers with additional resources or help compared to when
2 they decide not to? Is there a litmus test or criteria?

3 A. I -- I think it's sort of the -- the common
4 sense. You know, evaluating how urgent the need is, what
5 the time constraints are, what resources are available,
6 what resources can be spared. It's just a -- it's a
7 totality of the circumstances.

8 Q. Can urgency be -- arise out of a public
9 sentiment?

10 A. An urgency arise out of public -- out of public
11 sentiment alone, I don't think that I would say that it
12 would arise out of the public sentiment alone.

13 Q. Okay.

14 A. And I guess the way -- the best way to describe
15 it would be that a case that is very important or has
16 become important may -- that is what may arise -- you
17 know, sort of arouse the public sentiment. But it's not
18 the public sentiment that will dictate where the resources
19 go.

20 Q. Let me ask --

21 A. Or at least it shouldn't work that way.

22 Q. I want to understand "important," the word
23 "important." I have a friend whose interview -- he's a
24 former bar president, fantastic lawyer. When everybody
25 sticks a microphone in front of him and says, what's --



1 what has -- "What is your most important case," his
2 response is "Yours." Great sales technique.

3 How do you decide what's important?

4 A. Well, like generally within the Maricopa County
5 Attorney's Office -- I mean, some of it is going to be,
6 you know, the nature of the case. So, for example, I
7 don't think there's any dispute that a first-degree murder
8 is going to have to get more resources than, say, a
9 misdemeanor driving on suspended license. So the nature
10 of the case.

11 The public safety implications of the case.
12 Those are just some of the factors.

13 Q. So is it possible that the reason April did not
14 receive help in certain cases is that they were not
15 important enough?

16 A. Well, again, I don't know what she didn't receive
17 help on.

18 Q. Generically speaking, I think -- are you saying
19 that if it's an important case, resources will flow to it.
20 If it's not an important case, resources will be withheld?

21 A. Not -- not entirely saying that. I mean, it's --
22 every case is different. It's a totality of the
23 circumstances test -- or I say test. I mean, that's what
24 we look at. I get requests all the time. Hey -- you
25 know, in my division -- we're really hurting over in the



1 Gang Bureau right now. We need assistance, you know, and
2 I -- a prosecutor needs help on this case. And an email
3 can go out and ask for help.

4 So I don't -- I can't -- I'm sorry. I can't
5 answer, like, what went into a decision, if a decision was
6 made, to not provide April assistance on a certain case.

7 Q. There's no right or wrong answer. Just your
8 opinion --

9 A. Okay.

10 Q. -- is important. But thank you. I appreciate
11 your answer.

12 A. All right.

13 Q. Can reasonable minds differ as to what's
14 important and what's not important when they're talking
15 about allocating resources?

16 A. I -- I think generally that's a correct
17 statement. Obviously you will always hit a point where if
18 somebody, again, is comparing a driving on suspended
19 license to a murder, then I don't know that reasonable
20 minds would differ. But, I mean, yes, in a lot of
21 instances these no question that reasonable minds can
22 differ on which case should take priority.

23 Q. Generally speaking, do deputy county attorneys
24 work hard?

25 A. I believe so, yes.



1 Q. Are some of them overworked?

2 A. Absolutely.

3 Q. Are some of them exhausted?

4 A. Absolutely.

5 Q. Do you think reasonable minds can differ on the
6 determination of probable cause?

7 A. Yes.

8 Q. And to determine probable cause, does that mean
9 that probable cause equates with the likelihood of
10 conviction?

11 A. There -- there are two separate analyses.

12 Q. Would you explain those two separate analyses to
13 me?

14 A. Sure. So, you know, probable cause is, you know,
15 are there articulable facts and circumstances that would
16 lead a reasonable person to believe that, number one, a
17 crime was committed and that this particular person
18 committed the crime? That is -- you know, sort of begins
19 as a constitutional standard.

20 It's also from the ethics standards, it's the
21 bare minimum that a prosecutor must have before bringing a
22 charge. However, reasonable likelihood of conviction is
23 our office's internal charging standard. It's a higher
24 standard. And a lot of prosecuting agencies have adopted
25 the reasonable likelihood of conviction standard.



1 Like probable cause, it is -- it's certainly
2 possible that reasonable minds can differ on what
3 constitutes a reasonable likelihood of conviction. But
4 the idea is that given what we expect to be the admissible
5 evidence at trial, you know, is it reasonably -- is there
6 a reasonable likelihood that a jury would find this person
7 guilty, that we would be able to prove our case beyond a
8 reasonable doubt.

9 Q. So probable cause is no longer the standard when
10 a -- I'm just trying to interpret what you're saying.

11 When one of your prosecutors determines to file charges,
12 they're not to say is there probable cause here; they're
13 to say is there a reasonable likelihood of conviction?

14 A. That's correct, yes.

15 Q. And that's -- that's a policy of the office?

16 A. That is an office policy. The reasonable
17 likelihood of conviction standard.

18 Q. And is it in writing anywhere?

19 A. Yes.

20 Q. Okay. And all -- all deputy county attorneys
21 receive that information; correct?

22 A. Yeah. I mean, first of all, that's part of, you
23 know, our basic training, and then, yes, it is a -- it's
24 in our charging policy. One of our many charging
25 policies, yes.



1 Q. Were there any people in -- let's start with the
2 first meeting. We're talking about the collective
3 meeting, the one without Clint Davis.

4 A. Correct.

5 Q. Were there any people in that meeting that
6 disagreed with the reticence to move forward on the case?

7 A. I think that's kind of a double negative. So do
8 you want to re-ask it? I think I understand what you're
9 saying. I just want to make sure.

10 Q. Did anybody in the -- in the first meeting say,
11 no, this is a bona fide case? We need to proceed?

12 A. Well, while I don't remember the specific exact
13 words, that's certainly my impression, yes, that there
14 were people that said, no, this is -- these are righteous
15 charges.

16 Q. Okay. And the righteous charges are essentially
17 the charges that Ms. Sponsel came up with; correct?

18 A. Yeah. So, I mean -- yes. My recollection is
19 that the -- that the charges were supported by, you know,
20 her -- Vince Goddard, Sherry Leckrone, and April Sponsel,
21 at least -- I feel confident that they were in support of
22 the charges.

23 Q. Right.

24 And Sherry Leckrone is April's direct supervisor;
25 correct?



1 **A.** **That's correct.**

2 Q. And she supported the charges?

3 **A.** **Well, that was my impression. I don't know**
4 **that --**

5 Q. Okay.

6 **A.** **-- she said a lot during that meeting. In fact,**
7 **I can't -- I don't have a specific memory of what she**
8 **said. But I guess the -- maybe the best way to put it is**
9 **that if she disagreed with it, I'm pretty sure that she --**
10 **she would have said something and I would have remembered**
11 **that. I don't remember hearing any disagreement from her.**

12 Q. But Vince Goddard spoke; correct?

13 **A.** **Vince Goddard spoke.**

14 Q. And he spoke in favor of those -- proceeding with
15 those charges?

16 **A.** **Yes. I mean, without recalling exactly what he**
17 **said, my impression was, yes, he believed that those -- at**
18 **that time, that those charges were -- were justified.**

19 Q. And if I ask you what he said, that guy over
20 there is going to beat me over the head with --

21 **A.** **Oh.**

22 Q. -- an objection of hearsay, so I'm not going to
23 do that. Your testimony's is fine.

24 The second meeting.

25 **A.** **Yes.**



1 Q. Would it be fair to say that the numbers of
2 people supporting the charges -- this is months later --

3 A. Yes.

4 Q. -- months later. Much more information is out
5 there now, that the number of people supporting the
6 charges was less?

7 A. Without a doubt, yes.

8 Q. Were there still people at the second meeting
9 that believed the charges should -- should go forward?

10 A. I don't believe -- I don't believe at the second
11 meeting -- I got to be careful because I don't want to
12 misstate what other people thought. But my -- my
13 impression was that there was -- there was agreement that
14 the gang charges needed to be dismissed.

15 Q. But Clint Davis didn't agree with that, did he?

16 A. Oh, I'm sorry. I'm -- let me -- let me back up.

17 When you say the meeting, there's the meeting and
18 then when April and Clint leave, then there's the
19 discussion. I'm sorry.

20 So, yes, April and Clint had certainly expressed
21 the opinion that these charges were supported and that we
22 should not dismiss.

23 Q. All right. And then a decision came out of that
24 meeting to dismiss; correct?

25 A. Yes. So after --



1 Q. And that was --

2 A. -- after.

3 Q. -- that was to dismiss with --

4 A. Without.

5 Q. -- without prejudice; correct?

6 A. Yes.

7 Q. Okay. Is this -- would it be fair to say that
8 this -- this process is the way to go ahead and resolve
9 when reasonable people disagree on a particular charge?

10 A. You mean the --

11 Q. That's what it's intended to do. You're vetting
12 both sides of the question?

13 A. I think it's fair to say that, yeah, at an
14 incident review, the idea is let's get a number of
15 different eyes on it, get different perspectives, and come
16 to what we believe is a just decision.

17 Q. Is it a cardinal sin to be wrong, to come up on
18 the losing end of a -- one of those discussions?

19 A. No. I mean, I -- I'm sure I've been on the other
20 side as well, but, yeah, no. So in -- if you're talking
21 just generally, in an incident review, it is very common
22 to have different points of view. Some prosecutors may
23 say that "I think we should go forward." Others may think
24 that "I don't think that this evidence is sufficient."

25 Q. Do you remember if -- recall what Karl Martin's



1 perspective was?

2 **A. Well, he wasn't present on February 12th.**

3 Q. Okay. Do you recall what Ms. -- Lieutenant
4 Hester's position was?

5 MR. HENLEY: Objection, Your Honor. These are
6 officers. We're talking about their decisions as to
7 whether or not the MCAO is going to continue prosecuting a
8 case?

9 THE COURT: Well, I don't recall those names
10 being mentioned as part of these meetings.

11 MR. CALDERON: That's what I'm -- that's what he
12 was going to say.

13 THE COURT: And -- well, you asked --

14 MR. CALDERON: I --

15 THE COURT: -- what their impressions were. I --
16 what -- was your question?

17 MR. CALDERON: I'm going to move --

18 THE COURT: I -- maybe moving on is a good idea.

19 MR. CALDERON: Okay.

20 BY MR. CALDERON:

21 Q. Do you believe that April Sponsel advanced these
22 charges in good faith?

23 MR. HENLEY: Objection. Speculative.

24 THE COURT: Overruled.

25 **THE WITNESS: I mean, I think that she believed**



1 on October 30th that the evidence was as she said it was.
2 I think that's what her belief was.

3 MR. CALDERON: Thank you.

4 BY MR. CALDERON:

5 Q. I hate to do this. Let's go back to talking
6 about umbrellas.

7 A. Okay.

8 Q. Did you take a look at the photo of the umbrella
9 that Suvarna Ratnam used?

10 A. Yes. The one from August. Or I'm -- the one
11 from August?

12 Q. Yes.

13 A. Yes.

14 Q. Was it completely intact?

15 A. No. My understanding is that when they -- and I
16 don't recall the photograph right now, like -- but we had
17 it photographed again. And the back end of it was broken.

18 Q. Okay. Did you -- anybody provide you with
19 information relative to Sergeant Herr, H-e-r-r, somehow
20 encountering that umbrella?

21 A. Well, that -- so the allegation in that case was
22 that Suvarna Ratnam had essentially stabbed -- and I don't
23 know if that was the exact word, but basically stabbed
24 sergeant -- the sergeant in the hand with the umbrella in
25 the process of swinging the umbrella at the officer as he



1 was attempting to take her into custody. That was what
2 the allegation was.

3 As I investigated the case, I could see that
4 there were some problems with that allegation.

5 Q. So that allegation was not true?

6 A. Ultimately I don't believe -- ultimately I
7 believe that it was not accurate, that's correct.

8 Q. Okay. And there was --

9 A. And --

10 Q. I'm sorry. Go ahead.

11 A. No. I was going to say, and part of the
12 allegation is that the -- that it was a sharpened-tip
13 umbrella, and -- which of course my understanding of
14 "sharpened" is that this has been modified. And that
15 turned out not to be true; that it was not a modified,
16 sharpened umbrella.

17 And I also -- I don't believe, once we ended up
18 getting some additional, like, cell phone videos, that
19 this was a -- like a stabbing or slicing of the hand with
20 the umbrella.

21 Q. I have perhaps some misinformation, that it
22 wasn't a -- it wasn't alleged it was a sharpened tip. It
23 was the broken handle that was jagged. Does that refresh
24 your recollection at all?

25 A. So that was not the original allegation in the --



1 in the police reports. My understanding is -- so Karl
2 Martin, in our office -- I wanted some follow-up. I
3 wanted to get to the bottom of is this -- you know, is
4 this an actual modified umbrella? And I think actually
5 Karl may have ended up going on his own, but the bottom
6 line is is he noticed that it was broken on the back, and
7 I think that he thought it was at least possible that that
8 part of the umbrella might have scraped the hand, which of
9 course, from my standpoint as a prosecutor, there's a big
10 difference between, you know, stabbing somebody with the
11 front end of a modified umbrella versus what might have
12 been an incidental-type scratch.

13 So it -- from my standpoint as a prosecutor, that
14 did not advance the evidence much.

15 Q. Okay.

16 A. If anything, it still contradicted the original
17 theory of the case.

18 Q. It was a factual difference?

19 A. Factual difference from what was in the police
20 reports?

21 Q. Yes.

22 A. That's fair to say.

23 Q. Okay. As a prosecutor, you always received an
24 adequate information when you receive reports sent from
25 the police or whomever to evaluate, to press charges?



1 A. Do we always, no, we don't always receive. We --

2 Q. It's common to -- it's common to receive
3 incomplete; correct?

4 A. Yes. It's common to receive incomplete
5 information.

6 Q. And then you follow up and have somebody look
7 into it; correct?

8 A. We either follow up and have somebody look into
9 it from our office, but the most common method is what we
10 call a "further," where the charging attorney will review
11 it and say I have additional questions. I need to see the
12 photographs. I need to see -- this person needs to be
13 further interviewed, things like that.

14 Q. Let me get off of umbrellas.

15 A. Okay.

16 Q. And talk about other things that harm people.

17 Were there weapons followed re -- during that --
18 strike that.

19 Do you know or was it reported to you that there
20 were weapons in use during that October riot?

21 A. When you say "weapons used," I was -- I don't --
22 I would say I'm not aware of the weapons being used. I am
23 aware that there were weapons found. And one particular
24 person had two guns and, I believe, a knife.

25 Q. Okay. So it's my understanding that one of the



1 protesters brought two guns and a knife.

2 **A. That's correct.**

3 Q. Was there a rifle?

4 **A. One of -- one of the guns was a rifle, correct.**

5 Q. And it's my understanding and I think this Court
6 has a tremendous amount of understanding that a rifle is
7 something used at long range; correct?

8 **A. Yes.**

9 Q. There was a handgun; correct?

10 **A. There was a handgun.**

11 Q. Do you recall what kind it was?

12 **A. I forgot. I mean, it was a semiautomatic
13 handgun. I don't remember --**

14 Q. Semiautomatic. It wasn't just a six-shooter?

15 **A. Correct.**

16 Q. Knives. Do you know, were there knives?

17 **A. I remember one knife. I can't remember if there
18 were any others. And the knife that I'm remembering came
19 from the same particular protester.**

20 Q. Isn't it true that any of these, singularly or
21 collectively, could have been used to intimidate the
22 police?

23 **A. They could have been used. Could have been used
24 to intimidate police.**

25 Q. They -- and they could -- and they could have



1 harmed someone as well; correct?

2 **A. They could have.**

3 Q. They could have harmed themselves if there was an
4 accident?

5 **A. They could have, yes.**

6 Q. Okay.

7 MR. CALDERON: Your Honor, I'm trying to shorten
8 this up.

9 THE COURT: That's good news.

10 BY MR. CALDERON:

11 Q. I just want to make sure that -- I think you said
12 this almost verbatim, which tells me that you're good at
13 what you do, the definition of a criminal street gang,
14 that I have here, says whose members or associates,
15 individually or collectively, engage in the commission,
16 attempted commission, facilitation, or solicitation of any
17 felony act.

18 **A. That's -- that sounds correct, yes.**

19 Q. Okay. Sounds just like what you said.

20 Explain to -- to me, please, what "facilitation"
21 means.

22 **A. Facilitation can be -- a lot of times it can be**
23 **after the fact, you know, helping to get -- helping to get**
24 **rid of evidence or it could happen before. An example**
25 **would be providing a weapon, you know, to be used later at**



1 a drive-by shooting, for example.

2 Q. What about driving someone to the event? Is that
3 facilitation?

4 A. That could be -- that could be considered
5 facilitation, yes.

6 Q. What is -- what is solicitation of any
7 solicitation? And I don't -- I don't mean the --

8 A. I know --

9 Q. -- oldest profession. What does it mean in
10 relation to this statute?

11 A. In layman's terms, solicitation, under the
12 criminal code, is essential asking somebody to commit a
13 crime.

14 Q. In order to be found guilty or to be classified
15 into this gang, using those definitions we just talked
16 about, does there need to be a previous history of
17 somebody facilitating or soliciting, et cetera, in order
18 to be charged this time with facilitating or soliciting?

19 A. I want to make sure I understand the question
20 because there's two different aspects.

21 Are you asking whether somebody can be classified
22 as a criminal street gang member or whether somebody can
23 be charged with assisting a criminal street gang?

24 Q. Can someone be -- let's break it down.

25 Can someone be charged as being a member of a --



1 of a criminal street gang if they have never facilitated
2 or solicited such acts under the statute, in the past?
3 Can they have a first time -- can this be the first time
4 they did anything and they get charged?

5 **A. So --**

6 MR. HENLEY: Objection. I want to object. I'm
7 just going to object. We're getting into speculation into
8 what possible circumstances could be considered by the
9 prosecutor's office --

10 THE COURT: I had a different thought because I
11 thought Mr. Green already testified about this, how there
12 could be a first time, but that normally you would -- is
13 your question different from what he testified about on
14 direct?

15 MR. CALDERON: I'll move on, Your Honor.

16 THE COURT: All right.

17 BY MR. CALDERON:

18 Q. When we talked about Suvarna Ratnam, did you take
19 a look at any photos of her?

20 **A. Yes.**

21 Q. Did you notice any sort of tattoo on her?

22 **A. Yes.**

23 Q. And can you describe what the tattoo was?

24 **A. Well, I think she had multiple, but the ones that**
25 **were pertinent, she had an ACAB tattoo and I believe a**



1 1312 tattoo, which would be, you know, numbers
2 corresponding to the letters in the alphabet for --

3 Q. Okay. Let's break them down.

4 A. -- ACAB.

5 Q. ACAB. What does ACAB mean?

6 A. The -- commonly standing for "all cops are
7 bastards."

8 Q. All cops are bastards.

9 And that was tattooed permanently on her;
10 correct?

11 A. Well, I --

12 Q. It looked --

13 A. -- I didn't inspect the tattoo to determine
14 whether it was permanent, but I'm assuming it was
15 permanent.

16 Q. Okay. And then you said there was a numerical
17 one. It was 13 --

18 A. 1312.

19 Q. 1312. And what does that mean?

20 A. It's just state -- the numbers corresponding to
21 the letter in the alphabet. So 1 is A. 3 is C. And so
22 on. So it's ACAB.

23 Q. It's a code for ACAB?

24 A. Yes, I guess that's fair to say.

25 Q. All right. If I was a Boy Scout, I would -- an



1 old Boy Scout, we had the Morse code. But nobody knows
2 what that is anymore. Okay.

3 Did you have any access to any of electronic
4 communications between Suvarna Ratnam and Riley B. and
5 other members of ACAB?

6 A. My recollection is that in the -- the
7 communications that April was presenting, you had these
8 communications with Suvarna Ratnam and a whole bunch of
9 other people that were not charged on October 17th. I do
10 think Riley might have also been within those
11 communications.

12 Q. Okay.

13 A. But I can't say for sure.

14 Q. What is GangNet?

15 A. GangNet is a database where officers who have
16 documented somebody as either being a member or an
17 associate of a criminal street gang, it sort of is like a
18 repository.

19 Q. And how do you get -- how do you make it to the
20 GangNet list?

21 A. You mean how would somebody end up in that
22 database?

23 Q. Right.

24 A. Well, if, number one, there has -- it has to be
25 related to an actual criminal street gang that has been, I



1 guess -- I don't want to use the wrong terminology,
2 because DPS I believe is -- they're the ones who manage
3 it.

4 But essentially, you know, you have to have what
5 is accepted as a criminal street gang, and that's already
6 been vetted. And then -- and, again, this is my
7 understanding -- you're going to have officers, when they
8 have contact with somebody, they're going to go through
9 what's called the gang membership identification criteria,
10 which is essentially looking at the factors under the
11 statute. And if during the course of a discussion or
12 interaction with that person, they may have enough
13 information to document them as a member or an associate
14 of a criminal street gang.

15 Q. If -- if a group of people act following the
16 definition that I read to you and that you read off the
17 top of your head, if they act but they're not listed in
18 GangNet, are they not a gang?

19 A. So I think I understand your question is that you
20 can have a criminal street -- the fact that a gang gets
21 entered into a database and the fact that a person gets
22 entered into a database is not, by itself, you know, proof
23 beyond a reasonable doubt that they are a gang member.
24 The converse is also true. Just because you are not in
25 GangNet does not mean that you are -- that you are not a



1 gang member.

2 So, for example, you know, take a -- an organized
3 criminal street gang, like, let's say, the Mexican Mafia,
4 also a prison gang. They're not going to send out a list
5 to the police department saying we'd like to announce
6 or -- our latest members, you know. So they don't -- the
7 GangNet is not always going to have every single gang
8 member.

9 Q. Okay. And do gangs have to commit a felony in
10 order to be listed in the -- in GangNet?

11 A. I can't really imagine a criminal street gang --
12 it would not be a criminal street gang if their members do
13 not individually or collectively commit felony offenses.

14 Q. All right. Misdemeanors don't count?

15 A. No, they do not.

16 Q. Okay. Is there any -- dumb question, but is
17 there any sort of a violent misdemeanor?

18 A. Well, certainly. I mean, you know, you have
19 misdemeanor assaults.

20 Q. So if there's a violent misdemeanor, they would
21 not qualify for GangNet?

22 A. Not under the statute.

23 Q. Okay. What about the types of crimes that are
24 requisites to get into GangNet. Would drug dealing, a
25 nonviolent drug dealing, would that qualify someone to get



1 into GangNet, if it was a felony?

2 A. Well, you don't get into GangNet because of the
3 felony as an individual. You get into GangNet because you
4 meet the criteria. If you're asking about the types of
5 felonies that we would typically see associated with gang
6 activity, certainly drug dealing is one of those felonies.

7 Q. And there doesn't have to be violence involved?

8 A. There does not have to be, no. That's correct.

9 Q. Okay. What about human trafficking?

10 A. That's -- I mean, it's -- yeah, to the extent
11 that you have kidnapping or some other felony, I mean,
12 it's a felony. It could, yes. You can have -- I mean,
13 drug trafficking organizations. I imagine human
14 trafficking organizations could be documented as well.
15 Admittedly, that's not my area, though, when it comes to
16 that.

17 Q. And just to -- to close up that subset. It's the
18 legislature that creates the definition that we're talking
19 about; correct?

20 A. Correct, yes.

21 Q. Can a nongang member assist a criminal street
22 gang?

23 A. Yes.

24 Q. How?

25 A. I mean, you know, for example, a non -- somebody



1 who is not considered to be part of the gang is asked by,
2 you know, another gang member to, you know, hey, can you
3 be the getaway driver in the armed robbery or the drive-by
4 shooting that we're about to commit. That person may, you
5 know, have only a slight association, is not considered a
6 member, has never been documented as a member, but, you
7 know, on that particular instance, they can assist the
8 criminal street gang because they know that their friends
9 or their associates on that day are gang members and
10 that's their intent when they assist.

11 Q. What about a bystander yelling out to a gang
12 member, "Watch out, there's a policeman there"? Is
13 that -- is that assisting a criminal street gang?

14 A. Even if that would -- could meet the technical
15 definition, I would never consider that to be -- I
16 don't -- I mean, I guess it would depend on other
17 surrounding facts. But generally, I would say that that's
18 not sufficient to assist a criminal street gang. I think
19 that would be an overuse of the statute.

20 Q. What types of evidence do you need in order for
21 some allegation to meet the definition of a criminal
22 street gang? Can -- does it have to be just direct
23 evidence? Can you have circumstantial evidence? What
24 types of evidence do you look at as a prosecutor?

25 A. Well, oftentimes it is circumstantial evidence.



1 And the circumstantial evidence can come in the form of --
2 of the gang membership criteria.

3 So, for example, a group of people who are all
4 wearing blue, that is, you know, well known to be the
5 color of this particular Crips set in this neighborhood.
6 Correspondence is another criteria for a gang member, if
7 there's correspondence that has been intercepted, and in
8 the content of the correspondence, it's clear that they
9 are all gang members. Photographs that might be posted on
10 social media. Used to be, maybe through a search warrant,
11 you'd find photo albums. But photographs would be another
12 example.

13 And then you can get, of course, into more direct
14 testimony of a witness. Somebody who says, "Yeah, I know
15 that person's a gang member because they admitted it to
16 me," then you have self-proclamation. There can be
17 self-proclamations on social media. There can be
18 self-proclamations to police. Things like that.

19 So it's a confluence of both direct and
20 circumstantial evidence.

21 Q. Do you have to know the other person in order for
22 them to be part of your gang?

23 A. You don't have to know them, but, again, I think
24 when you're evaluating reasonable likelihood of
25 conviction, the strength of the evidence, whether you



1 truly do have a gang, knowing each other, when proving
2 association, I would say is important factor. It may not
3 be a legal factor, but it is definitely an important
4 factual consideration.

5 Q. Not a legal factor but important?

6 A. Yes.

7 Q. Okay.

8 A. Because you may not be able to meet the legal
9 factor of association if you got people who don't know
10 each other.

11 Q. Shift gears on you now. Let's talk about Ryder
12 Collins. What was your understanding as to why Ryder
13 Collins was downtown? And you can give me an abbreviated
14 response because I think I heard someone talk about taking
15 pictures of sunsets.

16 A. Taking pictures of buildings around sunset. That
17 was my understanding.

18 Q. Did you find any of those photos in his camera?
19 Did the police find any of those photos of buildings at
20 sunset?

21 A. So -- well, my belief is that the police have
22 that. However, I had specifically requested that those --
23 any photos not related to the protest not be provided to
24 us because at that -- at the time I was making that
25 request, Ryder Collins had been dismissed with prejudice,



1 and I did not want -- I did not want to be invading his
2 privacy by getting all those other photographs, whatever
3 they were. So I -- I don't believe I've seen those
4 photographs, but I believe that they exist. My
5 recollection is from speaking with somebody at the
6 forensic imaging unit, that there were a bunch of other
7 photos.

8 Q. Any idea who you spoke to that said there were
9 photos of --

10 A. No. One of the names -- and you had asked about
11 what I had talked about with -- I know mentioned there was
12 a question about Diane Meshkowitz and when I first talked
13 to her. It may not have been her, but it was somebody
14 over there.

15 Q. Okay.

16 A. Yeah. Because trying to -- trying to piece -- I
17 was having trouble even piecing together exactly when I
18 started talking, but I think it may have been Diane
19 Meshkowitz.

20 Q. Do you know an attorney with a last name of
21 Gibson-McLean?

22 A. I -- yes, I do, but I don't know that I've ever
23 met her in person, and I had email correspondence with
24 her.

25 Q. And did your email correspondence at all talk



1 about which photos to be disclosed?

2 A. Yes. So that's what I'm referring to is -- is I
3 believe I had reached out to her about I think it was a
4 supplement that said that there's these photos that were
5 downloaded from his camera. I want to get them to make
6 sure I've disclosed them. However, this raises an
7 important issue about privacy. This is the guy who was
8 not involved and his camera was subject to a search
9 warrant. So am I going to -- I just had misgivings about
10 disclosing private stuff. I don't know if it was going to
11 contain family members, things like that.

12 Q. Okay. In your deposition you testified that
13 Ryder Collins, that one of the key elements to determine
14 whether Ryder Collins had paraphernalia consistent with
15 him being a rioter was -- was what? What -- what
16 paraphernalia did you expect to find on Ryder Collins that
17 would have classified him as a gang member?

18 A. Well, I don't know about classifying him as a
19 gang member or classifying him --

20 Q. As a rioter.

21 A. -- as a -- as a rioter?

22 Q. Or protester.

23 A. Or part of the protest?

24 Q. Part of the protest.

25 A. Well, there could have been a number of things.



1 So, for example, a lot of the other -- well, you know,
2 there were -- he didn't have an umbrella. He wasn't
3 wearing black bloc. He did not -- you know, some of the
4 others had, like, bicycle helmets or, you know, goggles
5 and things like that. He had none of those types of, you
6 know, accoutrements or anything like that.

7 There was just nothing indicating that he was
8 part of that group.

9 Q. Okay. And a camera is not one of those
10 accoutrements?

11 A. I would not -- I would not consider -- and I
12 understand that there is the issue of a, quote, legal
13 observer. But under the circumstances here, him having a
14 camera was not something that connected him to this group.
15 In fact, it corroborated what his story was about why he
16 was in Phoenix.

17 Q. Let's talk about legal observers.

18 A. Sure.

19 Q. This is -- I'm (indiscernible)?

20 A. All right.

21 Q. So anything you tell me I'm going to believe.

22 When I think of an observer, a legal observer, I
23 picture somebody that -- in a -- in a light blue helmet
24 with (indiscernible) on it and them standing there
25 watching North Koreans and the South Koreans, making sure



1 nobody has an attraction.

2 Is a legal observer a neutral party?

3 A. So in the context of this case and I guess these
4 types of incidents, that's not what "legal observer" was
5 referring to.

6 "Legal observer" was referring to somebody who
7 will follow a law -- and even though it's legal, I don't
8 believe that it's necessarily a, quote, lawyer. It's
9 somebody who will take photographs of the interaction
10 between the protesters and the police. And -- yeah, I
11 mean, that's generally what my understanding is of the
12 legal observer.

13 But that legal observer, in this context, I think
14 I -- my understanding is the idea is to sort of, you know,
15 wait for an opportune moment to catch, you know, a
16 photograph that can be used do -- I don't know -- I guess
17 further whatever the cause is, to make the police look
18 bad.

19 Q. And --

20 A. I got to be careful, because I'm not an expert on
21 that, but that's to my general understanding.

22 Q. That's fine.

23 And you determined someplace along the line that
24 Ryder Collins was not a legal observer?

25 A. He was -- he was not a legal observer.



1 Q. And how -- what did you base that on?

2 A. Well, to begin, the -- there are -- there is
3 surveillance video in this case, from the tops of
4 buildings, and you can see -- you can start seeing the
5 group moving as they went eventually onto 7th Avenue and
6 then turned on Washington. So you can really see the
7 group, and you can see who is following.

8 Ryder Collins is nowhere to be seen. There are
9 some people following. Early on, there's a person in a
10 red shirt. I -- I don't know for sure who that is. There
11 was also a person wearing black who -- that I could tell
12 from other photographs -- was there who had a camera, but
13 it was not Ryder Collins.

14 There was then also eventually the -- there were
15 two women who were part of -- I guess Patriot -- I'm
16 blanking on the exact name, I apologize, but they -- they
17 were following them as well. And you can see throughout
18 this, that Ryder Collins is not involved also using the
19 Strongwatch video. And then final -- a final, I guess,
20 piece of corroborating evidence is the -- the Patriots.
21 I'm -- I can't remember. I think there's another part of
22 the name there, but they have video where Ryder Collins
23 actually comes up and makes a comment, sort of like what's
24 going on? It just all corroborates that this guy is not
25 part of that group. He's not a legal observer. He's not



1 connected to them.

2 Q. Can a legal observer help facilitate under the
3 definition we discussed earlier?

4 A. A legal observer can, yes.

5 Q. It's possible?

6 A. It is possible, yes.

7 Q. And what are SIGNAL messages?

8 A. So --

9 Q. SIGNALs is all caps, S-I-G-N-A-L.

10 A. It's -- well, it's an app that I don't have. But
11 my understanding it's an app that when you communicate by
12 text, it's encrypted, and I think that the text messages
13 can disappear. Like, there's settings you can have where
14 it disappears. I don't -- I've never used Signal or any
15 of those apps.

16 Q. It's my understanding that the law enforcement
17 secured SIGNAL messages between the alleged gang members
18 discussing the use of legal observers. Are you familiar
19 with that?

20 A. Yeah. So I think that was part of the
21 communications that -- I can't remember if it was in
22 April's PowerPoint, but somewhere within the case, these
23 communications that existed between people who were not --
24 at least most of them were not the ones arrested on
25 October 17th, these other communications. I -- somewhere



1 in there, there was definitely a discussion of legal
2 observer, yes.

3 Q. And this was part of a presentation where she's
4 explaining her good-faith belief that the charges were
5 correct?

6 A. Yeah. I believe that -- I'm pretty sure it was
7 part of this PowerPoint.

8 MR. CALDERON: Thank you.

9 Your Honor, I pass the witness.

10 THE COURT: Thank you. If your redirect is
11 brief, we will try to finish with Mr. Green.

12 MR. HENLEY: Judge, unfortunately it's not going
13 to be -- it's going to be brief, but it's not -- it's
14 going to take a little bit longer.

15 We have a lieutenant who has some duties outside
16 of the office, and he's here. His testimony is going to
17 be extraordinarily brief. So I'm wondering if we can go
18 ahead and pull him in out of order.

19 THE COURT: As long as you both agree he's going
20 to be extraordinarily brief.

21 MR. HENLEY: Lieutenant Hester. I can't imagine
22 it being more than ten minutes.

23 THE COURT: All right. And your estimate of your
24 redirect for Mr. Green is.

25 MR. HENLEY: Probably not even 10 to 15 minutes.



1 THE COURT: Oh, well, I mean, I would like to not
2 have him continue to wait, if possible. But all right.

3 Do you have any objection to taking the
4 lieutenant now and then we'll get back to Mr. Green?

5 MR. CALDERON: Not at all, Your Honor.

6 THE COURT: All right. Then --

7 **THE WITNESS: Just wait outside?**

8 THE COURT: If you would waited outside,
9 Mr. Green.

10 **THE WITNESS: No problem.**

11 THE COURT: We'll try to finish with you before
12 lunch, if we can.

13 **THE WITNESS: Okay.**

14 MR. HENLEY: And I definitely will.

15 THE COURT: And this is Lieutenant Hester.

16 MR. HENLEY: Lieutenant Hester. Lieutenant James
17 Hester.

18 THE COURT: Okay. Good afternoon, sir.

19 If you would, please, stay standing for a minute
20 and raise your right hand. I'll swear you in.

21 Do you solemnly swear that the testimony you're
22 about to give will be the truth, the whole truth, and
23 nothing but the truth?

24 **THE WITNESS: I do.**

25 THE COURT: Thank you. Please have a seat.



1 And once you get seated, you might move that
2 binder out of your way and pull the microphone a little
3 closer, please.

4 And then the lawyers say your testimony will be
5 very brief, and we're hoping that's true.

6 We'll start with Mr. Henley.

7 MR. HENLEY: Thank you.

8

9 JAMES HESTER,
10 a witness herein, having been first duly sworn to speak
11 the truth and nothing but the truth, was examined and
12 testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. HENLEY:

16 Q. Can you state your name for the record, please.

17 A. **Yes. James Hester.**

18 Q. Mr. Hester, where are you employed?

19 A. **The Phoenix Police Department.**

20 Q. How long have you been employed with the Phoenix
21 Police Department?

22 A. **Since -- I've been sworn since June of 2001.**

23 Q. What are some of your duties with the Phoenix
24 Police Department?

25 A. **My current responsibility is I'm the homicide**



1 lieutenant.

2 Q. What was your position during the 2021 time
3 frame?

4 A. I was the assaults, crime gun intelligence unit,
5 and digital forensics investigations unit lieutenant.

6 Q. Are you familiar with the respondent in this
7 matter, Ms. Sponsel?

8 A. I am.

9 Q. How are you familiar with Ms. Sponsel?

10 A. We -- we work together, professional capacity.

11 Q. How -- how long have you known her?

12 A. I'm sure I've known her most of my career. But
13 as a supervisor, I don't testify all that often, but I've
14 become more familiar with her more recently because of a
15 case involving one of my sergeants getting run over.

16 Q. The -- were you aware that Ms. Sponsel was the
17 prosecutor assigned to the October 17, 2020, protester
18 arrests?

19 A. Was I aware of after the event or before the
20 event?

21 Q. Let's say after the event.

22 A. After the event, yes.

23 Q. Were -- when did you first become aware of the
24 arrests of October 17th?

25 A. I believe the next day.



1 Q. Were you aware that individuals that were
2 arrested that day had their cell phones seized as part of
3 the arrests?

4 **A. I became aware of it, yes.**

5 Q. The -- when cell phones are seized in that manner
6 and they're maintained by the Phoenix Police Department
7 Evidence Division; right?

8 **A. Property Management Bureau is where evidence is**
9 **stored, yes.**

10 Q. Were -- was one of your, I guess, subordinates --
11 I'm not sure exactly -- well, strike that.

12 Are you familiar with Detective Legere?

13 **A. Yes.**

14 Q. Was he one of your subordinates at the time
15 during the October 17, 2020, time frame?

16 **A. Yes.**

17 Q. Was -- is there another detective, Hardina?

18 **A. Yes.**

19 Q. That's -- was under your command as well?

20 **A. Yes.**

21 Q. Was Detective Hardina on -- the first detective
22 that was involved with the seizure and maintenance of the
23 cell phones that were seized on October 17, 2020?

24 **A. He was assigned the case.**

25 Q. During Detective Hardina's control of those cell



1 phones or involvement with those cell phones, were any of
2 those cell phones released to the individual protesters?

3 A. Yes.

4 Q. Can you explain that.

5 A. Explain that -- like the process of how phones
6 get released or why they were released?

7 Q. Generally how that's -- how that occurs.

8 A. We have a record management system that has
9 access to the evidence -- I'm sorry. Am I too loud on
10 this thing?

11 THE COURT: No. You're good.

12 THE WITNESS: And the phones were made available
13 for release, which notifies our Property Management Bureau
14 that people can collect them. And then there's a process
15 that I have a witness where someone can go to 100 West --
16 East Elwood and collect their property, once we make it
17 available for release.

18 BY MR. HENLEY:

19 Q. Did any of the individuals arrested on October 17
20 request that their cell phones be returned?

21 A. Yes.

22 Q. Were they, in fact, returned to these folks?

23 A. They were made available for release. I --
24 again, I didn't witness anybody picking up any cell
25 phones.



1 Q. Have you -- do you maintain records on this
2 issue?

3 A. Yes.

4 Q. Have you reviewed those records?

5 A. Yes.

6 Q. Do the records reflect that cell phones were, in
7 fact, released to some of the individuals arrested on
8 October 17?

9 A. I don't recall if they were released to the
10 people that were arrested, but I recall that they were
11 released, yes.

12 Q. When were those cell phones released, as
13 reflected by the records?

14 A. So there's two parts here. So the ones that
15 you're referring to with Anthony Hardina, that he released
16 them soon after being assigned the case when he was
17 notified that individuals wanted their phones back.

18 There was a later time where additional property
19 was released at the request of my leadership.

20 Q. During Detective -- is it Detective Hardina?

21 A. It is, yes.

22 Q. During the time that Detective Hardina was
23 releasing it, do you know when -- when exactly these cell
24 phones were released?

25 A. No.



1 Q. That initial release?

2 A. No.

3 Q. As I understand it, there was a Violent Bureau
4 [sic] meeting that took place on October 23, 2020. Do you
5 recall that Violent Crime Bureau meeting?

6 A. So it was a meeting involve -- it was a meeting
7 within the Violent Crimes Bureau conference room, yes.

8 Q. And did that -- am I correct that meeting took
9 place on October 23, 2020?

10 A. I believe that's correct, yes.

11 Q. Did you engage in conversations during that
12 meeting regarding Detective Hardina's release of the cell
13 phones?

14 A. I -- I believe it's more fair to say that the
15 impetus for the meeting was that the cell phones were
16 releasing, not that we discussed -- I discussed with
17 persons that were in that meeting about the potential of
18 getting into the phones, but not ...

19 Q. So Detective Hardina's release of the cell phones
20 certainly took place before October 23, 2020; correct?

21 A. Yes.

22 Q. Did you have any discussions directly with
23 Ms. Sponsel regarding Ryder Collins?

24 A. Yes.

25 Q. When did those discussions take place?



1 **A. I don't have the date.**

2 Q. Was there an event or circumstance that caused
3 you to contact Ms. Sponsel?

4 **A. Yes.**

5 Q. What was the event or circumstance that caused
6 you to contact Ms. Sponsel?

7 **A. It was one of my detective's interviews with
8 Sergeant James Groat.**

9 Q. What was the purpose of the interview of one of
10 your sergeants, Groat?

11 **A. Clarification on why Ryder was -- or Mr. Collins
12 was identified as being part of the group.**

13 Q. As a result of the interview of Sergeant Groat,
14 you said that you contacted Ms. Sponsel. What was the --
15 what was the nature of your discussion with Ms. Sponsel
16 regarding Ryder Collins?

17 **A. To paraphrase it, because I don't remember the
18 exact wording of our conversation, but the easiest way for
19 me to say it is that we -- we no longer believe that Ryder
20 was part of the core group of protesters that were
21 arrested that day and at direction of my leadership, we
22 wanted the case dismissed against him.**

23 Q. And when you say your "leadership," who are you
24 speaking of?

25 **A. So I -- I was trying to remember exactly, after**



1 our conversation previously. There was a phone call with
2 somebody. I'm fairly confident it was one of our
3 assistant chiefs, but I can't remember who it was. But
4 they wanted Ryder -- Ryder's -- Mr. Collins' charges
5 dismissed immediately.

6 Q. And you conveyed their request to Ms. Sponsel?

7 A. Yes.

8 Q. Did you explain to her that they felt that there
9 was a misidentification of Mr. Ryder Collins?

10 A. That seems reasonable, but I don't independently
11 recall if that's how I phrased it.

12 Q. Did you make the request that Ms. Sponsel dismiss
13 the case?

14 A. Yes.

15 Q. Did she make any comments in response to your
16 request?

17 A. Yeah. She said it was going to happen. But, as
18 I recall, there were some procedural issues that had to
19 occur for that to happen.

20 Q. And, again, just to make sure that the timing is
21 accurately identified, your conversation with Ms. Sponsel
22 would have occurred after the interview of Sergeant Groat;
23 correct?

24 A. Yes.

25 Q. As a result of your information regarding



1 Sergeant Groat and his involvement in the October 17,
2 2020, arrest of Ryder Collins, did you report Sergeant
3 Groat to the Professional Standards Bureau of the PPD?

4 **A. I did not, no.**

5 Q. Do you know if he was referred to the standard --
6 Professional Standards Bureau with the PPD?

7 **A. I believe he's under investigation. I don't know**
8 **who referred him. My chain was aware of everything that**
9 **was discussed. So -- but it wasn't me.**

10 MR. HENLEY: I have no further questions.

11 THE COURT: Cross-examination?

12 MR. CALDERON: Yes, Your Honor.

13

14 CROSS-EXAMINATION

15 BY MR. CALDERON:

16 Q. Hello well. Good to see you again.

17 Just want to ask you about the time frame. Would
18 you take a look at Exhibit 196. There's boxes -- there's
19 binders right to your right. Each one is -- has numbers?

20 **A. 196 you said?**

21 Q. 196.

22 **A. This is not the right one.**

23 Q. Please let me know when you get to 196, and I'm
24 going to direct you to a particular page.

25 **A. Yes. I'm here.**



1 Q. Have you look down in the right-hand corner,
2 there are numbers, Bates numbers, and I'm going to refer
3 you to number 006663.

4 **A. I'm there.**

5 Q. Okay. This is a police incident report, isn't
6 it?

7 **A. It is.**

8 Q. And it's involving -- the reporting officer was
9 Adam Legere? Legare [phonetic]?

10 **A. Legere.**

11 Q. Legere. Right.

12 And the date of this is what?

13 **A. February 19, 2021.**

14 Q. So this was three -- three months -- almost four
15 months after -- after the October events; correct?

16 **A. Correct.**

17 Q. And this was the time that you came to
18 April Sponsel or communicated with her and said the
19 charges need to be dismissed?

20 **A. Yes.**

21 MR. CALDERON: Okay. No further questions,
22 Your Honor.

23 THE COURT: Any redirect?

24 MR. HENLEY: Very briefly.

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REDIRECT EXAMINATION

BY MR. HENLEY:

Q. Was it your understanding that the case was still pending as of February 19, 2021?

A. Yes.

Q. And did Ms. Sponsel indicate to you that -- or did she tell you that she had already dismissed the case?

MR. CALDERON: Objection. Asked and answered.

THE WITNESS: No.

THE COURT: He did testify that she said it was going to happen but there were some procedural things that needed to happen first.

Is this a different question?

MR. HENLEY: Yes.

BY MR. HENLEY:

Q. It was did she inform you that she had already dismissed the case?

A. Are you saying during our phone call? I just want to make sure I answer --

Q. During your phone call.

A. No.

MR. HENLEY: Thank you. No further questions.

THE COURT: Lieutenant, I think you're going to be free to leave, but let me see if the panel members have any questions for you.



1 Mr. Sifferman?

2 PANEL MEMBER SIFFERMAN: No. No questions,
3 Your Honor.

4 THE COURT: Mr. Clark.

5 PANEL MEMBER CLARK: No questions.

6 THE COURT: Thank you very much for coming down
7 to testify. Sorry for having to wait, but you're free to
8 leave.

9 **THE WITNESS: Thank you.**

10 THE COURT: I'm a little concerned -- if you're
11 really going to be that quick with Mr. Green, I think we
12 could go ahead with him.

13 Panel members may have some questions for him.

14 MR. HENLEY: It may be prudent to just go ahead
15 and come back after lunch.

16 THE COURT: I think it is, because I don't want
17 to rush anybody.

18 MR. HENLEY: Thank you, Your Honor.

19 THE COURT: And we may have questions.

20 So it's 12:20. Why don't we reconvene at
21 1 o'clock.

22 And tell Mr. Green we'll get him in and out as
23 quickly as possible as that point.

24 All right. We'll stand in recess until
25 1 o'clock.



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(Recess)

THE COURT: We are back on the record after our lunch recess, and Mr. Green has returned to the witness stand.

We apologize for keeping you so long, but we needed to get the officer out of here.

So we are at the point of redirect of Mr. Green by Mr. Henley.

MR. HENLEY: Thank you.

REDIRECT EXAMINATION

BY MR. HENLEY:

Q. Thank you once again for your patience, Mr. Green.

In response to questions about your discussions with the State Bar between the closing of testimony Tuesday and this morning, you've identified a couple of topics. Were you also informed that the PDJ properly requested that I try to streamline my direct examination of the witnesses?

A. Yes, you definitely mentioned that.

Q. Was that a topic that I brought to your attention with great urgency?

A. Yes.

Q. Okay. You also responded to questions by



1 Mr. Calderon regarding the ability of a prosecutor to
2 review videotape within ten days. Do you remember that
3 testimony?

4 A. I do, yes.

5 Q. I think your response was something along the
6 lines of it would be impossible to review all of the
7 videotaped evidence, especially as it relates to the
8 October 17th protest within that ten-day period?

9 A. In relation to the October 17th, that amount.
10 There are some cases that may only have one or two body
11 cams, where it certainly is feasible. But, in this case,
12 I agree that it would not have been feasible.

13 Q. How many defendants were actually charged in that
14 October 17, 2020, protest?

15 A. That -- there were 15 because there were three
16 juveniles and the rest were adults, and that includes
17 Ryder Collins.

18 Q. Did Ms. Sponsel have to initiate all 15 of the
19 October -- the felony prosecution of all 15 October 17th
20 protesters within ten days?

21 A. No. I mean, we have the option. It's our
22 discretion as to whether or not when a case comes in as a,
23 quote, in-jail and we're operating under that time frame,
24 you know, I think I mentioned this before, one option is
25 we can further the case and we can not file charges. We



1 can turn it down.

2 So, no, we -- we are not required to file
3 charges. We can hold off. And sometimes the way that is
4 described, I know I sometimes converted an in-jail to what
5 we call a "basket" case, to give us more time to review
6 it.

7 Q. In the event of a charge that seems to be
8 supported -- that seems to support -- quote, support
9 felony charges, how long is the statute of limitations for
10 the -- for most felony offenses?

11 A. For most felony offenses, it's a seven-year
12 statute of limitations.

13 Q. And for misdemeanors, how long is the statute of
14 limitations for a misdemeanor?

15 A. One year.

16 Q. As I understand it, Suvarna Ratnam was the only
17 defendant out of the 15 charged for the October 17th
18 incident. She was the only one that was in jail; is that
19 correct?

20 A. That's my recollection is that she was the only
21 one who was in jail. Thus she had a bond hearing because
22 she had an open case with -- she was on release for. And
23 I believe all others had been released.

24 Q. Was there anything preventing Ms. Sponsel from
25 initiating the charges against Suvarna Ratnam within that



1 ten-day window while submitting the other 15 protesters
2 sometime later within that seven-year statute of
3 limitations?

4 **A. No. I mean, that is one of the things that we,**
5 **as prosecutors, can do. We can decide to charge some of**
6 **the counts, some of the defendants, all of them. So we**
7 **have that discretion. You don't -- you don't have to**
8 **charge everybody who was arrested as part of an event.**

9 Q. In response to questions by Mr. Calderon
10 regarding Ryder and the various criminal street gang
11 criteria, you provided testimony regarding the black bloc
12 and that he didn't have an umbrella. But did Ryder have
13 any tattoos that spelled out ACAB?

14 **A. No, he did not.**

15 Q. Did he have any tattoos identifying 1312?

16 **A. No, he did not. I re -- I do seem to recall some**
17 **tattoos, but I think it was something very benign.**

18 Q. In response to questions by Mr. Calderon, you had
19 a discussion about the difference between probable cause
20 and reasonable likelihood of conviction. And I'm not
21 going to go through the testimony, because I don't think
22 that there's really any dispute regarding anything that
23 you said, but I do have a question. Is it possible for a
24 prosecutor to discover evidence during the course of their
25 prosecution that not only diminishes the likelihood of a



1 conviction but also eliminates the probable cause that the
2 crime ever was committed by this individual?

3 **A. Yes.**

4 Q. And do you believe that this was the case with
5 Ryder Collins?

6 **A. Yeah. So my opinion was, as it related to Ryder
7 Collins, once I started reviewing those photographs, was
8 essentially this is a wrong guy and -- yeah, that there's
9 no -- there's no evidence connecting him, you know, to
10 these particular crimes.**

11 Q. So a prosecutor could develop probable cause at
12 the -- shortly after the arrest and initiate a crime, but
13 then -- or initiate a charge, but then over the course of
14 their discovery and review of all of the evidence, they
15 may discover that they have the wrong guy?

16 MR. CALDERON: Objection. Leading.

17 THE COURT: It is leading, and I think it's what
18 he just testified about. Okay. And we heard it the first
19 time.

20 BY MR. HENLEY:

21 Q. You testified that the -- one of the protesters
22 had weapons at the October 17, 2020, protest?

23 **A. Correct. At least one. But in terms of gun, at
24 least one. I think there may have been some other items
25 that potentially could have been weapon.**



1 Q. Did you identify the name of the protester that
2 had the various items?

3 A. The one with the guns was Britney Austin.

4 Q. Was Britney violating any laws by possessing the
5 guns that she carried that day?

6 A. No. I -- I -- she was not a convicted felon.
7 There was no misconduct involving weapons. And from
8 watching the video, there was no, like, pointing it at the
9 officers. So we didn't have an aggravated assault or,
10 like, a reckless display for a disorderly conduct. So I
11 didn't see any crime. You know, she was simply in
12 possession of those weapons.

13 Q. In response to questions by Mr. Calderon, you
14 talked about offenders of violence -- and I'm paraphrasing
15 here; so if I misstate it, please correct me -- offenders
16 of violent misdemeanors do not reach the criteria
17 necessary for inclusion in GangNet.

18 Again, that's my recitation of your testimony.

19 Do you remember that testimony?

20 A. Yes.

21 Q. Is it fairly accurate to what you testified to?

22 A. Yes. Essentially that, you know, whether it's --
23 whether it's GangNet or just a gang charge, the definition
24 of a criminal street gang, it's aimed at the group
25 criminality and specifically that which involves felonies,



1 not misdemeanors.

2 Q. So are violent misdemeanors sufficient as the
3 predicate offense for criminal street gang charges?

4 A. No. Because it's a misdemeanor.

5 Q. No misdemeanors are sufficient; correct?

6 A. No. I mean, the statute says felonies; so it's
7 got to be felonies.

8 Q. You spoke -- you testified about Diane Meshkowitz
9 and your request made of her at some point during your
10 review. I'm going to direct you to Exhibit 103.

11 A. And I have that open in front of me.

12 Q. Are you with me?

13 A. Yeah. I am. Sorry.

14 Q. Okay. Does this help refresh your recollection
15 as to when you sent the request over to Ms. Meshkowitz?

16 A. It does, yes.

17 Q. On Bates -- it looks like 2034, it looks like you
18 start this email chain, and it's going to Katie
19 Gibson-McLean. Who is Katie Gibson-McLean?

20 A. She was the attorney who represented Ryder
21 Collins in the criminal matter.

22 Q. Why did you send this email to Ms. McLean?

23 A. Because even though the case was dismissed
24 without prejudice and we didn't necessarily have to be
25 providing discovery, I felt that since it was clear that



1 we were reviewing for possible refile, that I would
2 continue disclosing items.

3 And as part of that, I noticed that -- it appears
4 from looking at this, I noticed that there was a
5 supplement the talked about photos from Ryder Collins'
6 camera had been extracted or developed. And I had not yet
7 requested them, but I wanted to request them. But I
8 recognized, since he was not involved and essentially had
9 been cleared or had been cleared, that I wanted to be very
10 careful about what I requested and what I obtained. I
11 didn't want to obtain private photographs of his wife or,
12 you know, things that were unrelated and then disclose
13 that to the group. The group of defense attorneys and
14 defendants, that is.

15 Q. You -- did you have to go through any other
16 efforts to protect his -- his rights of privacy with
17 respect to these photographs?

18 A. My -- so my recollection is the way -- and from
19 looking at the email is I reached out to the defense
20 attorney, and I think it was agreed upon that what I would
21 do is I would request just those photographs that related
22 to the protest, because that was what was relevant to the
23 case.

24 And then eventually those photographs, I believe,
25 came to us, and then we did the disclosure. But I just --



1 so mainly just sort of getting the permission from -- from
2 her -- from his counsel.

3 Q. You testified regarding former police
4 department -- Phoenix Police Department Officer Clint
5 Davis and his opinions at the February 12th second
6 incident review.

7 Is Mr. Davis a lawyer?

8 A. He's not a lawyer, no.

9 Q. Does Mr. Davis make any prosecutorial decisions
10 on behalf of the MCAO?

11 A. He doesn't make the ultimate prosecutorial
12 decision, no.

13 Q. Was his presence and input similar to
14 Ms. Liewer's public input at these incident reviews?

15 A. You know, I would say it is different just
16 because he is a police officer and he is a detective. So
17 it's a little bit more -- he's giving an expert opinion
18 about the application of the gang statute whereas Jennifer
19 Liewer oftentimes was look -- oftentimes was looking at
20 other sort of more either global or bringing up points
21 that we may not have considered.

22 So I would say it is different, but -- but it is
23 true that Clint Davis is a nonlawyer, but he is -- he is a
24 detective, a police detective and investigator.

25 Q. Was it commonplace for nonlawyers, like Mr. Davis



1 and Ms. Liewer, to attend these incident reviews?

2 **A. Yes. I mean, that does happen. Yes, so we have**
3 **many incident reviews where detectives are asked to show**
4 **up and help present the case. And then there are other**
5 **times we -- yes, we do have people that are nonlawyers.**

6 **Q. During the second incident review, did Mr. Davis**
7 **present any actual evidence that addressed any of the**
8 **issues that were outlined in your February 10th email? I**
9 **believe it was marked as Exhibit 92.**

10 **A. No. There was -- there was -- my recollection is**
11 **him providing his opinion about how -- you know, based on**
12 **the facts, that it could be a criminal street gang or even**
13 **was, but there was no evidence, no specific facts to plug**
14 **in that was answering, you know -- at least substantially**
15 **answering the questions that I had presented.**

16 **Q. In response to Mr. Calderon's questions regarding**
17 **your review, I think he was -- he was aiming and obtained**
18 **testimony regarding -- or at least stating that the review**
19 **of cases is not necessarily out of the ordinary. Do you**
20 **remember that testimony?**

21 **A. Something to that effect, yeah.**

22 **Q. Okay. During your career as a prosecutor, have**
23 **you ever been involved in a review of cases of this scope?**

24 **A. Not of this scope. I mean, certainly I've been**
25 **involved in reviewing a case and being another set of**



1 eyes, or, for that matter, inheriting a case from somebody
2 else. But this was different because it was inheriting a
3 case or getting assigned a case that had already been
4 dismissed without prejudice and then it was also part of a
5 much, I guess, larger group of cases. So in terms of
6 scope, this -- I don't recall any case ever being this
7 large in scope that I was asked to kind of review and then
8 make a decision on, or at least make a recommendation on.

9 Q. Have you ever been involved in a review of cases
10 involving the number of employees, personnel, attorneys,
11 paralegals that you testified to earlier, involving that
12 number of resources of the MCAO?

13 A. I can't think of one right now. I want to be
14 careful not to say, like, it's never happened, but I can't
15 think of one right now.

16 MR. HENLEY: I have no further questions.

17 THE COURT: Mr. Green, before we excuse you, the
18 hearing panel members may have questions, and I'll ask
19 Mr. Sifferman first.

20 PANEL MEMBER SIFFERMAN: Thank Your Honor.

21 Let me apologize for asking this question. I've
22 done nothing but commercial litigation for 40 years, so
23 this is about criminal procedure.

24 If you have very good evidence of conspiracy or
25 facilitation to commit a felony, what's the advantage of



1 adding a charge of street gang?

2 THE WITNESS: As I think I understand your
3 question, so, like, in other words, if you have good
4 evidence of a number of serious crimes, what is the
5 advantage of adding the criminal? One possible advantage,
6 in some instances, it can allow you, perhaps to get
7 additional evidence in at trial that might help connect
8 the coconspirators. For example, common symbols that are
9 used by a gang, certain correspondence, that would be one
10 possible example.

11 Other -- in other instances, if you -- you know,
12 you truly have, you know, like the strong gang evidence
13 and it is a gang case and that's the gravamen of what's
14 going on, then it also just makes sense, sort of out of a
15 matter of, like, making sure that the record is accurate,
16 then you may want to bring the gang charge.

17 So I guess the -- it depends on the facts and
18 circumstances. But, generally, if the evidence is there,
19 it could have the advantage of allowing a little bit more
20 context to come in that connects the coconspirators.

21 PANEL MEMBER SIFFERMAN: Does it change the
22 sentencing options?

23 THE WITNESS: Yes. So that -- that is another --
24 whether you want to call it an advantage or not, bringing
25 a gang charge itself, that gang charge, for example,



1 assisting a criminal street gang, may very well end up
2 running concurrent. So that may not get additional time.

3 However, there is a sentencing enhancement that
4 often goes along with gang charges. If -- if the state
5 can prove that somebody committed the crime with the
6 intent to promote, further, or assist in the interest of
7 the criminal street gang -- and I'm paraphrasing; it may
8 not be the exact language -- then if it's a -- I believe a
9 Class 2 or 3 or -- Class 2 or 3 felony, that's five years.
10 I hope I'm not getting this wrong. Or it can add three
11 years if it's a less serious felony.

12 So there is that sentencing enhancement as well.

13 PANEL MEMBER SIFFERMAN: Thank Your Honor.

14 That's all I have.

15 THE COURT: Thank you, Mr. Sifferman.

16 Mr. Clark, any questions?

17 PANEL MEMBER CLARK: Yes.

18 Mr. Green, at the October 30th incident review, I
19 wrote that Heather Livingstone was there and she's the
20 bureau chief for gangs.

21 **THE WITNESS: That's correct.**

22 PANEL MEMBER CLARK: Was she at the second
23 meeting, the second incident review?

24 **THE WITNESS: She was.**

25 PANEL MEMBER CLARK: Okay. That's it.



1 THE COURT: All right. Mr. Henley covered an
2 area that I had wanted to ask you about, and that's
3 basically involving the timing of charging decisions. And
4 so I wanted to make sure that I do understand correctly.

5 Because Ms. Ratnam was in custody, if she were to
6 remain in custody, she would have to be charged within ten
7 days; is that correct?

8 THE WITNESS: Well, actually, you would have to
9 have a direct complaint filed within 48 hours of the
10 initial appearance. And then within ten days, if they're
11 in custody, now you're going to have the more formal
12 probable cause finding, whether it be through a
13 preliminary hearing or through a grand jury indictment,
14 and that's where that ten days comes in.

15 THE COURT: And I believe you testified none of
16 the other October protesters were in custody; correct?

17 THE WITNESS: Yeah. My recollection is that all
18 of them had been released at the initial appearance.

19 THE COURT: So, to your knowledge, was there any
20 rule, statute, office policy, other, that required them to
21 be charged so quickly?

22 THE WITNESS: I don't believe that there -- I
23 don't believe there's a policy that requires that they be
24 charged -- that requires them to be charged quickly, no.
25 I mean, that's part of the charging discretion of the



1 prosecutor. If you believe you have a reasonable
2 likelihood of conviction and it's in the interest of
3 justice to make those charges now, the prosecutor can make
4 that decision. But they're not required to.

5 In other words, we're not required to -- to bring
6 the charge.

7 THE COURT: And that ties into testimony that you
8 gave earlier. You said it wasn't feasible to review all
9 of the video footage and other information within ten days
10 if, quote, you must work under this time frame.

11 Is that along the lines of what we just
12 discussed, that you've got to -- if you've got to do this
13 within ten days, it wasn't possible. But I guess if you
14 don't have to do it within ten days, you've got -- well,
15 you've got a lengthy statute of limitations. I assume the
16 office doesn't like to run up against that. But, to your
17 knowledge, were there any time pressures, other than those
18 relating to Ms. Ratnam that would have required a quick
19 charge?

20 THE WITNESS: I'll -- I'm not aware of that. I
21 mean, other than, I suppose the fact that she had an open
22 case. But, again, in terms of the charging decision, I
23 mean, there are so many times where we can get a case and
24 it's like there's so much to review here, I really don't
25 feel comfortable making a charging decision right now.



1 I'm going to convert to a basket case, you know, which --
2 understanding that the person is going to be released on
3 that charge.

4 THE COURT: The only other question I had is it's
5 a note from yesterday, and I'm not sure it's entirely
6 accurate. You were talking about the first incident
7 review meeting, and I think you testified that Ms. Sponsel
8 provided what you called a high-profile memo, which was
9 office policy.

10 Did I understand that correctly?

11 THE WITNESS: Yes.

12 THE COURT: Is that part of our record?

13 MR. HENLEY: I believe it is, Judge.

14 THE COURT: I don't -- I can get the lawyers to
15 clarify.

16 MR. HENLEY: Yes. We can --

17 THE COURT: The later. I was just curious. I
18 wanted to make sure I heard that correctly.

19 All right. No other questions from the panel for
20 Mr. Green.

21 May he be excused?

22 MR. HENLEY: I just have one very brief question,
23 Judge.

24 THE COURT: Okay. As long as it relates to the
25 panel questions, that's fine.



1 MR. HENLEY: In response to yours.

2 THE COURT: Yes, further.

3

4 FURTHER REDIRECT EXAMINATION

5 BY MR. HENLEY:

6 Q. If Suvarna wasn't charged within ten days while
7 she was in custody, what would have happened?

8 A. So if she had not been charged with -- let's say
9 after 48 hours of the direct complaint, she would have
10 been released on that charge. Because of the way the
11 criminal -- Rules of Criminal Procedure are set up, you
12 also now get a bond hearing where it's the state's
13 obligation to prove that the proof is evident, presumption
14 great that the person committed the new crime while on
15 release.

16 So -- now, if we had not brought those -- let's
17 say we filed the direct complaint but then we did not
18 charge on the tenth day, then she would be released.

19 Q. And when you say released, do you mean the
20 charges will be dismissed?

21 A. Yes, essentially, the direct -- if a direct
22 complaint has been filed, so the first charging, once
23 there is no probable cause finding on that tenth day,
24 while she's in custody, then, yes, the charge gets
25 dismissed.



1 Q. And the state can still pursue those same exact
2 offenses within that seven-year statute of limitations;
3 correct?

4 **A. Yes, that's correct.**

5 Q. It wouldn't be prevented from pursuing the same
6 exact charges for the same exact October 17, 2020,
7 offenses; right?

8 **A. No, not at all.**

9 MR. CALDERON: Your Honor, may I be heard?

10 THE COURT: Let's see if Mr. Henley is finished
11 first.

12 MR. HENLEY: I'm finished, Judge.

13 THE COURT: Oh. Did you want to ask another
14 question?

15 MR. CALDERON: Yeah, just a question.

16 THE COURT: Yes.

17 MR. CALDERON: Thank you.

18

19 FURTHER CROSS-EXAMINATION

20 BY MR. CALDERON:

21 Q. Mr. Green, is it your position that the Suvarna
22 Ratnam matter, the time frame that Mr. Henley just talked
23 about, was inappropriately handled?

24 **A. I think -- well, I -- are you asking my opinion?**
25 **Is that what you're asking?**



1 Q. Right.

2 A. I would -- I would not have -- I would have
3 waited. I would have -- given the amount of evidence, I
4 would not have -- I would have essentially converted it to
5 a basket case and, you know, make sure we get everything
6 to do a more thorough review.

7 Q. Was it legally wrong the way it was handled?

8 A. It was not -- when you say legally wrong, was --
9 it was not illegal, no.

10 MR. CALDERON: Thank you.

11 MR. HENLEY: Your Honor, I believe -- you might
12 want to check Exhibit 67 is the high-profile memo.

13 THE COURT: All right. I don't know if we need
14 Mr. Green to confirm that or just let's look at 67.

15 Yes. I don't think we need Mr. Green to confirm
16 it, although, if you've got Exhibit 67 in front of you, it
17 says high-profile memo from April Sponsel from October 29,
18 2020. So if you want to take a look at it, but.

19 MR. HENLEY: That is --

20 THE COURT: Do we all agree that's what it is?

21 MR. HENLEY: That is correct.

22 THE COURT: I think we do.

23 **THE WITNESS: Okay.**

24 THE COURT: So you're good.

25 **THE WITNESS: Okay.**



1 THE COURT: Thank you for your patience,
2 Mr. Green. You are now excused, at least from the
3 subpoena. So thank you.

4 **THE WITNESS: Thank you.**

5 THE COURT: And who will your next witness be.

6 MS. SHUMAN: Your Honor, our next witness will be
7 Diane Meshkowitz.

8 MR. HENLEY: And just for the purposes of the
9 panel, Ms. Shuman will be taking this witness.

10 THE COURT: Oh, so glad you're going to let her
11 finally speak.

12 MS. SHUMAN: And, Your Honor, and panel members,
13 we also let Jan know that we will not be calling
14 Ms. Bhatia today, so that does remove a witness from the
15 list.

16 THE COURT: Okay. And you say you're not calling
17 her today. Are you calling her another day or probably
18 not.

19 MS. SHUMAN: Probably not, but we'd like to not
20 have her removed just yet, just in case. But, yeah.
21 Thank you.

22 THE COURT: Good afternoon, ma'am. You're
23 ultimately going to sit right there, but if you would,
24 please, raise your right hand and I will swear you in.

25 Do you solemnly swear that the testimony you're



1 about to give will be the truth, the whole truth, and
2 nothing but the truth?

3 **THE WITNESS: I do.**

4 THE COURT: Thank you. Please have a seat there.

5 I see you've brought some water. There's a
6 bottle in front of you also. There's some binders in case
7 the lawyers ask you questions about exhibits. But if you
8 would, please, just pull that microphone a little closer
9 to you because we're recording and also amplifying for
10 sound. Thank you.

11 Ms. Shuman, you may proceed.

12

13 DIANE MESHKOWITZ,
14 a witness herein, having been first duly sworn to speak
15 the truth and nothing but the truth, was examined and
16 testified as follows:

17

18 DIRECT EXAMINATION

19 BY MS. SHUMAN:

20 Q. Would you please state your name for the panel.

21 **A. Diane Meshkowitz.**

22 Q. And I want to thank you so much for being
23 flexible with the schedule. It's greatly appreciated.

24 Where are you employed?

25 **A. The Phoenix Police Department.**



1 Q. And what do you do at the Phoenix Police
2 Department?

3 A. I'm a forensic photo specialist in the forensic
4 imaging unit.

5 Q. And in that position, what do you do?

6 A. We used to be the photo lab back in the day.
7 When I started, the main duties were archiving the
8 department's photos and audios and providing discovery,
9 and, over time, we've evolved to our main duties are
10 retrieving surveillance video and processing video for
11 various things, license plates, other.

12 Q. So both parties have disclosed you as being the
13 specialist who was involved in downloading photographs
14 from Ryder Collins, the gentleman's name, his camera. And
15 so that's what my questions are going to be about.

16 And so if you would look at Exhibit 93, which
17 Natalie can help.

18 A. Yes.

19 Q. And so it -- I didn't see anywhere on here that
20 it says that you created this incident report, but did
21 you?

22 A. Yes. This is my supplement on what I did. Any
23 time we handle evidence that's been impounded and has a
24 bar code, we need to generate a supplement saying why we
25 touched it.



1 Q. So at some point were you provided with SD
2 cards -- i.e., just looking at what's on this record -- to
3 download photographs?

4 A. Potentially, yes.

5 Q. How did -- what brought them to you?

6 A. Detective Adam Legere brought four sealed
7 evidence bags, each containing an SD or micro SD card.
8 And he said, "We're looking to see if there are any
9 photographs or video of protest activities." And he also
10 told me that they were specifically trying to determine if
11 the photographer was part of the protest group.

12 Q. So what did you do with those cards?

13 A. I looked at the contents. I believe two had --
14 were blank and had nothing on them. And then two -- one
15 card had images. One card had a few images and some
16 video. I immediately generated a hash value, which is
17 creating a digital fingerprint for the files in case it
18 went any further. The hash value was created of the files
19 as they were on the cards as the ultimate original image.
20 So if duplicates were made later, the hash -- another hash
21 being generated could be compared and show that nothing
22 was changed.

23 That is standard procedure for any time we take
24 an item out for potential processing, the original is
25 always hashed, just as good forensic practice.



1 Q. And so when you downloaded the information or
2 data pictures, photos, what did you find?

3 A. I put them on a temporary drive for the
4 detective. As I looked through, it was a series of
5 images, mostly involving architecture of downtown. A lot
6 of buildings, some pictures of homeless people, light
7 rail. And at the end, there was some protest photos and
8 videos.

9 Q. So Ms. Sponsel, in her response to the complaint
10 that was filed by the State Bar, affirmatively alleged
11 that there were only nighttime photographs and videos of
12 the rioters and surrounding area on those SD cards.

13 Do you agree with that statement?

14 A. I do not.

15 Q. Why not?

16 A. Because the timeline started, like, late
17 afternoon. It was still daylight out for the beginnings
18 of the photos. In looking through, I could see images and
19 on the video of young photographers. So it appeared that
20 the photograph was in a small group of photographers
21 downtown, taking pictures of buildings and people and just
22 happened to be there as things evolved later in the
23 evening.

24 Q. If you had to put a percentage on it, what
25 percentage of the photos would you say related to the



1 protest?

2 A. No more than a third.

3 Q. So what did you do after you downloaded and
4 reviewed the pictures?

5 A. What I had done, I copied the pictures to the
6 share drive. We have -- at the time, we archived all the
7 video we retrieved on a secured server. But for the
8 detectives to review the video that we pulled, we had
9 designated share drive, where things would last for 30
10 days, give them a chance to review and not looking at the
11 original, just like a working copy.

12 So while I had informed Detective Legere that, in
13 my opinion, it looked like the pictures were just a
14 photographer that happened to wind up, you know, wrong
15 place, wrong time, I guess, there were images from the
16 protest. I told him and sent him the link to the share
17 drive so he could review the images.

18 Q. Would Ms. Sponsel, as the assigned prosecutor,
19 have had access to that -- those photographs?

20 A. Not on that drive. The only way is -- would be
21 if he made a copy and provided them.

22 Q. And do you know whether he did?

23 A. I do not.

24 Q. Okay. And so what happened, then, with those SD
25 cards after you were done?



1 photos that you released were of the incident; correct?

2 **A. What I did -- and it was the unofficial copy on**
3 **the share drive -- I copied the entire contents of the**
4 **card with the hash values in folders labeled by the bar**
5 **code that they were impounded under.**

6 MR. CALDERON: No further questions.

7 THE COURT: Any redirect?

8 MS. SHUMAN: One, Your Honor.

9

10 REDIRECT EXAMINATION

11 BY MS. SHUMAN:

12 Q. I just want to make sure we're not conflating the
13 dates between what -- the work that you did in
14 February versus the later contact in April.

15 So when you first got the cards that you
16 downloaded them, you provided a copy to Detective Legere?

17 **A. That day.**

18 Q. Okay.

19 **A. On the 11th.**

20 Q. And then it wasn't until April that you released
21 those --

22 **A. March 9th is when he picked up the cards from me**
23 **in the resealed evidence bags with the cards.**

24 Q. And then you handed them -- you released --

25 **A. I handed them to him. And what happened to the**



1 images after I put them on the share drive, I do not know
2 because that was the only copy that I provided to anybody
3 was what was given to Detective Legere on the share drive.

4 Q. And I'm not going to make you pull up the
5 exhibit, but did you exchange emails with Ryan Green
6 regarding ultimately what was going to happen with those
7 photographs, in terms of releasing private photos versus
8 the rest of the photos?

9 And if it would be easier, it's Exhibit 103.
10 Just wanted to save you ...

11 The Bates number at the bottom, it would start at
12 002032.

13 A. I believe these emails refer to other video and
14 photos that were from that protest at the time. I do not
15 believe they were the contents of these cards.

16 Q. Okay.

17 A. I do not recall releasing that to anybody.

18 Q. Okay. And I would note that on the "Re" line, it
19 says "Ryder Collins photographs." So if you're looking at
20 part -- page 2032, it's your email of April 6th to Ryan
21 Green and some other folks. And it says, "Ryder Collins
22 Photos."

23 Would that help refresh your recollection
24 about --

25 A. No, because I --



1 Q. Doesn't?

2 A. No. We deal with so much and a name like that
3 and a case means absolutely nothing.

4 Q. Any reason to believe that these would not have
5 been emails you sent since they indicate that they were
6 from you?

7 A. No. I sent them, but I don't know which photos
8 we're talking about. We -- we have a hard drive full of
9 protest videos and photos that were taken over the year
10 long. And so for this case, I'm sure there were other
11 things that were released.

12 Let's see.

13 Q. And it's fine. And if it doesn't ring a bell,
14 now that --

15 A. It doesn't. I don't remember.

16 Q. It's fine.

17 A. If --

18 Q. Yeah?

19 A. -- there was something from that, I don't
20 remember it.

21 Q. Okay. And one last question. Did you -- other
22 than this batch of photographs, these SD cards, did you
23 download other batches of photographs from protesters?

24 A. I was not given camera cards from anybody. Any
25 other photos -- this was the only stuff I handled from a



1 member of the public.

2 MS. SHUMAN: Okay. Nothing else.

3 THE COURT: I just wanted to confirm one thing,
4 but I think I understand but want to make sure,
5 Ms. Meshkowitz.

6 Looking at Exhibit 93 and your testimony today,
7 even though Officer Legere asked you specifically to check
8 for any downtown Phoenix protest images and video, when
9 you shared the link of all the downloaded photos, it
10 included both the protest photos and the other photos you
11 described; is that correct?

12 **THE WITNESS: That is correct.**

13 THE COURT: Okay. Before we excuse you, let me
14 see if the other panel members have any questions.

15 Mr. Sifferman?

16 PANEL MEMBER SIFFERMAN: I have no questions.

17 THE COURT: Mr. Clark.

18 PANEL MEMBER CLARK: No questions.

19 THE COURT: All right. Thank you very much,
20 ma'am, for coming down to testify. And you're free to
21 leave.

22 **THE WITNESS: Thank you.**

23 THE COURT: And your next witness is.

24 MS. SHUMAN: Hopefully it's Ed Leiter, and so
25 I'll ask Natalie to ...



1 THE COURT: Good afternoon, sir. You're
2 ultimately going to sit right there, but if you would,
3 please, raise your right hand and I will swear you in.

4 Do you solemnly swear that the testimony you're
5 about to give will be the truth, the whole truth, and
6 nothing but the truth?

7 **THE WITNESS: I do.**

8 THE COURT: Thank you. Please have a seat.

9 And there's water in front of you. If you would
10 pull the microphone a little bit closer to you, it will
11 help for recording purposes.

12 There are binders to your right, and the lawyers
13 may ask you to look at some them, and they'll help you
14 find them, hopefully.

15 **THE WITNESS: Okay.**

16 THE COURT: And, Ms. Shuman, you may proceed.

17
18 EDWARD LEITER,
19 a witness herein, having been first duly sworn to speak
20 the truth and nothing but the truth, was examined and
21 testified as follows:

22
23 DIRECT EXAMINATION

24 BY MS. SHUMAN:

25 Q. Good afternoon. Thank you as well for your



1 flexibility with your schedule.

2 Would you please introduce yourself to the
3 hearing panel.

4 **A. My name's Ed Leiter.**

5 Q. And, Ed, where do you work?

6 **A. Maricopa County Attorney's Office.**

7 Q. And how long have you been there?

8 **A. A little more than 16 years.**

9 Q. And during your tenure there, have you worked
10 with Ms. Sponsel?

11 **A. I have.**

12 Q. Okay. And how would you describe your
13 relationship with her?

14 **A. I think we had a strong working relationship. We**
15 **were never in the same bureau together, but at various**
16 **times there was some crossover in a case that I may have**
17 **had and one that she may have had.**

18 Q. And did you have a personal relationship with
19 her?

20 **A. I would call it a -- you know, a work friendship.**
21 **I'm also -- I work closely with her husband in the type of**
22 **cases that he investigated.**

23 Q. Do you have any personal animus towards
24 Ms. Sponsel?

25 **A. I do not.**



1 Q. And so I'm going to work very hard to not go over
2 material that has already been covered by previous
3 witnesses. But I want to talk to you about did there come
4 a time when you became involved with a review of the 2020
5 protester cases?

6 A. Yes.

7 Q. Okay. When did you get pulled into that?

8 A. It would have been, I would say -- I'd say the
9 spring of '21.

10 Q. And what did you do? What were you supposed to
11 do in the spring of 2021?

12 A. So there were a number of cases that were not
13 just cases that were handled by April but -- it was asked
14 of me and Ryan Green to take a look at all of the cases
15 that had been either charged or were still in a -- what we
16 call a basket case or an uncharged status in the -- and,
17 again, best memory -- in the spring of 2021, to determine
18 whether or not in light of some of the information that
19 had come to light, whether or not there were still viable
20 charges or cases to be prosecuted at that point.

21 Q. And you mentioned Ryan Green. Was there another
22 DCA who was involved with that review?

23 A. At the time, I was the bureau chief of the white
24 collar cyber crimes unit, and my assistant bureau chief
25 was Neha Bhatia. So the two of us, along with Ryan, were



1 tasked with -- well, Ryan and I were tasked. I roped Neha
2 into assisting me in the review of those cases, which was
3 not an insignificant amount of cases to take a look, in
4 addition to our existing workload.

5 Q. And so how did that review -- how did that work
6 with the three of you?

7 A. My recollection is that the cases were sort of
8 split between Ryan and I. And I was sort of -- it wasn't
9 a meeting of the minds between Ryan and I. It -- my
10 recollection is either Ken, and that would be Ken Vick, or
11 someone else in exec said, you know, this is kind of how
12 we're going to split these cases up.

13 Q. So what cases did you get? What type of cases?

14 A. They were cases that had already been charged.
15 There was a -- specifically, there was one large
16 co-defendant case. It was not the one that's had the
17 most -- most of the news stories have been about. But it
18 was one of the cases that involved some protests outside
19 of 620 West Washington. There were multiple cases
20 involving an individual by the name of the Bruce Franks,
21 several cases.

22 There were -- as I said, it was primarily arising
23 out of the same -- the exact same time frame, in the
24 summer of 2020.

25 Q. So not the October 17, 2020, case, but protests



1 that had occurred during the summer?

2 A. Some -- certainly in the summer into -- into the
3 fall. But they were protests, for example, that occurred
4 right outside of 620 West Washington, Phoenix police
5 headquarters. A specific memory of a case that involved a
6 protest just outside where there was a -- a man with a
7 skateboard who ultimately had been -- was charged with
8 some offenses who was a protester.

9 Q. So did you also review basket case --

10 A. When I say "basket case," is that -- that's cases
11 that come in where an individual has not yet been charged,
12 where a law enforcement agency believes that there's
13 probable cause, but they have made a decision not to
14 arrest an individual. It's then -- we, as a deputy county
15 attorney, tasked with reviewing that case and making a
16 determination whether or not there's a reasonable
17 likelihood of conviction. That person at the time is not
18 in custody. That's -- when we refer to a "basket case,"
19 someone who is not in custody.

20 Q. So that leads me to my next question, which is,
21 when you were reviewing these cases, what exactly were you
22 looking for?

23 A. Primarily we were -- amidst everything that had
24 come out, information had come out both in the media as
25 well as that had been brought to light with the county



1 attorney, were there cases that had already been charged
2 that we could continue to prosecute, potentially plea out,
3 or take to trial, if necessary? Basically it's a
4 reevaluation of decisions that had already been made,
5 these are now, amidst all the information out there, is
6 there still a reasonable likelihood of conviction? And
7 then the same analysis with cases that had not yet been
8 charged.

9 Q. Okay. And so did you identify problems or issues
10 with those cases?

11 A. I would say certainly there was some of the cases
12 that we thought were going to be quite challenging to
13 effectively prosecute. There were admittedly a lot of
14 optics issues. We wanted to be consistent -- at the time,
15 the mandate was we, at the County Attorney's Office, want
16 to be consistent with our analysis of all of these cases
17 and the individuals involved, cognizant of First Amendment
18 speech issues, but also, amidst the information that had
19 come out, was there a -- ethically, could we proceed with
20 the prosecution of some of these individuals?

21 Q. And did you determine that there were cases that
22 you could not ethically continue with the prosecution?

23 A. Of the cases that I reviewed, I -- I didn't -- I
24 thought -- my recollection is that there were viable
25 charges -- but best recollection is there were viable



1 charges on all of the cases I reviewed. Again, I did not
2 review the -- the primary -- or I don't want to call it
3 primary. But the case involving the gang allegations that
4 Ryan -- I took a look at that case, but I was not tasked
5 with making a decision on whether or not that case could
6 be prosecuted, that we could proceed with the prosecution
7 on that case.

8 On the other cases, again, there was -- the
9 analysis was, you know, is there an aggravated assault
10 against a police officer? Was there disorderly conduct?
11 In -- I think in all the cases, there wasn't an ethical
12 dilemma for me whether or not we could proceed. It was
13 a -- it was more prosecute -- prosecutorial discretion and
14 is -- is -- is there a reasonable likelihood of
15 conviction? Are there issues, whether that be issues with
16 the law enforcement conduct, in particular cases, that
17 would preclude or prevent a successful prosecution or an
18 ethical prosecution.

19 Q. Based on your review of those cases, did you
20 believe that any of them could be prosecuted as felonies?

21 A. There were certainly, in terms of the cases that
22 I reviewed, there were cases involving assaults from
23 individuals on law enforcement officers, that is, in fact,
24 a felony. So there were cases that -- that certainly
25 felonies could -- could have been -- were charged or in



1 the cases of uncharged cases, could be charged, that were,
2 I think, viable prosecutions in a vacuum, without
3 everything that was -- that we had become aware of after
4 the event had occurred.

5 Q. So with that understanding, did you recommend
6 that they be dismissed?

7 A. My recollection is that -- and this is where -- I
8 do want to say this was rare in that the optics of -- and
9 the equal application of how we're treating the individual
10 charge -- you know, we always want to -- from the county
11 attorney's perspective, and certainly how I practice, we
12 want to look at each case wholistically, each individual
13 wholistically, and treat every individual fairly.

14 But certainly the perception of proceeding on an
15 aggravated assault in a protest case where we dismissed
16 all the others becomes problematic. It's not a good look,
17 or it doesn't appear -- it appears that we're singling
18 people out if we're charging some and not others.

19 So the decision was made -- I would call it a
20 consensus -- to dismiss -- dismiss the ones that had been
21 charged and then not file the charges that were, as I
22 previously said, basket cases.

23 Q. And so if I understand you correctly, the optics
24 are this idea of we want to treat everybody the same and
25 we want there to be some consistency as opposed to outside



1 forces that would predetermine how -- what your decision
2 was going to be?

3 MR. CALDERON: Objection. Leading.

4 THE COURT: It is -- it is leading.

5 MS. SHUMAN: I can restate.

6 THE COURT: Can I ask a threshold question that I
7 think will at least help me understand Mr. Leiter's
8 testimony better because he testified he didn't review
9 cases involving gang allegations. So what cases should we
10 be listening for in terms of the complaint before us?

11 MS. SHUMAN: Those would be the allegations that
12 are in Count 2 of the complaint that deal with -- and
13 Mr. Leiter can correct me if I'm wrong -- but there were a
14 series of protests and arrests during that summer leading
15 up to October 17th. Some of -- and I would pull -- yeah.

16 THE COURT: No. That helps.

17 MS. SHUMAN: Yeah.

18 THE COURT: Because we, up until this point,
19 discussed primarily the October cases, which, as I
20 understand it, included the gang allegations.

21 So now we're stepping back and looking at other
22 events without the gang allegations. Is that right?

23 MS. SHUMAN: Yes, ma'am.

24 THE COURT: Okay. That helps with context.

25 ///



1 BY MS. SHUMAN:

2 Q. Okay. So back to my leading question, which I'll
3 try to restate. Did your -- you used the term "optics."
4 Did it -- does that encompass anything other than what
5 you've already testified to?

6 A. It was not a good look for the County Attorney's
7 Office. You know, it -- it looked like we -- at least
8 there was -- information out in the media that we were
9 singling people out. And certainly, as the principal
10 prosecution agency in Maricopa County, it's -- that is a
11 perception that we don't want to public to have. The goal
12 is that we are looking at individuals and we're never
13 singling people out because of their beliefs, because of
14 their race, because of any other factor, other than an
15 analysis of did this person do this particular crime that
16 they're accused of.

17 Q. So what happened with the cases that you
18 reviewed? Were they all dismissed?

19 A. Again, the cases that I reviewed, that had
20 already been charged, all of those cases were ultimately
21 dismissed, yes.

22 Q. And when you --

23 A. And then -- sorry. Go ahead.

24 Q. No. I'm sorry. Continue.

25 A. I was just going to say, the ones that had not



1 yet been charged, a decision was made not to proceed with
2 charges.

3 Q. You anticipated my question. Thank you.

4 MS. SHUMAN: That's all, Your Honor.

5 THE COURT: Cross-examination?

6 MR. CALDERON: No questions.

7 THE COURT: No.

8 Mr. Sifferman, any questions for Mr. Leiter
9 before we excuse him?

10 PANEL MEMBER SIFFERMAN: No questions,
11 Your Honor.

12 THE COURT: Mr. Clark?

13 PANEL MEMBER CLARK: No questions.

14 THE COURT: I don't have any questions for you
15 either, sir.

16 So thank you very much for your patience and
17 coming down to testify. You're free to leave and relieved
18 from the subpoena -- I assume you had one.

19 **THE WITNESS: Thank you.**

20 THE COURT: Thank you.

21 MS. SHUMAN: Vince Goddard will be our next
22 witness.

23 MR. HENLEY: And I'll be taking Mr. Goddard.

24 THE COURT: Good afternoon, sir. Before you have
25 a seat, if you would, please, raise your right hand and I



1 will swear you in.

2 Do you solemnly swear that the testimony you're
3 about to give will be the truth, the whole truth, and
4 nothing but the truth?

5 **THE WITNESS: Yes.**

6 THE COURT: Thank you, sir. Please have a seat
7 there. And once you get settled, pull the microphone kind
8 of close because we're recording and amplifying for sound.

9 That's a fresh bottle of water for you.

10 And there are binders to your right. I'm sure
11 the lawyers will, at times, ask you questions about them.

12 **THE WITNESS: Okay.**

13 THE COURT: And Mr. Henley will go first with
14 your direct examination.

15 **THE WITNESS: Thank you.**

16

17 **VINSON GODDARD,**
18 **a witness herein, having been first duly sworn to speak**
19 **the truth and nothing but the truth, was examined and**
20 **testified as follows:**

21

22 **DIRECT EXAMINATION**

23 **BY MR. HENLEY:**

24 Q. Good morning. Can you state your name for the
25 record.



1 **A. Good afternoon, Mr. Henley. My name is Vince**
2 **Goddard.**

3 Q. We met before; correct?

4 **A. Yes.**

5 Q. Are you currently employed?

6 **A. Yes.**

7 Q. Where are you employed?

8 **A. Pinal County Attorney's Office.**

9 Q. What county attorney's office?

10 **A. Pinal.**

11 Q. Pinal?

12 **A. Yes.**

13 Q. How long have you been at the Pinal County
14 Attorney's Office?

15 **A. For this -- this stint, since March 1st of this**
16 **year.**

17 Q. I was going to say this is your second stint with
18 the Pinal County Attorney's Office?

19 **A. Yes, sir.**

20 Q. And you've had two stints with the Maricopa
21 County Attorney's Office; correct?

22 **A. Correct.**

23 Q. I'm going to focus a lot of my questions about
24 the 2020 and 2021 frame, if that's okay?

25 **A. Yes, sir.**



1 Q. First off, where were you employed -- let's start
2 with January 20th -- January of 2020. Where were you
3 employed?

4 **A. At the Maricopa County Attorney's Office.**

5 Q. What was your position?

6 **A. When I was first hired, I was a -- just a line
7 DCA.**

8 Q. And what were you as of January of 2020?

9 **A. I believe this is the right date, but sometime in
10 January I became the division chief.**

11 Q. How many divisions did you -- were you running in
12 January of 2020?

13 **A. One division.**

14 Q. Just one?

15 **A. One division.**

16 Q. Which division?

17 **A. It was -- we renamed a bunch of divisions, and
18 there are bureaus within divisions. So I don't -- you
19 asked how many divisions I was running, it was only one
20 division, but several bureaus within that division.**

21 Q. And how many bureaus did you -- did you run
22 during that January 2020 time frame?

23 **A. There were five bureaus in the division, and that
24 division was Special Prosecution I.**

25 Q. What type of cases did you prosecute in



1 special -- Special Division I?

2 **A. Me personally?**

3 Q. No. Just generally. What were you in charge of?

4 **A. There were -- it was -- and I'm sorry, not to use**
5 **my (indiscernible). Capital prosecution; so all capital**
6 **crimes, homicide. So obviously killings that were not**
7 **capital. Gangs; so gang-related crime. Vehicular crime,**
8 **which is felony-level vehicular crime. So anything from,**
9 **say, aggravated DUI to impairment-based homicide,**
10 **second-degree manslaughter. And then the First Responders**
11 **Bureau.**

12 Q. In January of 2020, did you have a large
13 caseload? It sounds like you had a lot of different
14 bureaus. Did you have a large caseload?

15 **A. Do you mean me specifically? I had --**

16 Q. You specifically.

17 **A. Me specifically, I did have a caseload, correct.**

18 Q. About how many cases do you think you had?

19 **A. I want to say about ten, and my goal was to try a**
20 **couple of cases from each bureau, and I think -- I think I**
21 **had two in each bureau.**

22 Q. Did you have supervisory duties as well?

23 **A. Yes.**

24 Q. If you had to place a percentage on the number of
25 times you tried cases as opposed to actually performing



1 supervisory duties, can you assess that for me?

2 A. I'm guessing, and we're talking in the
3 January time frame, so --

4 Q. January 2020 specifically.

5 A. Yeah. Okay. So the vast majority of my time was
6 spent -- well, I don't want to say vast majority.

7 I'm trying not to (indiscernible). I'm trying to
8 be precise. Maybe a quarter of my time was spent actively
9 supervising, and a quarter of my time was spent in trial
10 preparation, and then a quarter and a quarter of duties
11 that I'm just not -- meetings and things I'm just kind of
12 blanking out on. But, you know, a -- it's hard to
13 quantify.

14 Q. The ten cases that you were actively trying, what
15 type of cases were they?

16 A. So there's one in particular that was dominating
17 the vast majority of my time, which is why I'm kind of
18 messed up, and that was a retrial of the capital case that
19 had a number of challenges to it procedurally because I
20 was taking over the case from another prosecutor.

21 And, I'm sorry, so -- but I had -- I tried to do
22 one serious case per bureau. So I had capital cases. I
23 had a homicide in the gang bureau, first-degree murder, as
24 well as the vehicular unit. In FRB, I don't recall any
25 officer-involved shootings, though I was -- that's -- that



1 was the kind of case I was looking for. And then I was in
2 the process of looking for certain garden-variety cases.

3 So I wanted to stay in touch with the line
4 attorneys on what problems actually were -- so one kind of
5 difficult case and one that kind of represents, you know,
6 a mentorship role. I enjoyed doing that. So those were
7 the cases that I was looking for.

8 Q. At some point did you take over the FRB?

9 A. I didn't take over FRB.

10 Q. Well, were you in charge of the FRB?

11 A. Yes, that was in my division.

12 Q. When did you become the bureau -- or division
13 chief of the FRB?

14 A. I'm sorry. I woke up everyone. Sorry.
15 I honestly don't recall.

16 Q. Was it sometime during 2020?

17 A. Yes.

18 Q. As I understand it, the FRB was created in
19 January of 2020. Were you the first division chief of
20 that bureau?

21 A. Yes. It was a new bureau, and that -- I was -- I
22 thought you were looking for a specific date.
23 January sounds right.

24 Q. Who were the attorneys, line attorneys, that --
25 well, strike that.



1 Who was your bureau chief at the -- at the time
2 you took over as -- as division chief?

3 **A. Sherry Leckrone.**

4 Q. You knew Sherry Leckrone previously; correct?

5 **A. Yes.**

6 Q. Who else was working in the FRB during your
7 tenure as division chief?

8 **A. There were four line attorneys, as I recall.**
9 **There were two paralegals and two staff, secretarial**
10 **staff.**

11 Q. Who were the attorneys that were working at the
12 FRB during your tenure?

13 **A. Lina Garcia, Nick Michaud, April Sponsel, Tanya**
14 **Rouintan.**

15 Q. And yourself?

16 **A. I was not a part of the FRB. I was the division**
17 **chief.**

18 Q. Did you take any cases from the FRB?

19 **A. None that I recall. Again, I was hoping to**
20 **get -- well, this sounds bad. Not that I was hoping there**
21 **was an officer-involved shooting, but that was the kind of**
22 **case that I was looking to help with.**

23 Q. Is it fair to say that the -- the number of cases
24 and intensity of cases that you had really -- they related
25 to homicide cases primarily?



1 **A.** My focus since 2006 has been primarily violent
2 cases. Since 2007, I was mostly homicide. And by 2010,
3 I'm pretty much doing just death penalty with a smattering
4 of other types of cases, but I had been a death penalty
5 advocate.

6 **Q.** Are those cases pretty complex?

7 **A.** Yes.

8 **Q.** Very intense?

9 **A.** Yes.

10 **THE COURT:** I'm not sure why we're spending quite
11 as much time on Mr. Goddard's experience. Is it really
12 necessary? I think we get a good flavor.

13 **MR. HENLEY:** We can move forward, Judge.

14 **BY MR. HENLEY:**

15 **Q.** Did Ms. Leckrone or Ms. Sponsel need any special
16 supervision by you?

17 **A.** Not that I'm aware of.

18 **Q.** You were aware of their prior experience in the
19 practice of law; correct?

20 **A.** Yes.

21 **Q.** You had worked previously with Ms. Leckrone, if I
22 remember right?

23 **A.** Yes.

24 **Q.** Where did you work with Ms. Leckrone previously?

25 **A.** Well, I mean, prior to Illinois, I was a



1 prosecutor in -- I'm sorry. Prior to Arizona, I was a
2 prosecutor in Illinois, and she was a Cook County state's
3 attorney at the same time that I was with that office,
4 ultimately with Kane County, which is a suburb of Chicago.
5 The two offices traded a lot. So we knew a lot of the
6 same people. I didn't know her directly. I knew of her
7 reputation.

8 In the gang bureau, sometime after I came to
9 Arizona, after 2004, Sherry and I were assigned to the
10 gang bureau together, and we tried a very difficult first
11 degree-murder Mexican Mafia case.

12 Q. So is it fair to say that you were happy to have
13 an experienced prosecutor in the FRB?

14 A. Yes.

15 Q. How many years' experience do you think
16 Ms. Leckrone had at the time she joined the FRB?

17 A. 20 or 30, but I don't want to -- I don't know how
18 old Sherry is, but it's 20 or 30 years.

19 Q. And that wasn't the purpose of my question, so.

20 And when did you become familiar with
21 Ms. Sponsel?

22 A. Within a year or so of me coming to Maricopa
23 County. So 2005/2006.

24 Q. Did you have any cases with Ms. Sponsel during --
25 prior to your FRB years?



1 **A. Where we were like co-counsel?**

2 Q. Co-counsel or just handle cases together.

3 **A. We were in the same bureau together, but I**
4 **don't -- I don't recall trying a case -- I don't recall**
5 **trying a case with her, but that doesn't mean it didn't**
6 **happen. Not that I recall.**

7 Q. You were certainly -- you were certainly aware of
8 her experience; correct?

9 **A. Yes.**

10 Q. About how many years -- what was your
11 understanding of the number of years that Ms. Sponsel had
12 practiced law in prosecutorial capacity prior to joining
13 the FRB?

14 **A. I believe it was 17.**

15 Q. Is it fair to say you were happy to receive her
16 as an experienced prosecutor in the FRB as well?

17 **A. Yes.**

18 Q. Prior to the summer of 2022, were you involved in
19 any prosecution of cases involving protest marches for
20 social causes?

21 **A. No.**

22 **Well, define "involved."**

23 Q. The -- any -- any -- any protests, any marches
24 for social cause.

25 **A. I didn't have any cases assigned to me.**



1 Q. You did not?

2 A. I did not -- not that I recall. I don't recall
3 having any cases assigned to me.

4 Q. COVID struck the United States in or around
5 March of 2020, that's when it started significantly
6 impacting the work force. Did the Maricopa County
7 Attorney's Office experience a similar impact?

8 A. Yes.

9 Q. What were some of the impacts that COVID caused
10 to the MCAO, particularly the FRB?

11 A. I don't recall the specific date. I know that we
12 had a staff member, who I had known for a long time, I
13 know that she came down with COVID and was very, very
14 sick. The division as a whole was like every other part
15 of the office. I mean, especially if we're talking about
16 the March time frame, complete shutdown. It seemed
17 like -- it seemed like daily emails of COVID infections
18 with an office of over a thousand.

19 So worked from home. I remember a lot of
20 technology problems beforehand. I mean, it was COVID. It
21 was a massive destruction.

22 Q. Was FRB the only division that was completely
23 shut down or the only bureau that was completely shut
24 down?

25 A. No. To my knowledge, the entire office was



1 significantly affected.

2 Q. After FRB was shut down and the MCAO was shut
3 down, did your attorneys still have access to PbK and
4 Evidence.com?

5 A. Yes. As far as I know. I know that there was a
6 shortage of laptops for a long time. Well, I know that
7 there was a shortage of laptops. I know that that was a
8 significant challenge at first because we were not
9 contemplating an entire work force working from home.

10 So I guess I don't know when people had access to
11 what. I don't have that information in front of me.

12 Q. Did your attorneys -- you and your attorneys have
13 telephonic and teleconference access to each other during
14 the pandemic?

15 A. During, yes. Initially, again, as I stated,
16 there were technology problems, and it -- they changed
17 vendors. There was something before Webex, but we changed
18 vendors a number of times, at least a couple of times. So
19 Teams, Zoom, Webex, and for some reason I'm remembering
20 something else. But it was a very rocky start at the
21 beginning. It would smooth out. But at the beginning, it
22 wasn't so easy. Telephones, sure.

23 Q. While the office was shut down, did your
24 attorneys experience reduced court appearances?

25 A. Yes.



1 Q. The court system had also shut down; correct?

2 A. Correct. I mean, there were virtual appearances,
3 but, yes, it had shut down as well.

4 Q. The cases that have been identified as protester
5 cases occurred after the killing of George Floyd, and I
6 can make the representation to you, sir, that that
7 occurred in late May. Was it your understanding that the
8 protest cases, the -- were increased, the number of
9 protest cases were increased and submissions to the FRB
10 regarding protests increased after the killing of George
11 Floyd?

12 A. Yes.

13 Q. So your experiences and impacts due to COVID
14 actually began prior to the FRB's receipt of protester
15 cases; correct?

16 A. I'm sorry. I don't understand your question.

17 Q. Sure. Probably because it was poorly worded.

18 You experienced the impositions, the impacts of
19 COVID-19 that your FRB unit was experiencing, individual
20 access to PbK, the telephonic and teleconferencing
21 impositions, that all predated the FRB starting to receive
22 protest cases; correct?

23 A. To the best of my knowledge, correct.

24 Q. You indicated that there were initial problems, I
25 think everybody experienced them, and they eventually



1 smoothed out.

2 When did you start noticing that the COVID
3 impacts were starting to smooth out?

4 **A. I have no idea. I mean, I don't know if anyone**
5 **during the -- now that you repeat my words back to me, of**
6 **course it was after it. "Smooth" was a relative term,**
7 **right? I mean, it was still a pandemic. People we knew**
8 **were still dying.**

9 Q. In addition to the impacts of COVID, did you
10 experience any kind of staffing issues in the FRB?

11 **A. Yes.**

12 Q. What type of staffing issues did you experience
13 with respect to the FRB?

14 **A. First, I would say the -- in the context of this**
15 **matter, I was experiencing staffing issues in all of the**
16 **bureaus in the division. FRB in particular -- well, FRB**
17 **specifically, it's sort of the age-old we're understaffed**
18 **and underresourced.**

19 Q. Was the -- your perception of the staffing and
20 underresourcing unique to the FRB?

21 **A. My perception of it? I don't understand that.**

22 Q. You just testified that you felt that the FRB was
23 understaffed.

24 **A. Yes.**

25 Q. Was that unique, was the understaffing issue



1 unique to the FRB?

2 **A. I felt my whole division was understaffed.**

3 Q. So every -- every bureau felt -- experienced the
4 same issue?

5 **A. Yes.**

6 Q. You also said the same about being
7 underresourced. Do you believe that each bureau was
8 underresourced?

9 **A. Yes, some bureaus were better than others, in
10 terms of resources available. But yes.**

11 Q. Where did the FRB rank in your assessment of the
12 resourcing of the various bureaus?

13 **A. I don't have an objective measure where I can say
14 that. I mean, it was close to the top, but I don't know
15 how I'd objectively measure that.**

16 Q. As cases came into the FRB, was there some
17 process as to how they would be assigned to the different
18 attorneys in the FRB?

19 **A. There was a process, yes.**

20 Q. What was the process?

21 **A. That's where I have less familiarity. The office
22 went paperless sometime -- they adopted a system called
23 Karpel, and I can't even remember -- you mentioned that
24 already, but they adopted that while I was in Pinal in the
25 first stint, so I wasn't as conversant with it.**



1 I know that -- well, I'm sorry. I don't want to
2 answer questions you're not asking, so I don't need to go
3 off on a tangent. I'm really sorry.

4 What was your question?

5 Q. Yeah. That's fine.

6 The -- how -- what was the process by which the
7 cases that were -- especially protest cases -- that were
8 submitted to the FRB, what was the process by which they
9 would be assigned to the attorneys in the FRB?

10 A. So case assignment would happen. The Karpel
11 system was used throughout the office. One of the -- I
12 guess it's a bureau. One of the bureaus was the intake
13 bureau, and that is where police reports would be
14 submitted, I believe electronically. They would be tagged
15 for various -- either by crime or by statute or some type
16 of information -- I believe by nine attorneys, but that's
17 a guess. Based on those taggings, the Karpel system would
18 funnel cases to bureaus.

19 I know that occasionally -- I don't want to
20 quantify it, but I know occasionally I would get calls
21 from another division saying, hey, we've got this case, it
22 should be a gang case. Or we've got this case, it should
23 be a vehicular case. Auto theft, that came up a lot. It
24 should have been vehicular, but, you know, it went to auto
25 theft for some reason because of the tagging, and you



1 would just cross-assign it. I would have staff -- I
2 wasn't very good with it. And I had someone that was
3 dedicated to help me with those kind of things.

4 So that is the general process, that there are a
5 series of tags that are given to a potential crime, and
6 that's how it's routed. I'm not a granular person on
7 Karpel, but that was my understanding.

8 Q. During Ms. Sponsel's tenure about FRB, did she
9 receive an inordinate number of case assignments?

10 A. I don't know what "inordinate case assignments"
11 means.

12 Q. Did she seem -- receive more case assignments
13 than others?

14 A. I really don't know. If you have a Karpel sheet
15 that would -- an assignment sheet, that would help. But
16 off the top of my head, I -- I don't know what her
17 assignments were, in terms of volume.

18 Q. Did you ever become concerned about the number of
19 cases that Ms. Sponsel was prosecuting in the summer of
20 2020?

21 A. Yeah. I mean, I was always concerned about
22 April's caseload. I was concerned about a lot of
23 caseloads that were getting high. And as the summer turns
24 to fall, I don't know of a single attorney -- well, I
25 shouldn't say that. There were a lot of attorneys



1 handling really serious cases that had too many cases.
2 That was most pronounced in the homicide bureau, and that
3 was certainly -- it was certainly the case in the First
4 Responders Bureau.

5 Q. Did you ever get the feeling that Ms. Sponsel was
6 actually falling behind on her cases?

7 A. I didn't have that feeling. I -- I didn't have
8 that feeling specifically with her. I can say that the
9 general feeling at the office at the time is that everyone
10 felt behind.

11 Q. Did you have any discussions with Ms. Sponsel
12 regarding the number of her cases during the summer of
13 2020?

14 A. I don't know if -- if it was during the summer of
15 2020. I know I had a -- I'm pretty certain I had some
16 discussion with her about getting her caseload down. I
17 don't recall when it was.

18 Q. I'm sorry. I didn't hear that last part.

19 A. I said, I'm pretty sure I had a discussion with
20 her. I don't recall exactly when it was. I believe she
21 was at 118 cases, and that's -- that's a lot.

22 Q. Do you remember discussing Ms. Sponsel's case log
23 and suggesting that she not focus as much on protester
24 cases?

25 A. Did you say case log?



1 Q. Her backlog?

2 A. Her backlog?

3 Q. Yeah. Her cases, the pending cases that she had.

4 A. I did this to myself. I'm sorry. Could you
5 re-ask the question?

6 Q. Sure. No problem at all.

7 Did you ever have a discussion with Ms. Sponsel
8 and suggest that she not focus as much on her protester
9 cases?

10 A. I don't recall that. If you have a
11 communication, I'm -- I'm happy to revisit that. But I
12 don't -- as I sit here, I don't recall that.

13 Q. Were you aware -- strike that.

14 Did you ever suggest to Ms. Sponsel that she
15 actively try to reduce her caseload?

16 A. Yes.

17 Q. Why?

18 A. She was at -- and I'm trying to think of what
19 gen- -- what the genesis of this was, but she was at
20 118 cases. For some reason, I'm remembering that number.
21 If I'm wrong, but that's the number I remember. And I
22 don't recall the genesis of the conversation.

23 But, yes, I remember telling her she need -- that
24 she had too many cases, and I think it was because of a
25 murder case of a corrections officer that a homicide



1 attorney was trying to get rid of or -- I shouldn't say
2 that -- transfer, and there were only so many attorneys
3 that could take it, and I -- I wanted to give it to April,
4 or it came up in a discussion, but we just couldn't give
5 it to her because she had too many cases.

6 I swore to myself I wouldn't come in here and
7 guess, but I just did. But I'm trying to -- I'm trying to
8 be precise.

9 Q. Did you offer Ms. Sponsel any suggestions how to
10 reduce her pending case log?

11 A. I -- I don't think so, but I don't know.

12 Q. Did you discuss the possibility of pursuing cases
13 further into the statute of limitations?

14 A. No. And, I mean, the statute of limitations -- I
15 mean, there's no -- I mean, if she has a homicide, it's
16 none. If -- the short answer is no. There would be a
17 moving target on statute of limitations, so. I'm not
18 saying that it -- it didn't happen. I don't recall
19 anything like that, and that's -- I just -- I'm not sure
20 how concerned I would have been of statute of limitations
21 in a criminal case. Usually we have things filed within
22 seven years.

23 Q. Usually we have --

24 A. Things filed within seven years, which is the
25 vast majority of felony crimes.



1 Q. And even with misdemeanors, you'd have a year
2 before you'd have to initiate any charges; correct?

3 A. That sounds right. It's been a long time since
4 I've done a misdemeanor.

5 Q. Were you aware of Ms. Sponsel's discussions with
6 Phoenix PD regarding the preparation of their Form 4s?

7 A. I mean, I was aware that there was a Form 4
8 problem, that they were using, I think, copy-and-paste
9 language, if memory serves, and that she was training
10 them. I don't -- I -- am I -- was I aware? Yes. But I
11 don't -- well, I won't answer something you didn't ask.

12 Q. Did Ms. Sponsel face any remedial training on
13 this issue?

14 A. Not that I'm aware of.

15 Q. Did Ms. Sponsel ask you for additional resources
16 in prosecuting her cases?

17 A. I don't specifically recall. Part of the reason
18 why I don't specifically recall is because -- well, I
19 guess I'm generalizing or I'm assuming a time frame of
20 summer 2020. Would that be fair?

21 Q. I'm limiting my questions to summer of 2020 in
22 particular.

23 A. Okay. So at that time, everyone was asking for
24 resources. Did April specifically? I -- Ms. Sponsel
25 specifically? I don't recall. I know that Sherry did,



1 her -- Ms. Leckrone, her bureau chief. But there were a
2 lot of people in my division asking for resources.

3 Q. And would that be true of all of the bureaus in
4 your division?

5 A. Yes.

6 Q. Was -- were these requests being made MCAO-wide?

7 A. I would imagine, yes. But that is a guess.

8 Q. Did you ever ask other attorneys in other
9 divisions to assist FRB in prosecuting cases?

10 A. Yes.

11 Q. When did that occur?

12 A. Well, not -- I don't know about prosecuting FRB
13 cases. It -- the issue that stands out the most to me was
14 court coverage. That's always been a difficult -- well,
15 that's always been a fight among the bureaus is who does
16 more court coverage than others. And court coverage is
17 just when you send an attorney to sit in court and handle
18 supposedly routine matters.

19 At first that was relatively easy in COVID
20 because you had to just switch over on your Zoom. But
21 then it turned hybrid, and it got onerous.

22 I don't recall specifically any cases being
23 assigned, but I -- I guess that's a possibility, but court
24 coverage is the one that stands out to me, where we just
25 needed -- they needed help.



1 Q. Were any of these issues unique to FRB?

2 A. No.

3 Q. Did you review any of the FRB cases that
4 Ms. Sponsel prosecuted?

5 A. Eventually.

6 Q. What was the nature of your review?

7 A. This would be getting outside of the summer?

8 Well, I think it's outside the summer 2020.

9 Q. When do you think it started?

10 A. November, December, January 2021. I'm guessing.

11 Maybe even later than that. I don't ...

12 Q. Why were you reviewing Ms. Sponsel's cases in
13 November of 2021?

14 A. Well, I don't want to be held to the
15 November date. I don't recall. This was after there had
16 been a number of incident reviews, so we're kind of
17 jumping ahead of the timeline, but -- and I can't remember
18 if Ms. Sponsel was put on leave at that point.

19 Either before -- around the time of -- that she
20 was put on leave, either before or after, I just don't
21 recall, I was asked to review -- well, at one point I was
22 asked by the county attorney to review every case, and
23 that was something like four or five hundred.

24 Q. During that summer 2020, were you asked to --
25 well, strike that.



1 Were you aware of the arrest of October 17, 2020?

2 **A. Relative to this case, yes.**

3 Q. When did you become aware of the arrest of
4 protesters on October 17, 2020?

5 **A. I think the next morning.**

6 Q. So that would be the 18th?

7 **A. Correct.**

8 Q. How did you become aware?

9 **A. I believe there were emails that were exchanged,
10 like it was a chain of emails between April and the
11 initial appearance court, IA court staff or attorneys.**

12 Q. When did you become aware that Ms. Sponsel
13 presented that case to the grand jury?

14 **A. I don't recall. Well, that she presented it?**

15 Q. Yes.

16 **A. I don't recall. I mean, I -- you know, probable
17 cause has to be found within ten days of an arrest, so, I
18 mean, I knew that it was going to happen. I don't
19 remember when I was -- I don't remember when I was told.
20 I was told, but I don't remember when.**

21 Q. Let me make sure that I understand your
22 testimony. Probable cause has to be established within
23 ten days of arrest when it comes to in-custody defendants;
24 correct?

25 **A. Well, now you're challenging my -- I don't know.**



1 I -- I think it -- I think it applies to any arrest, that
2 there has to be either a preliminary hearing or -- of a
3 felony, of a preliminary hearing or a -- or a grand jury.
4 I think in-custody has to do more with arraignment, but
5 I -- I don't remember.

6 Q. After becoming aware of the grand jury
7 presentation, did you ask Ms. Sponsel any questions -- let
8 me -- let me preface this.

9 Without getting into any of the specifics of the
10 grand jury testimony, once you became aware that
11 Ms. Sponsel presented the October 17th case to the grand
12 jury, did you ask her any questions about her
13 presentation?

14 A. Yes.

15 Q. What was the nature of your questions regarding
16 Ms. Sponsel's presentation to the grand jury?

17 A. I wanted to know the -- was each individual
18 defendant articulated to the grand jurors? In other
19 words, not the defendants, sort of this obscure finding of
20 probable cause. That would be a Rule 12 challenge down
21 the road. And I believe I asked what the vote count was
22 of the grand jury. And sometimes that can be an indicator
23 of the strength of the case.

24 Q. And we're going to talk about the big case in
25 a -- in a minute.



1 **A. My feelings about the big case?**

2 Q. Your feelings about the big case.

3 **A. Absolutely.**

4 Q. Is that really the beginning of your problems
5 with the big case, you want to make sure that each
6 individual defendant is specifically identified,
7 particularly in grand jury presentations?

8 **A. It's one of my many concerns about a big case,**
9 **yes.**

10 Q. Why don't we go ahead and jump ahead a little
11 bit, and why don't you just tell me your concerns about
12 the big case?

13 **A. And --**

14 Q. First off -- first off, why don't you identify
15 what the big case is?

16 **A. Yeah. It's -- it's this idea -- and I don't**
17 **remember exactly the year, but, I mean, it's born about of**
18 **my personal experience. Right? The hardest lessons we**
19 **learn are your own. And I only learn the hard way, it**
20 **seems.**

21 But it's this big roundup that you have of 40, 50
22 defendants, and, you know, it's this big event. Sometimes
23 the media covers it. Sometimes they don't. Usually they
24 do. And everyone focuses on the arrest, and no one talks
25 about the next year. And short and simple, the big case



1 doesn't work. And I -- I got caught up in it twice.

2 Well, once that I can think of specifically. Another one
3 that I was indirectly involved in it, not in the main
4 case.

5 But what ends up happening is you indict 40
6 people. You cheap-deal 35 of them. And then you really
7 focus on the five that actually mattered.

8 Well, stop doing the 35 and just focus on the 5.
9 So -- and I have strong opinions about it, and I have ever
10 since 2010, 2012, something like that.

11 So, yes, that's my feeling on the big case. It
12 doesn't work.

13 Q. And getting back to the grand jury presentation,
14 when you have what you -- what you term a "big case," why
15 is it important to identify each individual defendant in a
16 grand jury presentation of multiple defendants?

17 A. When you have intense -- well, any kind of
18 factual complexity, it doesn't even have to be much, but
19 eventually the grand jurors are going to -- we've
20 labeled -- we use labels to sort information. If I were
21 to describe, you know, a case to you, if we were just, you
22 know, talking about a case, and I started throwing out
23 names, we sort of instinctively want to write down names
24 and remember them. But if I were to say to you the
25 victims, the defendant, now we can organize it a little



1 bit easier. And I think it's just a natural tendency for
2 grand jurors to follow along if you just talk about the
3 defendants. But we, as prosecutors, have obligations
4 about individualized defendants. And if you slipped into
5 it unintentionally and just talked about "the" defendants,
6 the -- the probable cause is coming back and you've just
7 added problems to your case because you -- I'm sorry --
8 because you slipped into this --

9 Q. Yeah, you didn't have to keep --

10 A. Yeah, sorry. All right. I'll just try not to
11 be --

12 Q. Maybe lift it up just a little bit.

13 A. I'm too Italian.

14 You lose the individualized probable cause. And
15 so you have to be detail-oriented when you -- when you
16 give the grand jury presentation.

17 Q. Do you believe it's also important to identify
18 the specific actions of these individual defendants when
19 making these kind of grand jury presentations in a big
20 case?

21 A. Yes.

22 Q. You testified earlier that you asked Ms. Sponsel
23 a question regarding her presentation, that being did she
24 present the case per each defendant, and I'm paraphrasing,
25 so please correct me if I'm misstating.



1 What did Ms. Sponsel say?

2 **A. She told me that she did.**

3 Q. Have you since reviewed the grand jury transcript
4 for the October 17, 2020, arrest?

5 **A. I have. It's been a while.**

6 Q. Without going into the specifics of the grand
7 jury testimony, did Ms. Sponsel present the case for each
8 individual defendant regarding the October 17, 2020, case?

9 **A. I don't recall. That was significantly later,**
10 **and it was more -- I was more focused on other issues.**

11 Q. Were you aware that Ms. Sponsel presented a
12 compilation video that was prepared by the Phoenix PD when
13 she presented the case to the grand jury?

14 **A. I don't know if I was aware of it at the time. I**
15 **have since become aware.**

16 Q. What is an incident review?

17 **A. It can mean different things to different people,**
18 **but essentially --**

19 THE COURT: I think we know this from yesterday.
20 Can we just cut ahead of the meeting.

21 MR. HENLEY: That's fine, Judge.

22 BY MR. HENLEY:

23 Q. Was there an incident review for the October 17,
24 2020, arrest?

25 **A. Yes.**



1 Q. When did that incident review take place?

2 A. I believe it ultimately took place on
3 October 30th.

4 Q. You were present. Do you know who else was
5 present?

6 A. I called it and, yes, I was present. I don't
7 recall off the top of my head who was present. I'm sorry.

8 Q. Was Ken Vick present?

9 A. I believe so.

10 Q. Was April Sponsel present?

11 A. I believe so.

12 Q. Was Sherry Leckrone present?

13 A. I believe so.

14 Q. Was Ryan Green present?

15 A. Yeah, I think so. Yes.

16 Q. At incident reviews, you expected all of your
17 attorneys in your bureau, your respective bureaus, to be
18 truthful; correct?

19 A. Sure.

20 Q. You expect them to accurately assess not only the
21 existence of evidence supporting the charge but also of
22 the strength of those -- that evidence; correct?

23 A. Sure.

24 Q. Did you review any photographs of the
25 October 17th arrest prior to the October 30th incident



1 review?

2 A. I don't recall. And part of the reason that this
3 is difficult because there was a number of incident
4 reviews. I don't recall if I saw photographs beforehand.
5 And I don't want to conflate the different incident
6 reviews. I know that photographs were eventually shown.
7 I just -- I don't recall for the 30th.

8 Q. Did you have any conversations with Ms. Sponsel
9 prior to the October 30th incident review?

10 A. Did I have any conversations generally?

11 Q. Generally. Why don't we go into a little bit of
12 specifics -- first off, did you have any conversations
13 with her prior to the -- after the arrest but prior to the
14 October 30th incident review?

15 A. I'm sure I did. None immediately come to mind,
16 but I'm sure I did.

17 Q. Did you ask her to be prepared with any
18 particular evidence or any -- any explanations that you
19 identified?

20 A. I don't recall -- I don't recall if I asked her
21 to be specifically -- in the second incident review in
22 February, I know that I told her to be prepared on
23 specifics. I don't recall if that was the issue with the
24 30th. If I had a conversation with April beforehand, I
25 think it was -- I was asking, are these the defendants



1 that were the -- the concern about the murder of a Phoenix
2 police lieutenant. And I think -- I think that was had
3 sometime after the 17th.

4 Q. Did you have any conversations with Ms. Sponsel
5 regarding your concern that the October 17th case was a --
6 was a big case?

7 A. At the time I didn't know it was a big case. At
8 the time -- well, I'm -- between the 17th and the 30th, I
9 was -- I was under the impression that it was, at most, a
10 handful of defendants, three, four, five. So I did not
11 know it was a big case at the time.

12 Q. And when you say a handful of defendants, how
13 many were you -- are you talking about?

14 MR. CALDERON: Objection.

15 THE COURT: I just --

16 MR. CALDERON: He just answered it.

17 THE COURT: Well, I don't know, but I think we're
18 getting bogged down in detail again.

19 MR. HENLEY: Okay.

20 BY MR. HENLEY:

21 Q. Did you have access to both the verbal and -- the
22 video and written component of the October 30th incident
23 review?

24 A. I don't understand your question. I'm sorry.

25 Q. You understood that the -- well, did the



1 October 30th incident review take place over a
2 teleconference?

3 **A. Yes.**

4 Q. Was there also a written chat component taken,
5 that was available?

6 **A. I -- I know --**

7 THE COURT: We know this, because we've got the
8 exhibit. We talked about it yesterday.

9 So let's not ask a question we all know the
10 answer to. And if you want to jump to that exhibit, we
11 can ask him about it.

12 MR. HENLEY: Okay.

13 (Indiscernible cross talk)

14 BY MR. HENLEY:

15 Q. I don't know if you had the chat log. Do you
16 have -- did you have the chat function? I don't know if
17 you had the chat function. Do you have -- did you have
18 the chat function?

19 **A. On my computer?**

20 Q. Yes.

21 **A. I don't recall. I know I have since learned that**
22 **there was one, and I know that other Zoom-type programs**
23 **have it, but I just -- I don't recall specifically on that**
24 **day.**

25 Q. Let's go to Exhibit 68. Have you seen this



1 before?

2 **A. Yes.**

3 Q. This is the chat log I was referring to earlier.

4 **A. Yes.**

5 Q. Did you have access to this chat log during the
6 incident review?

7 **A. I don't recall.**

8 Q. During the incident review, did Mr. Green ask any
9 questions of Ms. Sponsel regarding the existence of
10 evidence?

11 **A. I don't remember. There were a lot of questions
12 being asked. I just don't remember Ryan specifically.
13 I'm sure he did, but he's not particularly quiet.**

14 Q. The -- the chat log, the written chat log that's
15 been marked as Exhibit 68, asks a number of questions.
16 The ones I want to focus on is whether or not there were
17 photos of sharpened fingernails and umbrellas. Do you
18 remember that topic being discussed during the first
19 incident review?

20 **A. So, again, I mean, obviously it's in Exhibit 68.
21 As I sit here today, do I specifically remember in this
22 incident review? No, I don't. I do know that it was
23 discussed throughout these incident reviews.**

24 Q. Throughout that first incident review?

25 **A. I -- I just don't remember if it was the first**



1 one or the second one. I know it was focused on.

2 I'm sorry. Was I being unclear?

3 Q. Did you understand after the incident review that
4 Ms. Sponsel informed the group that photos of sharpened
5 fingernails existed?

6 A. If I didn't have Exhibit 68, I would have no
7 idea.

8 Q. Following the incident review, did you have any
9 conversation with Ms. Sponsel?

10 A. Yes.

11 Q. What was the -- what was the topic?

12 A. Essentially, this -- the October 30th incident
13 review is when I first learned that there were more than a
14 handful of defendants, and so my big case --

15 Q. You had the big case discussion?

16 A. Yes, my big case discussion, yes.

17 Q. As part of your discussion with Ms. Sponsel,
18 first off, when did that discussion take place?

19 A. Probably afterward, but I -- and what I mean is
20 on the 30th afterward, but it would have been really soon
21 afterward. I don't know if it was --

22 Q. Did the discussion take place via Zoom? Via
23 phone?

24 A. I don't recall. Phone or Zoom. I just don't
25 recall. I mean, it was a discussion. Probably phone.



1 Q. As part of your conversation, did you instruct
2 Ms. Sponsel to dismiss some of the October 17 protesters?

3 **A. I believe I my words were "get rid of."**

4 Q. You believe that your --

5 **A. My words were "get rid of." Get rid of.**

6 Q. Get rid of?

7 **A. Get rid of the excess cases and focus on the ones
8 that are really the --**

9 Q. And that's consistent with your concerns about
10 the big case theory?

11 **A. Yes.**

12 Q. Did Ms. Sponsel dismiss the October 17th -- any
13 of the October 17th defendants?

14 **A. I don't believe so.**

15 Q. Did you follow up with her as to why she did not
16 dismiss the cases?

17 **A. I recall -- well, short answer, I believe so.**

18 Q. You recall you were interviewed by the State Bar
19 on May 2, 2022?

20 **A. Yes.**

21 Q. I'm just going to make -- we've marked a lot of
22 exhibits. We're not going to go through all of them.
23 It's not a point in dispute. The documents speak for
24 themselves.

25 I'll make a representation to you, sir, that you



1 spoke to Ms. Sponsel sometime following that October 30th
2 meeting and that you followed up with her -- I believe
3 that you said sometime in November or December of 2020?

4 A. I was -- yeah. And I didn't mean to interrupt
5 you. My memory was, as I sat here, was December. But
6 that's why I kind of switched back to just yes.

7 Q. When you had that follow-up conversation with
8 Ms. Sponsel as to why she didn't dismiss the cases, what
9 did she say?

10 A. And I don't mean to quibble here. You keep on
11 saying "dismiss." I believe my words were "get rid of."
12 And the reason why the distinction is important is because
13 I believe that some defendants were going to plead guilty
14 or one did, which would be disposal, which I was, of
15 course, happy with.

16 So getting rid of the case one way or another.

17 It was my understanding that there was, I
18 believe, cell phone downloads that needed to be done or
19 she wanted to look into it, the results of a cell phone
20 download. And that's why it wouldn't -- it hadn't
21 happened yet or at least not en masse.

22 Q. As part of your conversation, did you ask
23 Ms. Sponsel why she hadn't secured this cell phone data as
24 of December of 2020?

25 A. I don't think I asked her why she hadn't.



1 Q. You -- I want to make sure that I understand
2 your -- your discussion with Ms. Sponsel following the IR.

3 You said your term is "get rid of" the cases?

4 **A. I believe that was what I told her.**

5 Q. When you said that to Ms. Sponsel, would getting
6 rid of the cases also involve dismissing the lower-level
7 defendants?

8 **A. Yes.**

9 Q. And that would be to focus on the core group of
10 participants; correct?

11 **A. The murder plot of the police lieutenant.**

12 Q. And that's all consistent with your big case
13 theory and how they should be pursued; correct?

14 **A. Yes.**

15 THE COURT: We need to take an afternoon recess.

16 Is now a good time?

17 MR. HENLEY: This is a good time.

18 THE COURT: All right. It's 2:51. So let's
19 reconvene right around 3 o'clock.

20 THE CLERK: All right.

21 THE COURT: We'll be in recess.

22 (Recess)

23 THE COURT: And, Mr. Henley, you may resume.

24 MR. HENLEY: Thank you.

25 BY MR. HENLEY:



1 Q. You testified about the second incident review,
2 so let's move forward.

3 A. Yes, sir.

4 Q. The second incident review took place
5 February 12, 2021. When did you become aware that there
6 would be an incident review, a second incident review?

7 A. I -- I don't recall a specific date. It was
8 maybe a couple weeks before, but it might be longer than
9 that.

10 Q. Do you know what precipitated the calling of the
11 second incident review?

12 A. I don't. I'm sorry. I don't.

13 Q. Did you have any conversations with Ms. Sponsel
14 regarding the second incident review?

15 A. Yes.

16 Q. What was -- what did you talk about?

17 A. That it had to have specifics, not -- specifics
18 and original evidence. So not summaries of text messages.
19 Screenshots of the text messages. Not summaries of what
20 the police officers said, but, if possible, the actual --
21 like a screenshot of the -- of the police report, and then
22 actual pictures. There were a number of weapons found on
23 the defendants that would potentially corroborate to the
24 confidential informant that would corroborate to the
25 murder plot. Those had to be shown. Not summaries of



1 things.

2 Q. Just to make sure that the record is clear, the
3 discussions about the murder plot, that didn't have
4 anything to do with the October 17, 2020, protesters;
5 correct?

6 A. No. I believe it did.

7 Q. Who were the defendants that were involved in
8 the -- first off, what is the murder plot that you're
9 referring to?

10 A. So the whole case, in my mind, was regarding
11 the -- for lack of a better -- again, applying labels, the
12 gang charge defendants was initiated because a
13 confidential informant came forward at some point and told
14 law enforcement that there was a plot to kill a Phoenix
15 police lieutenant.

16 Q. What was the name of the confidential informant?

17 A. I believe it was Riley Behrens.

18 Q. Who did Mr. Behrens -- to the best of your
19 knowledge, who did Mr. Behrens conspire with, with respect
20 to the murder plot?

21 A. I don't recall the specific names, but these were
22 the three or four, five defendants that I had been
23 informed about.

24 Q. And it's your belief that Mr. Behrens engaged in
25 some sort of discussion or plot to murder someone?



1 **A.** I don't -- I don't know if he specific -- well, I
2 don't mean to misgender anyone, so I'll just say Riley
3 Behrens, because I'm uncertain of the preferred pronouns.

4 **Q.** What was your source of understanding regarding
5 Mr. Behrens' purported plot? Where did you get that
6 information?

7 **A.** **From Ms. Sponsel.**

8 **Q.** You said that you informed or instructed
9 Ms. Sponsel to have specifics and actual evidence. Would
10 that include photographs of the sharpened fingernails that
11 she had previously cited to?

12 **A.** **It could.**

13 **Q.** Did you expected her to have any pictures or
14 specific evidence or actual evidence of sharpened
15 umbrellas?

16 **A.** **I'm sorry. What was the first part of your**
17 **question?**

18 **Q.** Yeah.

19 Did you expect her to present pictures or
20 evidence of sharpened umbrellas to the members of the
21 second incident review?

22 **A.** **Did I expect it? No.**

23 **Q.** You testified earlier that you asked her to be
24 specific in that kind of evidence; right?

25 **A.** **Yes.**



1 Q. What evidence did you expect her to have?

2 A. I don't believe the murder plot involved the
3 scratching to death of the lieutenant, and I don't believe
4 that the implements were going to be the umbrellas.

5 It was my understanding, and the thing that stood
6 out to me, was the AR-15, the multiple weapons, the
7 knives -- I'm sorry -- the multiple knives, the pistols,
8 the extra ammunition, the medic kit, those are the
9 implements that I understood to be consistent with what
10 the confidential informant was saying.

11 Q. Did Ms. Sponsel present any of that purported
12 evidence at the second incident review?

13 A. I believe that she did, along with text messages.
14 I believe so.

15 Q. You had testified earlier that Ms. Sponsel
16 indicated that there would be cell phone data collected.
17 Did she present any evidence or specifics regarding
18 purported cell phone data between -- by and between the
19 October 17, 2020, protesters?

20 A. Well, I guess we would have to define what cell
21 phone data are. I don't recall seeing any CDRs or UFED
22 downloads. I do recall -- my memory is that there were
23 cell phone -- that there were text messages.

24 Q. Have you now come to understand that there were
25 never -- that none of the October 17 protest -- 17th



1 protesters had sharpened nails?

2 **A. Have I come to understand that?**

3 Q. Yes.

4 **A. Yes. I'm sorry. And I'm -- I'm switching out of**
5 **what I knew at the time.**

6 Q. Have you come to understand that there were never
7 any sharpened umbrellas that were seized as a result of
8 the October 17, 2020, protest?

9 MR. CALDERON: Objection. Form of the question.

10 THE COURT: The form of the question in what
11 regard?

12 MR. CALDERON: There hasn't been any testimony
13 to -- he's testifying --

14 THE COURT: Yeah. I think the question does sort
15 of assume facts not in evidence and that you ought to ask
16 him the predicate question before concluding those types
17 of vetted information.

18 BY MR. HENLEY:

19 Q. Following the second incident review, was there a
20 private discussion between the participants of that second
21 incident review?

22 **A. Yes.**

23 Q. Were you part of that discussion?

24 **A. Yes.**

25 Q. Did the group make a decision as to how to



1 proceed?

2 A. I don't recall. There were other incident
3 reviews after this, and there was an executive session
4 that happened after one of the incident reviews. I
5 believe it was the February 12th incident review where
6 the -- Allister Adel, the county attorney, made a
7 decision, and it was ultimately to dismiss the cases.

8 I can't remember if that was fleshed out in the
9 general discussion -- the general incident review, when
10 there was, you know, a lot of people present. I just
11 can't remember if -- I'm -- I'm sure there probably was.
12 There had to have been in a discussion and there had to
13 have been some sort of voicing or maybe a head count of
14 who thought what. But I just don't specifically remember
15 it.

16 Q. Following the February 12th incident review, the
17 group decided that Ryder Collins case would be dismissed
18 without prejudice; correct?

19 A. That sounds right. I don't have that specific
20 memory, as I just said.

21 Q. Did you speak to Ms. Sponsel regarding the
22 dismissal of Ryder Collins case without prejudice?

23 A. Yes. Well, I spoke to her after the incident
24 review, yes.

25 Q. Did Ms. Sponsel voluntarily agree to sign the



1 motion to dismiss without prejudice?

2 **A.** I believe so. I know that she was very upset.
3 My memory was that she was on vacation, but I -- so I
4 can't -- I -- I can't remember if someone had to sign it
5 for her because -- not vacation. Out of the office. I
6 know that she was upset. I was know that she was
7 resistant. I can't -- my memory, as I sit here right now,
8 is that she agreed to -- eventually to sign it. But it
9 wasn't -- it wasn't easy for her. I think. I don't know.
10 If you have a communication of it, I would like to see it.
11 I just --

12 **Q.** Why don't we refresh your recollection a little
13 bit.

14 **A.** Thank you.

15 **Q.** I'm going to ask you to open up to Exhibit 235.

16 **A.** Okay.

17 **Q.** Just a little bit of foundation here. On May 2,
18 2022, you were interviewed by the State Bar; correct?

19 **A.** Yes.

20 **Q.** You were not under oath at the time; correct?

21 **A.** That's correct.

22 **Q.** We did speak before the interview on the record
23 about the importance of accuracy in your statements made
24 to the bar; correct?

25 **A.** Yes.



1 Q. I'm going to direct your attention to page 186.

2 **A. Of the transcript or is there a Bates number?**

3 Q. Yeah, the transcript.

4 **A. Okay.**

5 Q. I'm going to start at line 10.

6 THE COURT: Can you tell us the Bates number.

7 MS. SHUMAN: 7570, I believe.

8 THE COURT: Thank you.

9 MS. SHUMAN: Correct.

10 **THE WITNESS: That's what I have on my end.**

11 MS. SHUMAN: Okay.

12 BY MR. HENLEY:

13 Q. The questioning began: "Ultimately the cases
14 were dismissed. Did you file any motions to dismiss any
15 of the cases?"

16 You responded: "No."

17 We continue on --

18 **A. Well, then I qualify: "I don't think so."**

19 Q. I'm sorry?

20 **A. I said "no" on line 13.**

21 **On line 15, I said: "I don't think so."**

22 Q. Then we continue on line 16: "And did you direct
23 anyone to dismiss the cases?"

24 At 18 you indicate: "No."

25 At 19 I ask specifically: "Did you direct Ms. --



1 April to dismiss any cases?"

2 21 you said: "Yes."

3 I asked: "After the February 12, 2021, incident
4 review?"

5 You responded: "Yes."

6 I continue on at line 25: "And did she follow
7 your instructions?"

8 Line 2 you say: "Yes, and I -- there's a large
9 asterisk with 'yes.'"

10 I asked: "When you say 'large asterisk,' what do
11 you mean?"

12 "She was resistant. Best-case scenario, I'll say
13 it."

14 Goddard: "No. She was heartbroken. Sherry and
15 I kind of knew this was the end of her career. She was
16 very emotional."

17 You continue on, you at line -- at 188, line 6,
18 you state: "And she said several times she was not going
19 to do that. And I was the one who told her, 'April, don't
20 give them this. It's insubordination. You're going to
21 get fired. You have to do this.'"

22 Do you see that?

23 **A. Yes.**

24 Q. Do you remember that testimony?

25 **A. Yes.**



1 Q. Do you think it accurately reflects the
2 statements that you made to the State Bar on May 2, 2022?

3 **A. Do I think the transcript is accurate? Yes.**

4 Q. So, again, my initial question was whether or not
5 she voluntarily signed the motion to dismiss, and I
6 believe your response was yes. This would seem to
7 contradict that.

8 THE COURT: Well, I don't think that's a proper
9 question for him. And I know it's hard -- you didn't ask
10 voluntarily. You said she was very upset, but I believe
11 she agreed to dismiss it, but she was resistant. It
12 wasn't easy for her.

13 I mean, the hearing panel should be the one to
14 determine whether he's made an inconsistent statement. I
15 don't see it, but you can certainly argue that.

16 MR. HENLEY: That's fine, Judge. And I'm sorry
17 to the extent I may have misspoken.

18 BY MR. HENLEY:

19 Q. Ultimately Ms. Sponsel did dismiss the
20 October 17th protester case; correct?

21 **A. Are you talking about Riley -- I'm sorry.**

22 Q. Ultimately Ms. Sponsel dismissed the October 17th
23 protester case; correct?

24 **A. All the of the defendants?**

25 Q. All the of the defendants?



1 **A.** Or are you talking about Ryder Collins?

2 **Q.** I'm sorry. Strike that.

3 Ryder Collins.

4 **A.** Yes. He -- correct. Ultimately she did dismiss
5 Ryder Collins. That's the best of my memory.

6 **Q.** Ultimately the entire case was dismissed, the
7 October 17th protester case; correct?

8 **A.** Yes.

9 **Q.** You testified that you were subsequently involved
10 in a review of Ms. Sponsel's cases. I believe you
11 testified -- please correct me if I'm wrong -- you began
12 that review sometime in November of 2021?

13 **A.** I was tasked to review all cases initially, and,
14 again, I'm a little uncertain as to the date. But
15 Ms. Adel had tasked me with all of the cases. That did
16 include some of Ms. Sponsel's cases. I do know that I was
17 assigned some of April's cases when she was put on leave.
18 But I think that was maybe in March, so that would have
19 been a few months past the November date.

20 **Q.** Yeah. And I -- that's why I'm asking, because I
21 don't think that's an accurate date.

22 What was the purpose of your review? What were
23 you tasked to do?

24 **A.** It was a really general review to see if all the
25 charges are appropriate. And it really struck me that I



1 was being given that assignment.

2 Q. Why?

3 A. One person to review four or five hundred now
4 high-profile cases was absurd.

5 Q. What bureaus were you asked to review -- what
6 bureau cases were you asked to review?

7 A. I don't know if they necessary -- I can't think
8 of any cases that were outside of First Responders, but
9 the -- the mandate, the order, however you want to
10 describe it, the request from the county attorney, the
11 assignment from the county attorney maybe is more fair,
12 wasn't limited to a bureau. I was asked to review all
13 cases that were involved in -- during the protests.

14 Q. When were you asked to do the review?

15 THE COURT: Is the exact date really important?

16 MR. HENLEY: No. I'm making sure that I
17 understand exactly what happened here.

18 THE WITNESS: Well -- and I don't mean to confuse
19 anyone, but my memory is November or December. It might
20 be beyond that. I mean --

21 BY MR. HENLEY:

22 Q. After the second incident review?

23 A. That would make more sense, to be honest. So,
24 yeah, I don't think it could possibly be November. And I
25 apologize. I remember it was cold. It wasn't hot.



1 THE COURT: I don't think we need the exact date.

2 THE WITNESS: Okay. And I'm sorry, Judge.

3 MR. HENLEY: No. No, no, no.

4 BY MR. HENLEY:

5 Q. What did you -- what was the nature of your
6 review? What did you do?

7 A. After complaining a lot, I -- I took the highest
8 level felonies I could grab. I had -- I believe I had my
9 staff assistant -- we don't have physical files, but my
10 memory is they were assigned over to me on Karpel so that
11 I could start working through the cases. It had to have
12 been after February 12th, now that I think about it.
13 But -- and I just started reading as much as I could on
14 each case.

15 But I had made it very clear that if this was
16 going to be my assignment, I was going to take unlimited
17 amount of time so that I could review these appropriately.

18 Q. What was your understanding of the purpose of
19 this review?

20 THE COURT: He said that.

21 MR. HENLEY: I'm sorry. Maybe I didn't hear
22 that.

23 THE COURT: To determine if the charges were
24 appropriate.

25 BY MR. HENLEY:



1 Q. Okay. And when did you resign from the MCAO?

2 A. May of 2021, I believe. Somewhere around there.

3 Q. That's what I have is I believe it was effective
4 May 31, 2021. Does that sound right?

5 A. That sounds right.

6 Q. So your review of the cases was scheduled to take
7 place between February of 2021 and May 2021?

8 A. No. So it -- and I thought I qualified it there,
9 this was an initial. So maybe this helps.

10 But sometime in the winter, Allister Adel tasked
11 me to review all cases. I complained a lot about that. I
12 decided to rope in -- well, actually, I tried to delegate
13 out to Sherry to help me, but I was told, I believe by
14 Allister, that this was -- or Ken Vick. I guess I don't
15 recall -- that I was going to be the sole person that
16 reviewed it. That the county attorney wanted me to review
17 it. That lasted about two weeks.

18 I roped in Ken Vick to start reviewing the cases
19 as well. I think Ken eventually saw the magnitude of this
20 task, and then we started bringing in other people in
21 incident reviews, and there was like 20 people then
22 reviewing them, and it kind of organically grew from that,
23 and then there was a number of people that kind of took it
24 over.

25 So it was a progression, and I'm certain that



1 you'll be hearing about these other incident reviews. And
2 I know Ryan Green was one that presented on some of the
3 cases. Rachel Mitchell was another that presented on some
4 of the cases. I believe Barbara Marshall. But it was
5 divided up, and it was a lot more manageable.

6 Q. Was Ryan Green one of these individuals reviewing
7 the cases with you?

8 A. Not -- not with me, per se. He wasn't sitting
9 next to me, but eventually Ken divided up all of the cases
10 among a lot more people. And so my sole responsibility
11 was relieved.

12 Q. Who were some of the other attorneys that were
13 involved in your review initially?

14 THE COURT: So Mr. Green testified extensively
15 about this. He gave us names.

16 Do we need to go to this again with this witness?

17 MR. HENLEY: Judge, I'm just concerned here
18 because we're talking about the fall, and that's not
19 consistent with the testimony that's been presented here
20 today.

21 THE COURT: Okay. Well, it seems to me you're
22 getting into weeds that's not apparent where you're going
23 with it. I -- if you've got a point to make, it's getting
24 lost on it.

25 MR. HENLEY: Okay. Well, I'll go ahead and move



1 on, then.

2 THE COURT: It's lost on me. Is it lost on you?

3 THE WITNESS: Well, and I apologize that my dates
4 are -- are off and I -- I'm trying.

5 MR. HENLEY: With that, I'll go ahead and I'll
6 pass the witness.

7 THE COURT: Cross-examination.

8 MR. CALDERON: Thank you, Your Honor.

9

10 CROSS-EXAMINATION

11 BY MR. CALDERON:

12 Q. Mr. Goddard, nice to -- this is actually today
13 the first day I've ever met you.

14 A. That's correct.

15 Q. Nice to meet you. I'll try to quickly move this
16 along.

17 A. Thank you.

18 Q. Isn't it true that one of the reasons you want
19 your prosecutors to act on the cases quickly, rather than
20 wait until the end of the statute of limitations, is that
21 witnesses disappear, evidence gets stale. The sooner you
22 get to it, the more chance you have to preserve the best
23 evidence?

24 A. Yes.

25 Q. Have you ever heard anybody in any seminar or any



1 supervisor ever tell you slow down how you take your
2 cases, extend it out to the very end of the statute of
3 limitations if you can?

4 **A. No.**

5 Q. April Sponsel asked Sherry Leckrone for more
6 assistance, and it's my understanding that Sherry Leckrone
7 agreed with April. Is that your understanding as well?

8 **A. Yes.**

9 Q. And it's my understanding that Sherry Leckrone
10 then asked you, can you help us get April more assistance,
11 and you agreed with Sherry Leckrone; correct?

12 **A. Yeah. I don't specifically recall as I sit here**
13 **April, but I do recall Sherry absolutely making it known**
14 **that she needed help.**

15 Q. Okay. I'm not going to play the date game with
16 you, so don't worry. We're just --

17 **A. Thank you.**

18 Q. -- talking just generally speaking.

19 You then, in good faith, as the supervisor of
20 these two people, ran it up the chain of command; correct?

21 **A. Yes.**

22 Q. And it was denied; correct?

23 **A. Yes.**

24 Q. And this -- it wasn't denied once. It was denied
25 a couple of times; correct?



1 **A. Frequently.**

2 Q. Okay. And you had talked about a prosecutor
3 having 118 cases. Is that a manageable caseload?

4 **A. Maybe for a misdemeanor caseload. But for
5 complicated felony cases, no. In my -- in my opinion, no,
6 I would not want to be that prosecutor.**

7 Q. Okay. It's my understanding that the first
8 incident review meeting you spoke in favor of April's
9 assessment of the probable cause for charges; correct?

10 **A. Yes.**

11 Q. And it's my understanding at the second meeting
12 you started the meeting with that -- with that same
13 position?

14 **A. Yes.**

15 Q. Okay. However, it's my understanding that
16 ultimately the decision was made, the team decision was
17 made, you being an integral part of the team, to ask
18 April to dismiss the case; correct?

19 **A. Yes. I just don't remember where that fell in
20 the incident review.**

21 Q. Okay. Not going to ask you dates.

22 **A. Yes.**

23 Q. That sort of thing.

24 So were you surprised when you told April,
25 "April, you got to dismiss the case," were you surprised



1 at her reaction?

2 **A. No.**

3 Q. Would it be fair to say that you -- you were not
4 surprised at her reaction because she had invested a lot
5 of time in this. She invested a great -- great deal of
6 effort. She had her professional pride involved. She
7 felt very strongly about this. So you knew she was not
8 going to like the answer?

9 **A. Absolutely.**

10 Q. And isn't it true that she did dismiss the cases
11 and she did -- she did agree to dismiss the cases within a
12 half-hour of your conversation with her?

13 **A. That -- that sounds right.**

14 Q. She -- you talked to her. She walked away. She
15 said at first, "No, I'm not going to do it." She walked
16 away. She fumed.

17 She came back and said, "Okay. I'll do it"?

18 **A. Yes.**

19 MR. CALDERON: I'm trying to shortcut this,
20 Your Honor.

21 THE COURT: Thank you.

22 MR. CALDERON: Please bear with me.

23 BY MR. CALDERON:

24 Q. You mentioned -- you mentioned the probable
25 cause, the probable cause had to be found within ten days;



1 correct?

2 **A. That's my understanding, yes.**

3 Q. Is that sort of the deadline that prosecutors --
4 I've never been a prosecutor -- that prosecutors have to
5 have in mind that deadline, you've got ten days?

6 **A. I believe it's the statute.**

7 Q. Statute. Okay.

8 But it -- it's something that sort of hangs over
9 your head, isn't it?

10 **A. Yes.**

11 Q. If you're a prosecutor.

12 Certainly if you're a good prosecutor.

13 You also testified that April -- let's see if I
14 can get the right word -- you trained -- that she trained
15 police officers on how to fill out Form 4s; correct?

16 **A. Correct.**

17 Q. Are you ever aware of a time that April filled
18 out a Form 4 for a police officer?

19 **A. No.**

20 Q. Did -- did that happen in this case, when we're
21 talking about the protest? Did she fill out Form 4s for
22 the police officers?

23 **A. Not that I've ever known.**

24 Q. Did anybody report that to you, that she was
25 filling out Form 4s?



1 **A. No.**

2 Q. Thank you.

3 Let's talk about your -- your big case -- your
4 big case theory. As a -- as a civil practice lawyer --
5 and not a very good one -- I'm getting -- trying to get my
6 arms around it. It's my understanding that you want cases
7 to be less complex and more direct?

8 **A. Yes.**

9 Q. That's what the premise of the big case theory
10 is?

11 **A. I think that's fair.**

12 Q. And when you said -- when you testified earlier,
13 you said "get rid of" -- "get rid of some of the
14 defendants," that did not infer dismiss the defendants,
15 nor did it -- did it infer get them to plead out. It just
16 was get rid of them. You have too many people.

17 **A. Correct.**

18 Q. And either one of those options, either
19 dismissing people or getting them to plead something,
20 would have been getting rid of them; correct?

21 **A. Yes.**

22 Q. It's my understanding that the State Bar
23 interviewed you in May; correct?

24 **A. May of '22.**

25 Q. And then recently we disclosed you as a witness



1 in this case, didn't we?

2 **A. I -- I -- yes.**

3 Q. And did you hear -- did you hear -- did you
4 receive any sort of consternation, any sort of
5 communication from the State Bar because you were going to
6 testify here today?

7 **A. So I received a couple of communications. One
8 was on May 15th of this year notifying me that I was going
9 to be a witness, and that was on -- that was from
10 Mr. Henley, I believe. I didn't hear anything until I was
11 subpoenaed just recently. And there was a number of
12 communications between Mr. Henley and my attorney.**

13 Q. Will you please tell us about those
14 communications, and you can begin with the -- if you can
15 start with the beginning communication.

16 **A. I believe we had reached out mostly because I
17 was -- I like to prepare for these things, and based on
18 the May 15th letter, I knew that I was going to be a
19 witness for the State Bar, but I hadn't heard anything.**

20 Q. And when you say "we had reached out," you don't
21 have a mouse in your pocket. You're talking about your
22 lawyer, Mr. Warzynski; correct?

23 **A. Yes, sir, who's I think sitting behind me.**

24 Q. He's a good-looking guy right behind you;
25 correct.



1 All right. We, meaning you and your lawyer,
2 reached out to the State Bar?

3 A. Yes. And I'm -- I'm trying to get -- I'm trying
4 to move this. But it's important to me that on a -- in
5 May, the letter was sent to me directly.

6 In September, things were going to my lawyer,
7 which caused me some consternation initially, and maybe
8 wrongfully, but -- and this isn't easy. Okay? So there's
9 a lot of anxiety and -- just initially.

10 And so I -- maybe I'm over -- I overperceived
11 things, but there was conversation back and forth. Really
12 what I was looking for is I was hoping that Mr. Warzynski
13 would establish some kind of trial prep, ask, like, what
14 am I going to be talking about? What exhibits are you
15 going to -- do I need to review? And ultimately do I need
16 a lawyer?

17 And so that was my intent in reaching out to the
18 bar. And, again, like I had a heightened thing because it
19 was with my lawyer. All of a sudden, it changed from me
20 to my lawyer, which communicated something to me.

21 Q. That would be a bona fide feeling because at one
22 time you were a target of the State Bar on this case,
23 weren't you?

24 A. Yes.

25 MR. HENLEY: Objection. That's not a term of art



1 in this -- in this arena.

2 THE COURT: Well, target, I --

3 MR. CALDERON: I'll rephrase it, Your Honor.

4 BY MR. CALDERON:

5 Q. At one time there was a bar charge against you in
6 this case; correct?

7 A. Yes.

8 Q. And that bar charge was dismissed; correct?

9 A. Yes.

10 Q. The State Bar dismissed it?

11 A. Yes.

12 Q. Okay. So --

13 A. So.

14 Q. So thinking of your state of mind, now suddenly
15 you're getting, post factum, all of this happening, you're
16 getting communications sent not to you but to your lawyer?

17 A. Correct, which raised my suspicion levels,
18 because when the charge was dismissed in January of this
19 year, prior to the probable -- pending probable cause
20 finding, there was language, which I took to be
21 boilerplate at the time, but language that said that we
22 can revive this at any time.

23 Q. That they could revise this. They could recharge
24 you?

25 A. Correct. So that -- I knew through knowing



1 statute of limitations, just in my education of the
2 process.

3 But Mr. Henley won't -- was apparently concerned
4 about some -- I was going to testify no matter what. I
5 knew that. I'm talking about my anxiety level in
6 approaching all of this.

7 Mr. Henley was concerned about some production
8 that was made. I mean, discovery production, not
9 production. But there was an email exchange right after
10 my dismissal, and they wanted to compel an interview of
11 me. And my lawyer was very concerned about that. I
12 didn't know this, but apparently the State Bar cannot do
13 that unless there's a pending charge, or at least this is
14 what's being told me to.

15 Q. I understand.

16 A. So.

17 Q. And what is the time frame we're talking about?
18 Are we talking about back in May or September?

19 A. No, no, no. This is a couple weeks ago.

20 Q. A couple of weeks ago.

21 A. Maybe even last -- end of September. And it was
22 communicated to me that, you know, apparently Mr. Henley
23 tells my lawyer that, well, we can revive these charges.
24 And --

25 Q. Wait a minute. Wait a minute. I want to make



1 sure I understand this.

2 They -- the State Bar wants to interview you.

3 Your lawyer, on your behalf, says, "You can't
4 interview him unless there's a pending charge."

5 The State Bar responds, "Well, we can renew a bar
6 charge against you."

7 Is that correct?

8 **A. That was my perception of it, yes, that the State
9 Bar could reinstate the charge at any point.**

10 Q. And I'm assuming they can still reinstate the
11 charge?

12 **A. That's my understanding.**

13 Q. So you're testifying here at risk that if you say
14 something that is not agreeable to the State Bar, they
15 could reinstitute a charge and investigate; correct?

16 MR. HENLEY: Objection.

17 Judge, at this point, I think it would be prudent
18 to go ahead and this -- every communication that's being
19 referred to is by email. I actually invite the
20 respondent, Mr. --

21 MR. CALDERON: I was going right there. Thank
22 you.

23 THE COURT: Wait. Don't talk over each other.

24 If you all --

25 MR. HENLEY: To --



1 THE COURT: If you all want to submit additional
2 exhibits, you may.

3 Do you have a lot more on this topic? I mean, I
4 think you --

5 MR. CALDERON: No, I don't have a lot more on
6 this topic, but, Your Honor, it's important the tribunal
7 know that this man came here today in fear.

8 THE COURT: Well, don't make an argument.

9 I mean, I think we get where you're going.

10 I'm just questioning whether we've got a lot more
11 inquiry in this field or whether we might move on.

12 MR. CALDERON: Well, let's -- if I may,
13 Your Honor, with some latitude, let me see where the
14 witness takes us on this, and then I'll move back to
15 the --

16 THE COURT: He's probably anxious to move on and
17 move on out of here. So let's give him his wish.

18 But, no, you can go ahead.

19 MR. CALDERON: No. Whatever you would like,
20 Your Honor.

21 BY MR. CALDERON:

22 Q. So you testified here today. You testified to
23 the best of your ability; correct?

24 **A. Yes.**

25 Q. You told the truth here today, didn't you?



1 **A. Yes.**

2 Q. You would have told the truth anyway, wouldn't
3 you, even if you hadn't received a threatening email?

4 MR. HENLEY: Objection.

5 THE COURT: What's the objection?

6 MR. HENLEY: That is a gross mischaracterization
7 of the communication.

8 THE COURT: Okay. I don't know that that's an
9 objection.

10 You'll get to redirect.

11 And if you all want to submit additional exhibits
12 on this point, you may. I think Mr. Goddard's perception
13 was what Mr. Calderon is suggesting. Whether that's
14 accurate or not, you can certainly ask him.

15 BY MR. CALDERON:

16 Q. Once again, you planned to tell the truth
17 regardless?

18 **A. Yes.**

19 Q. Let me ask you a question, Mr. Goddard. Let's
20 talk about COVID. COVID made it very difficult for you --
21 COVID made it very difficult for you to -- excuse me -- to
22 continue to streamline the process for your case handling;
23 correct?

24 **A. Absolutely.**

25 Q. Some -- I think you testified some people were



1 here, some people were on the phone. It was very -- it
2 became difficult?

3 **A. Yes.**

4 Q. And it's your job to make sure that the trains
5 run on time, that the -- that things keep moving, to
6 the -- to the best of your ability?

7 **A. To the best of my ability.**

8 Q. All right. How did COVID affect your bureaus,
9 plural, on bringing cases before a grand jury?

10 **A. It was severely restricted. It was severely**
11 **restricted. My memory is that there was -- there was a**
12 **significant -- there were -- I don't want to use an**
13 **adjective. That there was a time period when the grand**
14 **jury wasn't running at all or -- I know it was difficult**
15 **because of social distancing. But it was severely**
16 **restricted. They were limiting the cases that could go,**
17 **"they" being the Grand Jury Bureau, charging.**

18 Q. Would it be reasonable to expect one of your
19 lawyers operating within a ten-day time frame to review
20 150 hours of videotape before proceeding?

21 **A. No.**

22 Q. And why is that?

23 **A. I would say it is frequent that prior to a grand**
24 **jury presentation, you don't have all of the evidence.**
25 **Video is especially difficult because it has to be**



1 redacted for any kind of victim impact -- victim
2 information, you know. It has to be redacted. And to
3 review it, you have to review it in live time. You
4 can't -- with audio, you can click it at 1.5 speed, say,
5 and just kind of move it along faster. With video, I --
6 I'm not aware of anything that allows you to speed it up.

7 Q. And along with that ten-day sword of Damocles,
8 the -- hanging over you, to make you move, isn't it true
9 that it's office policy, it was office culture, to try to
10 get things to the grand jury as soon as you could?

11 A. Yes. I can't speak to policy, but if you -- time
12 is not a prosecutor's friend.

13 Q. I might have misunderstood some testimony today,
14 so I need your help clearing me up. I thought a
15 prosecutor determined probable cause before they would
16 move it to -- like a grand jury. They would go ahead and
17 assess the evidence and say there's probable cause here.

18 Is that your understanding?

19 A. That should be the minimum -- obviously the
20 minimum standard that any prosecutor would have. Maricopa
21 County, and I'm sure other counties in Arizona, have a
22 higher charging standard. It's -- it ends up being art
23 versus science, but there is a higher charging standard.

24 Q. And that higher charging standard is you have to
25 have a probability or a likelihood of success?



1 **A. Reasonable likelihood of success.**

2 Q. Okay. Do you believe that at the time you had
3 the information, at the time that April went to the grand
4 jury, that she satisfied that higher threshold?

5 **A. Yes.**

6 Q. Isn't it true that when you went to that first
7 incident reporting meeting, you went ahead and
8 testified -- not testified, but you advocated based on
9 that point of departure; correct?

10 **A. Yes. Now that you say that, I recall Jen Liewer**
11 **being in that group.**

12 Q. Yes.

13 **A. And I do recall some preliminaries being**
14 **explained to her, because she's not a lawyer.**

15 Q. Right.

16 Do you know that Jan [sic] Liewer was
17 simultaneously texting Ryan Green at the same time of that
18 meeting precisely?

19 MR. HENLEY: Objection.

20 **THE WITNESS: At the time --**

21 THE COURT: What's the objection?

22 MR. HENLEY: Relevance.

23 THE COURT: Well, it came out with Mr. Green, so
24 I think we'll go there again, but hopefully not for long.

25 MR. CALDERON: It was a short email, Your Honor,



1 short text.

2 THE WITNESS: At the time, I didn't know that.
3 I've since come to know that.

4 BY MR. CALDERON:

5 Q. And you -- and your advocacy, as labeled by one
6 of the central key decision-makers, Ms. Liewer, was that
7 you were posturing; correct?

8 A. That's how she labeled it, yes.

9 Q. Were you posturing?

10 A. No.

11 Q. What were you doing?

12 A. I was ex -- I was explaining to a nonlawyer who
13 had significant input with the county attorney, that was
14 sitting in on an incident review, which I didn't
15 necessarily agree with, that this should be a legal
16 decision, and she was also a very opinionated participant
17 at times. And I don't know specifically if she was
18 opinionated in that time, but certainly as time went --
19 wore on.

20 Q. Do you know anything about a possible threat to
21 Phoenix Lieutenant Ben Moore?

22 A. I was told, yes.

23 Q. What were you told?

24 A. That there -- this -- it was to the prior
25 discussion that I had with Mr. Henley, that there was a



1 CI, confidential informant, that came forward, that was
2 involved with a group of people that they thought was
3 advocating for social justice and that they were talking
4 about violence, and this CI, this confidential informant
5 was concerned that they were going to hurt Ben Moore.

6 Q. Would that concern you?

7 A. Yes, of course.

8 Q. Could you do anything about it?

9 A. Well, you can build a case, but there's nothing
10 we could do at the time.

11 Q. Okay. Earlier today you testified that when
12 April proceeded initially with the charges, her supervisor
13 and you concurred; correct?

14 A. Yes.

15 Q. Did you run it up the chain of command?

16 A. Yes.

17 Q. Who did you run it to?

18 A. Allister Adel.

19 Q. The county attorney?

20 A. Yes.

21 Q. And did you explain the case to her?

22 A. Yes.

23 Q. And what was her response?

24 A. Well -- and I should say, I explained the case to
25 her as I knew it.



1 Her response, it was short. It was words to the
2 effect of "we'll keep an eye on it," or something like
3 that.

4 Q. All right. Did you -- did you interpret that to
5 mean, fine, just keep an eye on it, or maybe we shouldn't
6 be doing this, keep an eye on it? How did you interpret
7 what the county attorney was telling you?

8 MR. HENLEY: Objection. We've allowed a lot of
9 hearsay, so I'll let the first part go in. But this is
10 now getting into speculation.

11 MR. CALDERON: Your Honor, this -- this isn't
12 hearsay. Goes to state of mind.

13 THE COURT: You've got to let him finish.
14 Were you finished?

15 MR. HENLEY: I'm sorry?

16 THE COURT: Were you finished. You were just
17 barely finished, so just take a breath.

18 All right. What's your response?

19 MR. CALDERON: This goes to his state of mind.
20 I'm trying to understand how -- what he thought after
21 Allister Adel told him keep an eye on it.

22 THE COURT: All right. So you're saying it's not
23 being admitted for the truth of the matter as to what
24 Ms. Adel said but as to his state of mind and how it
25 influenced his actions?



1 MR. CALDERON: Correct. He's a supervisor.

2 THE COURT: I get that.

3 So on that basis, the objection is overruled.

4 But it won't be considered for the truth of the matter as
5 to Ms. Adel.

6 **THE WITNESS: I took it as that she was saying**
7 **pursue the investigation and see -- see where the evidence**
8 **leads.**

9 BY MR. CALDERON:

10 Q. When was the first time anybody up the chain of
11 command from you told you, "No, we shouldn't be doing
12 this"?

13 **A. February 12th from the -- from my chain of**
14 **command, February 12th.**

15 Q. Right.

16 So there may have been different opinions before
17 February 12th, but when you got the affirmative -- or
18 negative, no, it was several months after the first
19 incident meeting; correct?

20 **A. Correct. Yeah, I can't think of -- of any**
21 **disagreement prior to that.**

22 MR. CALDERON: Okay. If I can have a moment,
23 Your Honor.

24 THE COURT: Yes.

25 MR. CALDERON: Your Honor, pass the witness.



1 THE COURT: All right. Thank you.

2 Redirect?

3 MR. HENLEY: Very briefly.

4

5 REDIRECT EXAMINATION

6 BY MR. HENLEY:

7 Q. Pursuant to Rule 70 of Arizona Rules of Supreme
8 Court, the records of your dismissed bar charge that you
9 testified here today are confidential; that the State Bar
10 can only release it with your consent.

11 Are you willing to waive your right of
12 confidentiality regarding the State Bar's release of
13 documents from your prior bar charge?

14 THE COURT: You can talk to your lawyer, if you'd
15 like.

16 But let me ask you this, Mr. Henley. Are you
17 talking about the entire bar charge or just the letter
18 that he testified about --

19 MR. HENLEY: No.

20 THE COURT: -- the State Bar's ability to
21 reinstitute?

22 MR. HENLEY: It's an email conversation, Judge.
23 And that is not part of any confidential records. That is
24 part of the public record. And I certainly intend to mark
25 that. I don't have it here.



1 THE COURT: Well, okay. I just think -- I want
2 him and potentially his lawyer to have a very clear
3 understanding of what you're asking him to waive. So it
4 would be as to what?

5 MR. HENLEY: This would be as to his dismissed
6 bar charge.

7 THE COURT: Well, if you want to talk to your
8 lawyer for a minute, that's certainly fine.

9 **THE WITNESS: Thank you, Judge.**

10 MR. WARZYNSKI: Your Honor, for the record, I'm
11 the lawyer they're referring to.

12 THE COURT: Yeah. Can you get closer to the
13 microphone, please.

14 And your name, sir?

15 MR. WARZYNSKI: I'm sorry to interrupt your
16 proceedings.

17 THE COURT: That's all right.

18 MR. WARZYNSKI: For the record, my name's Mike
19 Warzynski. I'm counsel for Vince.

20 THE COURT: Thank you.

21 Oh, I thought you wanted to say more than that,
22 but no?

23 MR. WARZYNSKI: He -- well, I gave -- I gave him
24 advice. I think he's --

25 THE COURT: Right. Presumably he's taking it.



1 What is that?

2 **THE WITNESS:** At this point, I do not waive any
3 rights I have.

4 MR. HENLEY: Judge, with permission, we'd like to
5 go ahead and submit the email exchange, the full email
6 exchange between myself and Mr. Warzynski regarding our
7 request for Mr. Goddard's interview prior to trial.

8 THE COURT: Okay. Well, let's deal with that
9 between now and the next session. It's possible
10 Mr. Calderon won't object to it. And if not, we'll admit
11 it. If there's an objection, I'll deal with it.

12 But I'm not going to do it on the fly here with
13 Mr. Goddard.

14 MR. HENLEY: No, no, no. That -- that email
15 would not be subject to any kind of confidentiality
16 request, and I believe he just opened that door
17 extensively about it, making --

18 THE COURT: Well, if -- this is a brand-new
19 exhibit. I understand it's a new topic. And if somebody
20 has to re-call him, we have to re-call him. But unless
21 there's a stipulation, and I don't know -- do you know
22 exactly what documents he's referring to?

23 MR. CALDERON: I'm not (indiscernible),
24 Your Honor.

25 THE COURT: Okay. I don't think we're going to



1 be able to resolve that today.

2 MR. HENLEY: That's fine.

3 With the -- with the Court's permission, I'd like
4 to go ahead and submit that. I guess, should it be by
5 pleading or should I just send that to Mr. Calderon first
6 and then --

7 THE COURT: Well, send it to Mr. Calderon first.
8 If he has an objection, then we'll have to get together
9 and deal with that objection.

10 MR. HENLEY: Okay.

11 THE COURT: If he doesn't, then we'll simply add
12 it to the list of exhibits that have been admitted.

13 MR. HENLEY: Very good.

14 With that, I have no questions of this witness.

15 THE COURT: All right. Before we --

16 MR. CALDERON: Your Honor, may I ask a procedural
17 question?

18 THE COURT: Yes. It worries me, but yes.

19 We've got everything all neatly tied up.

20 So what?

21 MR. CALDERON: May I share -- whatever is sent to
22 me, may I share it with Mr. Warzynski, his lawyer.

23 MR. HENLEY: I'm happy to include Mr. Warzynski
24 on any communication with you, Mr. Goddard.

25 MR. CALDERON: Thank you. Thank you, Your Honor.



1 THE COURT: All right.

2 So, Mr. Goddard, wait for just a minute. Let me
3 see if any of the panel members have questions before we
4 excuse you.

5 Mr. Sifferman.

6 PANEL MEMBER SIFFERMAN: Thank you, Your Honor.
7 I have no questions.

8 THE COURT: Mr. Clark.

9 PANEL MEMBER CLARK: Yes, I have a question.

10 On that second incident review, we've heard
11 testimony that April and Cliff Davis [sic], I think it is,
12 left.

13 **THE WITNESS: Clint.**

14 PANEL MEMBER CLARK: Clint, yes.

15 And then a decision was reached not to go forward
16 with the charges; they were to be dropped.

17 But then you just testified, or I thought I
18 heard, that the decision came down, like it was already
19 made. Was a decision made at that second incident review
20 or did you have it beforehand? Like it was given to you:
21 You guys need to reach this decision. This is the
22 conclusion that you need to come to.

23 **THE WITNESS: It was definitely after the**
24 **presentation. What's messing up my memory, and I hope**
25 **it's not confusing everyone, is that I believe it was in**



1 February -- the February 12th. There was an executive
2 session with just six, seven people, with -- with Allister
3 there, Ken, me.

4 PANEL MEMBER CLARK: Heather Livingstone. I
5 forget the --

6 THE WITNESS: Okay. Yeah.

7 PANEL MEMBER CLARK: -- rest, yeah.

8 THE WITNESS: Yeah, Heather sounds familiar.

9 I -- I just -- I don't want to mention people and then --

10 PANEL MEMBER CLARK: That's okay. I've got them
11 all.

12 THE WITNESS: Yeah. So there was definitely a
13 decision made at that executive session.

14 What I can't remember is was there also a
15 decision made during the bigger session where there was
16 the presentation and more people were there, like 20
17 people, 15, whatever it was. That's what's -- I'm
18 tripping up in my memory.

19 PANEL MEMBER CLARK: But it wasn't a decision
20 that came -- was relayed to you by Ms. Allister Adel,
21 like, you need to reach this conclusion?

22 THE WITNESS: No. I --

23 PANEL MEMBER CLARK: Okay.

24 THE WITNESS: No. It was after a discussion and
25 it was organic. But there wasn't -- Allister ultimately



1 made the final decision, but it came by way of discussion.
2 I just can't remember if it happened in the general
3 session and/or the executive session.

4 PANEL MEMBER CLARK: Thank you.

5 THE COURT: Following up on that point just for a
6 minute, is it your recollection -- I think it's been your
7 testimony -- that before that second incident review
8 meeting, there were differences of opinion about whether
9 those charges should go forward and that, for the first
10 time, at that February meeting, there was a decision where
11 it was agreed that they shouldn't be pursued. Is that
12 right?

13 THE WITNESS: There was a -- well, yes. There
14 were a number of charges and a number of different
15 permutations on what should be kept and what shouldn't and
16 what should we pursue and what not.

17 I believe ultimately the -- well, I don't -- does
18 that --

19 THE COURT: Yeah. That answers my question.
20 Thank you.

21 PANEL MEMBER SIFFERMAN: May I?

22 THE COURT: Oh, sure. Go ahead, Mr. Sifferman.

23 PANEL MEMBER SIFFERMAN: Follow up Randy's
24 question.

25 Are you saying -- you used the term "executive



1 session," and that was in connection with the
2 February 2021 incident review?

3 THE WITNESS: I believe so. And I -- if someone
4 comes in who has a really clear memory, I'm not going to
5 disagree with that at all.

6 PANEL MEMBER SIFFERMAN: Well, it's not going to
7 be me, so.

8 THE COURT: Well, I mean, to be fair, Mr. Green
9 testified that after that incident review meeting,
10 Ms. Sponsel and --

11 MR. HENLEY: Mr. Davis.

12 THE COURT: -- Mr. Davis were excused.

13 THE WITNESS: Yes.

14 THE COURT: And that the remaining group met and
15 made the decision at that -- what I think you're
16 characterizing as executive session. Does that sound
17 correct?

18 THE WITNESS: That's not my memory. And maybe
19 I'm mixing up on different -- there was so many incident
20 reviews on this thing.

21 What I'm talking about is there was a general --
22 so maybe a better way to describe it is where there was 15
23 or more attorneys sitting in on it and everyone asking
24 questions. I'm calling that the general session.

25 I remember Allister saying that she wanted to



1 meet with a select group of people to -- to flesh this
2 out, and it was like six or seven people on a separate --
3 I want to say it was like a group phone call-type thing.
4 And that's -- I know for -- I'm doing a really bad job, I
5 think, (indiscernible) these questions.

6 THE COURT: No. It's not --

7 THE WITNESS: I apologize.

8 THE COURT: No, it's not your fault. It's -- you
9 remember what you remember, so.

10 PANEL MEMBER SIFFERMAN: Mr. Goddard, you used
11 the term "executive session." And my familiarity with
12 that term is like an executive session from a public
13 meeting.

14 THE WITNESS: I'm sorry.

15 PANEL MEMBER SIFFERMAN: That's closed to the
16 public, confidential.

17 I think, I take it you're talking about an
18 executive session as not that but something where there's
19 a limited amount of participation.

20 THE WITNESS: Yes. And, I'm sorry, what I'm
21 referring to is the executive division of the Maricopa
22 County Attorney's Office, meaning a very -- the upper,
23 high echelon of that office. The county attorney, the
24 chief deputy.

25 THE COURT: May Mr. Goddard be excused?



1 MR. HENLEY: Judge, we may have to re-call him,
2 but depending on the email issue.

3 THE COURT: All right. Well, for now, you
4 certainly are excused, Mr. Goddard. Thank you for coming
5 to testify. Take the water with you.

6 THE WITNESS: Thank you.

7 THE COURT: And thank you.

8 THE WITNESS: Thank you.

9 MR. CALDERON: Your Honor, may we have a
10 five-minute break?

11 THE COURT: Yeah. Let me just find out. Do we
12 have another witness waiting?

13 MS. SHUMAN: We do. And so we can start her. We
14 certainly won't be able to finish that before we end
15 today.

16 MR. HENLEY: And, Judge, if I may, it's
17 anticipated to be a fairly long direct examination, not
18 too, too long, but certainly longer. I don't know if it
19 makes sense to go ahead and cut it earlier. We've
20 eliminated a couple of witnesses on the back end. I'm not
21 sure exactly when we're going to finish, but we're going
22 to finish well before -- the State Bar's case in chief
23 well before the end of the -- the scheduled time.

24 THE COURT: It does seem that way.

25 Is that Ms. Gibson-McLean?



1 MR. HENLEY: Ms. Gibson-McLean would be the next
2 witness.

3 THE COURT: I mean, I -- if we're -- if we're
4 ahead of schedule, which I think we are, my inclination
5 would be to break. It's -- they're long days. People get
6 tired. And just resume with her on -- we don't meet again
7 until Tuesday; correct?

8 MR. HENLEY: Until Tuesday at 10:00.

9 THE COURT: Any problem with that?

10 MR. CALDERON: No, we have no problem.

11 THE COURT: All right. Then let's do that.
12 Let's adjourn until Tuesday.

13 And you've been good about letting Mr. Calderon
14 and my staff know who your anticipated witnesses are. So
15 you'll do that.

16 But, yeah, it does look like we're moving faster
17 because, despite how I exhort people at times, I know
18 behind the scenes you are working to shorten things. And
19 I appreciate that.

20 MR. HENLEY: Well, thank you, Judge.

21 THE COURT: So all right. Thank you all, we'll
22 see you next Tuesday.

23 MR. CALDERON: Thank you.

24 (October 5, 2023, proceedings adjourned)
25



1 STATE OF ARIZONA)
) ss.
 2 COUNTY OF MARICOPA)

3

4 BE IT KNOWN that the foregoing audio/video
 5 recording was transcribed by me; that the 126 pages are a
 full, true, and accurate record of the audio recording,
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6

7 I CERTIFY that I am in no way related to any of
 the parties hereto, nor am I in any way interested in the
 outcome hereof.

8

9 [] Review and signature was requested.
 [] Review and signature was waived.
 10 [X] Review and signature not required.

11

I CERTIFY that I have complied with the ethical
 12 obligations set forth in ACJA 7-206(F)(3) and ACJA 7-206
 J(1)(g)(1) and (2).

13

Dated at Phoenix, Arizona, this 8th day of
 14 November, 2023.

15

16

17

/S/ Debra Riggs Torres
 DEBRA RIGGS TORRES, RPR
 Certified Reporter
 Arizona CR No. 50647

18

19

* * * * *

20

21 I CERTIFY that GRIFFIN GROUP INTERNATIONAL has
 22 complied with the ethical obligations set forth in ACJA
 7-206 (J)(1)(g)(1) through (6).

23

24 /S/ Griffin Group International
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